

PART 1, CHAPTER 1

INTRODUCTION

TABLE OF CONTENTS

1.1	PURPOSE.....	1-1
1.2	AUTHORITY.....	1-1
1.3	SCOPE.....	1-1
1.4	BACKGROUND.....	1-2
1.5	DISTRIBUTION.....	1-2
1.6	REVISIONS.....	1-2
1.7	TRAINING.....	1-3
1.8	FORMS.....	1-3
1.9	REFERENCES.....	1-3
1.10	HISTORY.....	1-3

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 associated federal and state laws and regulations. The [PD&E Manual](#) provides project analysts and Project Managers with a framework for the consistent development of analysis, technical studies, and Environmental Documents for transportation projects to achieve compliance with federal and state laws, regulations, and requirements. The [PD&E Manual](#) also serves as FDOT's standard policies and procedures, supporting quality control and quality assurance in project development.

Pursuant to **23 U.S.C. § 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, the FDOT has assumed Federal Highway Administration's (FHWA's) responsibilities under **NEPA** for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS. In general, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting 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 SCOPE

This **Manual** is intended for use by FDOT Project Managers, environmental staff, and environmental practitioners, who conduct work on behalf of FDOT. The [PD&E Manual](#) is used by all FDOT program areas, including OEM, Office of General Counsel (OGC), District Environmental Offices [District Environmental Management Offices (DEMOs), and Planning and Environmental Management Offices (PLEMOs)], District Planning, District Design, District Right of Way (ROW), and District Construction Offices as well as their Central Office counterparts. [PD&E Manual](#) users outside FDOT include consultants and other state agencies, such as the Florida Department of Environmental Protection (FDEP), State Historic Preservation Officer (SHPO), Department of Economic Opportunity (DEO), Florida Fish and Wildlife Conservation Commission (FWC), and the FHWA Florida Division.

1.4 BACKGROUND

On November 21, 1991, the Secretary of FDOT approved [Procedure Number 650-000-001](#) (**Chapter 1**), establishing the use of the [PD&E Manual](#) for project development purposes. The approved procedure also established the process for modifying and updating the [PD&E Manual](#). OEM is responsible for the maintaining this **Manual**.

The [PD&E Manual](#) is comprised of two volumes (**Parts 1 and 2**) and is the primary resource for addressing the environmental requirements associated with planning, developing, and delivering highway projects. The [PD&E Manual](#) is a compilation of environmental procedures and processes related to environmental, cultural, historic, and social resources. The [PD&E Manual](#) provides project analysts and Project Managers with information necessary to develop projects that comply with federal and state laws.

The [PD&E Manual](#) is designed to work in conjunction with FDOT handbooks, guidance documents and Design Standards that are used in FDOT's project delivery process. The [PD&E Manual](#) aids project analysts and Project Managers in understanding various aspects of the environmental review processes which occur throughout the planning, project development, design, and construction phases. The [PD&E Manual](#) provides support and direction in various technical areas, including engineering analysis and environmental documentation, permitting, and public involvement. This **Manual** also provides analysts and Project Managers guidance for completing the environmental review process for state, local, and privately funded projects.

As used herein, the term "environmental review process" means the process of preparing an Environmental Impact Statement (EIS), Environmental Assessment (EA), Categorical Exclusion (CE), or other document prepared under **NEPA**, and the process of permitting a project under any state or federal law other than **NEPA**.

By using this **Manual**, project analysts and Project Managers can produce consistent technical and environmental documents, meeting the requirements of **NEPA** and other related federal and state laws, rules, and regulations. Following the procedures in this **Manual** supports projects in moving from the Planning phase to construction through sound environmental and engineering practices and decisions.

1.5 DISTRIBUTION

The **PD&E Manual** is available online through the [OEM Website: <http://www.dot.state.fl.us/emo/>](#).

1.6 REVISIONS

While OEM has the ultimate responsibility for the development of, and updates to, this **Manual**, this responsibility is exercised in collaboration with the Districts. OEM regularly evaluates and updates the [PD&E Manual](#) in response to changing environmental requirements, standards, and policies consistent with the procedures established by FDOT's Policy and Process Management Unit. Revisions to chapters are made as needed based on the last revision date, currency of information, District-identified issues

or suggested modifications, changes in other FDOT Manuals, or changes in federal or state law, rule, policy or guidance.

Chapters are reviewed annually by OEM for currency. OEM identifies chapters requiring revisions and updates the chapters over the course of the year. As chapters are updated, they are checked for consistency and for opportunities to clarify, simplify, and focus process and procedures.

Any major changes or substantive revisions or additions (i.e., policy changes, new chapters) to the [PD&E Manual](#), are approved by Executive Management through the process established in [Procedure No. 025-020-002, Standard Operating System](#).

1.7 TRAINING

There is no mandatory training required by this *Manual*. However, training courses pertaining to topics in this *Manual* include: PD&E Process Training (BT-19-0034) and PD&E Part 1 Training (BT-19-0047). It is recommended that staff preparing Environmental Documents or performing environmental review tasks take these training courses. PD&E Process Training (BT-19-0034) is required for LAP agency certification.

1.8 FORMS

Forms required by this *Manual* are identified in applicable chapters. Links are provided in the [PD&E Manual](#) where applicable, for electronic forms that are available through FDOT's Forms and Procedures website.

1.9 REFERENCES

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

National Environmental Policy Act of 1969 (Title 42 U.S.C. § 4321, et seq.)

Title 23 CFR Part 771 - Environmental Impact and Related Procedures

Title 23 U.S.C., Highways

1.10 HISTORY

10/25/2001, 6/27/2007: Pen & Ink to move History explanation to Background,
7/29/2009: Pen and Ink to clarify the *PD&E Manual* update process, 6/17/2016

PART 1, CHAPTER 2

CLASS OF ACTION DETERMINATION FOR HIGHWAY PROJECTS

TABLE OF CONTENTS

2.1	OVERVIEW.....	2-1
2.2	PROCEDURE.....	2-4
2.2.1	Determination of Federal Action	2-5
2.2.1.1	SWAT Planning Meeting	2-5
2.2.2	Categorical Exclusions	2-6
2.2.2.1	Type 1 Categorical Exclusions.....	2-8
2.2.2.1.1	Actions listed in 23 CFR 771.117(c).....	2-8
2.2.2.1.2	Actions listed in 23 CFR § 771.117(d).....	2-13
2.2.2.1.3	Actions listed in 23 CFR § 771.117(e).....	2-14
2.2.2.1.4	Coordination and Documentation.....	2-15
2.2.2.2	Type 2 Categorical Exclusions.....	2-16
2.2.3	Minor Categorical Exclusion Process	2-16
2.2.4	Efficient Transportation Decision Making Qualifying Projects.....	2-17
2.2.5	Environmental Assessments and Environmental Impact Statements	2-18
2.2.6	Change of Class of Action	2-18
2.3	REFERENCES	2-19
2.4	FORMS	2-20
2.5	HISTORY	2-20

LIST OF FIGURES

Figure 2-1 ETDM Screening Matrix for Qualifying Projects	2-21
Figure 2-2 Class of Action Determination Process for Highway Projects	2-22
Figure 2-3 Type 1 Categorical Exclusion Checklist	2-23
Figure 2-4 Status of Environmental Certification for Federal Project.....	2-26
Figure 2-5 Minor Categorical Exclusion Determination Key	2-27
Figure 2-6 Environmental Class of Action Recommendation Form.....	2-29

PART 1, CHAPTER 2

CLASS OF ACTION DETERMINATION FOR HIGHWAY PROJECTS

2.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

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 [Environmental Impact Statement (EIS)/Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE)] serves as the administrative record of compliance with the policies and procedures of **NEPA** and other environmental statutes and executive orders. The [Project Development and Environment \(PD&E\) Manual, Topic No. 650-000-001](#) is used by FDOT to develop or assist in the processing of an Environmental Document. Adherence to the [PD&E Manual, Topic No. 650-000-001](#) assures compliance with **NEPA**, its implementing regulations, and other related environmental laws. Throughout this Manual the process for preparing the Environmental Document for Type 2 CEs, Environmental Assessments (EAs), and EISs is referred to as the PD&E Study.

The Class of Action (COA) Determination identifies the level of documentation required for a federal project. The COA Determination is made in consultation with the OEM for EAs, EISs, and Type 2 CEs. OEM has assumed the role and responsibility of FHWA in determining the COA of federal highway actions, serving as the Lead Federal Agency. For determining the COA for Federal Transit Administration (FTA) projects, see [Part 1, Chapter 14, Transit Project Delivery](#).

Other state and local agencies using federal funds or maintaining federal funding eligibility for transportation projects process projects through FDOT's Local Agency Program (LAP) or by FDOT agreement. OEM has assumed the role of FHWA for LAP projects. The

District Environmental Offices [District Environmental Management Office (DEMO), Planning and Environmental Management Offices (PEMO)] provide oversight and will be the liaison for LAP projects. To be considered a LAP project, funding has to be already programmed in the State Transportation Improvement Plan (STIP)/Transportation Improvement Plan (TIP). LAP projects are developed by a local agency that has received federal funds and is certified by FDOT (per [FDOT LAP Manual, Topic No. 525-010-300](#)) to administer FHWA federal-aid projects. LAP projects and those maintaining federal funding eligibility must follow the procedures in this Manual for the preparation of environmental documentation.

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

1. Federal funds or assistance is or is expected to be used during any phase of project development or implementation;
2. Federal funding or assistance eligibility is being maintained for subsequent phases;
3. Federal permit(s) is (are) required when based on consultation, the federal permitting agency has determined that an FDOT **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
4. Federal approval of an action is required [e.g., change in Interstate access control, use of Interstate Right of Way (ROW)].

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

1. Class I: EISs. 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 new location;
 - c. New construction or extension of fixed rail transit facilities (e.g., high speed or heavy rail, light rail, commuter rail); or
 - d. New construction or extension of a separate roadway for buses or high occupancy vehicles not located within or separated from (e.g., elevated lanes for bus rapid transit or high occupancy vehicles) an existing highway facility.

2. Class II: CEs. 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. Require 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. Class III: EAs. 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.

The term significant as used in **NEPA** is described in **40 CFR § 1508.27**, and requires consideration of both context and intensity (see insert). In many cases, the determination of significance will be obvious because of the absence of resources or because the proposed action does not impact resources. In other cases, the degree to which the project may affect a resource will need to be considered. Consideration of these types of effects should be done in consultation with District environmental staff, specific resource agencies as appropriate, and OEM.

FDOT recognizes two types of CEs: Type 1 and Type 2 CEs. Type 1 CEs are those listed in **23 CFR § 771.117(c)** and identified in **23 CFR § 771.117(d)** and listed in [Section 2.2.2.1](#). For all projects not listed as a Type 1 CE, the District must consult with OEM to determine the appropriate COA. If the project qualifies for screening, then it should be screened through FDOT's Efficient Transportation Decision Making (ETDM) process according to the [ETDM Manual Topic No. 650-000-002](#).

The determination of significance per NEPA requires considerations of both context and intensity:

Context: Context refers to the geographic, physical, natural, economic, and social settings of the action.

Intensity: This refers to the severity or degree of impact. The severity of the impacts must be viewed in both the larger and smaller contexts applicable to the action.

See 40 CFR 1508.27 for more detail

ETDM is FDOT's process to engage other agencies and the public early in project development. The decision of whether a project is entered into the EST is based on a qualifying project type and the conditions illustrated in the ETDM Screening Matrix for Qualifying Projects in [Figure 2-1](#).

Roadway 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, bridge replacements (e.g., non-Type 1 CE).

FDOT must complete the Programming Screen in the EST for all transportation projects described above before making a COA determination. During the Programming Screen 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](#)). The District should coordinate with OEM prior to submitting a COA determination for approval. A District may choose to do additional studies or coordination prior to making the COA determination and submitting it for approval. The **Final Programming Screen Summary Report** documents the COA determination and type of environmental analyses needed.

2.2 PROCEDURE

Prior to the COA Determination, it is important to determine whether a project should be processed as a federal action, due to federal funding, federal permit or other approval as described in [Section 2.2.1](#). Once a federal action is established, the next step is to determine if FDOT is the Lead Federal Agency. Once this is determined, the project should be screened through the EST or prepared as a Type 1 CE, as discussed in [Section 2.2.2.1](#). For projects qualifying for EST screening, the COA is typically determined in the ETDM Programming Screen; however, in certain circumstances the District may decide to delay the COA determination until additional analysis is completed. The COA determination process for highway projects is summarized in [Figure 2-2](#).

2.2.1 Determination of Federal Action

Prior to initiating PD&E, the District must determine whether a project is going to be processed as a federal or state project. Projects involving a federal action, federal funds (including LAP), federal permits, or that are maintaining federal eligibility, must be processed in accordance with the procedures in the [PD&E Manual, Topic No. 650-000-001 \(Section 2.1\)](#).

Information related to funding type can be found in the Long Range Transportation Plan (LRTP), TIP and STIP depending on the project. If the project is not identified in those plans, then steps should be taken to fulfill FHWA's planning consistency requirements as the project advances. The status must be included in the Environmental Document. This information is included in the planning consistency form located in [Part 1, Chapter 4, Project Development Process](#) and for Type 2 CEs, the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#) located in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#). FHWA planning consistency requirements must be satisfied prior to requesting Location and Design Concept Acceptance (LDCA) from OEM. More information on FHWA's planning consistency requirements can be found in [Part 1, Chapter 4, Project Development Process](#).

2.2.1.1 SWAT Planning Meeting

Each District has an established State-Wide Acceleration Transformation (SWAT) team. The SWAT team is composed of a cross-functional multi-disciplinary team of FDOT staff with experience in project delivery. The SWAT team typically includes Work Program, Intermodal Systems Development (ISD)/Planning, Design, and Environmental Office staff.

The District SWAT team is responsible for assisting Project Managers and consultants in achieving time savings through the state pre-construction process by scoping and scheduling projects proactively and realistically. Each District's SWAT team holds an annual planning meeting(s) in the Work Program Cycle. The planning meeting may include the OEM project delivery staff at the request of the District. During the planning meeting, the SWAT team discusses the core elements of the purpose and need for each project to ensure the project aligns with the Metropolitan Planning Organizations (MPOs) LRTP. The outcome of the SWAT planning meeting is a recommendation of funding type for each project that is being considered in the Work Program, the potential for Design phase overlap, anticipated complexity, and the potential for consideration as an Advanced Production Project, [Part V Chapter 1 Work Program Instructions, Production Management](#). To decide whether to use federal funds on the project, the SWAT planning meeting considers a variety of factors including environmental considerations, anticipated permits, [Work Program Instructions](#), and expected time savings if the project would use the state project delivery process.

Additionally, the SWAT planning meeting participants assign the preliminary COA for each project and recommend the list of projects to be screened through ETDM. During

the SWAT planning meeting, each project is recommended as either a state or federal project. Additionally, the project manager will assure a work program identifier of State Funded Only (SFO) is assigned to SFO projects. Refer to [Part 1, Chapter 4, Project Development Process](#) and [Chapter 25, Work Program Instructions, Current Work Program](#) for additional detail.

When determining preliminary COAs for projects, the District SWAT team must be familiar with projects that must be federalized as listed in the **Work Program Instructions, Part III - Chapter 25, Project Development and Environment**. Federal actions are those which include actions which are:

1. On an Interstate;
2. Using or involving Interstate ROW (e.g., air rights);
3. Projects within and impacting federal lands such as National Parks or Forests
4. Transportation Alternatives (TA) program;
5. FHWA Safety Program projects; or
6. Off-System projects (projects not on the SHS).

The SWAT team also considers the following when determining whether to use FHWA funds for projects:

1. Impacts to work program flexibility based upon anticipated cost of construction
2. Projects where protected species or habitat may be impacted and consultation under the **Endangered Species Act (ESA)** is necessary ([Part 2, Chapter 16, Protected Species and Habitat](#)). **Section 7** would apply for federal projects or those with a federal nexus. **Section 10** would apply for projects where there is no federal funding or federal nexus.
3. Projects that require a federal permit, such as USCG bridge permit or USACE **Section 404** permit.

As further described in **Part 1 Chapter 4, Project Development Process**, COA considerations are taken into account by the SWAT team and are facilitated through review of ETDM Screening results and other information as available and completion of the SWAT Scoping Forms.

2.2.2 Categorical Exclusions

A CE is a project which, based upon past experience with similar actions, does not individually or cumulatively have a significant environmental effect, and is excluded from

the requirement to prepare an EA or an EIS. The definition of CE in **40 CFR § 1508.4** and **23 CFR § 771.117** provides further guidance for projects where FDOT has assumed responsibilities from FHWA. CE determinations only apply to projects with a federal action. Generally, CEs are flexible documents that can vary based on the level of coordination and documentation needed to support the determination that an EA or EIS is not needed.

In order for a project to be classified as a CE, it must meet the definition for CEs contained in **40 CFR § 1508.4** and meet certain criteria contained in **23 CFR § 771.117(a)**, listed below. The criteria must be met and documented as appropriate before a CE determination can be made. It must be sufficiently evident that projects:

1. Do not involve significant environmental impacts;
2. Do not induce significant impacts to planned growth or land use for the area;
3. Do not require the relocation of significant numbers of people;
4. Do not have a significant impact on any natural, cultural, recreational, historic, or other resource;
5. Do not involve significant air, noise, or water quality impacts;
6. Do not have significant impacts on travel patterns; or
7. Do not otherwise, either individually or cumulatively, have any significant environmental impacts.

In unusual circumstances [provided in **23 CFR § 771.117(b)**] a project normally classified as a CE will require coordination with or a finding from OEM to determine if the CE classification is appropriate. FDOT may decide or OEM may require additional studies be performed prior to making a CE approval. These unusual circumstances may include:

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

For CE projects, the level of detail required to support the determination depends upon the magnitude of environmental impacts and the particular circumstances. Since projects

classified as CEs are generally minor in nature and have less than significant impacts, indirect and cumulative impacts assessments will generally not be warranted. There may be exceptions, which can be evaluated on a case-by-case basis.

FDOT recognizes two types of CEs: **1. Type 1 CE:** applies to projects or actions listed in **23 CFR § 771.117(c)** or identified in **23 CFR § 771.117(d)** **2. Type 2 CE:** actions, which do not have significant effects based on past experience and therefore qualify as CEs, but require documentation and approval to support the determination that an EA or EIS is not needed. The decision requires consultation with and approval from OEM (see [Part 1, Chapter 5, Type 2 Categorical Exclusion](#))

Type 1 CEs are not typically screened in the EST; however, the EST may be utilized to view GIS data layers applicable to the project without initiating ETAT review. On occasion an EST screened project may result in a COA determination of Type 1 CE based on consultation with OEM.

This section outlines the process used to confirm the validity of the CE determination and the required documentation for those projects.

2.2.2.1 Type 1 Categorical Exclusions

The District is authorized to determine whether a proposed action is a Type 1 CE if the action is listed in **23 CFR § 771.117(c)** or identified in **23 CFR § 771.117(d)**. **Subsections 771.117(c)26, (c)27 and (c)28**, must also satisfy the criteria in **subsection 771.117(e)** (listed in [Section 2.2.2.1.3](#)) to qualify as a Type 1 CE. These actions normally do not require any further **NEPA** approvals by OEM.

A Type 1 CE determination is made using a **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** in the StateWide Environmental Project Tracker (SWEPT) (see [Figure 2-4](#) and [Section 2.2.2.1.4](#)). The checklist is completed to determine if the project meets the criteria of **23 CFR § 771.117(c)** or **(d)**. If the project meets the criteria, the project is a Type 1 CE and this checklist will be the **NEPA** document. If the project does not meet the checklist criteria, coordination occurs with OEM as appropriate. This may require screening the project in the EST, completing a technical study to assess the impact to particular resources, coordination with a resource agency, and/or the preparation of Type 2 CE documentation.

2.2.2.1.1 Actions listed in 23 CFR 771.117(c)

The following actions are listed in **23 CFR 771.117(c)** and meet the criteria for CEs in the CEQ regulations and **23 CFR § 771.117(a)** and normally do not require any further **NEPA** approvals by OEM:

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 which establish classes of highways on the federal-aid highway system.

2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. Activities included in the **State's Highway Safety Plan** under **23 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 that is 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), that is in operation or under construction when damaged and the action:
 - i. Occurs within the existing 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 2-year period beginning on the date of the declaration.
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 refers to ROW that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic

control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational ROW.

23. Federally-funded projects:

- a. That receive 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) of Federal funds; 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) 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.
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)**.
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)**.
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)**.
29. Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require 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.

FHWA Informational Memo: Additional Flexibilities in Categorical Exclusions, dated May 22, 2017 provides additional clarification and flexibility in the use of CEs under **23 CFR 771.117(c)**.

1. Bridge removal. Removal may be a component of a bridge replacement project under **771.117(c)(28)**. If the bridge is not replaced, it could be considered a CE under **771.117(c)(22)**.
2. Construction of new roundabouts or traffic circles are considered traffic operations improvement projects under **771.117(c)(27)**.
3. Any highway project action, regardless of location within or outside a highway ROW, so long as the project receives less than \$5,000,000 (adjusted annually by the Secretary to reflect any increases in the Consumer Price Index) of Federal funds [**771.117(c)(23)**].
4. Widening and improving existing transportation facilities by adding through lanes that add capacity within the existing operational ROW under **771.117(c)(22)**. It should be noted that a public hearing is required by **Section 339.155, F.S.** Refer to [***Part 1, Chapter 11, Public Involvement***](#).
5. Restoration, rehabilitation, or replacement of retaining walls within the existing operational ROW under **771.117(c)(22)**.
6. Bank repairs to protect against stream erosion are considered environmental restoration and pollution abatement actions under **771.117(c)(25)**.
7. Restoration, rehabilitation, or replacement of culverts, inlets, drainage pipes, and systems can be CEs under **771.117(c)(22)** when done within an existing operational ROW or as highway modernization under **771.117(c)(26)**.
8. Replacement of existing utility powerline poles for overhead utilities and installation of new poles are considered approval of utility installation projects under **771.117(c)(2)**.

2.2.2.1.2 Actions listed in 23 CFR § 771.117(d)

The following actions or projects are included in **23 CFR § 771.117(d)** and meet the criteria for CEs in the CEQ regulations and **23 CFR § 771.117(a)** and may be designated as CEs:

- 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.
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.

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)**.

2.2.2.1.3 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 that would result in any residential or non-residential displacements;
2. An action that needs a bridge permit from the USCG, or an action that does not meet the terms and conditions of a 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 **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 that facilitate 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.

2.2.2.1.4 Coordination and Documentation

For Type 1 CEs, coordination with appropriate resource agency personnel (this may be an ETAT representative) may need to take place (such as coordination on historic resources, wetlands, listed species) in order to verify the finding that there is no potential to significantly impact certain environmental resources. Coordination and documentation is also important because it may affect environmental permitting [e.g., State Historic Preservation Officer (SHPO) coordination in a Water Management District (WMD) permit]. Coordination with OEM may also be required in order to make findings under concurrent laws [such as the *ESA* and **Section 4(f)**] prior to finalizing the COA Determination.

A public hearing is typically not required for CEs in accordance with [Part 1, Chapter 11, Public Involvement](#). However, if the District determines that a sensitive community issue exists on or near the proposed project, a **Community Awareness Memorandum (CAM)** may be prepared recommending appropriate public involvement activities (see [Part 1, Chapter 11, Public Involvement](#)).

Documentation consists of an evaluation checklist prepared after environmental analysis has been completed (see [Figure 2-3, Type 1 Categorical Exclusion Checklist, Form No. 650-050-12](#)). This checklist is prepared using SWEPT. This is typically completed at the end of the Plans, Specifications, and Estimates (PS&E) or 100% plans.

The CE number/activity type from either **23 CFR § 771.117(c)** or **23 CFR § 771.117(d)** is selected at the beginning of the form. For projects that may fall under two or more actions, identify the CE designation that is most appropriate.

Documentation of analysis, coordination, and results should be uploaded to SWEPT for the project file. This documentation should include the results of desktop and/or field review, agency consultation, 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 significant impacts and that environmental issues have been addressed. Approval of the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** will be granted by the District Environmental Manager or designee using SWEPT.

Once the final **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** is completed in SWEPT, the District Environmental Office will complete and provide the date of the determination on the **Status of Environmental Certification For Federal Project, Form No. 650-050-13**, as shown in [Figure 2-4](#). This form is required as part of the contract documents for federal-aid construction projects and should be used when submitting all projects, including LAP projects, for approval to the Federal Aid Office. As specified by the [LAP Manual, Topic No. 525-010-300](#), LAP agencies cannot make COA Determinations or certify projects for advancement. LAP agencies do not have signature authority for environmental certifications; therefore, the **Status of Environmental Certification For Federal Project, Form No. 650-050-13** 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 ***Status of Environmental Certification For Federal Project, Form No. 650-050-13*** to complete the ***Federal-Aid Project Authorization/Agreement Form (PR-1240 Form)***.

2.2.2.2 Type 2 Categorical Exclusions

For all projects that are not qualifying Type 1 CEs, the District must consult with OEM to determine whether the project should be developed through the MiCE Process, classified as a Type 2 CE, or be screened through the EST to determine the COA. For all Type 2 CE projects, the level of detail required is dependent upon the type(s) and magnitude of environmental impacts.

Type 2 CE documentation includes the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11***, and supporting information. If a public hearing is held, the public hearing transcript is uploaded to SWEPT. Details on Type 2 CEs and guidance is provided in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#). Type 2 CE documentation is sent to the USCG when a bridge permit is required. Type 2 CE documentation is also sent to USACE whenever there is a ***Section 404*** permit involvement. Type 2 CE documentation must be approved by OEM who provides LDCA allowing the project to proceed to the Design phase.

2.2.3 Minor Categorical Exclusion Process

The purpose of the MiCE process is to assist Districts in supporting CE determinations, and providing specific findings and documentation to address potential impacts to relevant environmental issues/or resources without causing the COA of the project to be elevated [***23 CFR § 771 (a) and (b)***]. MiCE is not a new COA, but rather a process which can be used to validate the determination that a project can be classified as a Type 1 CE, and, in some cases, a Type 2 CE (see [Figure 2-2](#)). This process provides guidance on managing project issues, documenting findings, and developing appropriate and focused documentation to support the CE determination. A finding implies that a decision must be made or a signature is needed by the District, OEM, and/or an appropriate resource agency. MiCE can apply to PD&E studies or projects in Design where the CE determination must be made.

The following items should be assessed and/or documented in the Environmental Document and project file for projects being developed using the MiCE process:

1. Existing conditions
2. Potential impacts [e.g., ***Section 106*** involvement, listed species, ***Section 4(f)***]
3. Anticipated/required consultations, permitting need(s)

4. Conclusions- need for findings/agency consultation
5. Coordination with OEM

This assessment defines the project context and provides the basis for the level of analysis. The results should identify issues requiring resolution in the Environmental Document. After coordinating the results of the assessment with OEM, a decision is made on the level of documentation necessary to validate the CE determination. This results in analysis that is focused on the issues requiring resolution.

There are two scenarios in the MiCE process. The first scenario is for projects that would normally qualify as Type 1 CEs, but may involve potential environmental impacts requiring additional analysis and documentation to assure the COA is valid based on analysis or coordination with OEM.

The second scenario is for projects that were screened in the EST or may qualify as a Type 2 CE. The MiCE process can be used to focus the environmental analysis on the issues which triggered the Type 2 CE COA.

A MiCE Determination Key is provided in [Figure 2-5](#) to help determine the appropriate level of documentation for the CE. It is important to note that the COA Determination is based on the context and intensity of impacts, therefore, the ultimate determination of the COA is made by OEM.

2.2.4 Efficient Transportation Decision Making Qualifying Projects

For projects qualifying for ETDM screening, the COA can be determined at the end of the Programming Screen (see FDOT's [ETDM Manual, Topic No.650-000-002](#)). The District performs analysis to assist in determining the appropriate COA. The COA is proposed by the District and is approved by OEM. This determination, in addition to the potential effects for various environmental issues and the potential scope of work to be performed during the PD&E phase, is included in the **Final Programming Screen Summary Report**.

The process for obtaining the environmental COA during the Programming Screen requires that the District ETDM Coordinator complete the **Environmental Class of Action Recommendation Form, Form No. 650-050-16** (see [Figure 2-6](#)). The form should be completed as follows:

1. Enter the project's identifying information in the "Project Information" section.
2. In the "Potential for Significant Impacts?" section depending on the project's potential impacts on an issue/resource select:
 - Sig = The project is anticipated to have a significant impact on the particular issue/resource

- Sig? = There is a question of significance regarding the project's potential impact to the issue/resource
 - NoSig = The project is not anticipated to have significant impacts to the issue/resource
 - NoInv = No involvement, the issue/resource is absent
3. Comments must be entered when Sig or Sig? are selected, and may be entered for NoSig and NoInv at the District's discretion.
 4. Check the box for the recommended COA
 5. Upload the form to the EST

The uploaded form is submitted together with the on-line COA Determination, through the EST to OEM for review and approval. After OEM and the District have agreed on the COA, OEM accepts it in the EST. After the COA determination is complete, the determination becomes part of the ***Final Programming Screen Summary Report***. The COA Determination may be deferred to allow for technical studies and additional coordination, potentially leading to a reduced COA.

Once the COA Determination is made, the level of documentation required for **NEPA** compliance is described in the respective chapters for a Type 2 CE, an EA, or an EIS in **Part 1** of this Manual.

2.2.5 Environmental Assessments and Environmental Impact Statements

An EA is prepared when the significance of the environmental impact is unknown. Guidance on preparing EAs is provided in [Part 1, Chapter 6, Environmental Assessment](#). An EIS is prepared when a project significantly affects the environment. Examples of the types of actions which would normally require an EIS are listed in [Section 2.1](#). Guidance on preparing an EIS is provided in [Part 1, Chapter 8, Draft Environmental Impact Statement](#), and [Part 1, Chapter 9, Final Environmental Impact Statement](#). An EA or EIS must have sufficient documentation to support the COA Determination. Supporting information may include technical reports [e.g., **PER, Noise Study Report (NSR), Natural Resources Evaluation (NRE)**].

2.2.6 Change of Class of Action

Prior to the beginning of PD&E or even during PD&E, the District or OEM may seek to revisit the COA determination. Changes in the COA could arise if there are changes in the project's scope or changes in impact status of issues. It should be noted if the project is an EIS (which is based on significant impacts) a change in COA may be difficult or not

warranted since a complete determination of significance is made upon completion of the analysis and approval by OEM. In addition it would require the withdrawal of the **Notice of Intent (NOI)** with cause from the **Federal Register (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 approved COA to obtain approval for the proposed change.

2.3 REFERENCES

CEQ, Executive Office of the President. 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Reprint 43 FR 55978-56007, 40 CFR Parts 1500-1508

FDOT. Local Agency Program Manual, Topic No. 525-010-300.
http://www.fdot.gov/programmanagement/LAP/LAP_TOC.shtm

FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

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

FHWA, Memorandum: Additional Flexibilities In Categorical Exclusions, May 22, 2017.

FHWA. 2003. Questions and Answers Regarding the Consideration of Indirect and Cumulative Impacts in the NEPA Process.
<http://www.environment.fhwa.dot.gov/projdev/qaimpact.asp>

FHWA. 2011. Supplement to January 28, 2008. Transportation Planning Requirements and Their Relationship to NEPA Process Completion, February 9, 2011

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

National Environmental Policy Act, Section 7

Title 23 CFR § 650, Subpart H, Conditions for determining if an activity requires a USCG permit

Title 23 CFR § 771, Environmental Impact and Related Procedures

2.4 FORMS

Environmental Class of Action Recommendation Form, Form No. 650-050-16

Status of Environmental Certification For Federal Project, Form No. 650-050-13*

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

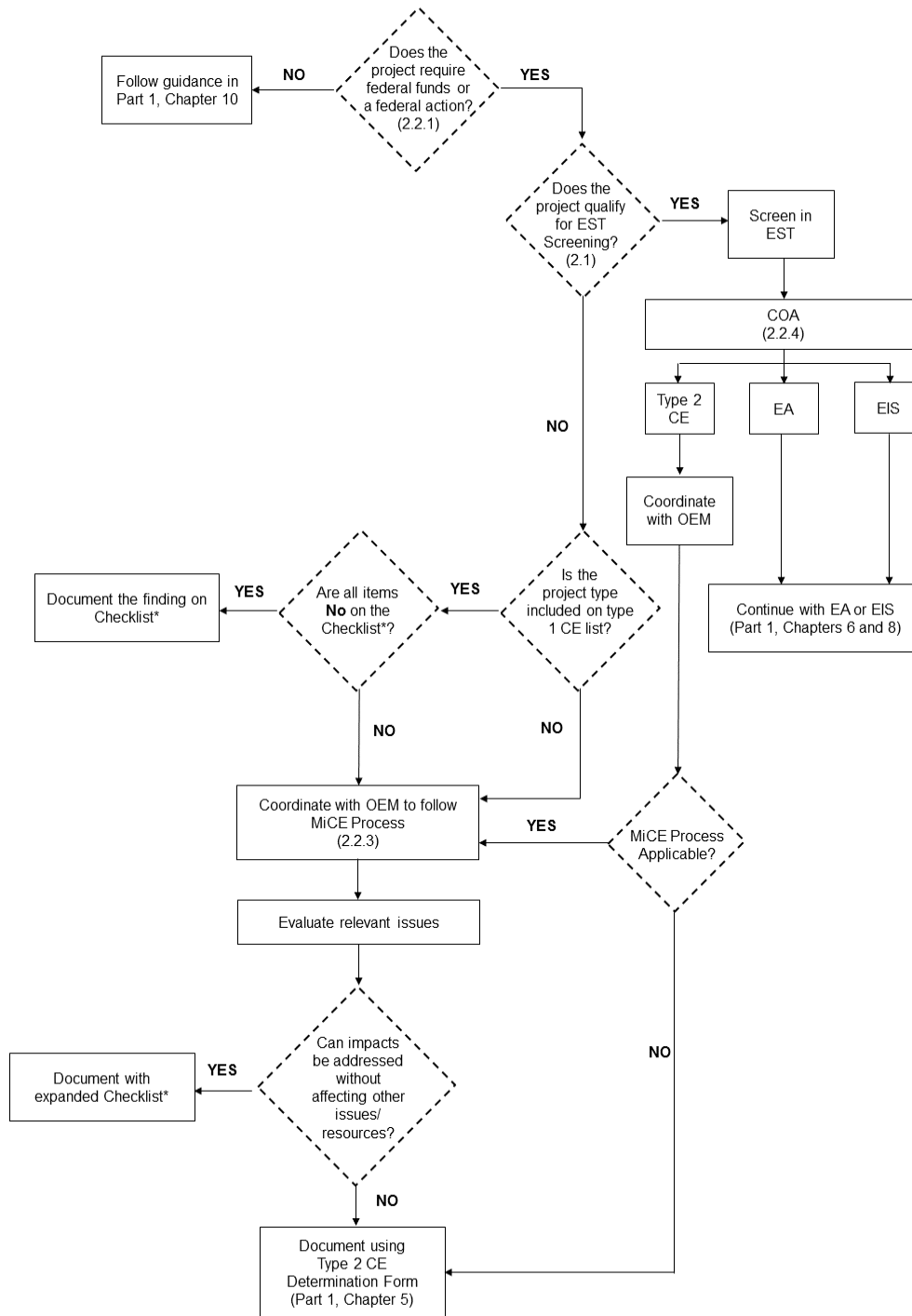
2.5 HISTORY

1/12/2004, 1/31/2007, 3/06/2012, 2/03/2014, 8/2/2016

ETDM Screening Matrix for Qualifying Projects						
	Federal Dollars (any FHWA, FTA or FRA funds or federal authorization)		State Dollars (TRIP, Transit/ Intermodal System Grants, etc) No Federal Dollars Involved		Local Dollars Only	
	Responsible Agency	ETDM Screening	Responsible Agency	ETDM Screening	Responsible Agency	ETDM Screening
System						
Highways on the State Highway System (SHS) and on the Strategic Intermodal System (SIS)	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways on the SHS but not on the SIS	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS but on the SIS	FDOT	YES FDOT Lead	FDOT	YES	FDOT	YES
	Local		Local and FDOT	Local Option	Local and FDOT	Local Option
Highways not on SHS nor on the SIS	FDOT	YES FDOT Lead	FDOT	YES	Local	N/A
	Local		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		

NOTE: 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



* Checklist = Type 1 Categorical Exclusion Checklist (Figure 2-3)

Figure 2-2 Class of Action Determination Process for Highway Projects

TYPE 1 CATEGORICAL EXCLUSION CHECKLIST

Financial Management No. _____

FAP No. _____

CE Number (Choose one option **from dropdown**): (c) _____ or (d) _____ **(Will be required for d-list projects to provide supporting documentation for all areas)**

Project Description (include project name, project limits, and brief description of the proposed scope of work):
(TEXT BOX) _____

Note: The items below consider the requirements described in 23 CFR § 771.117 (c) and (d) for listed Categorical Exclusions (CEs). The constraints of 23 CFR § 771.117(e) are addressed in this form for CEs identified as 23 CFR § 771.117 (c) (26), (27) and (28) or (d) list projects.

Directions for bulleted verifications below: District should consider if the project has any of the significant impacts described. If project does not meet the criteria, STOP, this form does not apply. If the project does meet the criteria, check “verified” and proceed through the rest of the form.

- This action **will not induce significant impacts** to planned growth or land use for the area; travel patterns; air or water quality; or cause substantial controversy on environmental grounds.
 Verified

- **(This statement will only appear if c26, c27, c28 or d-list project is selected)** The action will not cause changes in interchange access control; result in major traffic disruptions due to the construction of temporary access; or the closure of existing road, bridge, or ramps.
 Verified

REST OF FORM NOT ACCESSIBLE UNTIL Verified IS CHECKED

1. Right of Way (ROW): **(Pop-up will appear- if situation changes document in the project file)**
 - Within existing ROW Minor acquisition without relocation and/or displacement
 - Any acquisitions with relocations and/or displacements [Contact the Office of Environmental Management (OEM)] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

2. Wetland impacts that would require a permit from the U.S. Army Corps of Engineers (USACE) under the Clean Water Act, Section 404, 33 U.S.C. § 1344 and/or section 10 of the Rivers and Harbors Act:
 - No Wetland(s) Present/ No Impacts Nationwide permit General Permit (SAJ 92) Standard Permit [Contact the Office of Environmental Management (OEM)] **(If chosen warning label will appear if it is c26, c27, c28 or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

Figure 2-3 Type 1 Categorical Exclusion Checklist

3. Bridge permits required from the United States Coast Guard (USCG):
 - No Waterway Crossing No USCG Bridge permit required USCG Bridge permit [Contact the Office of Environmental Management (OEM)] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**
4. The project involves 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):
 - No Floodplain Present Functionally Dependent Use or Facilitate Open Space Use
 - Other Encroachment [Contact the Office of Environmental Management (OEM)] **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**
5. Construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers?
 - No Listed Rivers Present or not within the buffer zone of the listed river Northwest Fork of the Loxahatchee River (See PD&E Manual Chapter for limits) **(automatically populated if applicable)**
 - Wekiva River (See PD&E Manual Chapter for limits) **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**
6. Section 7 of the Endangered Species Act (ESA) of 1973, as amended:
 - No ESA listed species present
 - Determination of "No Effect"
Identify species in text box.
 - Used key, no consultation required
Identify species in text box.
 - Consultation with the US Fish and Wildlife Service or National Marine Fisheries Service, results in:
(If selected, the following will appear)
 - May Affect, Not Likely to Adversely Affect (attach concurrence letter)
 - May Affect, Likely to Adversely Affect **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**
7. Will the action impact any properties protected by Section 4(f) pursuant to 23 CFR § 774?
 - No potential Section 4(f) properties present
 - Section 4(f) resource(s) present or adjacent, but there is "no use" within the meaning of Section 4(f)
List resource(s) and describe basis of "no use" determination in text box.
 - Exception or Exemption [attach description of type and Official with Jurisdiction (OWJ) concurrence] [See 23CFR 774.13] **(If selected a pop up will state, "Consult with OEM and record date of consultation" Fill in date in order to proceed.)**
List resource(s) in text box.

Figure 2-3 Type 1 Categorical Exclusion Checklist (Page 2 of 3)

de minimis (attach determination and OWJ concurrence) **(If selected a pop up will state, “Consult with OEM and record date of consultation” Fill date in order to proceed.) List resource(s) in text box.**

Programmatic or Individual Section 4(f) Evaluation required **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

8. Historic and/or Archaeological Resources protected under Section 106 of the National Historic Preservation Act:

No Historic or Archeological resources present within the APE

Pursuant to Section 106 Programmatic Agreement (include appropriate documentation):

Determination of No Involvement Determination of “No Effect” Determination of “No Adverse Effect”

Determination of “Adverse Effect” **(If chosen warning label will appear if it is c26, c27, c28, or (d): This project has been identified as a c26, c27, c28 or (d) list project. By checking this box, the project does not meet the criteria of (e) and cannot proceed as a Type 1)**

9. Noise considerations:

The project does not qualify for a Noise Analysis

The project does qualify for Noise Analysis (provide appropriate documentation):

Noise abatement is not warranted Noise abatement is warranted (Provide decision)

10. Contamination considerations:

The project was evaluated (Provide brief summary in text box and attach appropriate documentation.):

IMPORTANT: If during the preparation of the form, an answer requires discussion with OEM, contact your OEM District Project Delivery Coordinator.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

This project has been reviewed and has been verified to meet the conditions of a Type 1 CE.

Signature: _____ Date: _____
District Environmental Manager or designee

Figure 2-3 Type 1 Categorical Exclusion Checklist (Page 3 of 3)

**STATUS OF ENVIRONMENTAL CERTIFICATION
FOR FEDERAL PROJECT**

Financial Management No. _____

Federal Aid No. _____

Project Description (include project title, limits, and brief description of the proposed scope of work): _____

This project is a Categorical Exclusion under 23 CFR § 771.117:

- A Type 1 Categorical Exclusion per (c) _____ or (d) _____ as determined on _____
- A Type 2 Categorical Exclusion approved on _____

The final environmental document for this project was a (check one):

- A Finding of No Significant Impact under 23 CFR § 771.121 approved on _____
- A Record of Decision under 23 CFR § 771.127 approved on _____

A reevaluation in accordance with 23 CFR § 771.129 was (check one):

- Approved on _____
- Not required

Signature: _____ Date: _____

Environmental Manager or designee

Figure 2-4 Status of Environmental Certification for Federal Project

Minor Categorical Exclusion Determination Key

1. Was the project screened in the EST?

No, go to 2

Yes, go to 12

2. After analysis are findings needed to advance the project?

No, go to 3

Yes, go to 4

3. Districts may need to coordinate with agencies to meet regulatory and permit requirements (e.g., SHPO, FWS). Document with **Type 1 Categorical Exclusion Checklist**. Advance the project

4. After coordination with agencies do findings need to be made by OEM?

No, go to 5

Yes, go to 6

5. Complete the **Type 1 Categorical Exclusion Checklist**. Attach summary of coordination and the findings to the checklist. Advance the project

6. Coordinate with OEM on the issues/resources requiring findings. Is an OEM signature required?

No, go to 5

Yes, go to 7

7. Do the impact(s) requiring findings affect other environmental issues/resources?

No, go to 8

Yes, go to 9

8. Document as a Type 2 CE focusing on resource/issue(s) that require resolution using the **Type 2 Categorical Exclusion Determination Form**. Summarize the coordination and attach the findings to the form. Submit for OEM approval and advance appropriately.

Figure 2-5 Minor Categorical Exclusion Determination Key

9. Do these impacts require changes to the preliminary design (coordinate with engineer)?

No, go to 8
Yes, go to 10

10. Are other issues/resources impacted by project changes?

No, go to 8
Yes, go to 11

11. Document as a Type 2 CE focusing on relevant issues that require resolution using the ***Type 2 Categorical Exclusion Determination Form***. Provide supporting environmental and engineering documentation. Summarize the coordination and attach the findings for all affected issues to the form. Submit for OEM approval and advance appropriately.

12. Do impacts require engineering modifications that affect other issues?

No, go to 11
Yes, go to 13

13. Do the impacts to the other issues/resources require consideration of additional alternative(s)?

No, go to 11
Yes, go to 14

14. Document as a Type 2 CE focusing on relevant issues that require resolution using the ***Type 2 Categorical Exclusion Determination Form***. Provide supporting environmental and engineering documentation. Requires alternatives analysis documented in a Preliminary Engineering Report. Summarize the coordination and attach the findings for all affected issues to the form. Submit for OEM approval and advance appropriately.

Figure 2-5 Minor Categorical Exclusion Determination Key (Page 2 of 2)

ENVIRONMENTAL CLASS OF ACTION RECOMMENDATION FORM

RECOMMENDED COA: Type 2 CE SEIR EA EIS

Project Name: _____
 Project Limits: _____
 County: _____
 ETDM Number (If applicable): _____
 Financial Management Number: _____
 District: _____

Potential for Significant Impacts?*

Issues/Resources	Sig	Sig?	NoSig	NoInv	Comments
A. SOCIAL & ECONOMIC					
1. Social	[]	[]	[]	[]	_____
2. Economic	[]	[]	[]	[]	_____
3. Land Use Changes	[]	[]	[]	[]	_____
4. Mobility	[]	[]	[]	[]	_____
5. Aesthetic Effects	[]	[]	[]	[]	_____
6. Relocation Potential	[]	[]	[]	[]	_____
7. Farmland	[]	[]	[]	[]	_____
B. CULTURAL					
1. Section 4(f)	[]	[]	[]	[]	_____
2. Historic Sites/Districts	[]	[]	[]	[]	_____
3. Archaeological Sites	[]	[]	[]	[]	_____
4. Recreational Areas	[]	[]	[]	[]	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	[]	[]	[]	[]	_____
2. Aquatic Preserves and Outstanding FL Waters	[]	[]	[]	[]	_____
3. Water Quality and Water Quantity	[]	[]	[]	[]	_____
4. Wild and Scenic Rivers	[]	[]	[]	[]	_____
5. Floodplains	[]	[]	[]	[]	_____
6. Coastal Zone Consist.	[]	[]	[]	[]	_____
7. Coastal Barrier Resources	[]	[]	[]	[]	_____
8. Protected Species and Habitat	[]	[]	[]	[]	_____
9. Essential Fish Habitat	[]	[]	[]	[]	_____
D. PHYSICAL					
1. Highway Traffic Noise	[]	[]	[]	[]	_____
2. Air Quality	[]	[]	[]	[]	_____
3. Contamination	[]	[]	[]	[]	_____
4. Utilities and Railroads	[]	[]	[]	[]	_____
5. Construction	[]	[]	[]	[]	_____
6. Bicycles and Pedestrians	[]	[]	[]	[]	_____
7. Navigation	[]	[]	[]	[]	_____

* **Potential Impact Determination:** Sig = Significant Impact; Sig? = Question of Significance; NoSig = No Significant Impact; NoInv = no involvement, Issue is absent

Figure 2-6 Environmental Class of Action Recommendation Form

PART 1, CHAPTER 3

PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION

TABLE OF CONTENTS

3.1 OVERVIEW	3-1
3.2 PROCEDURE	3-3
3.2.1 Preparation of the Preliminary Environmental Discussion	3-3
3.2.2 Preparation of the Advance Notification Package	3-3
3.2.2.1 Cover Letter	3-4
3.2.2.2 Location Maps	3-4
3.2.2.3 Fact Sheet	3-4
3.2.2.4 Application for Federal Assistance	3-9
3.2.2.5 Transmittal List	3-9
3.2.3 Distribution of the Advance Notification Package	3-10
3.2.4 Comments and Responses	3-11
3.2.5 Agency Roles	3-12
3.2.6 Issue Resolution	3-14
3.2.7 Project Status Update	3-14
3.3 REFERENCES	3-15
3.4 FORMS	3-16
3.5 HISTORY	3-16

LIST OF FIGURES

Figure 3-1 Advance Notification Process	3-17
Figure 3-2 Cover Letter to the State Clearinghouse	3-18
Figure 3-3 Example of Project Location Map	3-20
Figure 3-4 Application for Federal Assistance	3-21
Figure 3-5 Example Transmittal List.....	3-24
Figure 3-6 Sample Programming Screen Notification	3-25
Figure 3-7 Contact Information.....	3-31

PART 1, CHAPTER 3

PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION

3.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

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 twenty-one ETDM issues reviewed by ETAT during an ETDM screening event and is required for each screened project.

The PED is consistent with **Title 23 U.S.C.** 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 issues/resources and the District's plans to address the issues as the project advances to further study. This could include identification of avoidance, minimization, or mitigation options. The Districts 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) Study. At the end of an ETDM project screening event, a Summary Degree of Effect (SDOE) is generated 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 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 Review Determination after receiving comments from appropriate state and local agencies, also known as consistency reviewers. For detailed information on FCMP and Federal Consistency Review Determination see [Part 2, Chapter 14, Coastal Zone Consistency](#). Additionally, the AN alerts the Florida Department of Economic Opportunity (DEO) to provide comments regarding to a project's compatibility with the Local Government Comprehensive Plans [***Chapter 163, Florida Statutes (F.S.)***].

FDOT uses the Environmental Screening Tool (EST) to distribute the AN package electronically. Hardcopies of AN packages should be provided when requested or as agreed to (e.g. Miccosukee Tribe of Indians). The AN may be completed during the Programming Screen or delayed until commencing the PD&E Study. [Figure 3-1](#) shows the AN process. The decision to join or separate the Programming Screen or AN is made at the District's discretion based on when PD&E is scheduled to start in the Work Program (see [ETDM Manual, Topic No. 650-000-002](#), Chapters 4 and 5). Qualifying transportation projects should be entered into the EST as described in Chapter 4 of the [ETDM Manual, Topic No. 650-000-002](#). See [Part 1, Chapter 2, Class of Action Determination for Highway 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 a resource, 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 consistency review.

Comments from consistency reviewers regarding Federal Consistency Review are reviewed by the SCH, which makes a consistency determination as required by ***Section***

380.23, F.S., and 15 Code of Federal Regulations (CFR) Part 930. The SCH issues a notice of inconsistency when it determines that a project is inconsistent. It should be noted, however, that the final 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 Study, and to assist in determining the appropriate Class of Action (COA) ([Part 1, Chapter 2, Class of Action Determination for Highway 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 prior to 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 Preparation of the 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 issues/resources in a project study area. The PED also discusses the process FDOT plans to use to address or evaluate issues and resources 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, 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 OEM Project Delivery Coordinator (PDC) and Engineering Lead review and provide comments about the project description, purpose and need, and PED before the screening event notification is distributed. PDC's have up to 14 days to provide comments and may also include subject matter experts.

3.2.2 Preparation of the 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 Highway Projects](#) for a list of qualifying project types. The only non-federal projects which may require an AN, and qualify for screening through the EST are FDOT projects that are prepared as a State Environmental Impact Report (SEIR) (**[Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)**).

Projects that qualify for screening and involve a federal action, federal funds, or are desired to maintain federal eligibility, require a Federal Consistency Review Determination. Consistency reviews are completed when the AN Package is distributed. SEIRs may require a Federal Consistency Review Determination because they often involve a federal permit. For projects requiring a federal permit, coordination with the permitting agency is needed to determine if the Environmental Document prepared by the state will provide sufficient information to serve as the agency's **NEPA** document [e.g., U.S. Coast Guard (USCG) bridge permits, U.S. Army Corps of Engineers (USACE) **Section 404** permits].

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

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. 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. A sample cover letter is shown in **[Figure 3-2](#)**. 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 including Statewide Acceleration Transformation (SWAT) scoping, 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 issues/resources. 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 desk-top 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 and Purpose and Need](#) provides guidance on preparing the project's purpose and need.

The status of planning consistency should be summarized in this section and state if the proposed project is consistent with the Local Government Comprehensive Plan(s) through DEO's review of FDOT's Five Year Work Program pursuant to **Section 339.135(4)(f), Florida Statutes**. Consistency with the approved Long Range Transportation Plan (LRTP) should be identified for projects within MPO areas. This section identifies that the project is documented in the Transportation Improvement Program (TIP) and the State Transportation Improvement Program (STIP). For projects in non-MPO areas, identify consistency with the Local Government Comprehensive Plan(s), 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 [EST User Handbook](#)). The requested information should be consistent with the **Planning Requirements for Environmental Document Approvals Form, Form No. 650-050-41 (Part 1, Chapter 4, Project Development Process)** that must be submitted with draft and final Environmental Documents for federal-aid highway projects. For Type 2 Categorical Exclusions (CEs) this form is included in the **Type 2 Categorical Exclusion Determination Form No. 650-050-11, (Part 1, Chapter 5, Type 2 Categorical Exclusion)**.

2. **Project Description** - This section includes a summary of project information, including the project limits, a description of the proposed improvements, such as addition of lanes, number of lanes, and major structural components (e.g., bridges, ramps). 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.

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 issues/resources including community features, a description of potential involvement with issues/resources, and a discussion of anticipated technical reports and permits. Please consult the appropriate chapters in **Part 2** of this [Manual](#) for guidance on identifying issues associated with the categories below.

- a. **Social and Economic**

1. **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, Sociocultural Effects Evaluation](#).
2. **Social** - Consider the community demographics (e.g., age, income, minority populations), underserved populations / environmental justice concerns, community cohesion, safety/emergency response, community character, community goals, and describe potential involvement with them as appropriate. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
3. **Relocation Potential** - Discuss potential Right of Way (ROW) acquisition needs for the project and whether relocations may be needed. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
4. **Farmlands** - Describe any farmlands in the project area and summarize their potential involvement. See [Part 2, Chapter 6, Farmland](#).
5. **Aesthetic Effects** - Describe the area's existing aesthetic features and summarize the project's potential involvement. See [Part 2, Chapter 5, Aesthetic Effects](#).
6. **Economic** - Describe the known economic condition of the area, ongoing or planned economic development efforts, and the project's potential involvement. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
7. **Mobility** - Describe existing traffic conditions, travel modes, existing and planned transit routes in the area. Describe the project's involvement with the movement of people, goods (e.g., freight), and services. See [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).

- b. **Cultural** - see *Part 2* of this [Manual](#)
1. **Section 4(f) Potential** - For U.S. Department of Transportation (USDOT) projects, identify properties potentially protected by **Section 4(f)**. Identify any public parks, publicly-owned recreation areas, and wildlife or waterfowl refuges located within the vicinity of the proposed project. Describe the potential involvement and how it 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 listed or eligible for listing on the **National Register of Historic Places (NRHP)**. This includes, but is not limited to historic districts, objects, archaeological remains, and historic standing structures, including bridges. Describe the project's potential involvement and how cultural resources will be evaluated. See [Part 2, Chapter 8, Archaeological and Historical Resources](#).
 3. **Recreation Areas** - Identify any recreation areas, the project's potential involvement, and how they may be evaluated. It should be noted that for USDOT projects these properties may be potentially protected by **Section 4(f), Section 6(f) of Land and Water Conservation Fund Act (LWCFA) of 1965 (16 U.S.C. §§ 460I-5 through 460I-7 and 460I-11)** prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the National Park Service (NPS). Identify a project's potential **Section 6(f)** involvement. The Land and Water Conservation Fund Act (LWCFA) expired on September 30, 2015, but was extended for 3 years in the **Consolidated Appropriations Act 2016**, until September 30, 2018 (**Public Law 114-113**).
- c. **Natural** - see *Part 2* of this [Manual](#)
1. **Wetlands and other Surface Waters** - Discuss potential involvement with wetland and surface water resources. If known, identify the location of potential jurisdictional wetlands and surface waters as determined by the FDEP, Florida Water Management Districts (WMDs), and/or the USACE. Describe how wetlands and surface waters may be evaluated. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#).
 2. **Water Quality and Quantity** - Provide a brief description of existing stormwater treatment and the possible options for treatment. Identify if the project is located within a sole source aquifer, and provide the name of the aquifer. The Environmental Protection Agency (EPA) will need to provide a Sole Source Aquifer letter, as appropriate. See [Part 2, Chapter 11, Water Quality and Water Quantity](#).

3. **Floodplains** - State if 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. **Coastal Zone Consistency** - State if the project, is subject to a consistency review, **15 CFR § 930**. See [Part 2, Chapter 14, Coastal Zone Consistency](#).
 5. **Wildlife 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, and how they may be evaluated. See [Part 2, Chapter 16, Protected Species and Habitat](#).
 6. **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 (MSFCMA)**. Identify possible involvement with Habitat Areas of Particular Concern (HAPCs). Describe the project's potential involvement, and how it may be evaluated. Identify if the project is located in the vicinity of, or is located within, a coastal barrier resource as defined by the **Governor's Executive Order 81-105** and the **Coastal Barrier Resources Act (CBRA)**. See [Part 2, Chapter 17 Essential Fish Habitat](#) and [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 and the need to perform a Carbon Monoxide (CO) analysis. 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 if the project intersects a potentially navigable waterway, the project's potential involvement, and how it may be evaluated. Describe the level of USCG involvement based on screening results.
- e. **Special Designations** – see *Part 2* of this [Manual](#)
1. **Outstanding Florida Waters** - Identify potential involvement with Outstanding Florida Waters. See [Part 2, Chapter 10, Aquatic Preserves and Outstanding Florida Waters](#).
 2. **Aquatic Preserves** - Identify potential involvement with Aquatic Preserves. See [Part 2, Chapter 10, Aquatic Preserves and Outstanding Florida Waters](#).
 3. **Scenic Highways** - Identify, by formal name, designated or candidate Scenic Highways in the project vicinity and potential for involvement. See [Part 2, Chapter 5, Aesthetic Effects](#).
 4. **Wild and Scenic Rivers** - Identify potential involvement with rivers listed in the Nationwide Rivers Inventory including Wild and Scenic Rivers. See [Part 2, Chapter 12, Wild and Scenic Rivers](#).
4. **Anticipated Permits** - Identify any anticipated permits.
 5. **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 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 the [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 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 Website
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

The District may mail hardcopies of the package to other recipients, as requested. For instance, several federally recognized Native American Tribes request hardcopy packages be mailed to a specified location (refer to the [Native American Coordination website](#) for more details, addresses, and tribal preferences). The [Native American Coordination website](#) includes a list of the Tribal Chief or Chairperson as well as the tribal historic preservation official(s). The Tribal Chief or Chairperson should be sent an AN package. An additional letter should be distributed with the AN to preservation officials to inform these officials that FDOT is initiating its cultural resources identification and evaluation process for the project. See [Figure 3-7](#) for a cover letter for preservation officials. 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 (electronically or hardcopy) 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 federal consistency 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 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, Florida Statutes**. 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.

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 and before the COA determination, 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 Study, and assist with the COA determination as discussed in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). The **Final Programming Screen Summary Report** contains the same information as the **Preliminary Programming Screening Summary Report** with the addition of an approved COA determination.

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. Agency roles must be designated and approved by the Lead Agency prior to determining the COA. These designations describe various levels of involvement in the environmental review process.

1. **Lead Agency** - The Lead Agency is the agency 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 non-federal 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)***, and FDOT serves as the joint lead agency. FDOT identifies whether a project will be processed as a federal or state project through consideration and coordination during the SWAT Planning Meeting. Potential Lead Agencies are identified during the Programming Screen to expedite the COA process.
2. **Cooperating Agency** - According to the Council on Environmental Quality (CEQ) (***40 CFR § 1508.5***), a cooperating agency is defined as any federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. A state or local agency of similar qualifications (or a Native American Tribe when the effects are on lands of tribal interest) may, by agreement with the lead agency(ies), also become a cooperating 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. Because the Cooperating Agencies have legal/jurisdiction requirements tied to the preparation of the Environmental Document, they may be called upon to review the pre-circulated Environmental Document on a case-by-case basis as determined by the lead agency. Cooperating Agencies must be included when establishing the schedule.

The CEQ regulations [***40 CFR § 1501.6(b)(3)***] permit a Cooperating Agency to “assume on request of the Lead Agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.” An additional distinction is that, pursuant to ***40 CFR § 1506.3(c)***, “a Cooperating Agency may adopt without re-circulating the environmental impact statement of a Lead Agency when, after an independent review of the statement, the Cooperating Agency concludes that its comments and suggestions have been satisfied”.

Cooperating Agencies may be determined during the Programming Screen or during the PD&E Study.

3. **Participating Agency** - Other agencies with expertise or jurisdiction relevant to the project that are invited by the Lead Agency (pursuant to **23 U.S.C. § 139**) to respond to requests for technical assistance, attend scoping and coordination meetings, attend joint field reviews, provide substantive and early input on issues of concern, scope agreements for issues 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 in the **NEPA** process. 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 issues of concern regarding the project's potential environmental, socio-economic, 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 an inconsistency determination is provided during the AN review, the project will go through the ETDM issue resolution process (see Chapter 2 of 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 resource concern (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 issue resolution process will be documented in the EST and the Environmental Document. The [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 federal highway projects undergoing **NEPA** review, then the “issue resolution” process set out in **23 U.S.C. § 139(h)(4)** 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 4 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 express lanes).

If the project has **not** entered the PD&E phase, the AN must be reprocessed and will include an updated Programming Screen. Entering the PD&E phase is defined as work occurring on the project after the official start date of the PD&E Study represented by Project Schedule and Management (PSM) codes (Type 2 CE Start = 706, EA Start = 707, NOI-EIS Start = 708, or SEIR Start = 709). The start of the PD&E phase date is project-specific and determined by the Project Manager. It represents the date the project team begins the PD&E Study activities, thus signaling the beginning of **NEPA** coordination and analysis for federally funded projects, and the beginning of coordination and analysis to support development of a SEIR for state-funded projects. For an Environmental Impact Statement (EIS), Notice of Intent (NOI) serves as the official start date.

An updated AN package is prepared in accordance with [Section 3.2.2](#). On federal highway 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, the District will 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

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

FDEP. Intergovernmental Programs Procedure and Reference Manual.

http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual.htm

FDEP. State Clearinghouse Manual

http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual.htm

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

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. EST User Handbook. [https://etdmpub.fla-](https://etdmpub.fla-etat.org/est/?startPageId=493&keywords=EST&categoryList=82)

[etat.org/est/?startPageId=493&keywords=EST&categoryList=82](https://etdmpub.fla-etat.org/est/?startPageId=493&keywords=EST&categoryList=82)

FHWA. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Final Guidance, November 15, 2006.

<http://search.usa.gov/search?utf8=%E2%9C%93&affiliate=dot-fhwa&query=SAFETEA-LU+Guidance&commit.x=12&commit.y=12>

Letter, December 7, 2007, USCG, discussing programmatic approach as a cooperating agency

Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Section 380.23, F.S.

http://www.leg.state.fl.us/statutes/index.cfm?StatuteYear=2015&AppMode=Display_Results&Mode=Search%2520Statutes&Submenu=2&Tab=statutes&SearchString=Section+380.23

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

Title 15 CFR § 930, 197, Federal Consistency With Approved Coastal Management Programs (Subpart F). <http://www.ecfr.gov/cgi-bin/text-idx?SID=758bac6dae3a9a678ef77e197eb29e14&mc=true&node=pt15.3.930&rgn=div5>

Title 40 CFR § 1500-1508. Council on Environmental Quality, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. http://www.ecfr.gov/cgi-bin/text-idx?SID=d0bc3539af1d24b33a217c6618118ea9&mc=true&tpl=/ecfrbrowse/Title40/40cfrv37_02.tpl#1500

Title 23 U.S.C. Highways.

3.4 FORMS

Planning Requirements for Environmental Document Approvals Form, Form No. 650-050-42

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

3.5 HISTORY

2/28/2005, 11/5/2007, 10/19/2012, 8/22/2016

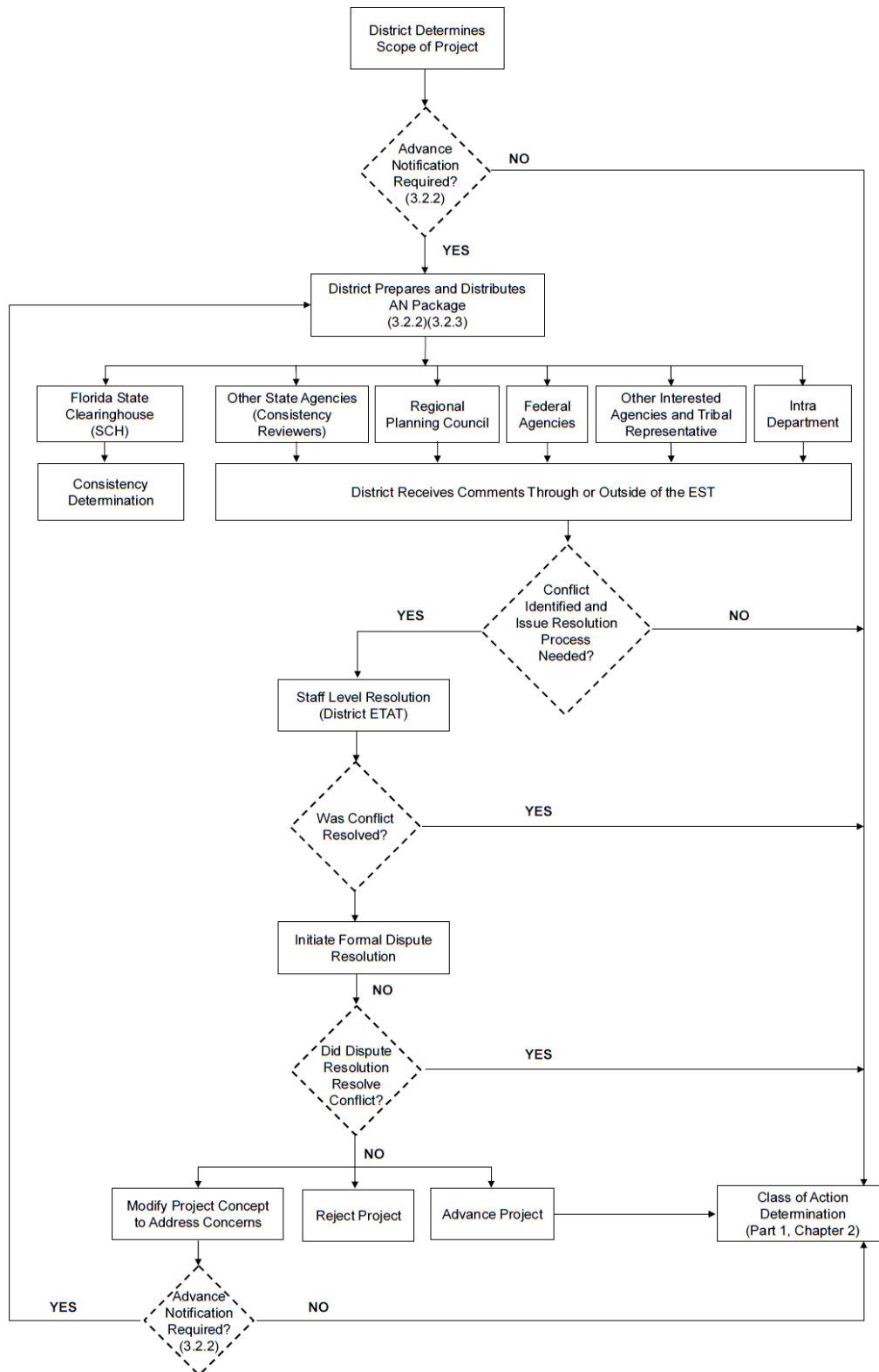


Figure 3-1 Advance Notification Process

(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

(Projects that qualify for screening and involve a federal action, federal funds, or are maintaining federal eligibility, require a Federal Consistency Review 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 December 14, 2016 and executed by the Federal Highway Administration and FDOT. -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."

Figure 3-2 Cover Letter to the State Clearinghouse

(DATE)
Page 2

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.florida-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

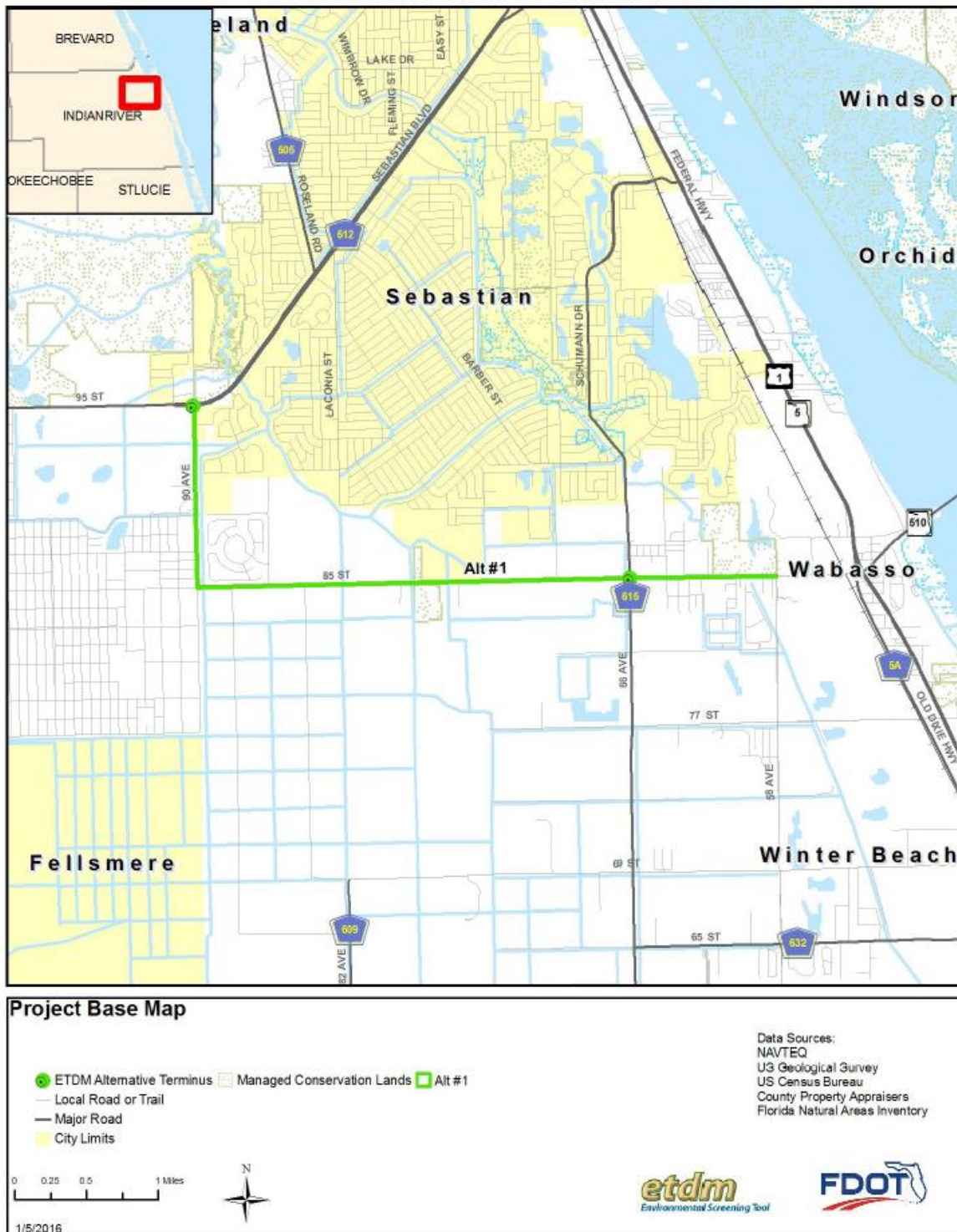
Sincerely,

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

View Burden Statement		OMB Number: 4040-0004 Expiration Date: 10/31/2019
Application for Federal Assistance SF-424		
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		* 2. Type of Application: <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"/>	
State Use Only:		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>	
8. APPLICANT INFORMATION:		
* a. Legal Name: <input type="text"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text"/>	* c. Organizational DUNS: <input type="text"/>	
d. Address:		
* 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: <input type="text"/>	USA: UNITED STATES <input type="text"/>	
* Zip / Postal Code: <input type="text"/>		
e. Organizational Unit:		
Department Name: <input type="text"/>	Division Name: <input type="text"/>	
f. Name and contact information of person to be contacted on matters involving this application:		
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	
* 9. Type of Applicant 1: Select Applicant Type: <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"/>	
* 10. Name of Federal Agency: <input type="text"/>	
11. Catalog of Federal Domestic Assistance Number: <input type="text"/>	
CFDA Title: <input type="text"/>	
* 12. Funding Opportunity Number: <input type="text"/>	
* Title: <input type="text"/>	
13. Competition Identification Number: <input type="text"/>	
Title: <input type="text"/>	
14. Areas Affected by Project (Cities, Counties, States, etc.): <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
* 15. Descriptive Title of Applicant's Project: <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)

Application for Federal Assistance SF-424	
16. Congressional Districts Of:	
* a. Applicant	[Redacted]
* b. Program/Project	[Redacted]
Attach an additional list of Program/Project Congressional Districts if needed.	
[Redacted]	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
17. Proposed Project:	
* a. Start Date:	[Redacted]
* b. End Date:	[Redacted]
18. Estimated Funding (\$):	
* a. Federal	[Redacted]
* b. Applicant	[Redacted]
* c. State	[Redacted]
* d. Local	[Redacted]
* e. Other	[Redacted]
* f. Program Income	[Redacted]
* g. TOTAL	[Redacted]
* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?	
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on [Redacted].	
<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.	
* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes", provide explanation and attach	
[Redacted]	<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 218, Section 1001)	
<input type="checkbox"/> ** I AGREE	
** 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.	
Authorized Representative:	
Prefix:	[Redacted]
* First Name:	[Redacted]
Middle Name:	[Redacted]
* Last Name:	[Redacted]
Suffix:	[Redacted]
* Title:	[Redacted]
* Telephone Number:	[Redacted]
Fax Number:	[Redacted]
* Email:	[Redacted]
* Signature of Authorized Representative:	[Redacted]
* Date Signed:	[Redacted]

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 - 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 - **ETAT Representative**
Seminole Nation of Oklahoma
Mississippi Band of Choctaw Indians (see Figure 3.7 for applicability)
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 Economic Opportunity – **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 have begun

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:

www.fla-etat.org

ETDM # : _____
PROJECT NAME : _____
ALTERNATIVE : _____
MODES : _____
PHASE : _____
DISTRICT : _____
COUNTY : _____
PLANNING ORGANIZATION : _____
POTENTIAL LEAD AGENCIES : _____

ETDM COORDINATOR : _____
Phone: _____ Email:

PROJECT MANAGER : _____

<Click to view the Advance Notification Package> Link: 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 Federal 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 reviews 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 of Project Description and Purpose and Need
- * Commentary on potential direct and indirect effects. Consider:
 - Standardized GIS analyses provided in the EST
 - Studies and other data about the area
 - Your professional knowledge about potential effects in the area
- * Assignment of degree of effect
- * Scoping recommendations for future project development phase to address:
 - Potential technical studies necessary to evaluate potential project effects
 - Identify critical issues/resources for analysis during PD&E

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

For those involved in Sociocultural Effects Evaluations, please review the 'Sociocultural Effects Evaluation- Guidelines for the ETDM Process' document at <http://www.dot.state.fl.us/emo/pubs/sce/sce.htm>.

If you have any technical questions, need assistance, or require additional training, the following three options are available to you:

- 1) Contact the ETDM Help Desk at 850-414-5334 or help@fla-etat.org
- 2) Contact ETDM Coordinator or CLC
- 3) 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.

=====

INSTRUCTIONS FOR FEDERAL CONSISTENCY REVIEW The Florida State Clearinghouse requests that applicable state agency contacts review the referenced project for consistency with the Florida Coastal Management Program. If you are not the designated Clearinghouse contact for your agency, please advise the designated contact of this notice. Those agencies that use different personnel to perform the ETDM and Clearinghouse reviews should coordinate internally to ensure that the Federal Consistency Review and the ETDM comments are not in conflict.

State reviewers should note that if a finding of inconsistency is made, the finding must cite the section of the relevant statute under that agency's authority with which the project is inconsistent, and must identify actions that can be taken to resolve the conflict. Prior to actually issuing a finding of inconsistency, the reviewing agency should immediately notify the Clearinghouse of identified problems (phone 850-245-2161).

The Florida State Clearinghouse requests the participation of the regional planning councils and local governments in the federal consistency review process. Please note that participation is advisory in nature, based upon such issues as consistency with the strategic regional policy plan or the local government comprehensive plan, or conflict with other known area activities.

Thank you,

ETDM Coordinator and CLC

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

(DATE)

Organization
Title of preservation official
Name of preservation official
Street address
City, Florida Zip Code

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

(Projects that qualify for screening and involve a federal action, federal funds, or are maintaining federal eligibility, require a Federal Consistency Review 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 December 14, 2016 and executed by the Federal Highway Administration and FDOT. -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."

Figure 3-7 Cover Letter to the Preservation Officials

(DATE)
Page 2

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.florida-etat.org/>.*

Please inform FDOT if you have any concerns related to historic or archaeological resources of importance to you or if wish to be a consulting party under Section 106 of the National Historic Preservation Act of 1966 (as amended). Furthermore, if there are any traditional religious and/or culturally important places in or 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 forwarded to:

Director, Office of Environmental Management
Florida Department of Transportation
605 Suwannee Street Tallahassee, Florida
32399-0450.
Email xxx or phone (850) 414-4316.

Or you may contact the State Cultural Resources Coordinator at the same address:
email xxx or phone (850) 414-5323.

Figure 3-7 Cover Letter to the Preservation Officials (Page 2 of 3)

Your comments should be submitted via the EST, 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 3-7 Cover Letter to the Preservation Officials (Page 3 of 3)

FEDERAL AND STATE AGENCIES

<p>Orlando Airports District Office Federal Aviation Administration 5950 Hazeltine National Dr., Suite 400 Orlando, FL 32822</p>	<p>Southeast Regional Office National Park Service U.S. Department of Interior 75 Spring St., 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. Dept. of Health and Human Services 1600 Clifton Rd. Atlanta, GA 30333</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 Ave. SE, Mail Stop 10 Washington DC, 20590</p>	<p>Director U.S. Department of Interior, USGS Florida Water Science Center 12703 Research Parkway Orlando, FL 32826</p>
<p>(FDOT District 3 and parts of 2) 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 St. Atlanta, GA 30303-2086</p>
<p>Southeast Regional Administrator National Marine Fisheries Service National Oceanic and Atmospheric Administration 263 13th Ave, South St Petersburg, FL 33701 In addition, for actions involving the FL Keys: Southeast Regional Director National Marine Sanctuaries Program National Oceanic and Atmospheric Administration 33 East Quay Rd 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

TABLE OF CONTENTS

4.1 OVERVIEW	4-1
4.1.1 Definitions	4-3
4.2 PROCEDURE	4-6
4.2.1 Planning Process	4-6
4.2.2 Linking Planning and Environmental Review	4-7
4.2.3 ETDM Screening.....	4-10
4.2.4 Alternative Corridor Evaluation	4-12
4.2.4.1 Define the Initial Corridors.....	4-13
4.2.4.2 Decide to Advance Project	4-14
4.2.4.3 Develop Methodology Memorandum.....	4-14
4.2.4.4 Refine Corridors	4-15
4.2.4.5 Prepare Alternative Corridor Evaluation Report	4-15
4.2.5 Scoping a PD&E Study	4-16
4.2.5.1 SWAT Process.....	4-17
4.2.5.2 Level of Design Detail	4-23
4.2.5.3 Scope of Services	4-25
4.2.5.4 Alternative Project Delivery Methods.....	4-25
4.2.5.5 Project Management Plan	4-26
4.2.5.6 Quality Control	4-27
4.2.5.7 Risk Management	4-27

4.2.6 PD&E Phase	4-28
4.2.6.1 Environmental Documents	4-28
4.2.6.2 Environmental Technical Studies	4-30
4.2.6.3 Project Reports and Documentation.....	4-31
4.2.7 Design and Construction.....	4-33
4.2.8 Interagency Coordination and Public Involvement.....	4-34
4.3 REFERENCES.....	4-34
4.4 FORMS	4-36
4.5 HISTORY	4-37

LIST OF TABLES

Table 4–1 PD&E Project Schedule and Management (PSM) Codes	4-22
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LIST OF FIGURES

Figure 4–1 Project Development Process	4-3
Figure 4–2 SWAT Scoping Form	4-38
Figure 4–3 Funding Determination	4-39
Figure 4–4 Approval to Advance Preliminary Design Activities	4-40
Figure 4–5 Dual Procurement Options.....	4-41
Figure 4–6 Project Management Structures.....	4-42
Figure 4–7 Planning Requirements for Environmental Document Approvals.....	4-43
Figure 4–8 Planning Requirements for Environmental Document Approvals with Segmented Implementation	4-44

PART 1, CHAPTER 4

PROJECT DEVELOPMENT PROCESS

4.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides an overview of the project development and delivery process for transportation projects prepared by FDOT. This chapter is not applicable to Federal Transit Administration (FTA) led or Federal Railroad Administration (FRA) led projects. See [Part 1, Chapter 14, Transit Project Delivery](#) for guidance on how to develop FTA led projects. The project development process for Local Agency Program (LAP) projects should follow the procedure outlined in the [Local Agency Program Manual, Topic No. 525-010-300](#). Environmental review for LAP projects require preparation of a **NEPA** document and FDOT oversight by the Districts and OEM as appropriate.

The project development and delivery process begins with planning studies and ends with a constructed project. The FDOT project development process is a comprehensive process involving: Planning, Project Development and Environment (PD&E), Design, Right of Way (ROW), and Construction phases. PD&E is the FDOT process for evaluating transportation project impacts and complying with the **NEPA** and applicable laws and regulations for federal projects and other regulations for state-funded projects. FDOT projects that are Type 1 Categorical Exclusions (Type 1 CEs) or Non-Major State Actions (NMSAs) do not have a PD&E phase. Environmental evaluations for Type 1 CEs and NMSAs are performed during the Design phase. Type 1 CEs are approved by the District Environmental Office.

Communication among various offices involved in the project development process and transition of the project from one phase to another is critical to a project's success. Project Managers are responsible for establishing and maintaining communication and coordination throughout the project development and delivery process. [Figure 4-1](#) shows the project development and delivery process, along with the building blocks of each phase and how the phases connect with the PD&E process. It is important to understand the sequence and interrelation between these phases to successfully deliver a project.

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 context of the project, status of the project, project 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 qualifying projects, FDOT uses the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) to gather project information and coordinate with resource and regulatory agencies, public and other project stakeholders about the project's potential effect on the natural, physical, cultural, and community resources. This information is used to develop the scope of services for the PD&E Study. During the PD&E phase, FDOT performs alternatives analyses, conducts environmental studies, and prepares various technical studies and reports necessary to obtain the project's Location and Design Concept Acceptance (LDCA). The PD&E phase identifies and addresses environmental issues, if any, on a project. Information obtained during 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 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 concurrent with or just after the Design phase before the project moves into construction.

The project development and delivery process described in this chapter supports the FDOT Statewide Acceleration Transformation (SWAT) process. SWAT streamlines project development by following a structured process to develop project scopes and schedules; reducing duplicative work; performing initial data collection and analysis ahead of the PD&E study; performing design activities concurrent with PD&E when possible; or overlapping Design phase with the PD&E Study to the maximum extent possible. The SWAT process applies to both state and federal PD&E studies.

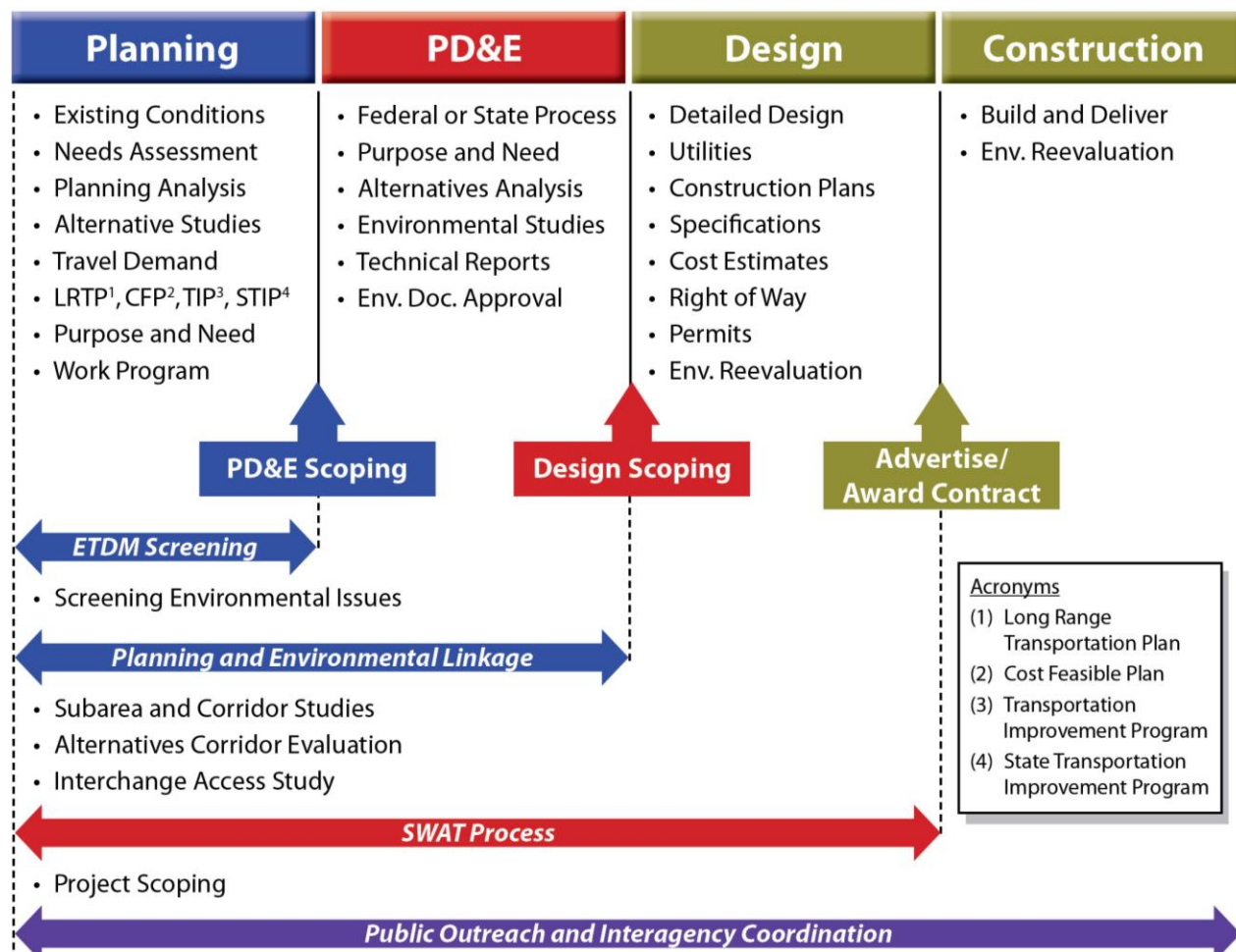


Figure 4–1 Project Development Process

4.1.1 Definitions

Administrative Record – Project documents that are submitted by the Lead Agency to the court for a **NEPA** project involving litigation.

Alternative Corridor Evaluation (ACE) – A study process used to identify and evaluate alternative corridors for the project with regard to transportation needs and environmental issues or concerns early in the project development process. This study links planning and the environmental review process.

Build Alternatives – Project alternatives that require reconstruction or widening of existing facilities, or building a new facility in a new location consistent with the project’s purpose and need.

Cost Feasible Plan (CFP) – A plan that consists of projects in a long range transportation plan that have been identified as being able to be funded within the 20-year planning horizon.

Federal Nexus— A term used when a project involves federal funding, federal permit, use of federal lands, or a federal program.

Final Design – Any design activities following preliminary design and expressly lead to the preparation of final construction plans, detailed specifications, final quantities 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.

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, FHWA can designate a project with a total cost of less than \$500 million as a major project in situations where the projects require a substantial portion of the State Transportation Agency program resources, have a high level of public or congressional interest, are unusually complex, have extraordinary implications for the national transportation system, or are likely to exceed \$500 million in total cost. 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 of populations over 50,000, as determined by the U.S. Census. Also referred to as Transportation Planning Organization (TPO).

NEPA Process – A process followed by the project sponsors and Lead Agencies to comply with the procedures and achieve the goals of the **NEPA**. The **NEPA** process, PD&E, and the federal process are used interchangeably throughout this Chapter.

No-Action or No-Build Alternative – A project alternative that consists of the existing facility and any minor improvements already programmed that are not specifically tied to the proposed project. This alternative serves as the baseline for comparison against the various build alternatives.

Planning Product – A detailed and timely decision, analysis, study, or other documented information that (a) is the result of an evaluation or decision making process carried out during transportation planning, including a detailed corridor plan or a transportation plan developed under **23 U.S.C. § 134** that fully analyzes impacts on mobility, adjacent communities, and the environment; (b) is intended to be adopted or incorporated by reference into the transportation project development process; and (c) has been approved by the State, all local and tribal governments where the project is located, and by any relevant MPO, as defined by **23 U.S.C. § 168(a)(2)**.

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 as defined by **23 CFR § 636.103** and **FHWA Order 6640.1A Policy on Permissible Project Related Activities During the NEPA Process**.

Project File – A file that documents the decision-making process and technical support during the PD&E Study and serves as the basis for the Administrative Record.

Project Scoping – A project development activity that involves determining and documenting project goals and objectives, tasks, deliverables, schedule, cost and delivery method.

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

Reasonable Alternatives (Only applies to Environmental Impact Statements) – Alternatives meeting the purpose and need which are practical or feasible from a technical and economic standpoint.

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

State Funds Only (SFO) project– A project that will be funded by state funds only. If it is determined that the project will be state funded only, then this 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) – means as defined in **Section 334.02(25), Florida Statutes (F.S.)**

State Transportation Improvement Program (STIP) – a federally mandated document which must include a listing of projects planned with federal participation in the next four fiscal years.

State Process – FDOT process for environmental evaluation of projects that do not have a federal nexus or do not involve an Interstate Highway, FRA facility or FTA facility.

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 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 **Section 341.052, F.S.**

Transportation Improvement Program (TIP) – Is the staged multiyear program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the Long Range Transportation Plan.

4.2 PROCEDURE

4.2.1 Planning Process

The project planning process begins when MPOs, FDOT, and other authorities such as military, 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/TPO LRTPs. At the state level, FDOT develops cost-feasible plans for the SHS and Florida Rail System Plan (RSP). Priority projects are selected annually from these cost-feasible plans and are presented to the Florida Legislature as a tentative Five-Year Work Program. Projects included in the Work Program and approved by the legislature may wait for funding for up to five years before significant work can proceed.

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. Additionally, FDOT provides guidance and technical assistance for transit providers for their TDPs.

During the Planning phase, the purpose and need for the project is established based on identified transportation problems or deficiencies. Transportation land use and other planning data are the primary source of information used to establish or define the purpose and need for the project. Involvement of the public and participating agencies is required when defining the purpose and need and range of alternatives.

Project technical studies can be performed within the Planning phase to define or refine project parameters, project definition and the purpose and need for the project. The planning studies inform the development of the scope of work for PD&E studies. Alternatives development may begin during the Planning phase. All project alternatives

considered during the PD&E Study, including those eliminated from further consideration during the Planning phase must be properly documented, or included by reference, in the Environmental Document.

4.2.2 Linking Planning and Environmental Review

Linking Planning and **NEPA** provides a connection between planning-level and project-level decisions. Planning decisions and the environmental review process should be seamlessly integrated to eliminate duplication of both effort and data, and minimize delays in project delivery. The benefit of linking planning decisions and the PD&E Study is the ability to reuse data gathered, methodology used, 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 Study and focus the analyses and technical studies conducted during the PD&E Study to issues that have potential to impact the project.

Pursuant to **23 U.S.C. § 168** and **23 CFR § 450.318**, 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 and/or environmental review process under existing laws. **Appendix A** of **23 CFR Part 450** is intended to be non-binding and voluntary.

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 the **NEPA** and associated implementing regulations (**23 CFR Part 771** and **40 CFR §§ 1500-1508**). The relevant agency in the environmental review 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, the **NEPA** and **40 CFR § 1502.21** [as in effect on the date of enactment of the **Fixing America's Surface Transportation (FAST) Act**].
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.

Linking planning and **NEPA** does not mean the planning products should be prepared to a level comparable to a **NEPA** analysis. Pursuant to **23 U.S.C § 134(o)**, **23 U.S.C. § 135(j)** and **49 U.S.C. § 5305(h)**, transportation plans and programs are exempted from **NEPA** review. Environmental evaluations that are conducted during the Planning phase are not required to address all regulatory requirements that should be addressed by the **NEPA** analysis. To ensure that the public is provided an opportunity for input and proper disclosure that FDOT may adopt a planning product, the following public notice must be inserted in 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 USC § 168(4)(d) or the state project development process.

If the planning product being adopted into the **NEPA** analysis is older than 5 years (from the date the product was approved), the information used to prepare the planning product must be reviewed to check 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** decision-making process. The OEM must be consulted when making this decision.

4.2.3 ETDM 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. Full and early public and Environmental Technical Advisory Team (ETAT) member participation;
4. Linkage between Planning and PD&E (including **NEPA**); and,
5. Incorporation of appropriate dispute 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, using interactive techniques and innovative technologies.

The ETDM process facilitates early interaction among transportation planners; federal, state, and local agencies; Native American 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 Turnpike. ETAT includes representatives from MPOs/TPOs, federal and state agencies, and participating Native American 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 [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 best occurs when considering projects for inclusion or prioritization within a CFP. The Programming Screen can support development of FDOT's Five Year Work Program and informs the preparation of the scope of services for the PD&E Study. The results of the screening events link the transportation 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 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, ETAT members and the public have the opportunity to provide input about potential project effects. The project sponsor also begins to identify potential effects on surrounding communities. They seek 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 support of the PD&E phase. The ETDM process meets the requirements set forth in **23 USC § 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 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 Study, and assist in determining the appropriate Class of Action (COA) for the project.

The ETDM **Programming Screen Summary Report** also contains screening documentation of project alternatives developed as part of the planning and project screening. Alternatives should support the purpose and need for a project in accordance with all applicable laws and regulations, through the balancing of engineering, environmental, and economic aspects while considering comments received through the Programming Screen.

Within the ETDM process, Environmental Scoping Process (as required by **40 CFR § 1501.7**, 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](#).

4.2.4 Alternative Corridor Evaluation

FDOT uses the Alternative Corridor Evaluation (ACE) process to identify, evaluate, and eliminate alternative corridors on qualifying projects prior to the PD&E phase. The decisions made in an ACE can be used to refine the purpose and need for a project; determine the project area; define general travel modes or corridors; describe general environmental setting for a project; identify preliminary environmental impacts and environmental mitigation; and develop and refine a range of alternatives to be considered in detail during the PD&E Study. The ACE process links planning and **NEPA**. However, adoption and use of ACE decisions in the **NEPA** process is subject to a determination by the OEM.

The ACE is typically performed as part of the ETDM screening efforts that precede the PD&E phase. The Districts should use the ACE process to support potential Environmental Impact Statement (EIS) and certain Environmental Assessment (EA) projects. The ACE process may also be used to eliminate corridors that are part of the State Environmental Impact Report (SEIR) when new alignments are under consideration. Projects that qualify for the ACE process include:

1. New alignments – new roadways; new roadway connections or extensions;
2. Major realignments;
3. Major bypasses – truck bypasses, city/town bypasses; and,
4. Other alignments based on consultation with OEM.

Additionally, new alignments or major realignments for transit corridors, freight corridors (that are not bypasses), and bicycle or trail corridors can be evaluated using the ACE process. See [Part 1, Chapter 14, Transit Project Delivery](#), for guidance on corridor analysis for transit projects.

The ACE process identifies and evaluates corridor alternatives using the **Methodology Memorandum (MM)** agreed upon by the project stakeholders. The results of the ACE

are documented in the ***Alternative Corridor Evaluation Report (ACER)***. The ***ACER*** is used in the ***NEPA*** process to support a decision to eliminate from further study corridors that are not feasible or do not meet the purpose and need for the project. Public involvement and resource agency coordination in the ACE process is done through the ETDM screening process. The ETDM screening facilitates demonstration and documentation that alternatives considered during the ACE process followed a proper consultation and received support from regulatory and resource agencies and affected stakeholders (see [ETDM Manual, Topic No. 650-000-002](#)).

The level of detail in the analysis of an ACE is higher than that used to prepare a typical planning product, but less than that of a PD&E Study. The ***ACER*** must establish and document criteria and the public involvement process used to evaluate and eliminate alternatives that are not feasible or do not meet the purpose and need for the project. Such documentation is essential to incorporate ***ACER*** results into the ***NEPA*** process. The cover of the ***ACER*** must include the public notice stated in [Section 4.2.2](#).

The ACE process varies depending on whether it is started in the Planning Screen, or Programming Screen. **Chapter 3** and **Chapter 4** of the [ETDM Manual, Topic No. 650-000-002](#) explain how to conduct an ACE during the Planning Screen and Programming Screen, respectively. The following sections summarize the basic steps of the ACE process.

4.2.4.1 Define the Initial Corridors

Appropriate District Project Managers, planners, engineers and SWAT team members coordinate internally to identify and define a reasonable range of alternative corridors that address project needs. The corridors can range from swaths to broad corridors to narrower alignments. The naming of each corridor or alternative must remain consistent throughout the ACE and be carried through the PD&E phase. The District must consider any initial corridor alternatives from previously completed planning activities such as planning-level corridor/subarea/feasibility studies, multimodal corridor plans, vision plans, or master plans that might inform the ACE process. If no corridor alternatives were previously developed, the District must define initial corridors within the ACE study area. The District can add additional corridors at its discretion after consideration of known environmental issues, comments from ETAT members, and the ability of the corridor to meet the purpose and need for the project.

When evaluating major urban corridors, the District must consider the need for public transportation systems, facilities and services, and alternative corridors that will address multimodal transportation needs consistent with [Major Urban Corridor Studies Policy, Topic No. 000-725-010](#). Such consideration can include analysis for reasonable corridors based on the presence of alternative transportation modes and the feasibility of developing an interconnected multimodal transportation system. Multimodal options that must be considered include, but are not limited to, fixed guide way facilities and expanded bus service with supporting facilities. The policy requires each major urban corridor study to determine if there is justification for continued consideration of public transportation systems, and facilities or services in conjunction with the development of the corridor.

Consideration of alternative transportation modes, particularly in urban areas, should include the need for bicycle and pedestrians facilities. See [Part 2, Chapter 3, Engineering Analysis](#) for more guidance.

4.2.4.2 Decide to Advance Project

The District considers the involvement and potential impacts to environmental issues/resources and the presence of any fatal flaws on the project to decide if the project should be advanced. In making decisions, the District may consider GIS data, known environmental issues in the area, and early project stakeholders' comments, and other data and information that would help determine the appropriate level of detail of analysis for the range of alternatives being considered. Once the decision has been made to advance the project, the District defines the goals for the ACE process (e.g., performing an action plan level corridor analysis or determining reasonable alternatives for the PD&E Study).

4.2.4.3 Develop Methodology Memorandum

The District develops an **MM** based on stakeholder comments and other information regarding the project environmental context. The **MM** is a technical memorandum which describes the goals of the ACE, identifies alternative corridors, and details the data and procedure the District will use to develop, evaluate, and screen alternative corridors. The **MM** also details the process, including public involvement, and criteria that form the basis for decision-making. The **MM** includes the following:

1. Background

- a. Contact personnel
- b. Basic project information
 1. Previous planning studies or relevant information
 2. Known project issues of concern
- c. Project description
- d. Purpose and need for the project

2. Goals and objectives of the ACE

- a. Provide the status in project delivery
- b. Define the goals and objectives of the study
- c. Identify the decision points/milestones

3. Methods to analyze the alternative corridors and make decisions

- a. Describe needs for alternative modes such as transit, freight, or pedestrian/bicycle facilities
- b. Describe alternative corridors
- c. Describe data needs
- d. Describe criteria to evaluate and screen alternative corridors
- e. Describe the data analysis tools [e.g., EST, Land Suitability Mapping (LSM), Quantum]

In the following situations, the **MM** may be reviewed by project stakeholders more than once:

1. There is a change in project termini (expanded);
2. There is a change in purpose and need for the project;
3. There is significant change in project concept(s) (e.g., alignment, typical section, interchange/intersection configuration);
4. There is significant change in alternative mode components such as pedestrian, bicycle, transit, freight facilities;
5. There is a change in supporting data that may affect the methodology and any resulting decisions made from it (e.g., population changes, economic changes, land use changes); and,
6. There are significant revisions (based on stakeholders input) to the methodology to analyze the alternative corridors and make decision.

During the ETDM screening, the ETAT reviews, comments, and agrees on the **MM** in the EST. The OEM concurs with the **MM** after the ETAT comment period, through the EST. See [ETDM Manual](#) for procedures on how to develop a **MM** using the EST.

4.2.4.4 Refine Corridors

The District evaluates the corridors using the criteria established and agreed upon in the **MM**. In studying the alternatives and considering input from ETAT and other project stakeholders, the District may refine corridors to avoid potential environmental effects. The refinement of corridors to avoid potential effects also considers the corridor vision, purpose and need, and potential environmental impacts.

4.2.4.5 Prepare Alternative Corridor Evaluation Report

The **ACER** summarizes the alternative corridors analysis and documents the alternatives that are eliminated or carried forward to the PD&E Study (pursuant to **23 U.S.C. § 168**

and **Appendix A of 23 CFR Part 450**). The **ACER** documents the basis for eliminating alternatives. Documentation regarding the elimination of alternatives in the **ACER** is part of the project's Administrative Record for the **NEPA** process. It is critical to properly document the analysis, public and agency involvement, and resulting planning decisions in the **ACER** to ensure that these analyses meet requirements for use in the **NEPA** process. The **ACER** must document assumptions supporting planning analysis such as travel demand forecast year; forecast method and its rationale, and future year data. Additionally, the **ACER** must document policy assumptions related to land use, socio-economic factors, transportation costs, and transportation network. The **ACER** also documents known unresolved project issues with the public, stakeholders or agencies.

When completed, the **ACER** is uploaded into the EST for comment. The ETAT members have 30 days to acknowledge their understanding of the **ACER** and submit comments in the EST. After ETAT review, the **ACER** is submitted to the OEM for concurrence.

The OEM considers the **ACER** for adoption and reviews the recommendations of the alternatives eliminated from further study or considered for additional study in the subsequent PD&E phase or concurrence. The District will make a formal request for adoption through either the EST or email. After OEM concurrence, the EDTM Coordinator publishes the **Planning (or Programming) Screen Summary Report** with the **ACER**.

The **ACER** should be included in the project file as part of the supporting documentation of a PD&E Study and should be summarized in the "Alternatives Development" section of an EA or EIS (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. The Alternatives Considered but Eliminated section should also include the coordination that assisted in making the determination with reference to the **ACER**.

4.2.5 Scoping a PD&E Study

The project scoping process in this chapter builds on the SWAT process. Project scoping is a project development activity that identifies and considers various project related issues which may affect cost and schedule; determines the work activities to be performed for the project; and develops or refines key project parameters and requirements sufficient to define the project. The project scoping process outlined in this chapter is applicable to both state and federally funded projects.

The project scoping process 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](#).

Project scoping of a PD&E project starts towards the end of the planning process as the project transitions to the PD&E phase. Scoping helps to focus the project activities to issues that have a potential to impact the project and actions needed during the PD&E phase to avoid, minimize or mitigate a project's potential impacts. Additionally, the

scoping process provides the foundation for a PD&E Study. Scoping requires coordination of project stakeholders within and outside the District to realize best options to deliver the project.

The PD&E scope of services documents the project parameters and the level of engineering and environmental analyses required to develop the project that will meet the purpose and need. The level of engineering and environmental analyses is commensurate with the project type and its context, and the significance of potential project impacts. 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 project performance, establishes a realistic project delivery schedule, and provides a foundation for managing project change and risk.

The PD&E Project Manager is responsible for scoping the PD&E Study. The PD&E Project Manager should use the guidance in this section to identify work activities and deliverables, and prepare the preliminary schedule to deliver the project. During project scoping, the Project Manager must work collaboratively with District staff and other project stakeholders (other agencies and local governments), as applicable, to identify project needs and potential issues that will be addressed by the PD&E Study. Early input from the various District offices and other project stakeholders is essential for developing effective project scopes that consider broader project issues.

4.2.5.1 SWAT Process

SWAT process is a project management approach that streamlines FDOT's project delivery process through early coordination and communication among the different functional offices within the District. **Both state and federally funded projects follow the SWAT process.** See [FDOT Quick Guide: Transforming our State Pre-Construction Process](#) and SWAT training materials for more guidance.

The objectives of the SWAT process include continuous, active team engagement (for both federal and state funded projects); identification of State Funds Only (SFO) projects; adherence to established project schedules; and advancement of project activities to expedite project completion. SWAT promotes early collaboration and coordination during the scoping of projects to properly identify funding mechanisms, and develop a realistic project schedule. It also identifies opportunities to overlap activities in the Planning, PD&E, Design, and ROW phases.

Each District has an established SWAT team composed of cross-functional, multi-disciplinary staff experienced in project delivery. Members of the SWAT team include representatives from Work Program, Production/Scheduling, Intermodal Systems Development (ISD)/Planning, Design, ROW, and Environmental Management. Other staff from District functional offices are usually invited to participate in the SWAT team meetings. SWAT team members are experts who are involved at key milestones during planning and prior to development of the PD&E Scope of Services to ensure that project decisions get broad input and early support. The SWAT team actively engages with the ETDM Coordinator and Environmental Office staff to scope PD&E projects. Importantly,

the SWAT team works closely with the assigned Project Manager(s). The primary purpose of the SWAT team is to assist Project Managers in appropriately scoping projects to realize project delivery time savings, and identify the appropriate delivery method for each project.

SWAT consists of planning, strategy, and kickoff team meetings. The purpose of these meetings is to plan and investigate the project parameters and requirements (such as objectives, deliverables, and milestones); the need and level of overlapping PD&E Study with Design phase; and project development approach before the projects advance to the PD&E phase. The SWAT team meetings use the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** ([Figure 4-2](#)) to evaluate the project and determine project parameters that influence the development of the project.

4.2.5.1.1 SWAT Planning Meeting

Each District's SWAT team holds an annual planning meeting(s) to review PD&E projects that will be included in the five-year Work Program. The planning meeting may include the OEM project delivery staff at the request of the District. The SWAT team should meet with District management prior to the planning meeting to obtain their input on projects being considered in the tentative Work Program.

During the planning meeting, the SWAT team reviews and discusses the purpose and need for projects proposed to be added in the Work Program cycle. The SWAT team also reviews information from the ETDM planning screen, if available. The outcome of the SWAT planning meeting is a list of projects for Work Program development consideration with recommendations of funding type for each project; an initial view on the anticipated or hypothetical COA assigned to each project; the potential for Design phase overlap with PD&E phase; anticipated complexity and the potential for consideration as an Advanced Production Project ([Work Program Instructions, Part V Chapter 1, Production Management](#)); and a list of projects to be screened through the ETDM process.

During the SWAT planning meeting, each project is recommended as either a state or federal project. An SFO identifier is assigned to state funded projects. [Figure 4-3](#) shows the process followed by the SWAT team to decide how the projects will be funded. To decide whether to use federal funds on the project, the SWAT team considers factors such as environmental considerations, anticipated permits, [Work Program Instructions](#), and expected time savings resulting from the state project delivery process.

Projects that must follow the federal process or must stay federalized are listed in [Work Program Instructions, Part III - Chapter 25, Project Development and Environment \(PD&E\)](#). These projects are:

1. Interstate projects;
2. Projects using or involving Interstate right of way (e.g., air rights, adjacent);
3. Projects within and impacting federal lands, such as National Parks or Forests;

4. Projects where a federally funded phase has occurred (funds expended);
5. Projects where current work is federally funded;
6. Transportation Alternatives (TA) program projects;
7. FHWA Safety Program projects;
8. Off-System projects; and,
9. Projects qualifying as Type 1 CEs.

The SWAT team also considers the following when determining whether to use federal funds for projects:

1. Impacts to Work Program flexibility based upon anticipated cost of construction.
2. Projects where protected species or habitat may be impacted and consultation under the **Endangered Species Act (ESA)** is necessary ([Part 2, Chapter 16, Protected Species and Habitat](#)). **Section 7** of the **ESA** would apply for federal projects or those with a federal nexus. **Section 10** of the **ESA** would apply for projects where there is no federal funding or federal nexus.
3. Projects that require a federal permit, such as U.S. Coast Guard (USCG) bridge permit or U.S. Army Corps of Engineers (USACE), **Section 404** permit.

If federal funds have been used on a prior phase of the current project, coordination with OEM and the Office of General Counsel is required.

SFO projects that do not qualify for ETDM Screening may proceed as NMSA projects. SFO projects that qualify for ETDM Screening, including those defined as major in **Section 339.155(5)(b), F.S.**, proceed to PD&E as SEIR projects. For projects identified as SEIRs, the District SWAT team ranks them based on environmental and engineering complexity and expected number of PD&E days that would be saved using the state funded project delivery process. Projects that are funded through state, local, or private means must follow the requirements of [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

During the SWAT planning meeting, the SWAT team completes **Section A** of the **Statewide Acceleration Transformation Scoping Form No. 650-050-40 (Figure 4-2)** based on the District's knowledge of project requirements and potential project impacts. **Section A** of the form documents the recommendations and agreed upon process resulting from the SWAT planning meeting. **Section B** of the form should be completed during the SWAT Strategy Meeting and updated during the SWAT kickoff meeting. The results of the SWAT planning meeting must be shared with Work Program staff responsible for advancing projects and the District management. This information should be retained in the project file.

4.2.5.1.2 SWAT Strategy Meeting

The SWAT team holds a strategy meeting to develop high-level project delivery strategy and milestone schedules for each PD&E project identified in the Work Program. The strategy meeting helps the District to establish pre-PD&E milestones in the FDOT Production Schedule and Management (PSM) system with appropriate PSM codes. Examples of pre-PD&E milestones are ETDM screening events, Advance Notification, initiation of technical studies that may advance ahead of PD&E Study, SWAT kick-off meeting and PD&E advertisement.

Project scope evaluation by the SWAT strategy meeting participants starts by revisiting **Section A** of the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40** prepared during the SWAT planning meeting. The SWAT strategy meeting participants also complete **Section B** of the **Statewide Acceleration Transformation Scoping Form** based on available project information at the time of the meeting. During the strategy meeting, the SWAT team considers opportunities to overlap PD&E and Design phases when appropriate. In creating a preliminary project schedule, the SWAT team evaluates the risk associated with project design ambiguity and environmental complexity in a project schedule estimation matrix. Environmental complexity is estimated based on the likelihood of substantial environmental issues on the project, and the design ambiguity is a function of how quickly a preferred alternative can be determined in the PD&E process.

Consideration may also be given to segmenting the project to expedite project delivery without compromising the **NEPA** process.

4.2.5.1.3 Activities that May Advance Prior to PD&E

As part of the SWAT process, the Districts must explore options to collect data and conduct technical studies and surveys ahead of the PD&E Study. Ideally, these activities should be completed before the SWAT kickoff meeting to assist in project scoping. Project activities that are advanced ahead of the PD&E Study can be accomplished using District staff, districtwide consultant contracts, or phase 22 (PD&E phase) funds to procure a consultant. Phase 22 funds can be used for PD&E activities prior to initiation of the PD&E Study, as per the [Work Program Instructions](#).

Project activities that may start ahead of a PD&E Study include:

1. Design survey;
2. Traffic data collection and traffic analysis;
3. Preliminary geotechnical investigation;
4. Existing condition analysis;
5. Public involvement plan, including public outreach;

6. Long lead species surveys, if the time of year is right such that doing the species survey earlier prevents waiting during PD&E;
7. Cultural resources assessment survey;
8. Contamination screening; and,
9. Other technical studies or coordination as project characteristics allow.

4.2.5.1.4 SWAT Kickoff Meeting

Each project that goes through PD&E must have a SWAT kickoff meeting. The kickoff meeting occurs approximately one year before the PD&E study is programmed. The purpose of the kickoff meeting is to identify and establish project objectives, identify the environmental conditions that may be affected by the project, determine how Design phase activities can be advanced concurrent with PD&E, determine appropriate contracting and project management scheme when PD&E and Design phases overlap, prepare the project's scope of services, and create preliminary project schedule.

The SWAT kickoff meeting includes members of the SWAT team, PD&E Project Manager, Design Project Manager, subject matter experts, and staff from Environmental Management, Environmental Permitting and Planning offices. The PD&E Project Manager's role is to gather technical information necessary to scope the project and identify the subject matter experts to be invited to the kickoff meeting. Subject matter experts are involved as potential project issues are identified and their role in the kickoff meeting is to provide technical and analytical inputs within their areas of technical expertise. Additionally, the subject matter experts ensure that project related issues within their areas of expertise are raised and incorporated in the scope of services for the project.

Project scope evaluation by the SWAT team starts by revisiting the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** ([Figure 4-2](#)) prepared during the SWAT planning and strategy meeting. The SWAT kickoff meeting reviews ***Section A*** and updates ***Section B*** of the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** based on available project information, funding determination, EDTM screening results, COA considerations, field observations, and the level of recommended design activities that will overlap with PD&E. The SWAT kickoff meeting also develops an efficient and effective project schedule and a scope of services for the project.

The SWAT team along with the appropriate subject matter experts, determine or estimate the potential project impacts to environmental resources as either substantial, not substantial, enhancement, or no involvement. Environmental resources that are marked as "No Involvement" must have an acknowledgement that it was considered but not present on the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** and therefore the scope of services should only require the consultant to verify and include a statement to that effect in the Environment Document. Resources that are

marked as “No Substantial Impact,” “Enhance,” or “Substantial Impact” on the form must be included in the scope of services for analysis during the PD&E Study.

When developing the schedule for advancing the PD&E Study, the SWAT team must determine PD&E activities (see [Section 4.2.5.1.2](#)) that can begin ahead of the PD&E Study initiation to take advantage of potential time savings.

The results of the SWAT project kickoff meeting include a schedule for the project. The schedule includes a target number of months to complete the PD&E Study, recommended project management structure, recommended contracts procurement option, target number of months from the start of preparation of the Environmental Document to approval of the Environmental Document, anticipated COA, a draft scope of services, a list of technical documents required, and if appropriate a plan for a technical panel. Use of a technical panel can facilitate communication of project expectations with respect to project scope and schedule to prospective consultants. Additionally, the SWAT project kickoff meeting for state funded projects hypothesizes what the assigned federal COA would have been.

4.2.5.1.5 Project Schedule

To streamline development of PD&E schedules, FDOT has developed project schedule templates for PD&E studies (by COA) to support sequencing, implementation and execution of the Work Breakdown Structure (WBS) 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 WBS provides an activity/task coding structure that is used in the PSM system. It also identifies the project milestones, activities and activity durations to successfully deliver the project. [Table 4-1](#) lists some of PD&E activities that must be tracked in the project schedule. Approved Environmental PSM codes can be downloaded from the [OEM website](#).

Table 4-1 PD&E Project Schedule and Management (PSM) Codes

PSM Code	Activity
703	PD&E Scope and Schedule Completion
705	PD&E Advertisement
707	EA Start
708	Notice of Intent (NOI), EIS Start
709	SEIR Start
710	Planning Consistency Completion
711	Alternatives Workshop

Entering the PD&E phase is defined as work occurring on the project after the official start date of the PD&E Study represented by project schedule and management (PSM) codes (Type 2 CE Start= 706, EA Start = 707, NOI-EIS Start=708, or SEIR Start = 709). The start of the PD&E phase date is project-specific and determined by the Project Manager.

It represents the date the project team begins PD&E Study activities, thus signaling the beginning of **NEPA** coordination and analysis for federal projects, and the beginning of coordination and analysis to support development of a SEIR for state-funded projects. For an EIS, Notice of Intent (NOI) serves as the official start date.

The PD&E Project Manager must work with the District Production Management Office to create a detailed schedule that uses PSM codes. As referenced in [Section 4.2.5.1.3](#), the Project Manager will develop an informed schedule, using information recognized in the SWAT kickoff meeting, and convey the project schedule to the District Production Management Office staff who will enter identified schedule milestones in the PSM with corresponding codes prior to advertisement for consultant acquisition. Importantly, the Project Manager and Production Scheduler must ensure the project schedule has realistic timeframes and project work activities proceed in a logical order. The project schedule must include time required for document reviews by the District, OEM and Cooperating Agencies, as appropriate. The Project Manager must also communicate to the consultant, as applicable, the expectation of the project schedule.

4.2.5.2 Level of Design Detail

Engineering activities for a PD&E Study are performed to a level of detail that may be used to analyze and compare the effects of the alternatives on the social, natural, cultural, and physical environment. Therefore, the level of design detail required for a PD&E Study is project-specific. Depending on the context and schedule of the project being studied under the **NEPA** process, PD&E and Preliminary Design can begin concurrently provided that the preliminary design activities comply with **23 CFR Part 771** and **40 CFR §§ 1500-1508**. Essentially, the preliminary design activities must not limit the choice of reasonable alternatives [**40 CFR §1506.1(a) and (b)**]. Projects that follow the state process have more flexibility in advancing Design phase activities to the PD&E phase (see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

4.2.5.2.1 Permissible Project Related Activities during NEPA

FHWA Order 6640.1A, Policy on Permissible Project Related Activities during the NEPA Process, explains the level of preliminary design detail allowed in PD&E studies and aims to reduce project delivery time. To comply with and utilize the flexibility provided in this directive during PD&E, the Districts may perform preliminary design activities prior to a **NEPA** decision regardless of the project delivery method that is 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 [PPM, Volume 2, Chapter 2, Sequence of Plans, Topic No. 625-000-008](#). Most items are in the preliminary status through Phase II Plans 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 addressed in [PPM, Volume 1, Chapter 13, Initial Engineering Design Process, Topic No. 625-000-007](#).

Other activities necessary to establish the final design parameters for a project (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. The form in [Figure 4-4](#) should be completed and signed by both the District and OEM to authorize preliminary design of those activities. Preliminary engineering activities are defined in **23 U.S.C. § 101(a)(4)(A)** and are referenced in **Guidance on Preliminary Engineering Authorizations in FMIS**. The activities are eligible for Federal-Aid reimbursement once they are approved by FHWA.

4.2.5.2.2 Overlapping PD&E and Design Phases

The preliminary design activities for a project can commence during the PD&E process by overlapping PD&E and Design phases, or procuring the two phases concurrently. This is one of the objectives of the SWAT process. However, the Project Manager must be familiar with and consider the risks associated with overlapping preliminary design activities with PD&E. First, there is always the possibility that the No-Action (No-Build) Alternative could be chosen as the preferred alternative. Second, the 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, OEM may prohibit any preliminary design activity if it is determined that such activity will materially affect the objective consideration of alternatives or cause an adverse environmental impact. See [Section 4.2.5.2.1](#) for the level of preliminary design detail allowed in PD&E studies. To mitigate the risk, the Project Manager must work closely with the SWAT team before deciding to overlap the Design phase with the PD&E phase to ensure the consultant procurement process is vetted for issues that may prevent the project from moving forward.

Design activities for federal projects must not be completed beyond Phase II (60%) design plans prior to OEM approval of the Environmental Document. There is no limitation to the level of design plans which may be completed concurrently with a SEIR. However, the SWAT team and Project Manager must be mindful of alternatives analysis considerations and other risks associated with advancing final design activities with SEIR particularly if a federal permit is involved.

There are three options for dual procurement of PD&E and Design phases that the SWAT team and the Project Manager 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.

Dual procurement options are shown in [Figure 4-5](#). Project management structures for these options are shown in [Figure 4-6](#).

4.2.5.3 Scope of Services

The Project Manager must review the ***Programming Screen Summary Report*** before advancing the project to PD&E. The report helps the Project Manager to become familiar with the existing environmental setting and helps with the understanding of the environmental or social 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 must gather other technical information needed to scope the project in addition to the ***Programming Screen Summary Report***. This includes 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, the Project Manager must 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 Study.

The Project Manager must consult with the District Environmental Office for input regarding project activities and/or impacts. The Project Manager must work in concert with an interdisciplinary project team, largely composed of members from the District SWAT team, (from Planning, Environmental Management, Design, Right of Way, Construction) to complete the PD&E Study scope of services. The team must use the recommendations from the District SWAT kickoff meeting to complete the scope of services for the PD&E Study. The Project Manager must use the ***PD&E Study Standard Scope of Services*** development tool to prepare the scope of services for the project. The Project Manager must have a Statewide Environmental Project Tracker (SWEPT) account to access the scope of services development tool.

Environmental resources determined to be absent in the project (or no involvement) through the ETDM screening, SWAT kickoff meeting, and/or field observations should not be included in the scope of services. The scope of services must require the consultant performing the PD&E Study to review the ETDM screening documentation for resources determined to be absent before including a statement to that effect in the Environmental Document.

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

4.2.5.5 Project Management Plan

A successful project has the following characteristics: objectives are fulfilled and delivered within the planned budget and schedule, and FDOT quality metrics are met or exceeded. Each project must have a Project Management Plan (PMP), also called the Project Work Plan. The purpose of the PMP is to promote the efficient, organized, and timely completion of the work product according to schedule, budget, and contract requirements. The PMP details the project scope; defines the project delivery; and establishes project schedule, budget, resource allocation, communication plan, and the management methods used by the project team to deliver the project. Depending on the context and complexity of the project, the PMP may include a project Risk Management Plan, Change Management Plan, and Transition/Closure Plan. [**Part 1, Chapter 3, Project Work Plan of FDOT's Project Management Handbook**](#) provides additional information about the development of PMPs.

Pursuant to **23 U.S.C. § 106(h)**, Major Projects are required to have an FHWA approved PMP and an annual Financial Plan, including a phasing plan when applicable. The PMP for Major Projects must document procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality of the project deliverables. The PMP also includes the role of the agency leadership and management team in the delivery of the project. The Project Manager must submit the draft PMP to FHWA at least 60 days prior to OEM approval of **NEPA** document for Major Projects. The Project Manager should work with the District Production Office to prepare the draft PMP prior to submitting to FHWA.

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

4.2.5.6 Quality Control

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

All work associated with a PD&E Study must adhere to a project specific QC Plan which will ensure that project deliverables conform to applicable laws, regulations and FDOT procedures. The QC Plan must address the internal QC process performed by the PD&E Study team. The Plan must ensure that 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 must also include processes and procedures for QA measures to evaluate and document compliance of the QC process. [Part 1, Chapter 16, Quality Assurance and Quality Control of FDOT's Project Management Handbook](#) provides additional information for the development of QC Plans.

4.2.5.7 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 of the 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 achieving its objectives.

Risk management is most effective when performed early in the life of a project and assessed continuously throughout the project. ETDM screening events ([Section 4.2.3](#)) and SWAT kickoff meetings ([Section 4.2.5.1](#)) are examples of project activities that 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 PD&E 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 must 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. [Part 1, Chapter 19, Risk Management of FDOT's Project Management Handbook](#) provides additional information for identifying and managing project risks.

4.2.6 PD&E Phase

The PD&E phase builds on the outcome of the ETDM screening, SWAT team meetings, prior planning products and ACE, 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 1, Chapter 14, Transit Project Delivery](#) and [Part 2, Chapter 3, Engineering Analysis](#) for more information on alternatives analysis. Environmental analyses performed during PD&E evaluate the project's effect on social, cultural, natural, and physical resources. During the environmental analysis, conceptual mitigation plans may be developed based on unavoidable impacts. See [Part 2, Chapter 4 through Chapter 21](#), for procedures on how to perform environmental resource analyses.

Throughout the PD&E process, interagency coordination is conducted to identify project impacts, permitting requirements, project commitments, and funding sources. Commitments identified during the PD&E process can include requirements for future coordination, avoidance and minimization and/or mitigation for unavoidable impacts to resources. These commitments are documented, in the Environmental Document and advanced, tracked, and implemented in later phases of the project through [Project Commitment Record, Form No. 700-011-35](#). See [Part 2, Chapter 22, Commitments](#) for more information on commitments during the PD&E phase.

4.2.6.1 Environmental Documents

The COA for federal projects may have been determined during ETDM; however, a COA determination is not mandatory prior to advancing a project to PD&E phase. If the COA is known, the project may proceed as a CE, EA, or EIS. If the project is state-funded it may proceed as a SEIR.

Processing

Projects requiring a federal action or that use federal-aid funds must meet planning consistency requirements outlined in **23 CFR Part 450** prior to be submitted to OEM for LDCA. The planning consistency documentation for EAs and EISs submitted to OEM for

approval must include the appropriate planning consistency form ([Figure 4-7](#) and [Figure 4-8](#)) with attached LRTP, Transportation Improvement Program (TIP), and current State Transportation Improvement Program (STIP) pages. The ***Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42*** ([Figure 4-8](#)) is to be completed for projects with segmented (phased) implementation. For information on documenting planning consistency in the Environmental Document and links to planning consistent spreadsheets, see [Part 2, Chapter 1, Project Description and Purpose and Need](#) and [FDOT/FHWA Consistency Guidance](#), respectively.

Type 2 Categorical Exclusions

Type 2 CEs are projects with no known significant impacts but which may require more detailed analysis of relevant issues and public involvement. These projects go through a PD&E phase before advancing into the Design phase. The document of record for LDCA is the signed ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11***. The Type 2 CE documentation consists of this form, the ***Preliminary Engineering Report***, and if applicable, the public hearing transcript. Planning consistency information is included in the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11***. The processing and documentation of Type 2 CEs is discussed in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#).

Environmental Assessments

An Environmental Assessment (EA) is prepared for actions in which the significance of the environmental impact is unknown. Depending on the significance of the impacts, an EA will 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 or an EIS 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 appropriate planning consistency form should be submitted to OEM with the EA to show the progression to consistency, and with the FONSI when LDCA is requested. 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 that are determined to have a significant environmental impact require an Environmental Impact Statement (EIS) and should address environmental issues identified during the Programming Screen and PD&E phase. The appropriate planning consistency form should be submitted to OEM with the DEIS to show the progression to consistency, and with the Final Environmental Impact Statement (FEIS) when LDCA is requested. An EIS receives LDCA once the Record of Decision (ROD) is approved by OEM. The processing, review, and approval of the DEIS and FEIS are described in [Part](#)

[1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#).

State Funded Projects

Transportation projects qualifying for EST screening, without federal involvement require a SEIR. When a Local Agency or other entity is the lead agency, a Project Environmental Impact Report (PEIR) should be prepared. PEIRs are used by non-FDOT entities when state funds are used or the project lies on a SIS, SHS facility, or a project advanced through a State Infrastructure Bank (SIB) loan. The processing, review, and approval of non-federal projects are described in [Part 1, Chapter 10, State, Local and Privately Project Delivery](#).

4.2.6.2 Environmental Technical Studies

Environmental technical studies are performed and their results documented according to the appropriate Chapters in [Part 2 of the PD&E Manual](#). Reports documenting these studies ([Section 4.2.6.3](#)) are prepared in response to the relevant environmental issues/resources.

Technical reports are sent to OEM for review prior to submitting to appropriate agencies for coordination/consultation. After OEM review, technical reports are uploaded into the EST for review by the appropriate ETAT members. This allows the District to address ETAT comments or seek concurrence prior to finalizing the Environmental Document.

Below is a list of some examples of environmental technical studies that may be performed during PD&E. This list is not all inclusive.

1. Water Quality Impact Evaluation;
2. Natural Resources Evaluation;
3. Noise Study;
4. Air Quality;
5. Contamination Screening Evaluation/ Level I Contamination Assessment;
6. Conceptual Stage Relocation;
7. Section 4(f) Evaluation;
8. Cultural Resource Assessment Survey;
9. Sociocultural Effects Evaluation; and,
10. Drainage and Floodplains Evaluation.

4.2.6.3 Project Reports and Documentation

Documentation for a PD&E Study includes the Environmental Document, technical reports, data, memoranda, maps, meeting summaries, comment/response matrices. The PD&E Project Manager is responsible for collecting, maintaining, and filing documentation for a PD&E Study in the project file. The project file provides the supporting rationale and technical support behind the PD&E Study's decision-making process. The Project Manager should begin compiling the project file at the start of the PD&E Study, continue to add documents throughout the study, 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 PD&E are passed to the next phase of the project development process. Additionally, a complete project file is essential to preparing and compiling a complete administrative record for the project.

All project documents will be 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](#).

Below is 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 (discussed in [Section 4.2.4.3](#)), which are the basis of PD&E decisions, must also be kept in the project file.

1. Approved Environmental Document (Type 2 CE documentation, EA with FONSI, DEIS, FEIS/ROD, FEIS, ROD, or SEIR)
2. ***Project Traffic Analysis Report***
3. ***Travel Analysis Report (if applicable)***
4. ***Typical Section Package***
5. ***Roundabout Technical Memorandum***
6. ***Public Involvement Plan (PIP)***
7. Major Intersection and Interchange Concepts (if applicable)
8. Transportation Improvement Concepts (if applicable)
9. ***Preliminary Engineering Report (PER)***
10. ***Alternatives Evaluation Memorandum (if applicable)***
11. ***Natural Resources Evaluation (wetlands, protected species and habitat, Essential Fish Habitat)***
12. ***Cultural Resource Assessment Survey***

13. **Section 4f Evaluation Report**
14. **Sociocultural Effects Evaluation Technical Memorandum**
15. **Conceptual Stage Relocation Plan**
16. **Noise Study Report**
17. **Air Quality Technical Memorandum**
18. **Contamination Screening Evaluation Report or Level 1 Contamination Assessment Report**
19. **Water Quality Impact Evaluation Checklist**
20. **Location Hydraulics Report (LHR)**
21. **Planning Consistency Form** (except for Type 2 CEs where it is included in the determination form)
22. Preliminary stormwater design (including any drainage reports, preliminary drainage design, and/or **Pond Siting Report**)
23. Preliminary plans for preferred alternative with right of way dimensions
24. **Comments and Coordination Report**
25. **Utility Assessment Technical Memorandum**
26. Conceptual Transportation Management Plan (TMP)
27. Preliminary bridge analysis with supporting location and design recommendations for each viable structure alternative (if applicable).
28. **Draft Bridge Hydraulic Report** for the preferred alternative (if applicable)
29. **Preliminary Scour Analysis**
30. Copy of **DEP Form 62-257.900(1)-Notice of Asbestos Renovation or Demolition** (if completed during PD&E)
31. **Value Engineering Study Report** (if applicable)
32. **Interchange Justification or Modification Report** (if applicable)
33. **System Engineering Management Plan** (if applicable)
34. **Design Exceptions/Variation Package** (if applicable)

35. Project Commitment Record (PCR), Form No. 700-011-35

4.2.7 Design and Construction

The purpose of the Design phase is to prepare the detailed engineering design, contract plans, specifications, and estimates for the project. FDOT's design process follows the design criteria and procedures established in the [PPM, Volume 1, Topic No. 625-000-007](#) and the requirements for preparation and assembly of contract plans established in [PPM, Volume 2, Topic No. 625-000-008](#).

The review of design and construction plans for design-bid-build projects (conventional projects) 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. Projects that are Type 1 CE or NMSA, typically have two phase reviews. The appropriate number of submittal phases for Type 1 CE and NMSA 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. [PPM, Volume 2, Chapter 2, Topic No. 625-000-008](#) 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 right of way. Certain projects have a mandatory Value Engineering (VE) requirement that must be performed during the PD&E phase. If a mandatory VE study was not performed during PD&E, one should be conducted during the development of Phase I plans. 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. Design of the plans themselves is complete at the completion of Phase II. Completion of Phase II plans allows for permit application submittal and right of way mapping to start. ROW acquisition can also commence upon completion of the Phase II submittal. Throughout the remainder of the design process continued agency coordination will 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 Phase III plans are complete.

During the Design phase, the mitigation requirements are reconciled with actual impacts based on the final design features of the project. Prior to completion of the Design phase and commencement of construction, the project must undergo an environmental re-evaluation to ensure that there are no conditions in place that would alter the original approval of the decision and commitments made during the PD&E Study. Any change in design or environment, or laws which may have come into effect since the approval of the final Environmental Document or any previous reevaluations are addressed. [Part 1, Chapter 13, Re-evaluations](#) explains the required re-evaluation process.

4.2.8 Interagency Coordination and Public Involvement

Public Involvement, which provides opportunity for input from interested and affected members of the public, local governments, and environmental, regulatory, and resource agencies, is required by both federal and state laws, as well as FDOT procedure (See [Public Involvement Opportunities, Topic 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, including potential project issues or challenges of a project, such as potential controversy, right of way acquisition, relocations, and access modifications. See [Public Information Handbook](#) for guidance on developing and implementing effective public involvement for transportation projects.

During Planning and Programming screens of the ETDM process, regulatory and resource agencies and interested project stakeholders 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 the preparation of a **PIP**. The purpose of a **PIP** is to identify the potentially affected people in a community, identify special community needs to support the SCE evaluation and define the outreach methods and schedule to involve and gain their input. Depending on the COA 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, Sociocultural Effects Evaluations](#) 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 [PPM, Volume 1, Chapter 1, Topic No. 625-000-007](#) 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 concerns related to the project.

4.3 REFERENCES

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

FDOT. Major Urban Corridor Studies.

Policy No. 000-725-010.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=000-725-010>

FDOT. Records Management, Procedure No. 050-020-025.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=050-020-025>

FDOT. Complete Streets. Topic No. 000-625-017.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=000-625-017>

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

<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT. 2015. Interchange Access Request User's Guide.

<http://www.dot.state.fl.us/planning/systems/programs/SM/intjus/pdfs/FDOT%20AURG%20March%202015%20PA.pdf>

FDOT. 2015. FDOT Quick Guide: Transforming our State Pre-Construction Process.

<http://www.dot.state.fl.us/emo/pubs/Quick%20Guide%20Final%20PDF.pdf>

FDOT. Value Engineering Program. Topic No. 625-030-002.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=625-030-002>

FDOT. Plans Preparation Manual, Volume 1. Topic No. 625-000-007 and Volume 2, Topic No. 625-000-008.

<http://www.dot.state.fl.us/rddesign/PPMManual/PPM.shtm>

FDOT. Information Technology Resources User's Manual. Topic No.

325-000-002. <http://www.dot.state.fl.us/OIS/OISManual.shtm>

FDOT. Project Management Handbook.

<http://www.dot.state.fl.us/projectmanagementoffice/PMHandbook/pmhandbookindex.shtm>

FDOT. Quick Guide: Transforming our State Pre-Construction Process, dated February

2015. [http://www.dot.state.fl.us/emo/pubs/Quick Guide Final PDF.pdf](http://www.dot.state.fl.us/emo/pubs/Quick%20Guide%20Final%20PDF.pdf)

FDOT. Work Program Instructions, FY 17/18-21/22.

<http://www.dot.state.fl.us/OWPB/Development/PDFInstructions/WorkProgramInstructions.pdf>

FDOT. Florida Transportation Plan. <http://www.dot.state.fl.us/planning/ftp/>

FDOT. Florida's Strategic Intermodal Systems (SIS) Plan. 2010.

<http://www.dot.state.fl.us/planning/sis/>

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

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

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

Fixing America's Surface Transportation (FAST) Act. 2015

Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Moving Ahead for Progress in the 21st Century (MAP-21), 2012

Rule Chapter 14, Florida Administrative Code, Department of Transportation

Section 335.065, F.S. Bicycle and pedestrian ways along state roads and transportation facilities.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.065.html

Title 23 CFR § 636.103

4.4 FORMS

Planning Requirements for Environmental Document Approvals, Form No. 650-050-41

Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42

[Project Commitment Record, Form No. 700-011-35](#)

Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

4.5 HISTORY

1/12/2000, 5/20/2008, 1/21/2011, 03/30/2015, 8/18/2016

STATEWIDE ACCELERATION TRANSFORMATION SCOPING FORM

To be used for both Federal and State Funded Projects

SECTION A

1. PROJECT DESCRIPTION AND PURPOSE AND NEED

a. Project Information

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Project Manager: _____

b. Background Information

c. Proposed Improvements

b. Purpose and Need

2. FUNDING

Funding type: _____

Figure 4–2 Statewide Acceleration Transformation Scoping Form

4. EVALUATION

YES NO

- Is this a transportation project qualifying for ETDM EST screening?
- Will the project cause adverse impacts to local traffic/travel patterns, property access, community cohesiveness, or planned community growth or land use patterns?
- Will the project cause adverse impacts to air, noise, or water?
- Will the project cause adverse impacts to wetlands requiring a federal permit?
- Will the project cause adverse impacts to navigation requiring a federal permit?
- Will the project cause impacts to floodplains?
- Will the project affect endangered or threatened species or their critical habitats requiring a federal finding?
- Will the project require more than minor amounts of right of way and result in any residential or non-residential displacements?
- Is there any potential involvement with properties protected under Section 4(f) requiring a finding from OEM?
- Will the project affect any properties protected under Chapter 267, Florida Statutes?
- Does the action have known contamination sites which would have more than a minimal impact to design, right of way, or construction activities and can't be avoided or remediated?
- Is a public hearing required in accordance with Part 1, Chapter 11 of the PD&E Manual and 339.155(5)(b), F.S.?
- Will the project have substantial controversy on environmental grounds?

5. ENVIRONMENT PERMITS

Anticipated Permits: _____

6. CLASS OF ACTION

Anticipated COA: _____

Figure 4–2 Statewide Acceleration Transformation Scoping Form (Page 2 of 3)

SECTION B

1. POTENTIAL PROJECT IMPACTS TO ENVIRONMENTAL RESOURCES

Issues/Resources	Potential Impacts?				Supporting Information
	Yes	No	Enhance	*NoInv	
A. SOCIAL and ECONOMIC					
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. CULTURAL					
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality and Water Quantity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
D. PHYSICAL					
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

* NoInv = Issue absent, no involvement.

2. ACTIVITIES TO BE ADVANCED PRIOR TO PD&E

List the data collection, technical reports, and survey that can be advanced ahead of PD&E start.

3. LEVEL OF DESIGN EFFORTS

State whether design phase activities will be concurrent with PD&E. State level of design effort anticipated with PD&E.

4. PROJECT DELIVERY METHOD

State the anticipated delivery method.

5. SCHEDULE

List the project activities (their durations, milestones and constraints), deliverables, and estimated time in which they will be accomplished.

6. RISK ASSUMPTIONS AND CONSTRAINTS

List current or potential risks, constraints, or assumptions that may affect the project and set any contingency.

Figure 4–2 Statewide Acceleration Transformation Scoping Form (Page 3 of 3)

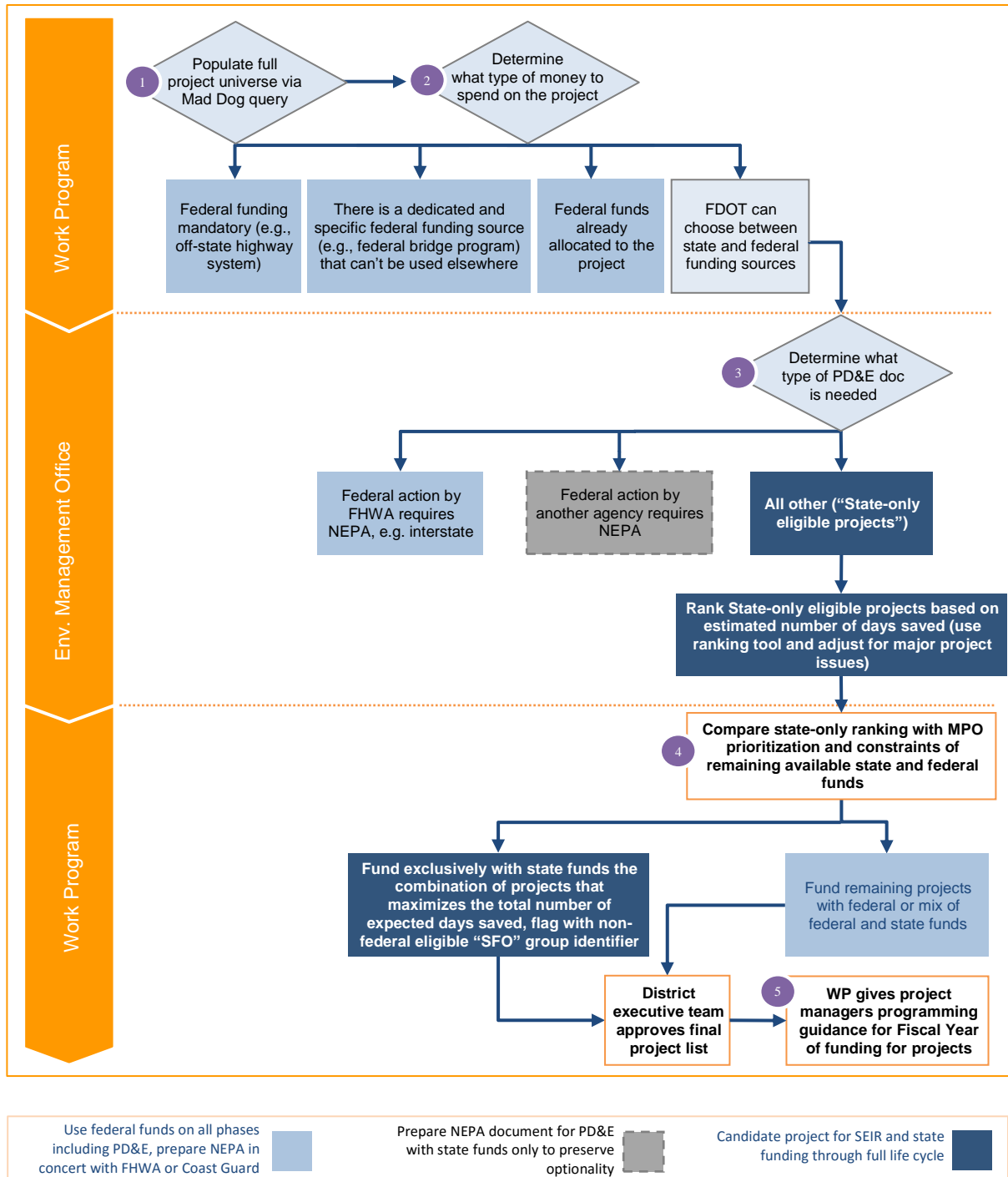


Figure 4–3 Funding Determination

Approval to Advance Preliminary Design Activities		
Date:	(Current Date) _____	Status: <u>Draft/Final</u>
Project Title:	(PD&E Project Title) _____	FM #: (PD&E FM#) _____
Project Limits:	(NEPA Logical Termini/PD&E Study limits) _____	ETDM #: _____
		FAPN #: _____ Attachment
1) Provide a brief description of the project purpose		
2) Briefly describe alternative being advanced (Physical characteristics; proposed alignment, right-of-way, and typical section)		
3) Has alternative been presented to public	yes/no	
4) Identify what advanced design is requested and reasons for developing the preferred alternative to a higher level of detail.		
5) Summarize commitments that affect the findings and/or design, if any	Project Commitment Record	
6) Is Planning Consistency Form complete?	yes/no	
7) Indicate if additional design is necessary to make or support findings or permitting as appropriate. (including but not limited to the examples below)		
a) Section 106		
b) Section 4(f)		
c) USFWS		
d) NMFS		
e) Concurrent 404b(1)		
f) Concurrent state ERP		
g) Concurrent USCG Bridge Permit		
** Undertaking these activities prior to a NEPA decision is at the risk of the District. OEM will not be committed to approving the Environmental Document. **		

Print Name: _____ **Date:** _____ **Phone #:** _____
Project Development Manager/ Environmental Manager

Signature: _____ **Email:** _____




Project is approved for preliminary engineering: _____


Additional information required: _____ **Explain:**

OEM Signature: _____ **Date:** _____

Figure 4-4 Approval to Advance Preliminary Design Activities

Dual Procurement Options under SWAT Process:

- ① One contract for both PD&E and design, funded together
 - One firm 
 - Team of firms 
 - One firm with subcontractors 

- ② One contract for PD&E with option for design 



- ③ Two contracts for PD&E and design
 - Let simultaneously (at once) 
 - Let separately but overlapping 

Figure 4–5 Dual Procurement Options

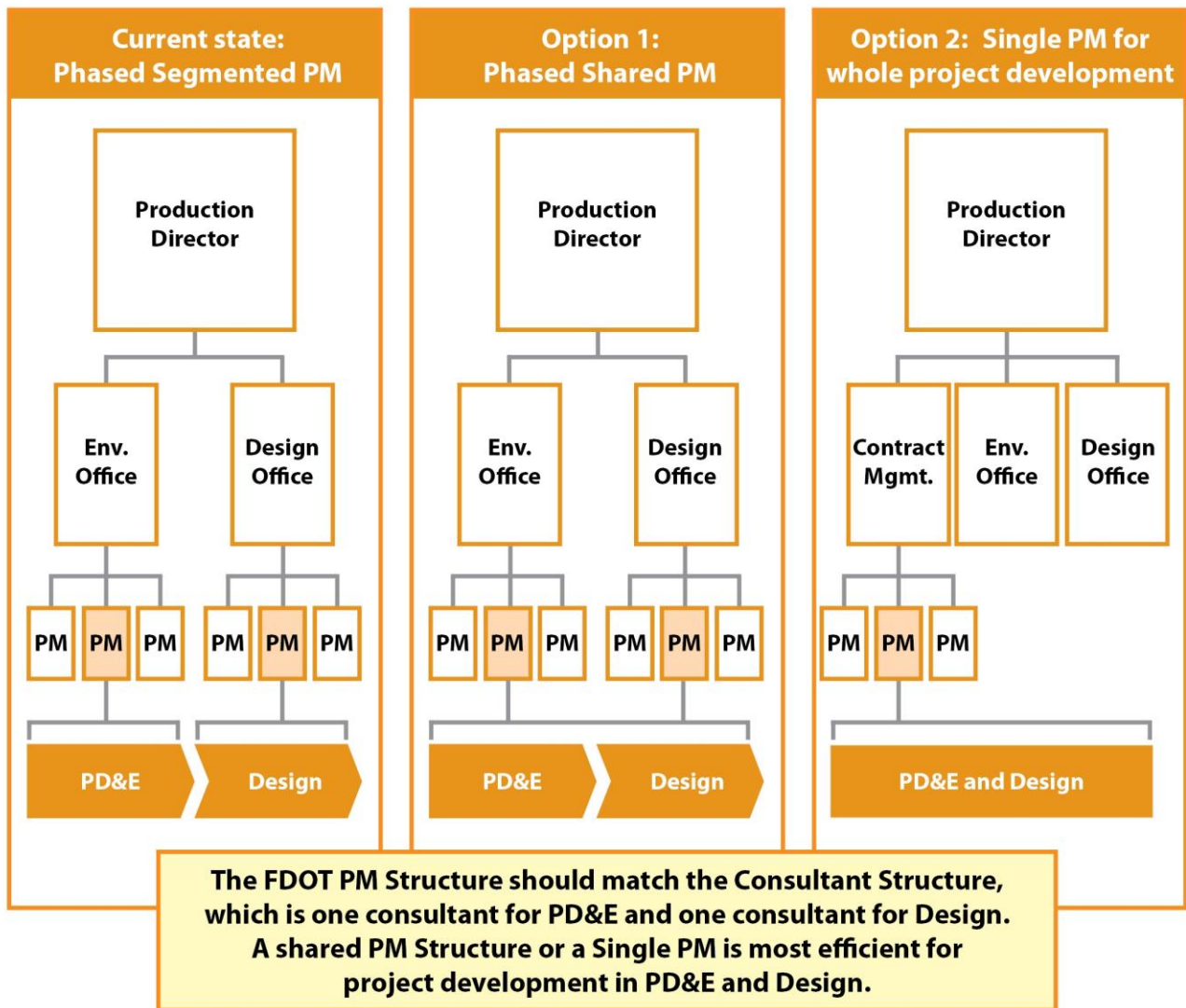


Figure 4–6 Project Management Structures

Planning Requirements for Environmental Document Approvals

Document Information:					
Date: _____ (Current Date)		Document Type: <u>EIS/EA/Type 2 CE</u>		Document Status: <u>Draft/Final</u>	
Project Name: _____ (PD&E Project Title)			FM #: _____ (PD&E FM#)		
Project Limits: _____ (NEPA Logical Termini/PD&E Study limits)			ETDM #: _____		
Are the limits consistent with the plans? <u>Y/N</u> (Limits presented for approval should be consistent with LRTP, TIP/STIP. If no, explain)					
Identify MPO(s) (if applicable): _____ (Provide MPO(s) Name)				Original PD&E FAP#: _____ (FAP# Assigned to the PD&E if applicable)	
Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
R/W	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)

Project Segmented: N

FDOT Preparer's Name: _____

Date: _____ Phone #: _____

Preparer's Signature: _____

Email: _____

*Attach: LRTP, TIP, STIP pages

Figure 4-7 Planning Requirements for Environmental Document Approvals

Planning Requirements for Environmental Document Approvals with Segmented Implementation

Document Information:					
Date: <u> </u> <small>(Current Date)</small>		Document Type: <u> </u> <small>EIS/EA/Type 2CE</small>		Document Status: <u> </u> <small>Draft/Final</small>	
Project Name: <u> </u> <small>(PD&E Project Title)</small>			FM #: <u> </u> <small>(Original FM#)</small>		
Project Limits: <u> </u> <small>(NEPA Logical Termini/PD&E Study limits)</small>			ETDM #: <u> </u>		
Are the limits consistent with the plans?			<u> </u> Y/N <small>(Limits presented for approval should be consistent with LRTP, TIP/STIP. If no, explain)</small>		
Identify MPO(s) (if applicable): <u> </u> <small>(Provide MPO(s) Name)</small>			Original PD&E FAP# <u> </u> <small>(FAP# Assigned to the PD&E if applicable)</small>		

Segment Information: <small>(Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)</small>					
Segment Limits:				Segment FM #: <u> </u>	
Currently Adopted CFP-LRTP	COMMENTS				
<u> </u> Y/N	<small>(if N, then provide detail on how implementation and fiscal constraint will be achieved)</small>				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>
R/W	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>
Construction	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>

Segment Information: <small>(Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)</small>					
Segment Limits:				Segment FM #: <u> </u>	
Currently Adopted CFP-LRTP	COMMENTS				
<u> </u> Y/N	<small>(if N, then provide detail on how implementation and fiscal constraint will be achieved)</small>				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>
R/W	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>
Construction	<u> </u> Y/N	<u> </u> Y/N	<u> </u> \$	<u> </u>	<small>(provide comments as appropriate describing status, activities, and implementation steps needed to achieve consistency)</small>

FDOT Preparer's Name: <u> </u>	Date: <u> </u> Phone #: <u> </u>
Preparer's Signature: <u> </u>	Email: <u> </u>

*Attach: LRTP, TIP, STIP pages

Figure 4–8 Planning Requirements for Environmental Document Approvals with Segmented Implementation

PART 1, CHAPTER 5

TYPE 2 CATEGORICAL EXCLUSIONS

TABLE OF CONTENTS

5.1	OVERVIEW	5-1
5.2	PROCEDURE.....	5-2
5.2.1	Procedures for Completion of the Type 2 Categorical Exclusion Determination Form	5-3
5.2.2	FDOT Document Review Process	5-11
5.2.3	Actions Taken After Approval	5-12
5.3	REFERENCES	5-13
5.4	FORMS	5-14
5.5	HISTORY	5-14

LIST OF FIGURES

Figure 5-1	Type 2 Categorical Exclusion Process.....	5-15
Figure 5-2	Type 2 Categorical Exclusion Determination Form	5-16
Figure 5-3	FDOT Document Review Process for Type 2 CEs	5-17

PART 1, CHAPTER 5

TYPE 2 CATEGORICAL EXCLUSIONS

5.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

A Categorical Exclusion (CE) is a project or a category of actions which do not individually or cumulatively have a significant environmental impact, and are excluded from the requirement to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A CE is defined in **40 Code of Federal Regulations (CFR) § 1508.4**. **Title 23 CFR § 771.115** prescribes the level of documentation required to comply with **NEPA**. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for more information on Class of Action (COA) determinations.

Generally, CEs are either listed, **23 CFR § 771.117(c)**, or documented, **23 CFR § 771.117(d)**. Listed CEs, known as Type 1 CEs in Florida, are those project types listed in either the (c) or (d) list in the regulation. Type 1 CEs are discussed in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). Documented CEs, known as Type 2 CEs in Florida, pertain to a category of projects which do not have significant effects based on past experience and therefore qualify as CEs, but still require documentation and approval.

Type 2 CEs require review and approval by OEM whereas a Type 1 CE determination is typically made by the District. Type 2 CEs require a higher level of public involvement than Type 1 CEs, and may require a public hearing, if the project is a major transportation improvement as described in **Section 339.155(5), Florida Statutes (F.S.)** and outlined in [Part 1, Chapter 11, Public Involvement](#).

The Type 2 CE Environmental Document must show that there are no significant impacts resulting from the proposed action and demonstrate that the project meets the criteria under **23 CFR § 771.117(a)**. For Type 2 CE projects, the level of detail required to reach these conclusions is dependent upon the complexity of the project and the significance of environmental impacts from the proposed action.

5.2 PROCEDURE

This chapter outlines the required processing and documentation for Type 2 CE projects ([Figure 5-1](#)). The Environmental Document for a Type 2 CE (also referred to as Type 2 CE documentation) includes the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. This chapter provides guidance on completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**.

Type 2 CE documentation must demonstrate interagency coordination on respective jurisdictional issues and public involvement efforts to adequately support the conclusions. In addition, it must include all commitments made throughout the PD&E Study. A summary of coordination and/or consultation efforts and results, which verify the findings, should be included on the form and correspondence representing findings or concurrence should be attached.

Type 2 CE documentation is the same regardless of whether the project is screened through the Environmental Screening Tool (EST), or processed using the Minor Categorical Exclusion (MiCE) process. The MiCE process is discussed in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). For screened projects, the Environmental Technical Advisory Team (ETAT) comments contained in the **Programming Screen Summary Report (ETDM Manual, Topic No. 650-000-002)** are used to support the District's analysis in the preparation of the Environmental Document. Issues raised by the ETAT are reflected in the Type 2 CE documentation and a reference should be added to where the **Programming Screen Summary Report** can be found. It is not necessary, however, to attach the **Programming Screen Summary Report**.

For projects which fall under the criteria of **23 CFR § 771.117(a)** which were not screened through the EST, the District is responsible for gathering enough information to scope the project and coordinating with OEM and applicable agencies according to the MiCE process.

A Type 2 CE does not typically require consideration of multiple build alternatives during the screening process. However, in some situations, the impacts to issues/resources may result in the need to consider additional alternatives during the PD&E Study. This should not preclude a District from considering minor shifts in the alignment during Project Development and Environment (PD&E). Districts are encouraged to prepare up to 60% preliminary design during PD&E as described in [Part 1, Chapter 4, Project Development Process](#). The **Preliminary Engineering Report (PER)** documents the engineering considerations and alternatives evaluation undertaken by FDOT and it should be referenced in the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** and included in the project file with the other technical reports. Guidance on completing a **PER** is provided in [Part 2, Chapter 3, Engineering Analysis](#).

During the PD&E Study, all necessary engineering and environmental work is performed and impacts are evaluated to verify that the initial COA determination as a Type 2 CE remains valid. Information to substantiate the impact determination of significant, not significant, or enhancement must be included or referenced on the form. If, during this

effort, a significant impact is identified, coordination will need to occur with OEM to revise the COA determination. Analysis may require supporting material or technical reports, such as, but not limited to, the **Noise Study Report**, **Natural Resources Evaluation**, **Conceptual Stage Relocation Plan**, and/or **Contamination Screening Evaluation Report**. These should be referenced and uploaded to the project file.

5.2.1 Procedures for Completion of the Type 2 Categorical Exclusion Determination Form

This section outlines the instructions for completing a **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** ([Figure 5-2](#)). The District must use the StateWide Environmental Project Tracker (SWEPT) application to complete the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. Each section must be completed, as appropriate.

Section 1: Project Description and Purpose and Need

a. Project Information:

Provide the project name or title [including bridge number(s), if appropriate]; project limits; a list of the county(ies) involved; project numbers [Efficient Transportation Decision Making (ETDM) Number (if applicable), Financial Management Number, and Federal-Aid Project Number], Project Manager, and attach a project location map.

b. Proposed Improvements:

Briefly describe the proposed action and typical section(s). Use appropriate engineering detail to show the number of lanes and their width, major structures, proposed capacity and safety improvements, estimated Right of Way (ROW) to be acquired, and construction year (if available).

This section must also include a summary of engineering detail required to address project impacts to comply with other applicable federal and state environmental laws, regulations, and executive orders, and discuss required avoidance alternatives, measures to minimize harm, and the incorporation of mitigation strategies into the project design. Sufficient detail should be provided to support the findings.

c. Purpose and Need:

Briefly describe the purpose, location, length, logical termini, of the project. Identify and describe the transportation need(s) and the purpose it is intended to satisfy (e.g., provide system continuity, alleviate traffic congestion, and/or correct safety or roadway deficiencies). If the project was screened through the EST, update the purpose and need, as appropriate to reflect current project conditions. See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for detailed guidance on preparing the purpose and need.

d. Project Planning Consistency:

The planning consistency table must be completed prior to submittal to OEM for Location and Design Concept Acceptance (LDCA) to verify that a project meets the planning requirements in **23 CFR § 450**. Instructions on meeting the requirements are provided in Section 2 of the **Supplement to January 28, 2008, [Transportation Planning Requirements and their Relationship to NEPA Process Completion](#)**. The intent is to advance projects derived from transportation plans and clearly describe the steps toward implementation as described in those plans.

The appropriate Long Range Transportation Plan (LRTP), Cost Feasible Plan (CFP) LRTP, Transportation Improvement Plan (TIP), and current State Transportation Improvement Plan (STIP) pages should be submitted to OEM with this determination form. For future phases (e.g., ROW or Design, and Construction) not currently shown on the referenced plans, this form should also document planned steps towards implementation, including the anticipated fiscal years. This should be coordinated with appropriate District Planning staff and may need to be documented in the appropriate plans as well.

To address LRTP consistency for Type 2 CE projects that were not screened, coordinate with District planning staff and verify that the project is represented in the LRTP summary sheet (e.g., general sidewalk, pedestrian improvement, and safety projects), which shows projects that are not individually listed in the LRTP. Include a copy of the sheet with the determination form.

Reporting should essentially be the same for projects with segmented implementation, with each segment added to the table. It is important to note that when the project is going to be divided into constructible segments, these segments should be described in the table. For example, if the project is 15 miles long and the first constructible segment is 5 miles, then the table should clearly describe the other segments. It is not sufficient to simply state that the remaining 10 miles may be segmented at some point in the future. For additional clarity, a map showing segmentation may also be included with the form. Again, it is important to identify the steps towards implementation of the entire project.

Section 2: Cooperating Agency - Mark an "X" for the appropriate cooperating agency, based on early coordination with OEM. Cooperating agencies are determined following the procedures in **40 CFR § 1500 et seq.** and associated FHWA guidance. If there are no cooperating agencies, mark "None" with an X.

Section 3: Environmental Analysis - This section takes into consideration and addresses, as appropriate, the issues/resources listed in **A-D**. The issues/resources listed 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. The analysis should focus on the relevant issues and those requiring findings. A finding implies that a decision must be made or a signature is needed by OEM,

and/or an appropriate resource agency. The analysis should document that the project has no significant impacts and address mitigation, if applicable.

The analyst uses the results of the environmental analysis, knowledge of the project area, and input received through agencies and the public, to complete the form. An "X" is placed in the appropriate column, indicating the impact level as significant, not significant, enhanced, or no involvement. Reference to documentation must be provided in the Supporting Information column and supplemented with attachments, if necessary, to substantiate the impact determination. For clarity, the following definitions are provided to assist in documenting the magnitude of the impact of the project on the affected issue/resource. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for guidance on significance:

1. If the impact is significant per **40 CFR § 1508.27**, mark the column "Yes" with an "X". Coordinate with OEM if this determination is made because projects with significant impacts are not categorical exclusions and the COA may need to be modified.
2. If the impact is not significant, mark the column "No" with an "X". Not significant means the issue/resource is present and considered as potentially involved with the project. The project impact may range from none to substantial. The form should include a reference to the attachment containing supporting information.
3. If the impact is enhanced, mark the column "Enhance" with an "X". Enhance means the project has enhancements or benefits to the issue/resource. The form should include a reference to the attachment containing supporting information.
4. If the issue/resource is not involved, mark the column "NoInv" with an "X". No involvement means the environmental issue/resource in question is not part of or in any way involved with the project. If an issue /resource is marked in the "NoInv" column, no supporting documentation is needed.

The following issue/resources must be addressed as appropriate:

A. Social & Economic

1. **Social:** Is there any potential for the project to effect community groups, neighborhoods, and variables of local community concern? Is there a likelihood of disproportionate impacts? Documentation should contain, if applicable, a brief summary of the assessment. Are there any areas of controversy resulting directly or indirectly from the project? Reference results of public hearings or any other public involvement. For guidance see [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
2. **Economic:** Is there any potential project effect on economic activity in the study area, local area, and region? Any potential impacts on property values and the local government tax base?

3. **Land Use Changes:** Is there any potential for the project to induce secondary development or change existing land use patterns? For guidance see [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
4. **Mobility:** Is there any potential effect on mobility and accessibility in the study area with emphasis on non-driving population groups (i.e., elderly, young, disables, and low-income individuals)?
5. **Aesthetic Effects:** Consider aesthetic effects in accordance with procedures in [Part 2, Chapter 5, Aesthetic Effects](#).
6. **Relocation Potential:** What is the relocation potential? Estimate the number and type of relocatees (residents, tenants, businesses, institutions or community facilities), and consider the relocation impact to groups protected by nondiscrimination laws. For guidance see [Part 2, Chapter 4, Sociocultural Effects Evaluation](#).
7. **Farmland:** Is there any involvement with Farmlands? For guidance see [Part 2, Chapter 6, Farmland](#).

B. Cultural

1. **Section 4(f):** Identify, by formal name, any existing or proposed **Section 4(f)** protected resources (i.e., public parks, recreational areas, wildlife and waterfowl refuges, and public or private historic and archeological sites) within the project study area. On an appended sheet discuss any project-related impacts to these properties and specifically identify any ROW or other acquisition from these resources which may be required to complete the project. It should be noted that **Section 4(f)** documentation will be prepared, reviewed and approved separately or concurrently depending on the level of documentation necessary to address and resolve the issue. For guidance on determining **Section 4(f)** applicability, see [Part 2, Chapter 7, Section 4\(f\) Resources](#).
2. **Historic Sites and/or Districts:** Consider potential involvement with properties listed or eligible for listing on The **National Register of Historic Places**. Include findings and necessary approvals per [Part 2, Chapter 8, Archaeological and Historical Resources](#). Also include the applicable standard statement. It should be noted that significant historic properties are also protected by **Section 4(f)**; for additional guidance and standard statement see [Part 2, Chapter 7, Section 4\(f\) Resources](#).
3. **Archaeological Sites:** Consider potential involvement with properties eligible or listed on The **National Register of Historic Places**. Include findings and necessary approvals per [Part 2, Chapter 8, Archaeological and Historical Resources](#). Also include the applicable standard statement. Archaeological sites that are significant primarily for the information they contain are not protected by **Section 4(f)**. **Section 4(f)**, however, does protect archaeological

sites that are important for preservation in place. For additional guidance and standard statement see [Part 2, Chapter 7, Section 4\(f\) Resources](#).

4. **Recreational Areas:** Identify, by formal name, all recreation areas within the project study area. On the appended sheet discuss any project-related impacts to these properties and specifically identify any ROW or other acquisition from these resources which may be required to complete the project. For guidance see [Part 2, Chapter 7, Section 4\(f\) Resources](#).

C. Natural

1. **Wetlands and Other Surface Waters:** Does the project involve wetlands or other surface waters? Identify the type of wetlands or other surface waters involved, their approximate acreage, and their overall functional value based on the Uniform Mitigation Assessment Methodology (UMAM), as appropriate. If wetlands are impacted, also include a brief discussion of proposed compensatory mitigation. The level of detail should be sufficient to clearly define wetland involvement, describe interagency coordination, and finalize the findings. Regardless, a wetland finding needs to be included. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) for further guidance and standard statements.
2. **Aquatic Preserves and Outstanding Florida Waters:** Are there any Aquatic Preserves or Outstanding Florida Waters in the project area? Identify any Aquatic Preserves or Outstanding Florida Waters, by name, and potential involvement (i.e., water quality impacts, retention, right of way needs). For guidance on documenting Aquatic Preserves or Outstanding Florida Waters see [Part 2, Chapter 9, Aquatic Preserves and Outstanding Florida Waters](#). This chapter also provides a standard statement to use on projects located in an Aquatic Preserve without impacts.
3. **Water Quality and Water Quantity:** What is the potential for water quality impacts? Consider potential ROW needs for roadway and retention ponds. Conduct a qualitative evaluation of potential project involvement using the **Water Quality Impact Evaluation (WQIE) Checklist, Form No. 650-050-37**, for all EST screened projects. Where a **WQIE** is required, include the standard statement provided in [Part 2, Chapter 11, Water Quality and Water Quantity](#).
4. **Wild and Scenic Rivers:** Identify any Wild and Scenic River or one identified on the Nationwide Rivers Inventory by name, and its potential involvement. For projects involving rivers included on the Nationwide Rivers Inventory that have no impacts on the river, include the standard statement per [Part 2, Chapter 12, Wild and Scenic Rivers](#).
5. **Floodplains:** Determine if the 100-year floodplain is involved with the project and the type of effect, if applicable. Identify if a regulatory floodway is involved and provide a finding, as applicable. See [Part 2, Chapter 13, Floodplains](#) for further guidance and standard statements.

6. **Coastal Zone Consistency:** Determine if the project is consistent with the Florida Coastal Zone Management Program. See [Part 2, Chapter 14, Coastal Zone Consistency](#).
7. **Coastal Barrier Resources:** Consider access impacts to Coastal Barrier Resources protected under the **Coastal Barrier Resources Act (CBRA)** and **Governor's Executive Order 81-105**. For guidance see [Part 2, Chapter 15, Coastal Barrier Resources](#).
8. **Protected Species and Habitat:** Are there any potential impacts to protected species and habitat? Assess and consult for impacts as appropriate. Provide a finding if one is necessary. For guidance see [Part 2, Chapter 16, Protected Species and Habitat](#).
9. **Essential Fish Habitat:** Are there any potential impacts to Essential Fish Habitat? Assess and consult for impacts as appropriate. Include the applicable standard statement per [Part 2, Chapter 17, Essential Fish Habitat](#).

D. Physical

1. **Highway Traffic Noise:** Is the consideration of noise impacts required under **23 CFR § 772** or FDOT policy? Consider if implementation of the project will cause an increase in noise as a result of a qualitative review per [Part 2, Chapter 18, Highway Traffic Noise](#).
2. **Air Quality:** Will the implementation of the project cause an impact on air quality? Consider the potential for impacts as appropriate, in accordance with procedures in [Part 2, Chapter 19, Air Quality](#).
3. **Contamination:** **NEPA** requires the evaluation of this issue for impacts. If contamination is identified it must be documented with a description of how it will be addressed as the project advances. Determine the likelihood of contamination impacting the project, as appropriate, and include the applicable standard statement per [Part 2, Chapter 20, Contamination](#).
4. **Utilities and Railroads:** Discuss any involvement with utilities and/or rail systems. For guidance see [Part 2, Chapter 21, Utilities and Railroads](#).
5. **Construction:** Consider potential construction impacts relative to all topical categories and document, consistent with [Part 2, Chapter 3, Engineering Analysis](#).
6. **Bicycles and Pedestrians:** Consider alternatives that accommodate bicycles and pedestrians and the aspect of providing reasonable alternatives for users of all ages per [Part 2, Chapter 3, Engineering Analysis](#).

7. **Navigation:** Consider any potential impacts to navigation for proposed construction, reconstruction, rehabilitation, or replacement of federally-aided or assisted projects over waters:
 - a. 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
 - b. Which are not tidal; or
 - c. If tidal, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

The District should coordinate with the U.S. Coast Guard (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.

If the USCG did not comment during ETDM, then to determine whether a project is exempt from a USCG navigational permit, the District needs to provide the following information to OEM to coordinate the determination with FHWA, as appropriate:

- a. Three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.
- b. Provide name of waterway including: (1) Mileage along waterway measured from mouth or confluence; or (2) Tributary of (name of river) at mile ____.
- c. Geographical location including: road number, City, County and State (Latitude and Longitude in NAD 83 form).
- d. Section, Township, and Range, if applicable.
- e. Whether waters are tidally influenced at proposed bridge site and the range of tide (include tidal data source).
- f. Whether the waters are used to transport interstate or foreign commerce, and also indicate:
 1. If these waters are susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce.
 2. If there are any planned waterway improvements to permit larger vessels to navigate based on coordination with U.S. Army Corps of Engineers (USACE)

- g. Whether there are any natural or manmade obstructions, such as bridges, dams, or weirs, downstream or upstream.
 - 1. If obstructions exist, provide upstream/downstream location with relation to the proposed bridge.
 - 2. Provide a photograph of the bridge from the waterway showing channel spans.
- h. Names and addresses/locations of marinas, marine repair facilities, public boat ramps, private piers/docks along waterway within a half- mile of site.
- i. Location map and plans (if available) for the proposed bridge, including intended or desired vertical clearances above mean high water and intended or desired mean low water and horizontal clearance normal to axis of the waterway.
- j. Description of the navigational clearances provided by the existing bridge(s).
- k. Description of waterway characteristics at the bridge site(s), including width at mean high and mean low water, depth at mean high and mean low water, and currents.
- l. Description of the type, size, and number of vessels using the waterway, and when applicable, the number of documented bridge openings required to serve waterborne traffic. This includes the vertical clearance requirement for the known tallest vessel using the waterway, a representative photograph of vessels using the waterway, and the length of the largest type vessel using the waterway. If the types or dimensions of vessels using the waterways are not known, coordinate with USCG to determine if that agency has any of this information and document the results of the coordination.
- m. Description of any bridge-related boating accidents.
- n. Description of the potential impacts of the project on navigation including effects during the construction period
- o. The need for navigational lighting or signals or special notices to mariners for the proposed bridge and its construction activity.

E. Anticipated Permits - List all anticipated federal and state permits by providing the name of the permitting agency, the name of the permit, and the permit status. For guidance see [Part 1, Chapter 12, Environmental Permits](#).

Section 4: Commitments - Document any commitments made by FDOT over the course of the project, per [Part 2, Chapter 22, Commitments](#). These commitments should be

the same as those recorded in the Project Commitment Record (PCR), Form No. 700-011-35 according to Procedure No. 700-011-035, Project Commitment Tracking.

Section 5: Public Involvement - Mark the appropriate box regarding the status of public involvement.

Section 6: District Determination – FDOT’s Project Manager and Environmental Manager or designee must sign and date this section.

Section 7: Office of Environmental Management Concurrence - The Director of OEM or designee must sign and date this section.

Section 8: Supporting Information – Documents referenced in the Supporting Information column of the form are included as attachments. Attachments may include coordination letters, memos, and summaries of the environmental analysis. As appropriate for each issue/resource, the evaluation and support documentation should include the necessary standard statements to show compliance with regulation. Environmental analysis material should be summarized and attached to the form in the order listed. Larger documents, such as the *PER* and technical reports, should be referenced and uploaded to the project file. The project file should contain the analytical documentation to support the project decisions ([Section 5.3](#)).

5.2.2 FDOT Document Review Process

The District is not required to send the Type 2 CE documentation to OEM prior to the public hearing, if held. After the public hearing, the District uploads the public hearing transcript to SWEPT and sends the Type 2 CE documentation for OEM review. FDOT’s Document Review Process is provided in [Figure 5-3](#).

After preparing the Type 2 CE documentation, the District conducts a quality control review and uses the SWEPT application to complete the **Environmental Document Submittal Form, Form No. 650-050-15** for initial OEM review. The District uploads the **Type 2 CE Determination Form, Form No. 650-050-11** and supporting information into the FDOT’s Electronic Review and Comment (ERC) application.

Supporting information includes consistency documentation and agency correspondence containing concurrence or findings.

The OEM Project Delivery Coordinator (PDC) confirms the document is complete and ready for review. 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 will have 30 calendar days to review the draft documents. OEM submits comments in the ERC. The District will address OEM comments and provide responses in the ERC. If necessary, the District will schedule a meeting with the project review team to discuss comments.

If there are Cooperating Agencies, the District uploads the Type 2 CE documentation to the EST and initiates the Cooperating Agency review concurrent with OEM review. The District will address Cooperating Agency comments in the EST.

Once comments have been addressed, the District submits the revised Type 2 CE documentation along with the ***Environmental Document Submittal Form, Form No.650-050-15*** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation by the PDC, an OEM Environmental Process Administrator recommends the Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11 for approval by the Director of OEM, or designee.

The approval of the Director of OEM, or designee, on the Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11 provides concurrence with the COA and grants LDCA.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

5.2.3 Actions Taken After Approval

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

Distribution to Agencies and Stakeholders

Announcement of LDCA is sent electronically to the Florida State Clearinghouse and the ETAT, which includes the Cooperating Agencies (e.g., USCG, USACE) and Participating Agencies through the EST. The District should also send the announcement to other interested state and federal agencies and other stakeholders. The announcement should be sent to Native American tribes according to their requested method of as reflected on the [OEM Native American Coordination website](#). Others should be sent an electronic link to the document, unless a paper copy is requested.

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. The District should coordinate internally to advance the project as appropriate (e.g., inform Directors, Design Office, Federal-Aid Office, Office of the Work Program).

For bridge projects requiring a USCG bridge permit, a copy of the approved Type 2 CE documentation is sent to the USCG. For projects where there is **Section 404** permit

involvement, the approved Type 2 CE documentation is sent to the USACE, as appropriate.

5.3 REFERENCES

FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

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

FDOT, Project Commitment Tracking, Procedure No. 700-011-035. <http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=700-011-035>

FDOT, 2014. Section 2. Meeting Planning Requirements for NEPA Approval. <http://www.dot.state.fl.us/planning/policy/metrosupport/Section2.pdf>

FDOT, Efficient Transportation Decision Making Manual. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT and FHWA. Supplement to January 28, 2008, Transportation Planning Requirements and Their Relationship to NEPA Process Completion, February 9, 2011 (revised by FHWA April 7, 2011)

Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

National Environmental Policy Act of 1969 (NEPA) as amended (42 USC § 4321 et seq.). http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.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 40 CFR 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. 1978. http://energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf

Title 23 United States Code § 139(I), Efficient Environmental Reviews for Project Decisionmaking

5.4 FORMS

Environmental Document Submittal Form, Form No. 650-050-15*

[Project Commitment Record, Form No. 700-011-35](#)

Type 2 Categorical Exclusion Determination Form, Form No.650-050-11*

Water Quality Impact Evaluation Checklist, Form No. 650-050-37

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

5.5 HISTORY

1/31/2007, 10/03/2012, 7/15/2016

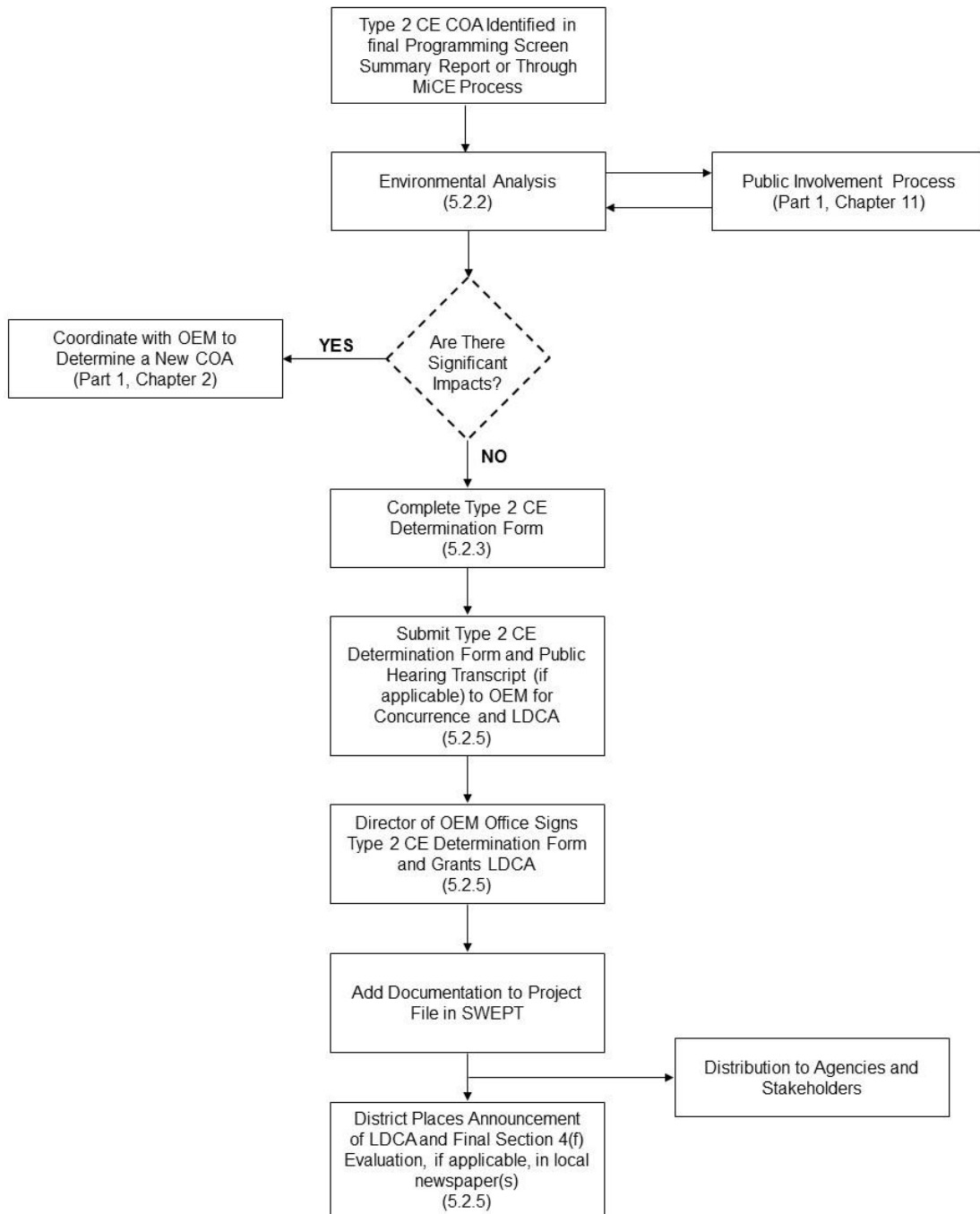


Figure 5-1 Type 2 Categorical Exclusion Process

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TYPE 2 CATEGORICAL EXCLUSION DETERMINATION FORM

1. PROJECT DESCRIPTION AND PURPOSE AND NEED

a. Project Information:

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Federal-Aid Project Number: _____

Project Manager: _____

b. Proposed Improvements:

c. Purpose and Need:

d. Project Planning Consistency: disregard providing historical details, instead focus on future phases of segments being advanced. If more than one segment is being advanced additional tables should be added.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
R/W	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status and activities needed to achieve consistency)

****Include pages from current TIP/STIP/LRTP***

Figure 5-2 Type 2 Categorical Exclusion Determination Form

2. COOPERATING AGENCIES

USACE USCG USFWS EPA NMFS NONE

3. ENVIRONMENTAL ANALYSIS

Issues/Resources	Significant Impacts?*				Supporting Information**
	Yes	No	Enhance	NoInv	
A. SOCIAL & ECONOMIC					
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Farmland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. CULTURAL					
1. Section 4(f)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Recreational Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality and Water Quantity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Zone Consist.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Coastal Barrier Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
D. PHYSICAL					
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
a. <input type="checkbox"/> A USCG Permit IS NOT required.					
b. <input type="checkbox"/> A USCG Permit IS required.					

* **Significant Impacts?:** Yes = Significant Impact; No = No Significant Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement

**Supporting information is documented in the referenced attachment(s).

E. ANTICIPATED PERMITS

Figure 5-2 Type 2 Categorical Exclusion Determination Form (Page 2 of 3)

4 COMMITMENTS

5. PUBLIC INVOLVEMENT:

1. A public hearing is not required.
2. A public hearing will be held (insert date). This draft document is publically available and comments can be submitted to FDOT until (insert date)
District Contact Information: District Contact Name
District Contact Title
Florida Department of Transportation
Street Address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email Address
3. A public hearing was held on (insert date) and the transcript is available.
4. An opportunity for a public hearing was afforded and was documented (insert date).

6. DISTRICT DETERMINATION

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

FDOT Project Manager

___ / ___ / ___
Date

FDOT Environmental Manager or Designee

___ / ___ / ___
Date

7. OFFICE OF ENVIRONMENTAL MANAGEMENT CONCURRENCE

Signature below constitutes Location and Design Concept Acceptance:

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Director of the Office of Environmental Management
or Designee

___ / ___ / ___
Date

8. SUPPORTING INFORMATION

Figure 5-2 Type 2 Categorical Exclusion Determination Form (Page 3 of 3)

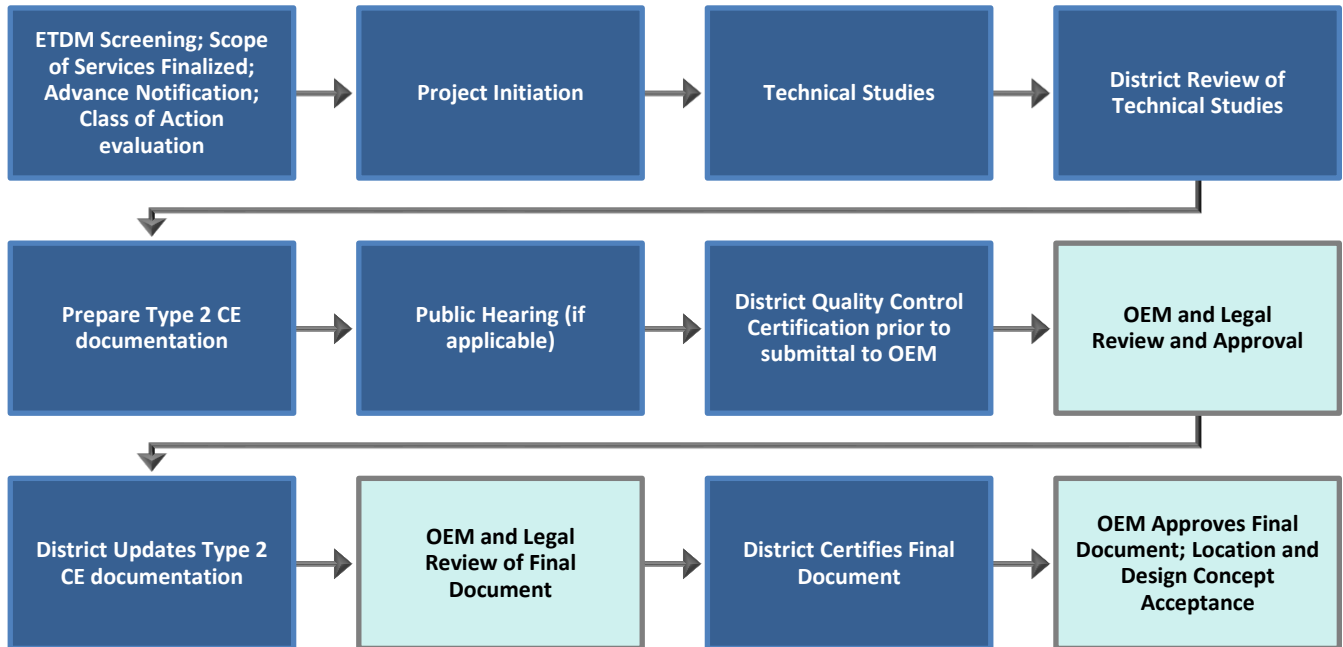


Figure 5-3 FDOT Document Review Process for Type 2 CEs

PART 1, CHAPTER 6

ENVIRONMENTAL ASSESSMENT

TABLE OF CONTENTS

6.1	OVERVIEW	6-1
6.2	PROCEDURE	6-2
6.2.1	Environmental Assessment Preparation	6-2
6.2.1.1	Cover Page and Table of Contents	6-2
6.2.1.2	Project Description and Purpose and Need	6-2
6.2.1.3	Alternatives	6-2
6.2.1.4	Environmental Analysis	6-3
6.2.1.4.1	Anticipated Permits.....	6-3
6.2.1.5	Comments and Coordination.....	6-3
6.2.1.5.1	Discussion of Efficient Transportation Decision Making Programming Screen and Advance Notification.....	6-4
6.2.1.5.2	Coordination and Consultation	6-4
6.2.1.5.3	Concluding Statement	6-4
6.2.1.6	Commitments	6-5
6.2.1.7	Appendix	6-5
6.2.1.7.1	Appendix Divider Page	6-5
6.2.1.7.2	Correspondence Contained in the Appendix	6-5
6.2.1.7.3	Types of Support Material Usually Found in the Appendix	6-6
6.2.1.7.4	Material Incorporated by Reference	6-6
6.2.2	FDOT Document Review Process	6-7

6.2.3 Actions Taken After Approval of the Environmental Assessment 6-7

6.3 REFERENCES 6-8

6.4 FORMS 6-9

6.5 HISTORY 6-9

LIST OF FIGURES

Figure 6-1 Environmental Assessment Process..... 6-11

Figure 6-2 Environmental Assessment Sample Cover Page..... 6-12

Figure 6-3 Environmental Assessment/Draft Section 4(f) Evaluation Sample Cover Page
..... 6-13

Figure 6-4 Sample Table of Contents..... 6-14

Figure 6-5 Sample Appendix..... 6-16

Figure 6-6 FDOT Document Review Process for EAs..... 6-17

Figure 6-7 Sample Transmittal Letter for EA Distribution 6-18

PART 1 CHAPTER 6

ENVIRONMENTAL ASSESSMENT

6.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance for the development of an Environmental Assessment (EA). An EA is a concise public document prepared when the significance of environmental impacts associated with a project are unknown, **40 CFR 1508.9**.

The EA should:

1. Provide sufficient information and analysis for determining whether to prepare a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS)
2. Aid in complying with **NEPA** and other applicable federal environmental laws, regulations, and Executive Orders when an EIS is not necessary
3. Facilitate preparation of an EIS when one is necessary

The EA is prepared by the District in consultation with OEM and includes agency and public coordination. It is important for the Project Development and Environment (PD&E) scope of services to recognize the result of the study could be either a FONSI or an EIS. If after completing the EA, it is determined there are no significant impacts resulting from the project, a FONSI is prepared. However, if it is determined that the project will result in significant impacts, an EIS must be prepared. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for guidance on significance. Significance is identified by the District, but the final determination is made by OEM.

6.2 PROCEDURE

An EA is prepared by following the procedures in this chapter. A Public Involvement Plan (PIP) is developed and administered in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). [Figure 6-1](#) shows the EA process.

6.2.1 Environmental Assessment Preparation

Although the regulations do not set page limits, the Council on Environmental Quality (CEQ) recommends that the length of EAs usually be less than 15 pages (***40 Most Asked Questions Concerning CEQ's NEPA Regulations***). This implies that the document should be concise and focused on the relevant issues or resources where the significance of the impacts is in question. Comments submitted from the Environmental Technical Advisory Team (ETAT) during the Environmental Screening Tool (EST) screening should be used to focus the content of the EA.

6.2.1.1 Cover Page and Table of Contents

Sample cover pages for EAs, both with and without a **Section 4(f)** evaluation, are provided in [Figure 6-2](#) and [Figure 6-3](#). These cover pages are available as electronic forms, see [Section 6.4](#) for form numbers and hyperlinks.

The layout of the Table of Contents is provided in [Figure 6-4](#).

6.2.1.2 Project Description and Purpose and Need

This section of an EA should be developed in accordance with [Part 2, Chapter 1, Project Description and Purpose and Need](#). The EA document must include information reflecting the status of planning consistency [Long Range Transportation Plan (LRTP), State Transportation Improvement Plan (STIP), and Transportation Improvement Plan (TIP)]. Guidance on planning consistency is in ***Guidance for Meeting Planning Requirements for NEPA Approval*** and [Part 2, Chapter 1, Project Description and Purpose and Need](#). Planning consistency must be met prior to requesting Location and Design Concept Acceptance (LDCA).

6.2.1.3 Alternatives

The EA must describe the alternatives in accordance with [Part 2, Chapter 3, Engineering Analysis](#). This section provides guidance on engineering analysis and considerations concerning evaluation of existing conditions, selection of design parameters, development of alternatives, analysis of alternatives, selection of a recommended alternative, and documentation.

An EA must evaluate at least one Build Alternative and a No-Action (No-Build) Alternative. The EA does not need to evaluate in detail all reasonable alternatives for the project, and may be prepared for one or more viable build alternatives. 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](#).

6.2.1.4 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 issues/resources. The Table of Contents in [Figure 6-4](#) provides a layout of subsections that should be 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 issue/resource. Recall, the primary purpose of the EA is to determine whether an EIS is needed and thus the EA should focus on those resources which have a likelihood of being significantly impacted. If there is no involvement with, or impact to the issue/resource, the chapters listed in [Table 6-1](#) provide standard statements to include in these subsections.

The level of analysis for resources at issue should be sufficient to adequately identify the impacts and address comments provided by the ETAT, other agencies, interested parties, or the public during the Programming screen and/or the Advance Notification (AN) process. The analysis should also fulfill the resource agency consultative processes, address opportunities and approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

In general, this section should provide sufficient detail to support the conclusions and provide the scientific and analytic basis for the comparison of project alternatives. Each issue/resource subheading must 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 issue/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.

6.2.1.4.1 Anticipated Permits

The Environmental Analysis section should include a subsection on anticipated permits, listing permits identified during the PD&E Study. This list should include 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. Coordination with the District Permit Coordinator should occur when preparing this section of the document.

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 project and the EA. This includes early comments received by the District during the AN, or if combined, the ETDM

Programming Screen, as well as documentation of meetings and coordination with government leaders, government agencies, community groups and individual citizens. This also includes documentation of the early coordination process.

This section is divided up into three subsections:

1. Discussion of ETDM Programming Screen and Advance Notification
2. Coordination and Consultation
3. 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 must include 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 Coordination and Consultation

This subsection summarizes the coordination and consultation which occurred with agencies, the public, and other interested parties 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.

6.2.1.5.3 Concluding Statement

Since the draft document is subject to modification, place the following statement 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, should contain all commitments made during the PD&E process and identified in associated technical reports ([Part 2, Chapter 22, Commitments](#)). In addition, commitments are transferred verbatim to the **Project Commitment Record, Form No. 700-011-35**. Appropriate sections of the EA should be referenced in the Commitments section to provide context.

6.2.1.7 Appendix

The Appendix is the final section of an EA. The Appendix contains documents which are necessary to the significance finding. This may include concurrence letters, determinations of effect, Memorandums of Understanding, and Referendums.

6.2.1.7.1 Appendix Divider Page

The Appendix divider page, should include a list of the documents provided. Material contained in the Appendix must be numbered for ease in referencing. The organization of material, into federal, state, and local groupings, or by chronological order, or some other category, is up to the preparer. A sample of the type of listing generally found on the divider page is provide in [Figure 6-5](#).

6.2.1.7.2 Correspondence Contained in the Appendix

The following is a list of correspondence that is generally found in the Appendix:

1. Letters from state agencies
2. Letters from elected or appointed state officials
3. Letters from local agencies and officials
4. Letters from statewide and regional clearinghouses
5. Letters from federal agencies
6. Letters from elected or appointed federal officials
7. Letters from cooperating agencies
8. Letters from citizens or citizens groups
9. Letters from private interest groups

6.2.1.7.3 Types of Support Material Usually Found in the Appendix

The following is a list of the types of support data usually incorporated into the Appendix of an EA. The preparer should note that this list is not all inclusive.

1. Lists (i.e., meeting attendees)
2. Resolutions
3. Letters of Agreement
4. Memoranda of Agreement (i.e., **Section 106 - Historic Preservation Act**)
5. Special Reports
 - a. Material prepared in connection with the Environmental Document which substantiates an analysis and is not contained under separate cover;
 - b. Material which is analytical and is relevant to the decision to be made and is not contained under separate cover; and
 - c. Material which, due to its nature, should be circulated with the EA.

Items 5a through 5c are rarely used since most, if not all, of the support data and analysis developed for an EA is contained under separate cover and incorporated in the document by reference.

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

6.2.1.7.4 Material Incorporated by Reference

Material contained under separate cover should be referenced in the EA and included in the project file. This includes technical reports (e.g., **Traffic Report, Conceptual Stage Relocation Plan, Natural Resource Evaluation**), technical memorandums, and studies. For a complete list of technical reports see [Part 1, Chapter 4, Project Development Process](#). The documents referred to in the EA must be readily available for public review at the District office. An exception to this is during the public availability period of the document, when the document and support documentation are placed in other locations for public availability ([Part 1, Chapter 11, Public Involvement](#)).

6.2.2 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 6-6](#). After preparing the EA, the District conducts a quality control review and uses the StateWide Environmental Project Tracker (SWEPT) application to complete the **Environmental Document Submittal Form, Form No. 650-050-15** for initial OEM review. The District uploads the EA into the FDOT's Electronic Review and Comment (ERC) application.

The OEM Project Delivery Coordinator (PDC) confirms the document is complete and ready for review. 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 will have 30 calendar days to review the draft documents. OEM will provide comments in the ERC. The District will address OEM comments and provide responses in the ERC. If necessary, the District will schedule 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 concurrent with OEM review. The District will 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, Form No. 650-050-15** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation from the PDC the document can advance to OEM Environmental Process Administrator review.

The OEM Environmental Process Administrators recommend the EA for approval. The Director of OEM, or designee, then approves the EA.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

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 (e.g. USCG, USACE) 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 Native American tribes according to their requested method of communication as established on the [OEM Native American Coordination website](#). Others should be sent

an electronic link to the document, unless a paper copy is requested. See [Figure 6-7](#) for a sample transmittal letter.

Public Notice and Public Hearing

The District places a notice in the local newspaper(s) which advertises the public hearing, announces that the approved document is available for public review, and provides the locations where the approved document can be inspected by the public, **23 CFR § 771.119** ([Part 1, Chapter 11, Public Involvement](#)).

The public hearing is held a minimum of twenty-one (21) days after the notice is placed in the local newspaper(s), **23 CFR § 771.119**. Notice should also be placed on the agency website and in the *Florida Administrative Register (FAR)*.

Decision of FONSI or DEIS

After the public hearing has been held, the comment period has closed, and comments have been addressed and determined to not be significant, the District prepares a FONSI according to procedures in [Part 1, Chapter 7, Finding of No Significant Impact](#). If significant impacts are determined, a DEIS is prepared in accordance with [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

6.3 REFERENCES

- CEQ, 40 Most Asked Questions Concerning CEQ's NEPA Regulations, March 16, 1981
- CEQ, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 43 FR 55978-56007 and 40 CFR Parts 1500-1508
- FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>
- FHWA guidance on NEPA documentation.
<http://environment.fhwa.dot.gov/projdev/docuea.asp>
- FDOT. Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002.
<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>
- Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.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. § 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)

6.4 FORMS

Environmental Assessment Cover Page, Form No. 650-050-31*

Environmental Assessment/Draft Section 4(f) Evaluation Cover Page, Form No. 650-050-32*

Environmental Document Submittal Form, Form No. 650-050-15*

[Project Commitment Record Form, Form No. 700-011-35](#)

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

6.5 HISTORY

11/1/2002, 1/31/2007, 8/27/2012, 10/21/2013: Pen and Ink to Section 6-2.3, 05/30/2014: Mandatory inclusion of OEM approval, 5/30/2014, 8/15/2016

Table 6-1 Chapter References for Issue/Resources

Issue/Resource	Part	Chapter
Social and Economic		
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
Cultural		
Section 4 (f)	2	7
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Recreational Areas	2	7
Natural		
Wetlands and Other Surface Waters	2	9
Aquatic Preserves and Outstanding Florida Waters	2	10
Water Quality and Water Quantity	2	11
Wild and Scenic Rivers	2	12
Floodplains	2	13
Coastal Zone Consistency	2	14
Coastal Barrier Resources	2	15
Protected Species and Habitat	2	16
Essential Fish Habitat	2	17
Physical		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Construction	2	3
Bicycles and Pedestrians	2	3
Navigation	1	12
Anticipated Permits	1	12

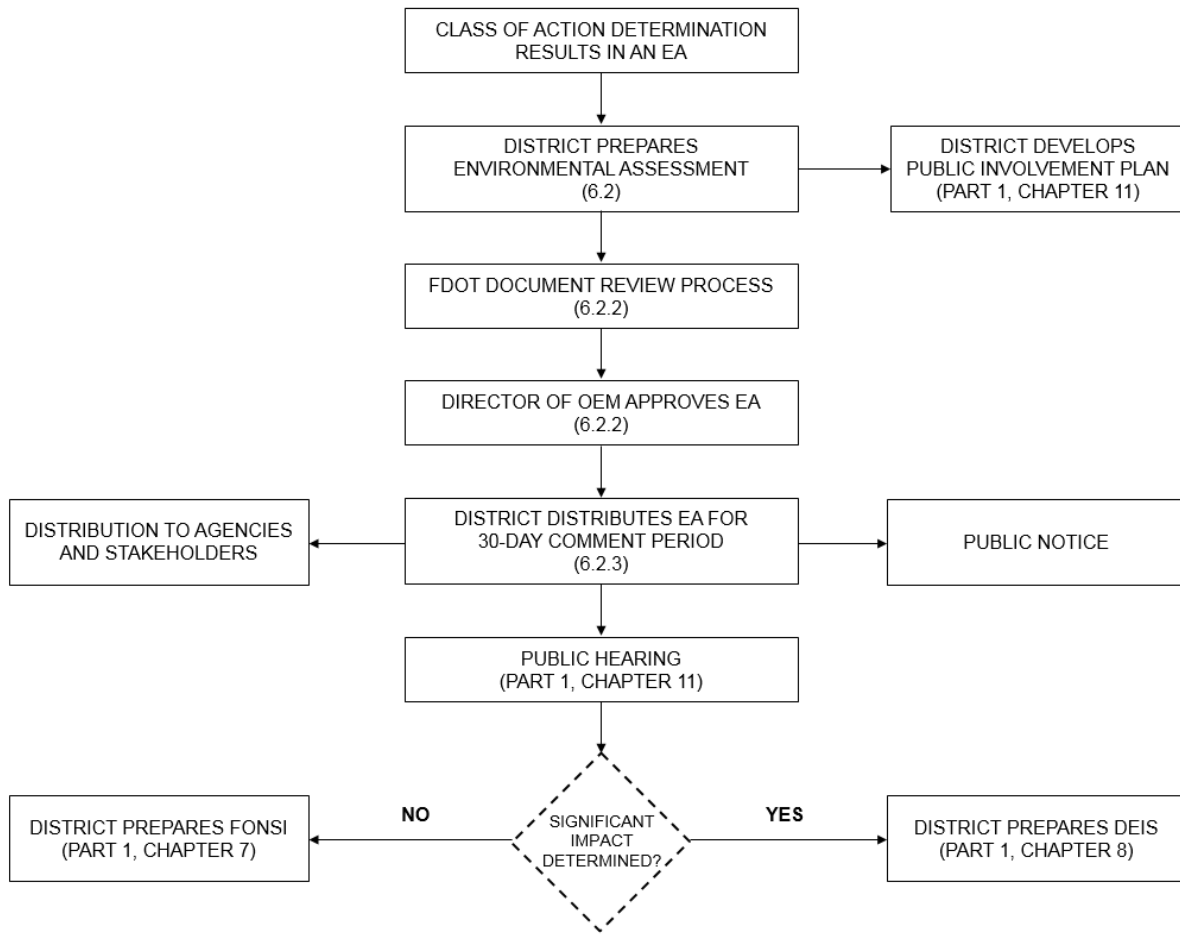


Figure 6-1 Environmental Assessment Process

ADMINISTRATIVE ACTION
ENVIRONMENTAL ASSESSMENT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX
XX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Approved For Public Notice

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street Address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Figure 6-2 Environmental Assessment Sample Cover Page

ADMINISTRATIVE ACTION
ENVIRONMENTAL ASSESSMENT/DRAFT SECTION 4(f) EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX
XX
XX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Submitted pursuant 49 U.S.C. § 303.

Approved For Public Notice

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Figure 6-3 Environmental Assessment/Draft Section 4(f) Evaluation Sample Cover Page

TABLE OF CONTENTS

1.0	PROJECT DESCRIPTION AND PURPOSE AND NEED.....	2-1
2.0	ALTERNATIVES	3-1
2.1	Alternatives Development.....	3-1
2.2	Alternatives Considered but Eliminated.....	3-2
2.3	Alternatives Considered for Additional Study.....	3-3
2.4	Comparative Alternatives Evaluation.....	3-5
2.5	Recommended Alternative.....	3-5
3.0	ENVIRONMENTAL ANALYSIS.....	3-1
	3.1 Social and Economic.....	3-1
3.1.1	Social	3-2
3.1.2	Economic.....	3-2
3.1.3	Land Use Changes.....	3-3
3.1.4	Mobility.....	3-4
3.1.5	Aesthetic Effects.....	3-5
3.1.6	Relocation Potential.....	3-6
3.1.7	Farmland.....	3-6
	3.2 Cultural.....	3-13
3.2.1	Section 4(f).....	3-13
3.2.2	Historic Sites/Districts.....	3-15
3.2.3	Archaeological Site.....	3-16
3.2.4	Recreational Areas.....	3-17
	3.3 Natural.....	3-18
3.3.1	Wetlands and Other Surface Waters.....	3-18
3.3.2	Aquatic Preserves and Outstanding Florida Waters.....	3-19
3.3.3	Water Quality and Water Quantity.....	3-20
3.3.4	Wild and Scenic Rivers.....	3-23
3.3.5	Floodplains.....	3-24
3.3.6	Coastal Zone Consistency.....	3-25
3.3.7	Coastal Barrier Resources.....	3-26
3.3.8	Protected Species and Habitat.....	3-27
3.3.9	Essential Fish Habitat	3-28
	3.4 Physical.....	3-29
3.4.1	Highway Traffic Noise.....	3-29
3.4.2	Air Quality.....	3-30
3.4.3	Contamination.....	3-32
3.4.4	Utilities and Railroads.....	3-34
3.4.5	Construction.....	3-36
3.4.6	Bicycles and Pedestrians.....	3-36
3.4.7	Navigation.....	3-37
	3.5 Anticipated Permits.....	3-38
4.0	COMMENTS AND COORDINATION.....	4-1
4.1	Discussion of ETDM Programming Screen and Advance Notification.....	4-1
4.2	Coordination and Consultation.....	4-3
4.3	Concluding Statement.....	4-3

Figure 6-4 Sample Table of Contents

5.0 COMMITMENTS.....5-1
6.0 APPENDIX.....6-1

LIST OF FIGURES

Figure 1-1 (Title of Figure 1).....1-1
Figure 1-2 (Title of Figure 2).....1-2
Figure 2-1 (Title of Figure 3).....2-1

LIST OF TABLES

Table 1-1 (Title of Table 1).....1-1
Table 2-1 (Title of Table 2).....2-1

Figure 6-4 Sample Table of Contents (2 of 2)

Appendix

A-1	Florida Department of Environmental Protection (Letter)	1-2-16
A-2	United States Fish and Wildlife Service (Letter)	1-6-16
A-3	United States Coast Guard (Letter)	1-6-16
A-4	Any County Commission (Resolution)	1-10-16

Figure 6-5 Sample Appendix

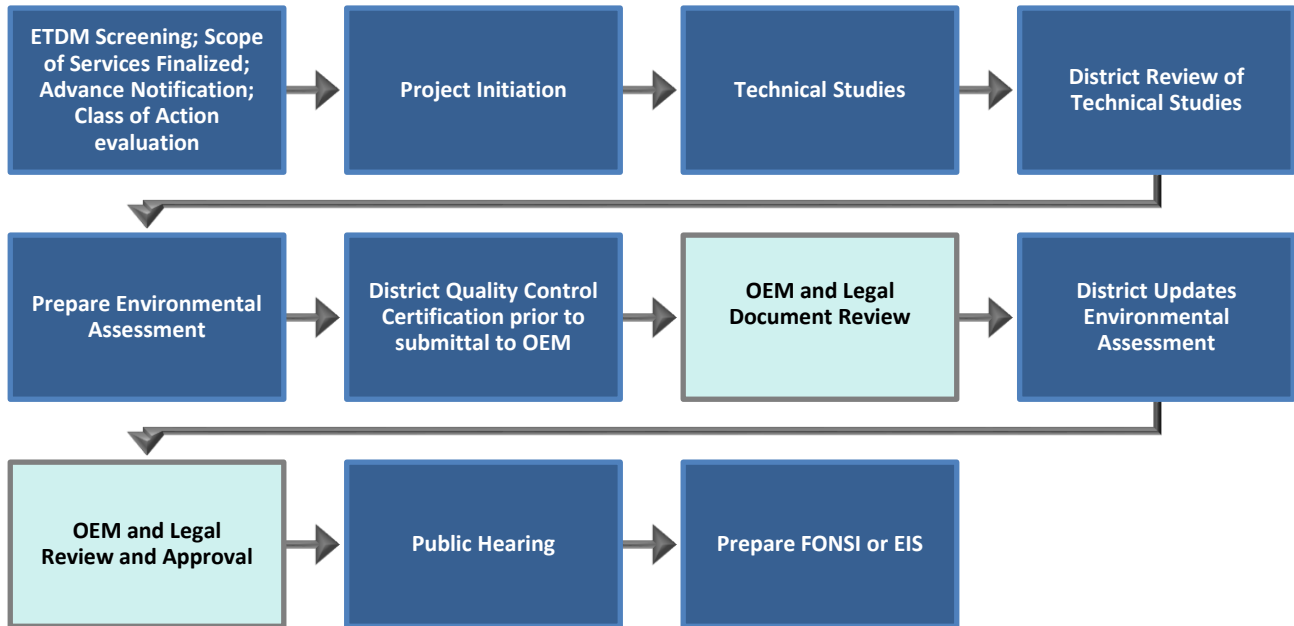


Figure 6-6 FDOT Document Review Process for EAs

(DATE)

(FEDERAL, STATE, TRIBE, OR LOCAL AGENCY)
(ADDRESS)

Subject: Environmental Assessment
(PROJECT NAME)
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
(NAME OF COUNTY), Florida

Dear Mr./Ms.:

Pursuant to the National Environmental Policy Act of 1969, the Florida Department of Transportation is transmitting the Environmental Assessment as approved by the Office of Environmental Management. The comment period for this document closes 30 days from publication in (insert name of newspaper). The document may be found at (insert link to website).

Sincerely,

District Environmental Office

Enclosures

cc: OEM / without enclosure

Figure 6-7 Sample Transmittal Letter for EA Distribution

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	Preparation of the EA with FONSI	7-1
7.2.1.1	Preparation of the Finding of No Significant Impact	7-2
7.2.1.1.1	Finding of No Significant Impact Cover Page	7-2
7.2.1.1.2	Contents of a Finding of No Significant Impact	7-2
7.2.1.2	Updating the Environmental Assessment.....	7-2
7.2.1.2.1	Updating the Project Description and Purpose and Need and the Alternatives Sections	7-2
7.2.1.2.2	Updating the Comments and Coordination Section	7-3
7.2.1.2.3	Updating the Commitments Section and the Appendix.....	7-3
7.2.2	FDOT Document Review Process	7-3
7.2.3	Actions Taken After Approval of the EA with FONSI.....	7-4
7.2.4	Guidance on Limitation of Claims Notice	7-5
7.3	REFERENCES.....	7-5
7.4	FORMS	7-6
7.5	HISTORY	7-6

LIST OF FIGURES

Figure 7-1	Finding of No Significant Impact Process	7-7
Figure 7-2	Finding of No Significant Impact Sample Cover Page	7-8

Figure 7-3 Finding of No Significant Impact/Final Section 4(f) Evaluation Sample Cover Page.....	7-9
Figure 7-4 Finding of No Significant Impact/Final Section 4(f) <i>de minimis</i> Approval Sample Cover Page	7-10
Figure 7-5 FDOT Document Review Process for EA with FONSI	7-11

PART 1, CHAPTER 7

FINDING OF NO SIGNIFICANT IMPACT

7.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

A Finding of No Significant Impact (FONSI) is the **NEPA** decision document which briefly describes why the project will not have any significant environmental effect. This determination is based on the analysis contained in an Environmental Assessment (EA) which primary purpose is to determine the significance 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 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 **NEPA** and other applicable environmental laws, Executive Orders, and related requirements (**Technical Advisory T6640.8A**). The EA with FONSI establishes the decisions reached by FDOT regarding a project and details the rationale behind the alternative selection and the finding itself. The EA documents the assessment, evaluation, and recommended action and resolves the question of significance. The FONSI serves as the decision-making document for the project. It discusses the environmental issues and reaches appropriate decisions regarding mitigation and other commitments.

7.2 PROCEDURE

7.2.1 Preparation of the EA with FONSI

As part of the 30 day public review period for an EA, which at times may also include a public hearing, the public as well as agencies can provide comments on the EA. Comments received during the public review period must be addressed by the District and added to the Comments and Coordination Section along with the responses if a hearing is held. The District updates the EA to address any changes that have occurred

since the document became publically available. The District prepares the EA with FONSI if there are no significant impacts. The FONSI process is shown in [Figure 7-1](#).

7.2.1.1 Preparation of the Finding of No Significant Impact

The FONSI is a separate document attached to the EA, which serves as the decision-making document for the project and identifies the preferred alternative. The FONSI is based on OEM's independent review of the analysis and technical documentation in the EA and is OEM's determination that the impacts for the proposed project are not significant. The FONSI determines that no significant impacts will occur as a result of the project and provides the rationale behind the decision.

7.2.1.1.1 Finding of No Significant Impact Cover Page

The EA cover page is removed and replaced with a FONSI cover page. Sample cover pages, both with and without **Section 4(f)** evaluations are provided in [Figure 7-2](#) through [Figure 7-4](#). These cover pages are available as electronic forms, see [Section 7.4](#) for form numbers and hyperlinks.

7.2.1.1.2 Contents of a Finding of No Significant Impact

The FONSI documents the decisions reached by OEM regarding the proposed project. It includes discussion of only those issues for which significance was in question and the determination that impacts were not significant. The FONSI briefly describes the preferred alternative and references the appropriate sections of the EA.

The FONSI determination is made by OEM and in its findings, OEM takes full responsibility for the accuracy, scope, and contents of the Environmental Document.

7.2.1.2 Updating the Environmental Assessment

A divider page is placed between the FONSI and the EA, (in lieu of the EA cover page) which contains only the words "Environmental Assessment" in the center of the page.

Appropriate sections of the EA are modified to reflect changes in environmental impact(s), cost, design, or other changes since approval of the EA.

7.2.1.2.1 Updating the Project Description and Purpose and Need and the Alternatives Sections

In the Project Description and Purpose and Need section, the applicable planning consistency form should be referenced and the form and Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP), and current State Transportation Improvement Program (STIP) pages should be included in the Appendix. The form must include information demonstrating the project's fulfillment of planning consistency

requirements. Planning consistency must be met prior to requesting Location and Design Concept Acceptance (LDCA). See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for guidance on updating this section.

In the Alternatives section, the Recommended Alternative subsection is replaced with a Preferred Alternative subsection. See [Part 2, Chapter 3, Engineering Analysis](#) for more information on preparing the Preferred Alternative section of the EA.

7.2.1.2.2 Updating the Comments and Coordination Section

The Comments and Coordination section is updated to include a summary of comments along with a response to each substantive comment received during the document review period. This should include documentation of subsequent coordination and consultation.

The Concluding Statement subsection should be deleted and any new concurrence and coordination letters should be referenced and included in the Appendix.

A new subsection should be added on the public hearing titled “Public Hearing”. 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; provide a summary of the comments received (written and oral) regarding the proposed action both positive and negative, and the District’s response to those comments; and a reference that the comments and responses are included in the Appendix.

7.2.1.2.3 Updating the Commitments Section and the Appendix

The Commitments section is updated to include any commitments made by FDOT since the EA was prepared. Any new commitments require internal coordination and once coordinated with the appropriate District office are included in the EA with FONSI and **Project Commitment Record (PCR), Form 700-011-35** by the appropriate Project Manager. See [Part 2, Chapter 22, Commitments](#) for more information.

The Appendix should be updated and separated into pre-hearing and post-hearing sections. New materials should be added to the post-hearing section, as applicable.

7.2.2 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 7-5](#). 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, Form No. 650-050-15** for initial OEM review. The District uploads the EA with FONSI into the FDOT’s Electronic Review and Comment (ERC) application. The public hearing transcript (if a public hearing was held) and new materials incorporated by reference must be uploaded into SWEPT.

The Project Delivery Coordinator (PDC) confirms that the document is complete and ready for review. If necessary, the District schedules a project briefing for OEM and the Office of General Counsel (OGC) reviewers. The OEM and OGC review team will have 30 calendar days to review the documents. OEM submits comments in the ERC. If necessary, the District will schedule a meeting with the project review team to discuss comments.

If there are Cooperating Agencies [e.g. United States Coast Guard (USCG), United States Army Corps of Engineers (USACE)], the District uploads the EA with FONSI to the EST and initiates the Cooperating Agency review concurrent with OEM review. The District will 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, Form No.650-050-15*** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation from the PDC the document can advance to OEM Environmental Process Administrator review.

The OEM Environmental Process Administrators recommend the EA with FONSI for approval. The Director of OEM, or designee, then approves the EA with FONSI, granting LDCA using SWEPT.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

7.2.3 Actions Taken After Approval of the EA with FONSI

Once the EA with FONSI is approved, the District must provide notification that LDCA has been granted concurrently with approval of the EA with FONSI.

Distribution to Agencies and Stakeholders

The District shares the approved document with the recipients of the EA using the EST. An electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT), which includes the Cooperating Agencies (e.g., USCG, USACE) 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 EA. The document should be sent to Native American tribes according to their requested method of communication as established on the [OEM Native American Coordination website](#). Others should be sent an electronic link to the document, unless a paper copy is requested.

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used for the public hearing notification or notice for public review if no hearing was held, informing the public that the project has received LDCA and is being advanced. The District ensures the EA with FONSI is available upon request by the public.

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 OEM for review, the District must discuss with OEM and OGC the need for publication of a **Limitations of Claims Notice** under **23 U.S.C. § 139 (I)**. The District provides the necessary information for the **Limitations of Claims Notice** to OEM.

OEM will provide FHWA the project information needed to publish the **Limitations of Claims Notice** in the **FR**. FHWA submits the notice to 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 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 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.

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

FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NEPA of 1969, as amended (42 U.S.C. § 4321 et seq.).

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

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)

7.4 FORMS

Environmental Document Submittal Form, Form No. 650-050-15*

Finding of No Significant Impact Cover Page, Form No. 650-050-33*

Finding of No Significant Impact/Final Section 4(f) Evaluation Cover Page, Form No. 650-050-34*

Finding of No Significant Impact/Final Section 4(f) de minimis Approval Cover Page, Form No. 650-050-35*

[Project Commitment Record, Form No. 700-011-35](#)

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

7.5 HISTORY

11/1/2002, 1/31/2007, 5/30/2014, 8/11/2016

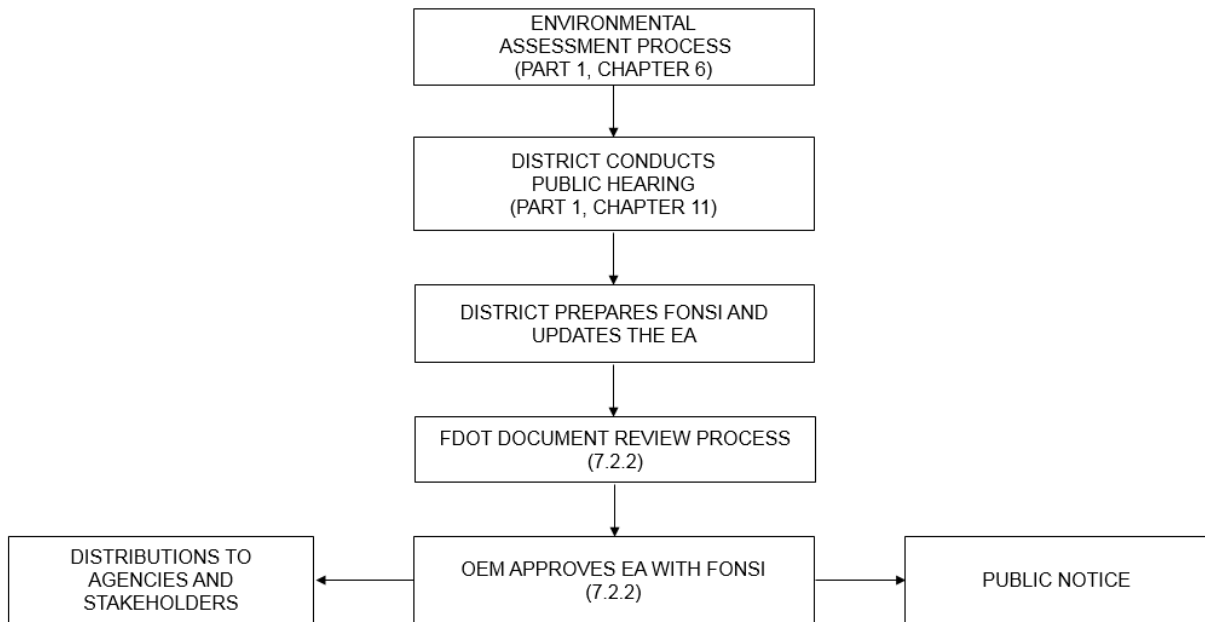


Figure 7-1 Finding of No Significant Impact Process

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

____/____/____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

(Abstract of EA)

XX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Figure 7-2 Finding of No Significant Impact Sample Cover Page

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT/FINAL SECTION 4(f) EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXXX(Brief description of the project)XXXXXXXXXXXXXXXXXXXXX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

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The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

XXXXXXXXXXXXXXXXXXXXX(Abstract of EA)XXXXXXXXXXXXXXXXXXXXX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 7-3 Finding of No Significant Impact/Final Section 4(f) Evaluation
Sample Cover Page**

ADMINISTRATIVE ACTION
FINDING OF NO SIGNIFICANT IMPACT/FINAL SECTION 4(f) *de minimis* APPROVAL

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(Brief description of the project)

XX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

The FDOT takes full responsibility for the accuracy, scope, and contents of the attached Environmental Assessment.

The FDOT Office of Environmental Management (OEM) has determined that this project will not have any significant impact on the human environment. The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Submitted pursuant to 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

(Abstract of EA)

XX

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 7-4 Finding of No Significant Impact/Final Section 4(f) *de minimis*
Approval Sample Cover Page**

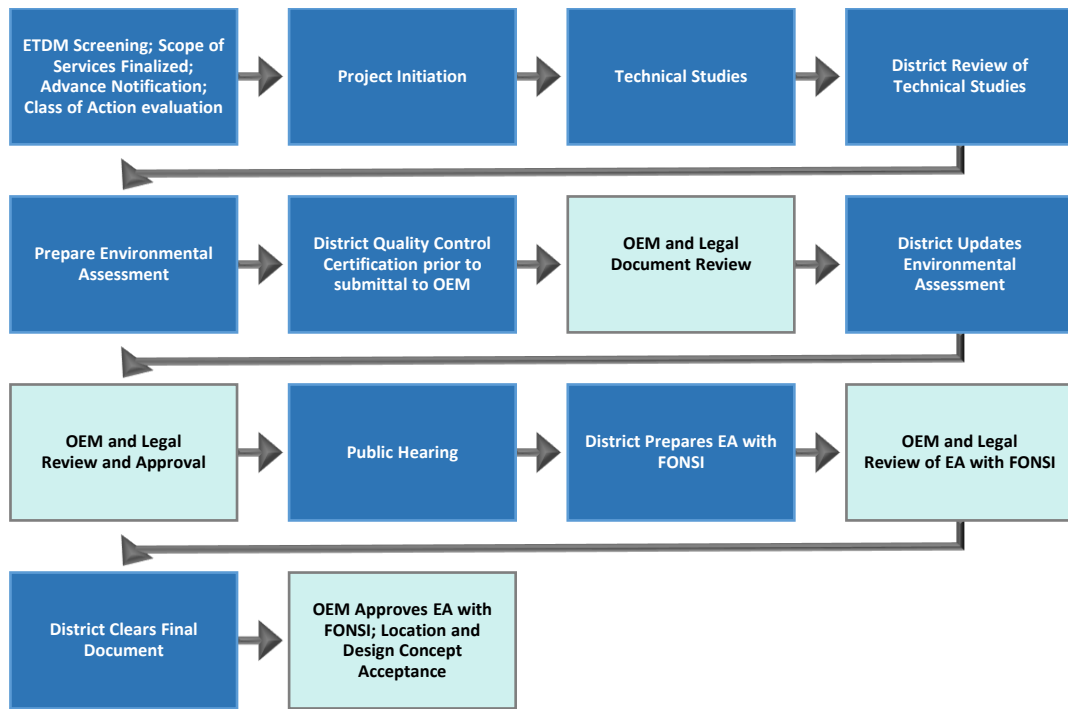


Figure 7-5 FDOT Document Review Process for EA with FONSI

PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

TABLE OF CONTENTS

8.1	OVERVIEW	8-1
8.2	PROCEDURE.....	8-1
8.2.1	Environmental Scoping Process.....	8-2
8.2.1.1	Prior Concurrence.....	8-3
8.2.2	Preparation of the Notice of Intent.....	8-4
8.2.2.1	Notice of Intent Format	8-4
8.2.2.2	Notice of Intent Content.....	8-5
8.2.3	Project Status Fact Sheet.....	8-6
8.2.4	Draft Environmental Impact Statement Preparation	8-6
8.2.4.1	Cover Page and Table of Contents	8-6
8.2.4.2	Executive Summary.....	8-7
8.2.4.3	Project Description and Purpose and Need.....	8-8
8.2.4.4	Alternatives.....	8-8
8.2.4.5	Environmental Analysis	8-8
8.2.4.5.1	Affected Environment	8-9
8.2.4.5.2	Environmental Consequences.....	8-9
8.2.4.5.3	Anticipated Permits.....	8-11
8.2.4.5.4	Cumulative Impacts	8-11
8.2.4.6	Comments and Coordination	8-11
8.2.4.6.1	Discussion of Efficient Transportation Decision Making Programming Screen and Advance Notification.....	8-12

8.2.4.6.2 Discussion of the Environmental Scoping Process.....	8-12
8.2.4.6.3 Coordination and Consultation	8-12
8.2.4.6.4 Concluding Statement	8-12
8.2.4.7 Commitments	8-13
8.2.4.8 List of Preparers	8-13
8.2.4.9 Distribution List.....	8-13
8.2.4.10 Index	8-13
8.2.4.11 Appendix.....	8-13
8.2.4.11.1 Appendix Divider Page.....	8-14
8.2.4.11.2 Correspondence Contained in the Appendix.....	8-14
8.2.4.11.3 Types of Support Material Usually Found in the Appendix.....	8-15
8.2.4.11.4 Material Incorporated by Reference	8-15
8.2.5 FDOT Document Review Process.....	8-15
8.2.6 Actions After Approval of the DEIS.....	8-16
8.3 REFERENCES.....	8-18
8.4 FORMS	8-18
8.5 HISTORY	8-19

LIST OF TABLES

Table 8-1 Chapter References for Issue/Resources	8-20
--	------

LIST OF FIGURES

Figure 8-1 Draft Environmental Impact Statement Process	8-21
Figure 8-2 Sample Notice of Intent.....	8-22
Figure 8-3 Draft Environmental Impact Statement Sample Cover Page	8-24

Figure 8-4 Draft Environmental Impact Statement/Draft Section 4(f) Evaluation Sample
Cover Page 8-25

Figure 8-5 Supplemental Draft Environmental Impact Statement Sample Cover Page...
..... 8-26

Figure 8-6 Sample Table of Contents..... 8-27

Figure 8-7 Sample List of Preparers..... 8-29

Figure 8-8 Sample Index 8-30

Figure 8-9 Sample Appendix 8-31

Figure 8-10 FDOT Document Review Process for DEISs 8-32

Figure 8-11 Sample Transmittal Letter for DEIS Distribution..... 8-33

Figure 8-12 Sample Notice of Availability Published by EPA in the Federal Register 8-34

PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

8.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance for the development of a Draft Environmental Impact Statement (DEIS). A DEIS is prepared when a proposed project is anticipated to have a significant impact on issues and/or resources. Council on Environmental Quality (CEQ) regulations [**40 Code of Federal Regulations (CFR) §§ 1500-1508**] require lead agencies to "rigorously explore and objectively evaluate all reasonable alternatives" for a transportation project. Each alternative should be considered in an unbiased manner so related benefits and impacts can be evaluated and compared across alternatives. When applicable, reasonable alternatives should be developed through the Alternative Corridor Evaluation (ACE) process ([Part 2, Chapter 3, Engineering Analysis](#)). For Environmental Impact Statements (EISs), the regulations dictate that the study "shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

8.2 PROCEDURE

The DEIS is prepared following the procedures in this chapter. After the Class of Action (COA) determination is approved by OEM, the District prepares a **Notice of Intent (NOI)** for OEM, and FHWA Division Office publishes the **NOI** in the **Federal Register (FR)**. A Public Involvement Plan (PIP) is developed and administered in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). [Figure 8-1](#) shows the DEIS process.

The following activities should be carried out by the District for EIS projects during project screening through the Environmental Screening Tool (EST) or before the initiation of the Project Development and Environment (PD&E) phase.

1. Initiate the Programming Screen and/or prepare the Advance Notification (AN).
 - a. Begins the coordination process and provides notification to agencies that the project is beginning.
 - b. Provides status of project as it relates to inclusion in the cost feasible element of the Long Range Transportation Plan (LRTP), Transportation Improvement Plan (TIP), and State Transportation Improvement Plan (STIP) and provides opportunity for public and agency input.
2. Identify Participating and cooperating agencies.
3. Develop the PD&E Scope of Services based on Environmental Technical Advisory Team (ETAT) commentary and Environmental Scoping.
4. Identify initial purpose and need.
5. Identify Range of Reasonable Alternatives.
6. Development of Coordination Plan.
 - a. Fulfilled by Efficient Transportation Decision Making (ETDM) process through agency agreements, project screening, preparation of preliminary project schedule and by preparation of the PIP.
7. Develop Project Schedule.
 - a. Developed in consultation with OEM, Cooperating and Participating Agencies with concurrence no later than 90 days after publication of the NOI.
8. Prepare draft **NOI**.

8.2.1 Environmental Scoping Process

The Environmental Scoping Process is a formal process for projects requiring an EIS (**23 CFR Part 771**). It is an early and open process for determining the significant issues related to a proposed action and is required by **40 CFR § 1501.7 (CEQ Regulations)**. The Environmental Scoping Process begins with ETAT reviews during the ETDM EST screening events. Pursuant to **Section 1313** of the **Fixing America's Surface Transportation (FAST) Act**, concurrence, or issue resolution (between the Lead Agency and Cooperating Agencies) on the purpose and need must be achieved during the Environmental Scoping Process of an EIS.

In addition to project screening and the AN, a District may hold a formal scoping meeting early in the project development process as a part of the Environmental Scoping Process. 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](#).

The results of the ETDM Programming Screen and Environmental Scoping Process should be 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 Study. 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 section of the DEIS ([Section 8.2.4.6](#)).

8.2.1.1 Prior Concurrence

For selected projects, "prior concurrence" pursuant to **23 C.F.R. §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 FDOT approvals of draft or final EISs. Projects that require prior concurrence will be decided on a case-by-case basis with the prior concurrence determination being made by the Assistant Secretary for Engineering and Operations or designee, after consulting with 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

Prior concurrence will apply to projects as determined by the Assistant Secretary for Engineering and Operations or designee. In completing the prior concurrence review, the Environmental Process Administrators or designee will review the EIS at issue in the prior concurrence review and seek advice and input, as appropriate, from subject matter experts and OGC before the EIS that is the subject of prior concurrence is approved by the Director of OEM.

8.2.2 Preparation of the Notice of Intent

A **NOI** is published in the **FR** after OEM approves the COA and project schedule. The **NOI** informs stakeholders that an EIS is being prepared for the proposed project (A sample **NOI** is shown in [Figure 8-2](#)). Based on federal guidelines, the **NEPA** process for an EIS begins with the **NOI** and ends with the Final Environmental Impact Statement/Record of Decision (FEIS/ROD) or ROD.

After the District drafts the **NOI**, it is forwarded to the FHWA Division Office for publication in the **FR**. A copy of the published notice must be included in the project file and included in the Appendix of the DEIS. FHWA will not publish the **NOI** in the **FR** until the project schedule has been approved by OEM.

8.2.2.1 Notice of Intent Format

The **NOI** must be prepared on 8 ½" X 11" white paper and typed in black ink. The margins must be 1 ½" for the left and 1" for all other margins. The text must be double-spaced (except heading title), and the heading must contain the following items:

1. Billing Code No. 4910-22 (typed in brackets or parentheses)
2. DEPARTMENT OF TRANSPORTATION (all in upper case letters)
3. Federal Highway Administration
4. ENVIRONMENTAL IMPACT STATEMENT; COUNTY OR CITY, STATE (all in upper case letters and single spaced)

The body of the **NOI** must contain five (5) sections: AGENCY, ACTION, SUMMARY, FOR FURTHER INFORMATION CONTACT, and SUPPLEMENTARY PROJECT INFORMATION (Each section title is in upper case letters followed by a colon).

Following these sections, the **NOI** must specify:

1. Issued on: (indent 5 spaces and enter the date the document is signed).
2. Signature line: [begin in the middle of the page; enter name and title of the Director of OEM, or designee, Tallahassee, Florida under the signature].

8.2.2.2 Notice of Intent Content

The following information must be contained in a **NOI**:

1. AGENCY: FHWA, U.S. Department of Transportation (USDOT), FDOT
2. ACTION: **NOI** to prepare an EIS
3. SUMMARY: Begin this section with the following statement:

The FHWA, on behalf of the Florida Department of Transportation (FDOT) is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed project in _____ County, FL.

4. FOR FURTHER INFORMATION CONTACT: This section should name the FDOT contacts who can answer questions about the proposed project and the EIS as it is being developed.
5. SUPPLEMENTARY PROJECT INFORMATION:

Begin this section with the following statement:

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

This section should also contain the following project information:

- a. A brief description including location and termini, length, purpose and need;
- b. A brief description of the reasonable alternatives to accomplish the purpose and need. The no action alternative should always be listed;
- c. A statement disclosing that the agencies intend to prepare a single Environmental Document (FEIS/ROD) for the proposed project. The following statement must be included:

The FDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Section 139(n)(2).

- d. A brief description of the proposed Environmental Scoping Process. If a scoping meeting is scheduled, provide meeting information including time and location;
- e. The project website address if available; and

- f. Place the following statement in parentheses directly above the signature and date of issuance:

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

The **NOI** is transmitted by OEM to FHWA for publication in the **FR**. Publication of the **NOI** begins the **NEPA** process.

8.2.3 Project Status Fact Sheet

Once the **NOI** is published and **NEPA** has begun, 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. Four years have passed after the project has been initiated and no EIS has been approved for public availability; or
2. The project termini have changed (expanded); or
3. 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 it applies)
2. Brief project description including the 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

8.2.4.1 Cover Page and Table of Contents

Sample cover pages for DEISs, both with and without a **Section 4(f)** evaluation are provided in [Figure 8-3](#) and [Figure 8-4](#). A sample cover page for a Supplemental DEIS is provided in [Figure 8-5](#). These cover pages are available as electronic forms, see [Section 8.5](#) for form numbers and hyperlinks.

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. Contact OEM for assistance when assigning the document number. The document number is updated with the submittal of the FEIS document (See [Part 1, Chapter 9, Final Environmental Impact Statement](#)).

The layout for the Table of Contents is provided in [Figure 8-6](#).

8.2.4.2 Executive Summary

The Executive Summary describes the proposed action and the conclusions of issue/resource analysis for a project and identifies avoidance, minimization, and/or mitigation measures.

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.

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 required.

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 Description and Purpose and Need

This section of a DEIS should be developed in accordance with [Part 2, Chapter 1, Project Description and Purpose and Need](#). The DEIS must include information reflecting the status of planning consistency (LRTP, STIP, and TIP). Guidance on planning consistency is in *Guidance for Meeting Planning Requirements for NEPA Approval* and [Part 2, Chapter 1, Project Description and Purpose and Need](#). Planning consistency must be met prior to requesting Location and Design Concept Acceptance (LDCA).

8.2.4.4 Alternatives

The DEIS must discuss impacts on the environment from the recommended alternative and other alternatives in a comparative form. The Alternatives section must meet the requirements of *40 CFR § 1502.14*, as discussed in [Part 2, Chapter 3, Engineering Analysis](#). The same chapter also 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. Recommended Alternative.

8.2.4.5 Environmental Analysis

The Environmental Analysis section discusses existing conditions of the project area and potential impacts and/or enhancements the project may have on applicable issues/resources. The Table of Contents in [Figure 8-6](#) 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 issue/resource. If there are potential impacts, each subsection should include 1) a discussion on the affected environment and 2) a discussion on the environmental consequences for the issue/resource. If there is no involvement with, or impact to the issue/resource, the chapters listed in [Table 8-1](#) provide standard statements to include in these subsections.

The level of analysis for resources at issue should be sufficient to adequately identify the impacts and address comments provided by the ETAT, other agencies, interested parties, or the public during the Programming screen and/or AN process. The analysis should also fulfill the resource agency consultative process, address opportunities and approaches to mitigation when needed, and aid in coordination with the public or other interested stakeholders.

8.2.4.5.1 Affected Environment

Each issue/resource subsection should provide a concise description of the existing social, economic, and environmental setting for the area affected by all reasonable alternatives for the project. It should contain a general description for the entire project area rather than a separate description for each proposed alternative. Discussion in this section should be in proportion to the significance of the impacts.

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. When possible, some of the information for this section can be collected and drafted before the PD&E Study begins.

8.2.4.5.2 Environmental Consequences

The Environmental Analysis section must include a discussion of potential impacts and/or enhancements to issues/resources for each reasonable alternative where a potential for impact exists (*FHWA Technical Advisory T6640.8A*). Guidance to address specific issues/resources is provided in [Part 2 of this Manual](#).

In general, 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 issue/resource subheading must 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 issue/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.

It is recommended that this section of the DEIS ensure:

1. The document provides sufficient information on the environmental studies and technical reports, major assumptions made, and supporting information on the validity of the methodology;
2. The document provides sufficient information (results of analysis) to establish the reasonableness of the conclusions reached regarding the recommended alternative and the project impacts;
3. The document provides a description of mitigation measures, where applicable. Associated commitments may be needed to address mitigation.
 - a. Mitigation measures should be discussed, as applicable, for each reasonable alternative

Pursuant to **40 CFR § 1502.16**, this section includes the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments or resources which would be involved in the proposal should it be implemented.

Pursuant to **40 CFR § 1502.16**, this section must include discussions of:

1. Direct effects and their significance;
2. Indirect effects and their significance;
3. Possible conflicts between the proposed action and the objectives of federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned;
4. The environmental effects of alternatives including the proposed action;
5. Energy requirements and conservation potential of various alternatives and mitigation measures;

6. Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures;
7. Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures;
8. Means to mitigate adverse environmental impacts.

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

8.2.4.5.3 Anticipated Permits

The Environmental Analysis section should include a subsection on anticipated permits. Permits identified during the PD&E Study must be listed in this subsection. This list should include 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. Coordination with the District Permit 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) is required for resources determined to be of concern based on coordination and context. The CEE should describe the context and intensity of the impacts. Guidance on preparing this evaluation is provided in the [Cumulative Effects Evaluation Handbook](#). This subsection should include a summary of the results of the CEE.

8.2.4.6 Comments and Coordination

A Comments and Coordination section is included in a DEIS in order to summarize the public and interagency comments and coordination involved in developing the project and the EIS. This includes documentation of meetings and coordination with government leaders, government agencies, community groups and individual citizens. This also includes documentation of the Environmental Scoping Process for the EIS.

This section is divided up into four subsections:

1. Discussion of ETDM Programing Screen and Advance Notification
2. Discussion of the Environmental Scoping Process
3. Coordination and Consultation
4. Concluding Statement

8.2.4.6.1 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 DEIS. This subsection must include 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.

8.2.4.6.2 Discussion of the Environmental Scoping Process

This subsection describes the Environmental Scoping Process for the EIS and includes the following information:

1. Dates and locations of EIS scoping meetings (if held);
2. Agencies participating in the Environmental Scoping Process;
3. A summary of meetings, discussions, and correspondence pertinent to the Environmental Scoping Process.

8.2.4.6.3 Coordination and Consultation

This subsection summarizes the coordination and consultation which occurred with agencies, the public, and other interested parties during preparation of the DEIS. This should include a chronology of meetings, events, attendees, comments received, and District responses. This information can be exhibited as a table.

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

8.2.4.6.4 Concluding Statement

Since the draft document is subject to modification, place the following statement 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 has been held on this project and comments received have been taken into consideration.

8.2.4.7 Commitments

This section, should contain all commitments made during the PD&E process and identified in associated technical reports ([Part 2, Chapter 22, Commitments](#)). In addition, commitments are transferred verbatim to the **Project Commitment Record, Form No. 700-011-35**. Appropriate sections of the DEIS should be referenced in the Commitments section to provide context.

8.2.4.8 List of Preparers

A list of preparers is required for EISs in accordance with **40 CFR § 1502.17**. 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 list of preparers is shown in [Figure 8-7](#).

8.2.4.9 Distribution List

DEISs are circulated for comment to resource and regulatory agencies, non-governmental organizations, elected officials, and other interested parties. Circulation is in accordance with the CEQ implementing regulations, **40 CFR §§ 1500-1508** (see [Section 8.2.6](#)). The DEIS must include a section providing a list of entities which will receive the DEIS. The list of entities is typically based on those that were sent the AN, including those that participated in the Environmental Scoping Process. [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#), provides a transmittal list and contact information for ANs.

8.2.4.10 Index

An index is included in all EISs to provide a detailed listing of major subject areas for the convenience of the reader. It is an alphabetical listing focusing on areas which have a significant impact on the surrounding environment and areas of community concern. An illustration of the typical content of an index is provided in [Figure 8-8](#).

8.2.4.11 Appendix

The Appendix is the final section of a DEIS and its contents are prescribed by CEQ regulation, **40 CFR § 1502.18**, which provides:

If an agency prepares an Appendix to an EIS the Appendix shall:

- (a) Consist of material prepared in connection with an Environmental Impact Statement [as distinct from material which is not so prepared and which is incorporated by reference (**§1502.21**)].
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement.
- (c) Normally be analytic and relevant to the decision to be made.
- (d) Be circulated with the environmental impact statement or be readily available on request.

Further, consistent with CEQ's direction to reduce paperwork and the length of EISs, to focus the EIS on significant environmental issues and allow for incorporation by reference per **40 CFR § 1500.4**, the Appendix should be limited to materials necessary to support FDOT's analysis and decision-making, which are not otherwise readily available to the public or agencies for inspection during the comment period. See **40 CFR § 1502.21**.

8.2.4.11.1 Appendix Divider Page

On the Appendix divider page, a listing should be provided of each document contained within. Material contained in the Appendix must be numbered for ease of reference. Document organization is at the discretion of the analyst. Examples include by organizational (federal/state/county) or chronological order. A sample of the type of listing generally found on the divider page is provide in [Figure 8-9](#).

8.2.4.11.2 Correspondence Contained in the Appendix

The following is a list of correspondence that is generally found in the Appendix:

1. Letters from state agencies
2. Letters from elected or appointed state officials
3. Letters from local agencies and officials
4. Letters from statewide and regional clearinghouses
5. Letters from federal agencies
6. Letters from elected or appointed federal officials
7. Letters from cooperating agencies
8. Letters from citizens or citizen groups
9. Letters from private interest groups

8.2.4.11.3 Types of Support Material Usually Found in the Appendix

The following is a list of the types of support data usually incorporated into the Appendix of a DEIS. The preparer should note that this list is not all inclusive.

1. Lists (i.e., meeting attendees)
2. Resolutions
3. Letters of Agreement
4. Memoranda of Agreement (i.e., **Section 106 - Historic Preservation Act**)
5. Special Reports
 - a. Material prepared in connection with the Environmental Document which substantiates an analysis and is not contained under separate cover;
 - b. Material which is analytical and is relevant to the decision to be made and is not contained under separate cover; and
 - c. Material which, due to its nature, should be circulated with the DEIS.

Items 5a through 5c are rarely used since most, if not all, of the support data and analysis developed for a DEIS is contained under separate cover and incorporated in the document by reference.

Note, the Appendix should not contain materials such as internal FDOT memos or letters between FDOT and its consultant, comments on draft documents, or ETDM Planning or Programming Screen Summary Reports.

8.2.4.11.4 Material Incorporated by Reference

Material contained under separate cover should be referenced in the DEIS and included in the project file. This includes technical reports (e.g., **Traffic Report, Conceptual Stage Relocation Plan, Natural Resource Evaluation**), technical memorandums, and studies. For a complete list of technical documents see [Part 1, Chapter 4, Project Development Process](#). The documents referred to in the DEIS must be readily available for public review at the District office. An exception to this is during the public availability period of the document, when the document and support documentation are placed in other locations for public availability ([Part 1, Chapter 11, Public Involvement](#)).

8.2.5 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 8-10](#). After preparing the DEIS, the District conducts a quality control review and uses the StateWide

Environmental Project Tracker (SWEPT) application to complete the ***Environmental Document Submittal Form, Form No. 650-050-15*** for initial OEM and Office of General Counsel (OGC) review. The District uploads the DEIS into FDOT's Electronic Review and Comment (ERC) application.

The Project Delivery Coordinator (PDC) confirms the document is complete and ready for review. If necessary, the District schedules a project briefing for OEM and OGC reviewers. The OEM and OGC review team will have 30 calendar days to review the draft documents. OEM submits comments in the ERC. The District will address OEM comments and provide responses in the ERC. If necessary, the District will schedule 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 concurrent with OEM review. The District will 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, Form No. 650-050-15*** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation from the PDC the document can advance to OEM Environmental Process Administrator review. The OEM Environmental Process Administrators recommend the DEIS for approval. The Director of OEM, or designee, then approves the DEIS.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

8.2.6 Actions After Approval of the DEIS

When the DEIS is approved by OEM for public availability the District in coordination with OEM enters the deadline for formal comment submittal on the cover page established by calculating 45 calendar days after posting on the Environmental Protection Agencies' (EPA's) e-NEPA website indicating publication of the ***Notice of Availability*** in the ***FR***.

Distribution to Agencies and Stakeholders

Distribution of the DEIS must occur before OEM sends the e-NEPA request for publication of the ***Notice of Availability*** in the ***FR*** to EPA (***23 CFR § 771.123***). The approved document is sent electronically to the SCH and the ETAT, which includes Cooperating Agencies (e.g., USCG, USACE) 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 those who received the AN. The document should be sent to Native American tribes according to their requested method of communication as established on the [OEM Native American Coordination](#) website. Others should be sent

an electronic link to the document, unless a paper copy is requested. See [Figure 8-11](#) for a sample transmittal letter.

Public Notice of Availability and Public Hearing

The DEIS must be available to the public and transmitted to agencies for comment before OEM files the document with EPA (**23 CFR § 771.123**). The District places a notice in the local newspaper(s), which advertises the public hearing, announces that the approved document is available for public review, and provides the location(s) where the approved document can be inspected by the public ([Part 1, Chapter 11, Public Involvement](#)). The public hearing is held a minimum of 21 days after the notice is placed in the local newspaper(s), **40 CFR § 1506.6**. Notice should also be placed on the agency website and in the **Florida Administrative Register (FAR)**.

The **Notice of Availability** is initiated when OEM files the DEIS with EPA. All DEISs must be electronically submitted to EPA using their e-NEPA online tool.

The scanned document must meet the following requirements for submittal:

1. PDF files must be no greater than 50MB. If the document is larger, divide it into chapters or subchapters
2. Format the filenames with the chapter or subchapter number first, followed by its name. Example: Chapter 1- Project Description and Purpose and Need
3. If submitting a single file, use the full EIS title as the filename
4. All PDF documents must be formatted to be searchable
5. All PDF files should have chapters and subchapters bookmarked and the bookmark view should be displayed upon opening the file

After the District formats the document for e-NEPA, the District sends it to OEM, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. OEM submits it to EPA using the e-NEPA online tool. EPA then publishes the **Notice of Availability** of the FEIS in the **FR** for a 45-day comment period (**23 CFR § 771.123**). [Figure 8-12](#) is an example of a **Notice of Availability** in the **FR**. The District must monitor the **FR** for publication of the notice and upload it to the project file.

After the public hearing has been held, the comment period closes, and all issues are addressed, the District prepares a FEIS/ROD or FEIS according to procedures in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

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
- Council on Environmental Quality. 1978. Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act. 43 CFR 55978-56007 and 40 CFR 1500-1508
- FHWA. 1987. Technical Advisory T6640.8A. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. October 30, 1987
- FAST Act
- 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. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>
- Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.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 Decisionmaking
- 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)

8.4 FORMS

Draft Environmental Impact Statement Cover Page, Form 650-050-18*

Draft Environmental Impact Statement/Section 4(f) Evaluation Cover Page, Form 650-050-19*

Environmental Document Submittal Form, Form No. 650-050-15*

Planning Requirements for Environmental Document Approvals Form, Form 650-050-41

Project Commitment Record, [Form No. 700-011-35](#)

Supplemental Draft Environmental Impact Statement Cover Page, Form 650-050-20*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

8.5 HISTORY

11/25/2002, 1/31/2007, 4/22/2011, 2/03/2014, 8/3/2016

Issue/Resource	Part	Chapter
Social and Economic		
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
Cultural		
Section 4 (f)	2	7
Historic Sites/Districts	2	8
Archaeological Sites	2	8
Recreational Areas	2	7
Natural		
Wetlands and Other Surface Waters	2	9
Aquatic Preserves and Outstanding Florida Waters	2	10
Water Quality and Water Quantity	2	11
Wild and Scenic Rivers	2	12
Floodplains	2	13
Coastal Zone Consistency	2	14
Coastal Barrier Resources	2	15
Protected Species and Habitat	2	16
Essential Fish Habitat	2	17
Physical		
Highway Traffic Noise	2	18
Air Quality	2	19
Contamination	2	20
Utilities and Railroads	2	21
Construction	2	3
Bicycles and Pedestrians	2	3
Navigation	1	12
Anticipated Permits	1	12
Cumulative Impacts		Cumulative Effects Evaluation Handbook

Table 8-1 Chapter References for Issue/Resources

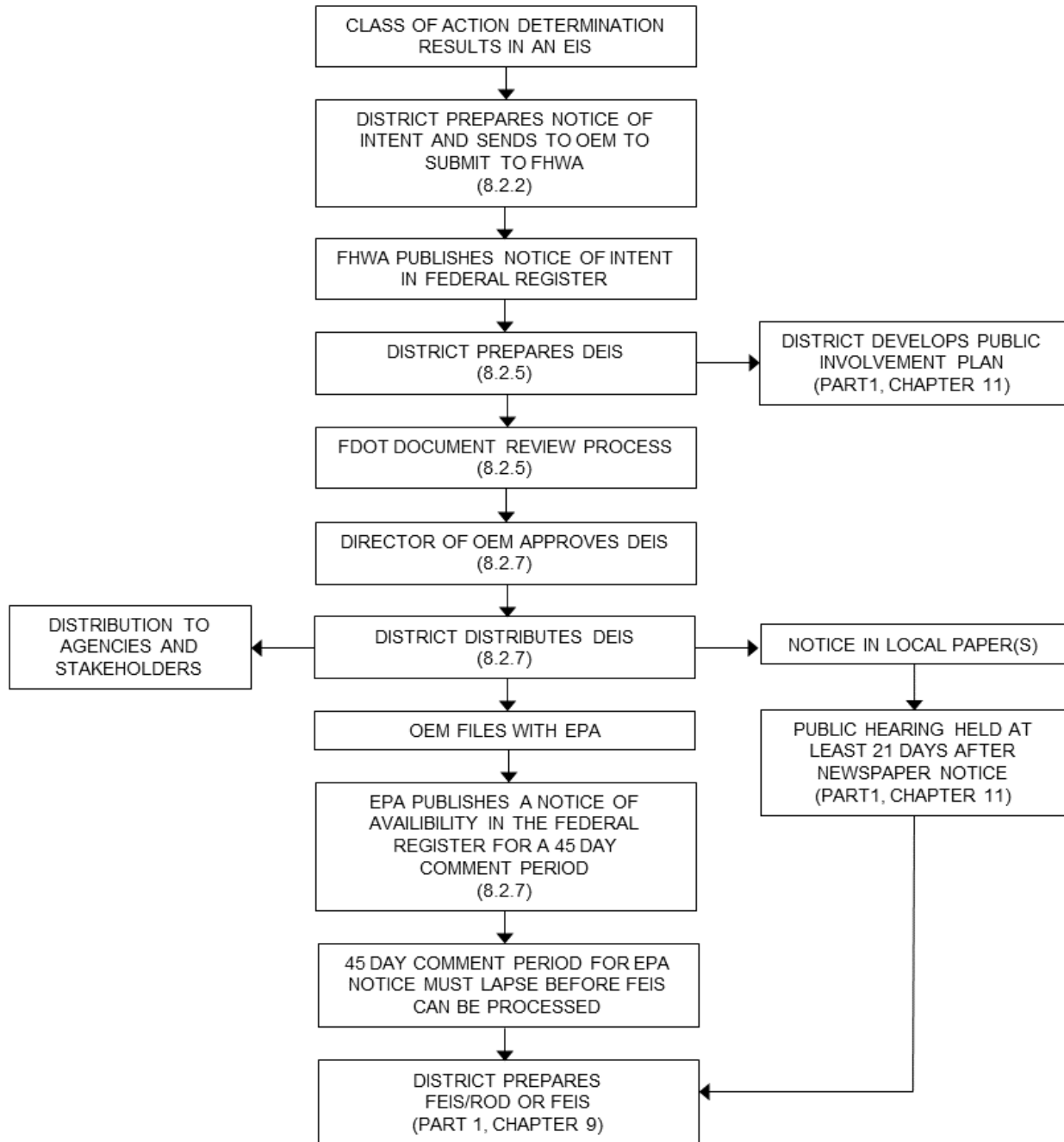


Figure 8-1 Draft Environmental Impact Statement Process

(4910-22)

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ENVIRONMENTAL IMPACT STATEMENT; _____ COUNTY, FLORIDA

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of Intent

SUMMARY: The FHWA, on behalf of the Florida Department of Transportation (FDOT) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in _____ County, Florida.

FOR FURTHER INFORMATION CONTACT: (Name of District Contact), (Title), Florida Department of Transportation, (District Address), (City) Florida (Zip Code)

SUPPLEMENTARY PROJECT INFORMATION:

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The Florida Department of Transportation will prepare an EIS for a proposal to improve SR XX in _____ County, Florida. The FDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Chapter 139. In the DEIS the recommended alternative would become the preferred alternative if no substantial controversy or issues arise through the public and agency comment period.

The proposed improvement would involve the reconstruction of SR XX from Interstate Route XX to SR XX, a distance of X miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to a six or eight lane divided roadway; (3) widening to a six lane plus frontage roads on the portion of the project west of SR XX; and (4) alternate corridors.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have expressed interest in this proposal.

Figure 8-2 Sample Notice of Intent

A series of public meetings will be held in _____ City, _____ County between (month) and (month), (year). In addition a public hearing will be held. Notice will be provided of the time and place of the meetings and hearing. The Draft EIS will be made available for public and agency review and comment. A formal scoping meeting is planned at the project site during the early part of (year). Additional project information can be found at the following web address: _____

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested persons. Comments or questions concerning this proposed action and the EIS should be directed to the FDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to this program.)

Issued On: (Month Date, Year)

Director of the Office of Environmental
Management, or designee
Tallahassee, Florida

Figure 8-2 Sample Notice of Intent (Page 2 of 2)

FHWA-FLA-EIS 02-01-D
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
DRAFT ENVIRONMENTAL IMPACT STATEMENT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

FDOT will issue a combined Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. § 139.

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____ (date) _____

Figure 8-3 Draft Environmental Impact Statement Sample Cover Page

FHWA-FLA-EIS 02-01-D
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
DRAFT ENVIRONMENTAL IMPACT STATEMENT/DRAFT SECTION 4(f)
EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)
Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

FDOT will issue a combined Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. § 139.

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

____ / ____ / ____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

**Figure 8-4 Draft Environmental Impact Statement/Draft Section 4(f) Evaluation
Sample Cover Page**

FHWA-FLA-EIS 02-01-DS
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

FHWA will issue a combined Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. § 139.

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

**Figure 8-5 Supplemental Draft Environmental Impact Statement Sample Cover
Page**

TABLE OF CONTENTS

1.0	EXECUTIVE SUMMARY.....	1-1
2.0	PROJECT DESCRIPTION AND PURPOSE AND NEED.....	2-1
3.0	ALTERNATIVES	3-1
3.1	Alternatives Development.....	3-1
3.2	Alternatives Considered but Eliminated.....	3-2
3.3	Alternatives Considered for Additional Study.....	3-3
3.4	Comparative Alternatives Evaluation.....	3-5
3.5	Recommended Alternative.....	3-5
4.0	ENVIRONMENTAL ANALYSIS.....	4-1
	4.1 Social and Economic.....	4-1
4.1.1	Social	4-2
4.1.2	Economic.....	4-2
4.1.3	Land Use Changes.....	4-3
4.1.4	Mobility.....	4-4
4.1.5	Aesthetic Effects.....	4-5
4.1.6	Relocation Potential.....	4-6
4.1.7	Farmland.....	4-6
	4.2 Cultural.....	4-13
4.2.1	Section 4(f).....	4-13
4.2.2	Historic Sites/Districts.....	4-15
4.2.3	Archaeological Sites.....	4-16
4.2.4	Recreational Areas.....	4-17
	4.3 Natural.....	4-18
4.3.1	Wetlands and Other Surface Waters.....	4-18
4.3.2	Aquatic Preserves and Outstanding Florida Waters.....	4-19
4.3.3	Water Quality and Water Quantity.....	4-20
4.3.4	Wild and Scenic Rivers.....	4-23
4.3.5	Floodplains.....	4-24
4.3.6	Coastal Zone Consistency.....	4-25
4.3.7	Coastal Barrier Resources.....	4-26
4.3.8	Protected Species and Habitat.....	4-27
4.3.9	Essential Fish Habitat	4-28
	4.4 Physical.....	4-29
4.4.1	Highway Traffic Noise.....	4-29
4.4.2	Air Quality.....	4-30
4.4.3	Contamination.....	4-32
4.4.4	Utilities and Railroads.....	4-34
4.4.5	Construction.....	4-36
4.4.6	Bicycles and Pedestrians.....	4-36
4.4.7	Navigation.....	4-37
	4.5 Anticipated Permits.....	4-38
	4.6 Cumulative Impacts.....	4-39

Figure 8-6 Sample Table of Contents

5.0	COMMENTS AND COORDINATION.....	5-1
5.1	Discussion of ETDM Programming Screen and Advance Notification	5-1
5.2	Discussion of the Environmental Scoping Process.....	5-2
5.3	Coordination and Consultation.....	5-3
5.4	Concluding Statement.....	5-3
6.0	COMMITMENTS.....	6-1
7.0	LIST OF PREPARERS.....	7-1
8.0	DISTRIBUTION LIST.....	8-1
9.0	INDEX.....	9-1
10.0	APPENDIX.....	10-1

LIST OF FIGURES

Figure (1-1 Title of Figure 1)	1-1
Figure (1-2 Title of Figure 2)	1-2
Figure (2-1 Title of Figure 3)	2-1

LIST OF TABLES

Table (1-1 Title of Table 1)	1-1
Table (2-1 Title of Table 2)	2-1

Figure 8-6 Sample Table of Contents (Page 2 of 2)

SECTION 7. LIST OF PREPARERS

FLORIDA DEPARTMENT OF TRANSPORTATION

Mr./Ms. (Name) Transportation Policy Analyst	B.S. degree in Geography and ____ years experience in environmental analysis and environmental document preparation.
Mr./Ms. (Name) Archaeologist	M.S. degree in Anthropology and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. (Name) Historian	M.S. degree in History and ____ years experience in site surveys, analysis and documentation.
Mr./Ms. (Name) Air Quality	B.S. degree in Public Air Quality Health with _____ years experience in environmental and air quality analysis and environmental document preparation.
Mr./Ms. (Name) Noise	M.S. in Environmental Science with years experience in environmental analysis and environmental document preparation.
Mr./Ms. (Name) Natural Resources Administrator	M.S. degree in Systems Ecology with ____ years experience in environmental analysis and environmental document preparation.

(CONSULTING FIRM)

Mr./Ms. (Name)	B.S. Degree in
----------------	----------------------

Figure 8-7 Sample List of Preparers

INDEX

Aesthetics.....	10
Air Quality.....	12, 25, 33
Alternatives	43
No-Action	44, 55
Alternative 1	45, 56, 62
Alternative 2.....	47, 58, 65
Bicycle Facility.....	13, 72
Visual Impacts	68
Wetlands	64, 80
Wild and Scenic Rivers	46, 55, 70, 88

Figure 8-8 Sample Index

Appendix

A-1	Florida Department of Environmental Protection (Letter)	1-2-16
A-2	United States Fish and Wildlife Service (Letter)	1-6-16
A-3	United States Coast Guard (Letter)	1-6-16
A-4	Any County Commission (Resolution)	1-10-16

Figure 8-9 Sample Appendix

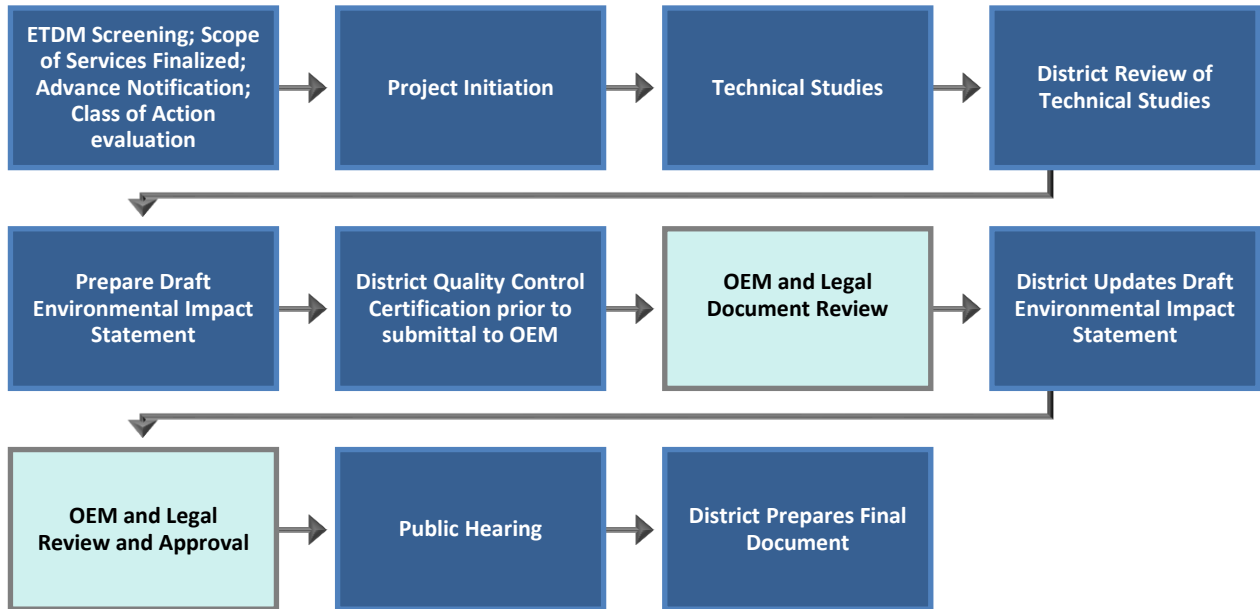


Figure 8-10 FDOT Document Review Process for DEISs

(DATE)

(FEDERAL, STATE, TRIBE, OR LOCAL AGENCY)
(ADDRESS)

Subject: Draft Environmental Impact Statement
(PROJECT NAME)
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
(NAME OF COUNTY), Florida

Dear Mr./Ms.:

Pursuant to the National Environmental Policy Act of 1969, the Florida Department of Transportation is transmitting the Draft Environmental Impact Statement which has been approved for public availability. The review period for this document closes 45 days from posting on the Federal Register through e-NEPA (<http://www.epa.gov/compliance/nepa/eisdata.html>).

Sincerely,

District Environmental Office

Enclosures
cc: OEM / without enclosure

Figure 8-11 Sample Transmittal Letter for DEIS Distribution

33722 Federal Register / Vol. 49. No. 166 / Friday, August 24, 2005 / Notices

[ER-FRL-2659-1]

**Availability of Environmental Impact
Statements Filed August 13, 2015
Through August 17, 2015**

Responsible Agency: Office of Federal Activities.
General Information (202) 382-5073 or
(202) 382-5075

EIS No. 840363. Draft. FS. WY.
Bighorn National Forest Land and
Resource Management Plan.
Bighorn. Sheridan Cos. Due: November 26, 2015.
Contact Elana Green (702) 447-4710.



**EISNo. 840384. Draft.
FHWA. FL.FL-44 Upgrading.
CR 581 to Eastern Intersection of
FL 44/45 (US-41). Citrus County.
Due: October 9, 2015.
Contact: Director of the Office of
Environmental Management
(904) 681-7223**

EIS No. 840385. Dsuppl. COE.
NC. Manteo Bay
Project. Navigation Improvement
Dare County. Due: October 9, 2015.
Contact Richard Jackson (919) 343-4745.

Figure 8-12 Sample Notice of Availability Published by EPA in the Federal Register

PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

TABLE OF CONTENTS

9.1	OVERVIEW	9-1
9.2	PROCEDURE.....	9-1
9.2.1	Preparation of the Final Environmental Impact Statement.....	9-1
9.2.1.1	FEIS Errata Sheets.....	9-2
9.2.1.2	Updating the Draft Environmental Impact Statement.....	9-3
9.2.1.2.1	Final Environmental Impact Statement Cover Page	9-3
9.2.1.2.2	Updating the Project Description and Purpose and Need and Alternatives Sections.....	9-5
9.2.1.2.3	Updating the Environmental Analysis Section.....	9-6
9.2.1.2.4	Updating the Comments and Coordination Section	9-6
9.2.1.2.5	Updating the Commitments Section.....	9-6
9.2.1.2.6	Updating the Distribution List and the Appendix	9-6
9.2.2	Preparation of the Record of Decision	9-7
9.2.2.1	Combined FEIS and ROD (FEIS/ROD).....	9-7
9.2.2.1.1	Applying Errata Sheets and FEIS/ROD to a Project	9-8
9.2.2.2	Separate Approval of the ROD	9-8
9.2.3	FDOT Document Review Process	9-8
9.2.4	Actions Taken After Approval of the FEIS/ROD or FEIS.....	9-9
9.2.4.1	FEIS/ROD.....	9-9
9.2.4.2	FEIS	9-9

9.2.5	Guidance on Limitation of Claims Notice	9-11
9.3	REFERENCES	9-11
9.4	FORMS	9-12
9.5	HISTORY	9-12

LIST OF FIGURES

Figure 9-1	Final Environmental Impact Statement Process	9-13
Figure 9-2	FEIS/ROD Process	9-14
Figure 9-3	Final Environmental Impact Statement/Record of Decision Sample Cover Page.....	9-15
Figure 9-4	Final Environmental Impact Statement/Record of Decision/Section 4(f) Evaluation Sample Cover Page	9-16
Figure 9-5	Final Environmental Impact Statement/Record of Decision/Section 4(f) de minimis Approval Sample Cover Page.....	9-17
Figure 9-6	Final Environmental Impact Statement Sample Cover Page	9-18
Figure 9-7	Final Environmental Impact Statement/Section 4(f) Evaluation Sample Cover Page.....	9-19
Figure 9-8	Final Environmental Impact Statement/Section 4(f) de minimis Approval Sample Cover Page	9-20
Figure 9-9	Final Supplemental Environmental Impact Statement Sample Cover Page...	9-21
Figure 9-10	Record of Decision Sample Cover Page.....	9-22
Figure 9-11	Record of Decision.....	9-23
Figure 9-12	FDOT Document Review Process for Environmental Impact Statements...	9-25
Figure 9-13	Sample Transmittal Letter for FEIS Distribution	9-26

PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

9.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

A Final Environmental Impact Statement (FEIS) is the Environmental Document for actions that significantly affect the environment as defined by the Council on Environmental Quality (CEQ) regulations. It is prepared after a Draft Environmental Impact Statement (DEIS) is published/noticed in the **Federal Register (FR)** and public comments received have been considered. **Title 23 U.S.C. § 139** directs the use of a combined FEIS and Record of Decision (FEIS/ROD) as the final project decision to the maximum extent practicable. 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.

9.2 PROCEDURE

9.2.1 Preparation of the Final Environmental Impact Statement

The public has the opportunity to provide comments to FDOT on a project, before, during and after the public. Federal, state, local agencies, and other stakeholders also have the opportunity to comment. The comments are appended to, and become part of, the public hearing transcript record ([Part 1, Chapter 11, Public Involvement](#)). Comments and issues raised at the public hearing, and other changes occurring since the approval of the DEIS must be considered and documented.

The FEIS is prepared after the 45-day public comment period for the DEIS closes, based on the publication of the **Notice of Availability** in the **FR**. The date comments must be

received by is shown at the bottom of the cover page of the approved DEIS (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)).

The FEIS may be prepared by completing an FEIS Errata Sheet, or updating the DEIS. Errata sheets may be prepared to describe the outcome of the public hearing, issues raised, and FDOT responses, including preliminary design changes since the approval of the DEIS. The document submitted to OEM is a FEIS/ROD ([Section 9.2.2.1](#)) or if conditions warrant, a FEIS ([Section 9.2.2.2](#)). 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 FEIS Errata Sheets

Title 40 CFR § 1503.4(c) and **Title 23 U.S.C. § 139** allow for the preparation of an FEIS by attaching errata sheets to 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 an FEIS are attached to the DEIS for submittal to OEM as the FEIS; this documentation will undergo the legal sufficiency review required by **23 CFR § 771.125**.

The errata sheets should include, at a minimum, the following information:

1. A list of factual corrections made to the DEIS with references to the relevant page numbers in the DEIS;
2. A list and explanation of why the DEIS comments do not warrant further response in the FEIS, citing the sources, authorities, or reasons that support the explanation; and
3. If appropriate, an indication of the circumstances that would trigger reappraisal or further response.

In addition, the errata sheets should contain a section that includes the following, as referenced in **Section VI(C)** of the **FHWA Technical Advisory T6640.8A**:

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 wetlands, floodplains, and **Section 106** effects, as applicable;
4. List of commitments including mitigation measures for the preferred alternative;

5. Copy or summary of comments received on the DEIS and in the public hearing and related responses. Include any coordination activities that have taken place since issuance of the DEIS; and
6. 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](#).

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.

9.2.1.2.1 Final Environmental Impact Statement Cover Page

Sample cover pages for FEIS/RODs, both with and without **Section 4(f)** evaluations are provided in [Figure 9-3](#) through [Figure 9-5](#) and sample cover pages for FEISs, both with and without **Section 4(f)** evaluations are provided in [Figure 9-6](#) through [Figure 9-8](#). A sample cover page for a Final Supplemental Environmental Impact Statement is provided in [Figure 9-9](#). These cover pages are available as electronic forms, see [Section 9.4](#) for form numbers and hyperlinks. The EIS document number is updated with the new year, if applicable, and “D” is changed to “F”.

An Executive Summary is prepared for a FEIS only when it is not combined with a ROD. For a combined FEIS/ROD, an Executive Summary is not needed. The Executive Summary of a FEIS is different than that of a DEIS, it discusses environmental impacts, alternatives considered, and the preferred alternative. Specific findings are documented, as are commitments made during the course of project development. Standard statements are used to document coordination and findings. These standard statements have been developed to document compliance with the **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](#). 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.

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-Build alternative.

Unresolved Issues and Areas of Controversy: This section should only be included if there are major unresolved issues or areas of controversy. Describe and disclose unresolved issues and areas of controversy and the steps taken to resolve it/them to date.

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

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 **US Department of Transportation (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\(f\) Evaluation](#).

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.

9.2.1.2.2 Updating the Project Description and Purpose and Need and Alternatives Sections

In the Project Description and Purpose and Need section, the applicable planning consistency form should be referenced, and included in the Appendix along with the supporting pages from Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP) and current State Transportation Improvement Program (STIP). The applicable planning consistency form must include information demonstrating the project's fulfillment of FHWA's planning consistency requirements (LRTP, TIP, and STIP). Planning consistency must be met prior to requesting LDCA. See [Part 2, Chapter 1, Project Description and Purpose and Need](#) for guidance on updating this section.

In the Alternatives section, the Recommended Alternative subsection is replaced with a Preferred Alternative subsection. See [Part 2, Chapter 3, Engineering Analysis](#) for more information on preparing the Preferred Alternative section of the FEIS. In the ROD the preferred alternative is identified as the selected alternative.

9.2.1.2.3 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. Each issue/resource subsection should be updated to identify the preferred alternative. This section should also 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.

9.2.1.2.4 Updating the Comments and Coordination Section

The Comments and Coordination section is updated to include a summary of comments along with a response to each substantive comment received during the document review period. This includes documentation of additional resource agency coordination and consultation, if applicable.

The Concluding Statement subsection should be deleted and any new concurrence and coordination letters should be referenced and included in the Appendix.

Environmental issues should be addressed, to the extent possible, prior to the submission of the FEIS/ROD or FEIS, when warranted. Where not possible, this section should clearly identify any remaining unresolved issues and the efforts taken to resolve the issues.

A new subsection should be added on the public hearing titled "Public Hearing". This new subsection should include the date, time, and place of the hearing; describe the format and include the start and end time; provide a summary of the comments received (written and oral) regarding the proposed action both positive and negative, and the District's response to those comments; and a reference that the comments and responses are included in the Appendix.

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 prepared. Any new commitments require internal coordination and once coordinated with the appropriate District office shall be included in the FEIS and ***Project Commitment Record (PCR), Form 700-011-35*** by the appropriate Project Manager. See [Part 2, Chapter 22, Commitments](#) for more information.

9.2.1.2.6 Updating the Distribution List and the Appendix

The Distribution List is updated to include those who submitted comments on the DEIS. The Appendix should be updated and separated into pre-hearing and post-hearing sections. Any new materials should be added to the post-hearing section, as applicable.

9.2.2 Preparation of the Record of Decision

The ROD summarizes the findings of the FEIS and 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. When submitting the FEIS separately, the District should prepare a DROD for inclusion as a component of the FEIS. The **Record of Decision Cover Page, Form 650-050-28** should be used when submitting the ROD separate from the FEIS (see [Figure 9-10](#)). See for a sample ROD. This format is also used for preparing the ROD for an FEIS/ROD.

9.2.2.1 Combined FEIS and ROD (FEIS/ROD)

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 EPA requirements [**42 U.S.C. § 7506(c)** and **40 CFR Part 93**].

The FEIS and ROD should be prepared as a single document unless:

1. The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns that have a bearing on the proposed action or the impacts of the proposed action.

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. In situations where FHWA published a notice of availability for the DEIS prior to October 1, 2012, the Districts, in coordination with OEM, should notify agencies, the public, Native American tribes, and other interested parties that FDOT will issue a combined FEIS/ROD unless conditions exist that prevent issuance of a single document. At a minimum, notification should be made prior to publication of a combined FEIS/ROD.

Districts must include the following statement when notifying the parties:

FDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. § 139.

A legal sufficiency review is required for a combined FEIS/ROD. If OEM determines that a combined FEIS/ROD is not appropriate, the determination must be included in the project file.

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.

9.2.2.1.1 Applying Errata Sheets and FEIS/ROD to a Project

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, and a ROD.

9.2.2.2 Separate Approval of the ROD

If a project does not meet the conditions for a combined FEIS/ROD, then the FEIS and ROD are issued and approved separately. The DROD is prepared and submitted to OEM for review at the same time the FEIS is sent for approval. In these cases, the FEIS would be approved first and the ROD can only be approved following the 30-day public notice of availability of the FEIS in the *FR*. After the 30-day public notice period, OEM may approve the ROD which constitutes LDCA.

9.2.3 FDOT Document Review Process

The FDOT Document Review Process is provided in [Figure 9-12](#). After preparing the FEIS/ROD or FEIS, the District conducts a quality control review and uses the StateWide Environmental Project Tracker (SWEPT) application to complete the ***Environmental Document Submittal Form, Form No. 650-050-15*** for initial OEM review. The District uploads the FEIS/ROD or FEIS with DROD into the FDOT's Electronic Review and Comment (ERC) application. The public hearing transcript and new materials incorporated by reference must be uploaded into SWEPT.

The Project Delivery Coordinator (PDC) confirms that the document is complete and ready for review. If necessary, the District schedules a project briefing for OEM and the Office of General Counsel (OGC) reviewers. The OEM and OGC review team will have 30 calendar days to review the documents. OEM submits comments in the ERC. The District will address OEM comments and provide responses in the ERC. If necessary, the District will schedule 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 concurrent with OEM review. The District will 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, Form No.650-050-15*** for approval. The form is completed in SWEPT and the revised documents are uploaded in SWEPT. The OEM project review team has a 15-day period to confirm that comments have been addressed. Following confirmation from the PDC the document can advance to OEM Environmental Process Administrator review.

The OEM Environmental Process Administrators recommend the FEIS/ROD or FEIS for approval, which advances the document for Legal Sufficiency review by OGC. All FEIS/RODs and FEISs will undergo Legal Sufficiency Review. The Director of OEM or designee approves the FEIS/ROD or FEIS once the **Legal Sufficiency Finding Memo** is received.

Districts should maintain the project file according to [Part 1, Chapter 15, Project File and Records Management](#).

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

9.2.4.1 FEIS/ROD

Once the FEIS/ROD is approved, the District must provide notification that LDCA has been granted concurrently with the approval of the FEIS/ROD.

Distribution to Agencies and Stakeholders

The District should share the approved document with the recipients of the DEIS using the EST. An electronic copy of the document is sent to the Florida State Clearinghouse and the Environmental Technical Advisory Team (ETAT), which includes the Cooperating Agencies [e.g., US Coast Guard (USCG), US Army Corps of Engineers (USACE)] 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 Native American tribes according to their requested method of communication as established on the [OEM Native American Coordination](#) website. Others should be sent an electronic link to the document, unless a paper copy is requested.

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used for public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the FEIS/ROD is available upon request by the public. The District should coordinate internally to advance the project as appropriate (e.g., inform Directors, Design Office, Federal-Aid Office, Office of the Work Program).

9.2.4.2 FEIS

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 (e.g., USCG, USACE) 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 Native American tribes according to their requested method of communication as established on

the [OEM Native American Coordination website](#). Others should be sent an electronic link to the document, unless a paper copy is needed. A sample transmittal letter is provided in [Figure 9-13](#).

Public Notice of Availability

The District publishes a public notice in the same local newspaper(s) used for public hearing notification before sending an e-NEPA request for the publication of the **Notice of Availability** in the *FR* to Environmental Protection Agency (EPA) (**23 CFR § 771.125**).

All FEISs must be electronically submitted to EPA using its e-NEPA online tool.

The scanned document must meet the following requirements for submittal:

1. PDF files must be no greater than 50MB. If the document is larger, divide it into chapters or subchapters
2. Format the filenames with the chapter or subchapter number first, followed by its name. Example: Chapter 1- Project Description and Purpose and Need
3. If submitting a single file, use the full EIS title as the filename
4. All PDF documents must be formatted to be searchable
5. All PDF files should have chapters and subchapters bookmarked and the bookmark view should be displayed upon opening the file

After the District has completed formatting the document for e-NEPA, they send it to OEM, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. OEM submits it to EPA using the e-NEPA online tool. 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 of the notice and upload it to the project file.

Approval of the ROD

OEM may approve the ROD 30 days after publication of the notice in the *FR*. The District completes the **Environmental Document Submittal Form, Form No.650-050-15** to request OEM approval. The form is completed in SWEPT and the ROD is uploaded in the ERC. By approving the ROD, the Director of OEM grants LDCA.

Distribution to Agencies and Stakeholders

The District should share the ROD with the recipients of the FEIS using the EST. An electronic copy of the document is sent to the Florida State Clearinghouse and ETAT, which includes the Cooperating Agencies (e.g., USCG, USACE), and Participating Agencies. 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 Native American tribes according to their requested method of communication as established on the [OEM Native American](#)

[Coordination](#) website. Others should be sent an electronic link to the document, unless a paper copy is needed.

Public Announcement of LDCA

The District must publish an Announcement of LDCA in the same local newspaper(s) used for public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the ROD is available upon request by the public. The District should coordinate internally to advance the project as appropriate (e.g., inform Directors, Design Office, Federal-Aid Office, Office of the Work Program).

9.2.5 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 **FR** of the agency action(s).

Upon submittal of an FEIS/ROD or FEIS to OEM for review, the District must discuss with OEM and OGC the need for publication of a **Limitation of Claims Notice** under **23 U.S.C. § 139 (I)**. In most instances, FEIS/ROD and FEIS documents will require preparation of a **Limitations of Claims Notice**.

The District provides the necessary information for the **Limitations of Claims Notice** to OEM. The OEM will provide FHWA the project information needed to publish the **Limitations of Claims Notice** in the **FR**. FHWA submits the notice to 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 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 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 limitation of claims would be published at that time for the subsequent approval.

9.3 REFERENCES

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

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

FDOT, Project Commitment Tracking, Procedure No. 700-011-035

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Title 23 CFR Part 771, Environmental Impact and Related Procedures

Title 23 U.S.C. § 139(l), Efficient Environmental Reviews for Project Decisionmaking

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)

9.4 FORMS

Environmental Document Submittal Form, Form No. 650-050-15*

Final Environmental Impact Statement/Record of Decision Cover Page, Form 650-050-21*

Final Environmental Impact Statement/Record of Decision/Section 4(f) Evaluation Cover Page, Form 650-050-22*

Final Environmental Impact Statement/Record of Decision/Section 4(f) *de minimis* Approval Cover Page, Form 650-050-23*

Final Environmental Impact Statement Cover Page, Form 650-050-25*

Final Environmental Impact Statement/Section 4(f) Evaluation Cover Page, Form 650-050-24*

Final Environmental Impact Statement/Section 4(f) *de minimis* Approval Cover Page, Form 650-050-26*

Final Supplemental Environmental Impact Statement Cover Page, Form 650-050-27*

Planning Requirements for Environmental Document Approvals Form, Form 650-050-41.

[Project Commitment Record, Form No. 700-011-35](#)

Record of Decision Cover Page, Form 650-050-28*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

9.5 HISTORY

11/25/2002, 1/31/2007, 1/5/2009, 7/12/2011, 2/03/2014, 7/15/2016

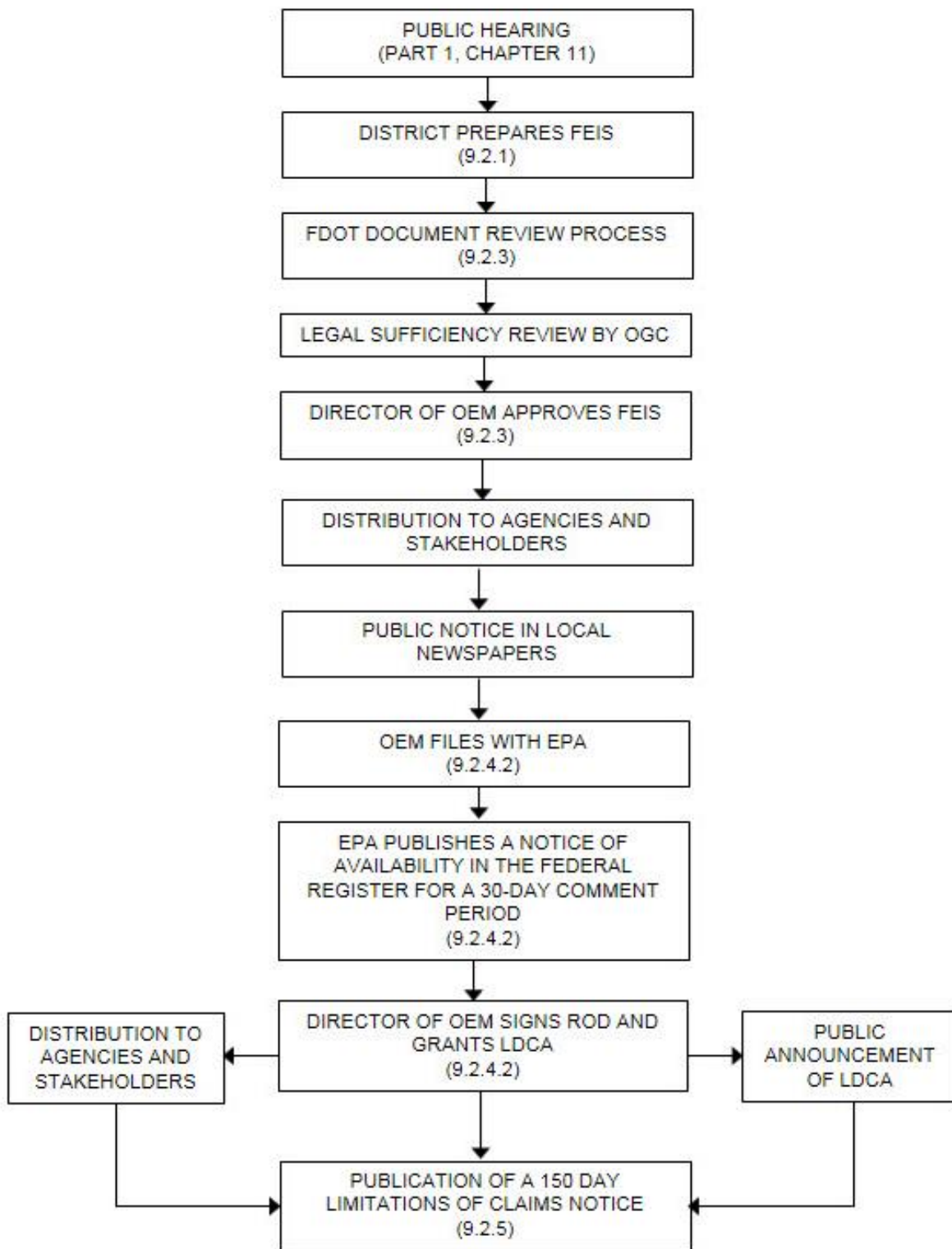


Figure 9-1 Final Environmental Impact Statement Process

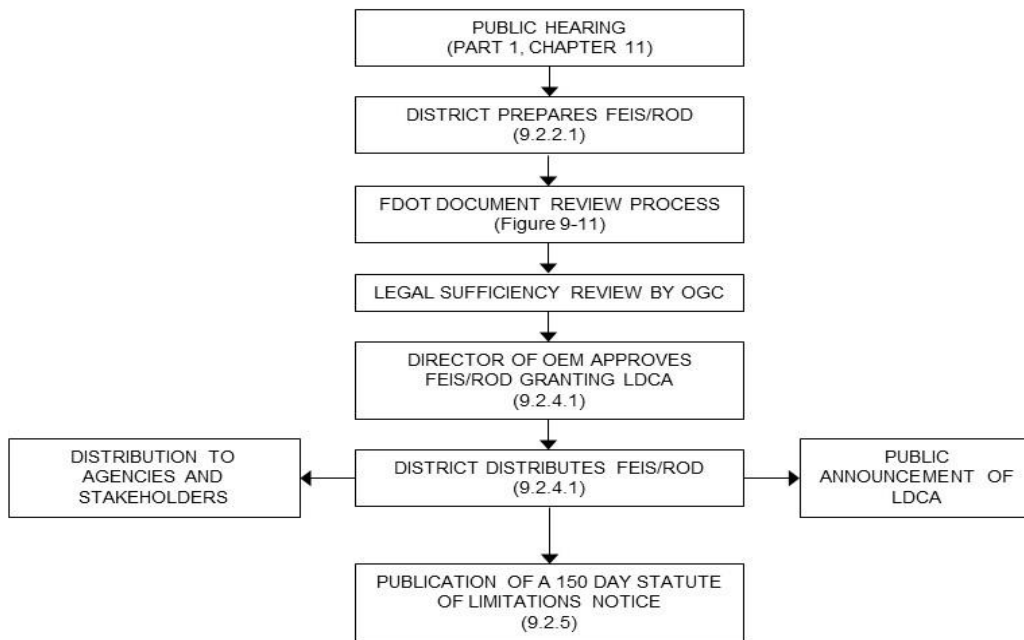


Figure 9-2 FEIS/ROD Process

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 9-3 Final Environmental Impact Statement/Record of Decision Sample
Cover Page**

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION
SECTION 4(f) EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXX(One paragraph abstract of the project)XXXXXXXXXXXXXXXXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

____ / ____ / ____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 9-4 Final Environmental Impact Statement/Record of Decision/Section 4(f)
Evaluation Sample Cover Page**

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION

FINAL ENVIRONMENTAL IMPACT STATEMENT/RECORD OF DECISION
SECTION 4(f) *de minimis* Approval

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, FL 32399
Phone: (xxx) xxx-xxxx
Email address

**Figure 9-5 Final Environmental Impact Statement/Record of Decision/Section 4(f)
de minimis Approval Sample Cover Page**

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
city, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

Figure 9-6 Final Environmental Impact Statement Sample Cover Page

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT/SECTION 4(f) EVALUATION

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

XXXXXXXXXXXXXXXXXXXX(One paragraph abstract of the project)XXXXXXXXXXXXXXXXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

___ / ___ / ___
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

**Figure 9-7 Final Environmental Impact Statement/Section 4(f) Evaluation Sample
Cover Page**

FHWA-FLA-EIS 02-01-F
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL ENVIRONMENTAL IMPACT STATEMENT/SECTION 4(f) *de minimis* Approval

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c) and 49 U.S.C. § 303.

____ / ____ / ____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

Figure 9-8 Final Environmental Impact Statement/Section 4(f) *de minimis* Approval Sample Cover Page

FHWA-FLA-EIS 02-01-FS
Florida Department of Transportation
Office of Environmental Management

ADMINISTRATIVE ACTION
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

Florida Department of Transportation
In cooperation with the (list cooperating agencies)

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

(One paragraph abstract of the project)

XX
XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Submitted pursuant to 42 U.S.C. § 4332(2)(c).

____ / ____ / ____
Date

Director of the Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email address

Name
OEM Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Comments must be received by the District contact person

By: _____(date)_____

Figure 9-9 Final Supplemental Environmental Impact Statement Sample Cover Page

ADMINISTRATIVE ACTION

RECORD OF DECISION

for FHWA-FLA-EIS 02-01-F

Financial Management Number: xxxxx-xxxx
Federal Project Number: xxx-xxx-x(xx)
route, limits, County, Florida

Based on the enclosed reasons, and upon consideration of all the social, economic, and environmental evaluations contained in the FEIS, with the input received from other agencies, organizations, and the public; the FDOT has determined that the FEIS preferred alternative (____), namely ____ is hereby the selected alternative. It is the decision of the FDOT to adopt this alternative as the selected alternative for this project, and grant Location and Design Concept Acceptance.

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 December 14, 2016 and executed by the Federal Highway Administration and FDOT.

____ / ____ / ____
Date

Director, Office of Environmental Management
Florida Department of Transportation

For additional information, contact:

Name
District Contact Title
Florida Department of Transportation
Street Address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email Address

Name
Office of Environmental Management
Contact Title
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email address

Figure 9-10 Record of Decision Sample Cover Page

Record of Decision

Name of Project

State Road No.: _____
Financial Management No.: _____
Federal Aid Project No.: _____
County: _____
Description: _____

This is the Record of Decision (ROD) for the above referenced project proposed by the Florida Department of Transportation (FDOT) and further identified in the _____ Long Range Transportation Plan (LRTP), as adopted. The purpose and need for this project includes _____. This ROD is for the _____ Environmental Impact Statement (EIS) which is hereby incorporated by reference or attached

Decision

The FDOT in accordance with the National Environmental Policy Act (NEPA) and associated laws, regulations, and orders, proposes the construction of _____. The selected alternative is _____. The _____ mile project will begin at _____ and will connect with _____. The location map for the selected alternative can be viewed on page _ of this ROD.

Background

Public Information meetings were held on _____
The public hearing was held on _____

Alternatives

All alternatives, including the No-Action, were evaluated. A detailed discussion of the alternatives considered is included in the referenced EIS.

No-Action Alternative

The No-Action alternative was evaluated as a possible alternative to the proposed project...

Transportation System Management and Operations Alternative

Transportation System Management and Operations (TSM&O) alternatives were evaluated as a possible alternative...

Build Alternatives

Selected Alternative

Figure 9-11 Record of Decision

Section 4(f) (If applicable)

Major Issues Considered

Measures to Minimize Harm

This project incorporates all practical measures to avoid or minimize environmental harm. Although some impacts will occur, every effort will be made to minimize impacts through the institution of feasible measures applicable to each situation. Specific commitments have been made regarding...

Monitoring Program (If applicable)

The FDOT District _____ has made commitments to advance the project. These commitments are tracked in accordance with FDOT's Project Commitment Tracking Procedure, Topic No. 700-011-035.

Through the Re-evaluation process the project is kept current, commitments are updated, permits are identified, and project changes are addressed. Required permits may include conditions for mitigation for impacts, monitoring and compliance measures.

Comments on Final Environmental Impact Statement (Not for FEIS/ROD documents)

The FEIS notice of availability was published in the Federal Register on _____, with a request that comments be postmarked by _____. The FDOT has taken into consideration all pertinent correspondence, documents, and technical reports postmarked through _____. FDOT has responded to all substantive comments received from interested parties regarding the content and accuracy of the FEIS and supporting studies for identification of the preferred alternative.

Summary of Comments and Responses Concerning the FEIS

Include a matrix addressing comments

Conclusion

For the foregoing reasons, and based upon consideration of all the social, economic, and environmental evaluations contained in the FEIS, with the input received from other agencies, organizations, and the public; the FDOT has determined that the FEIS preferred alternative (_____), namely _____ is hereby the selected alternative. It is the decision of the FDOT to adopt this alternative as the selected alternative for this project, and grant Location and Design Concept Acceptance.

Name
Director of the Office of Environmental Management

Date

Figure 9-11 Record of Decision (Page 2 of 2)

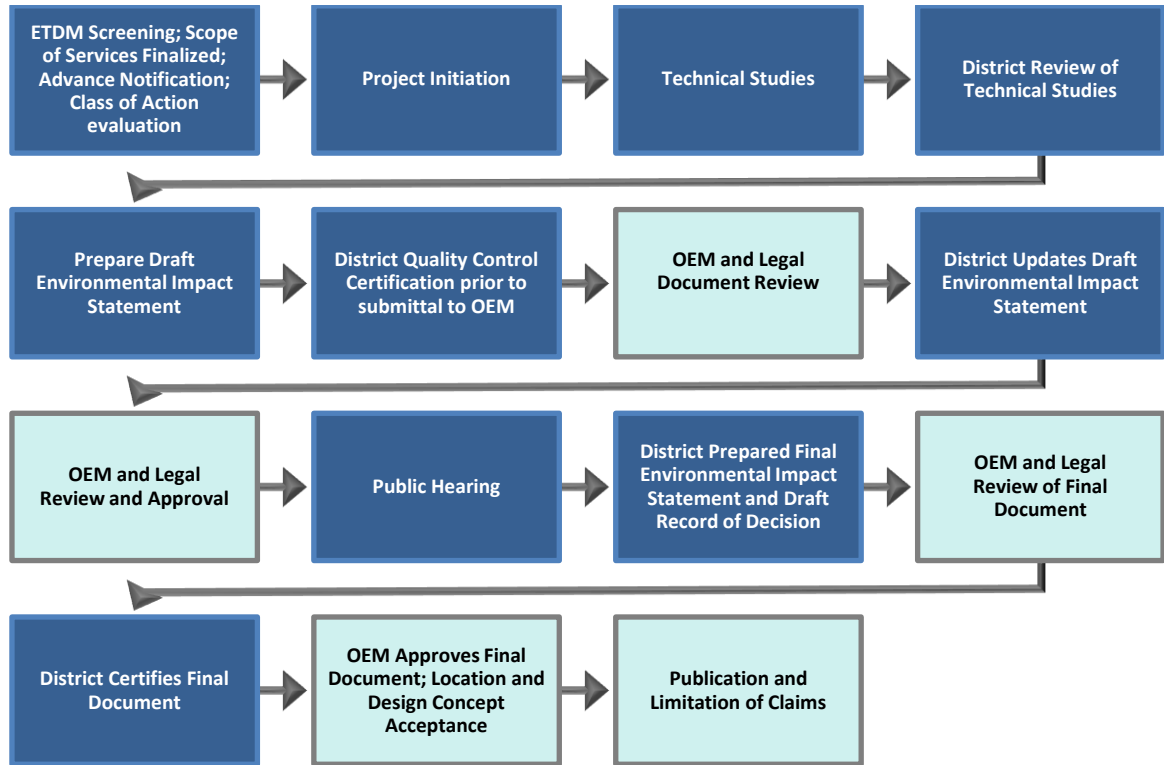


Figure 9-12 FDOT Document Review Process for Environmental Impact Statements

(DATE)

(FEDERAL, STATE, TRIBE, OR LOCAL AGENCY)
(ADDRESS)

Subject: Final Environmental Impact Statement
(PROJECT NAME)
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
(NAME OF COUNTY), Florida

Dear Mr./Ms.:

Pursuant to the National Environmental Policy Act of 1969, the Florida Department of Transportation is transmitting the Final Environmental Impact Statement as approved by the Office of Environmental Management. The review period for this document closes 30 days from posting on the Federal Register through e-NEPA (<http://www.epa.gov/compliance/nepa/eisdata.html>).

Sincerely,

District Environmental Office

Enclosures

cc: OEM / without enclosure

Figure 9-13 Sample Transmittal Letter for FEIS Distribution

PART 1, CHAPTER 10

STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY

TABLE OF CONTENTS

10.1	OVERVIEW	10-1
10.2	PROCEDURE	10-2
10.2.1	Florida Department of Transportation Projects.....	10-2
10.2.1.1	Efficient Transportation Decision Making Screenings	10-2
10.2.1.2	Statewide Acceleration Transformation Team and State Funded Projects	10-3
10.2.1.2.1	SWAT Planning Meeting.....	10-3
10.2.1.2.2	SWAT Strategy Meeting	10-5
10.2.1.2.3	SWAT Kickoff Meeting for State Funded Projects.....	10-6
10.2.1.3	Statewide Acceleration Transformation Scoping Form Instructions for State Funded Projects	10-7
10.2.1.4	Documentation of Non-Major State Actions	10-8
10.2.1.4.1	Completing the Non-Major State Action Checklist	10-9
10.2.1.5	Documentation of a State Environmental Impact Report	10-9
10.2.1.5.1	Completing the State Environmental Impact Report Form	10-11
10.2.1.6	Re-evaluation.....	10-13
10.2.1.6.1	State Environmental Impact Report Re-evaluation Form.....	10-13
10.2.1.7	State Funded Projects with Federal Actions	10-16
10.2.2	Local or Privately Funded Projects.....	10-16

10.3	REFERENCES	10-18
10.4	FORMS.....	10-19
10.5	HISTORY	10-19

LIST OF FIGURES

Figure 10-1	FDOT State, Local, or Privately Funded Project Delivery Process	10-20
Figure 10-2	Statewide Acceleration Transformation Process.....	10-21
Figure 10-3	Statewide Acceleration Transformation Scoping Form	10-22
Figure 10-4	Non-Major State Action Checklist	10-25
Figure 10-5	Environmental Certification for State Funded Project Form	10-27
Figure 10-6	State Environmental Impact Report Form.....	10-28
Figure 10-7	State Environmental Impact Report Re-evaluation Form.....	10-31
Figure 10-8	Project Environmental Impact Report	10-34

PART 1 CHAPTER 10

STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY

10.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter describes the environmental evaluation process for the development of state, local, or privately funded projects. State funded projects are those advanced through the FDOT Work Program using only state transportation allocations, and for purposes of this chapter, do not require FHWA funding or OEM action pursuant to **23 U.S.C. § 327** described above. This chapter also provides guidance on integration of the Statewide Acceleration Transformation (SWAT) process with state funded project delivery. Proposed projects on the interstate, using interstate right of way (ROW) or using FHWA funds, as well as LAP projects, require preparation of a federal **NEPA** document as described in [Part 1 Chapter 4, Project Development Process](#) and other related chapters of this *Manual*. See [Chapter 25, Work Program Instructions, Current Work Program](#) for additional information.

This chapter focuses on FDOT 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). The term "lead agency" is used throughout this chapter to mean 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. When a local agency or private entity is the lead agency, FDOT involvement may be required under certain conditions (see [Section 10.2.2](#)).

Environmental evaluations are required for all state funded projects to comply with state and federal laws and 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 for state funded projects depends upon the lead agency and the actions being taken.

This chapter directs the ***State Environmental Impact Report Form, Form No. 650-050-43*** for State Environmental Impact Reports (SEIRs) and the ***Non-Major State Action Checklist, Form No. 650-050-30*** for Non-Major State Actions (NMSAs) serve as documentation for projects when FDOT is the lead agency. For other entities, the preparation of a Project Environmental Impact Report (PEIR) serves as the environmental documentation.

10.2 PROCEDURE

10.2.1 Florida Department of Transportation Projects

When FDOT is the lead agency, the District or Florida's Turnpike Enterprise (FTE) has responsibility for the preparation, review, and approval of these projects. See [Figure 10-1](#) for a flowchart of the FDOT State, Local, or Privately Funded Project Delivery Process discussed throughout this chapter.

State funded Project Development and Environment (PD&E) studies for highway projects are documented in the form of a SEIR rather than a federal ***NEPA*** document. Identification of projects to advance as a SEIR rather than a ***NEPA*** document equivalent is an outcome of the SWAT process ([Section 10.2.1.2](#)). State funding should be used on projects whenever feasible ([Chapter 25, Work Program Instructions, Current Work Program](#)). If it is determined that the project will be state funded only, it is assigned a work program identifier of "State Funds Only (SFO)". The SWAT approach to project delivery is provided in [Figure 10-2](#). This chapter focuses on the SWAT process as it relates to state funded projects. [Part 1 Chapter 4, Project Development Process](#) further addresses the SWAT process for both state and federally funded projects.

10.2.1.1 Efficient Transportation Decision Making Screenings

The Efficient Transportation Decision Making (ETDM) Coordinator is provided a list of projects which should complete an ETDM Screening as a result of the SWAT planning meeting ([Section 10.2.1.2.1](#)) conducted during the annual five year Work Program development cycle. The District decides whether to initiate project screening with either an ETDM Planning Screen or Programming Screen event, based upon project complexity, timing, and whether or not an ETDM Planning Screen had already been completed. ETDM Planning Screen events may have been previously completed when considering projects during Long Range Transportation Plan updates. Minimally, the ETDM Programming Screen should be completed one year before PD&E phase funds are programmed. When entering information into the Environmental Screening Tool (EST), there is an option to select state or federal funding. Alternatively, when it is determined that a project will advance as a federally funded project or to maintain eligibility for federal funds, an explanation is required, see [Chapter 25, Work Program Instructions, Current Work Program](#) and [Section 10.2.1.2](#). Also reference [Part 1, Chapter 4, Project Development Process](#).

The analysis and documentation completed for a state funded PD&E project is typically a SEIR. Information available from the ETDM Planning Screen may facilitate SWAT

Planning Meetings during development of the 5-year Work Program. Information available from the ETDM Programming Screen may facilitate SWAT Kick-Off Meetings prior to the PD&E Study scope of services development. In this way, the ETDM Screening event results may be used to inform further project planning, project scoping and other SWAT activities prior to initiation of PD&E.

An Advance Notification is circulated for qualifying state funded projects prior to PD&E study initiation either with or subsequent to the ETDM Programming Screen event. The project does not require a Federal Consistency Review with the State Clearinghouse as part of the Advance Notification ([Part 2, Chapter 14, Coastal Zone Consistency](#)). In these cases, Coastal Zone Consistency is typically provided as part of the Environmental Resource Permitting process if a federal permit is needed for the project.

10.2.1.2 Statewide Acceleration Transformation Team and State Funded Projects

The SWAT process is a project management approach that streamlines FDOT's project delivery process through early coordination and communication between the different functional disciplines within the District. The goal of the SWAT process is to shorten project delivery times. See [FDOT Quick Guide: Transforming our State Pre-Construction Process](#) and other SWAT training material for more guidance. Each District has an established SWAT team that is a composed of cross-functional, multi-disciplinary staff experienced in project delivery.

The SWAT process applies to both state and federally funded PD&E studies, and includes identification of whether or not a project can proceed through all phases with state funds only. Each District has an identified cross-functional SWAT Team. The District SWAT Team is involved at key points during planning and prior to the PD&E Study scope of services development. The SWAT process also includes scoping of project Design phase either concurrently or in overlap with the PD&E Study to the maximum extent possible. There is no limitation to the level of design plans which may be completed concurrently with a SEIR. However, the SWAT team and Project Manager must be mindful of alternatives analysis considerations and other risks associated with advancing final design activities with SEIR particularly if a federal permit is involved.

SWAT consists of planning, strategy, and kickoff team meetings. The SWAT team meetings use the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40** (shown in [Figure 10-3](#)) to evaluate the project and determine project parameters that influence the development of the project.

10.2.1.2.1 SWAT Planning Meeting

Each District's SWAT team holds an annual planning meeting(s) in the Work Program Cycle. The planning meeting may include the OEM project delivery staff experts at the request of the District. During the planning meeting, the SWAT team discusses the core elements of the purpose and need for each project to ensure the project aligns with the Metropolitan Planning Organizations (MPOs) Long Range Transportation Plan (LRTP).

The outcome of the SWAT planning meeting is a recommendation of funding type for each project that is being considered in the Work Program, the potential for Design phase overlap, anticipated complexity and the potential for consideration as an Advanced Production Project, [Work Program Instructions, Part V Chapter 1, Production Management](#). To decide whether to use federal funds on the project, the SWAT planning meeting considers a variety of factors including environmental considerations, anticipated permits, **Work Program Instructions**, and expected time savings if the project would use the state project delivery process. Additionally, the SWAT planning meeting participants assign the preliminary Class of Action (COA) for each project and recommend the list of projects to be screened through ETDM (see [Section 10.2.1.1](#)). During the SWAT planning meeting, each project is recommended as either a state or federal project. Additionally, the project manager will assure a work program identifier of SFO is assigned to state funded only projects. Refer to [Part 1, Chapter 4, Project Development Process](#) and [Work Program Instructions, Part III Chapter 25, Project Development and Environment \(PD&E\)](#) for additional detail.

Projects that must follow the federal process or must stay federalized are listed in [Work Program Instructions, Part III - Chapter 25, Project Development and Environment \(PD&E\)](#). These projects are:

1. On an Interstate
2. Using or involving Interstate ROW (e.g., air rights, adjacent)
3. Projects within and impacting federal lands such as National Parks or Forests.
4. Projects where a federally funded phase has occurred (funds expended)
5. Projects where current work is federally funded
6. Transportation Alternatives (TA) program
7. FHWA Safety Program projects
8. Off-System projects
9. Projects qualifying as Type 1 Categorical Exclusions (CEs)
10. If federal funds have been used on a prior phase of the current project, coordination with OEM and Office of General Counsel is needed.

The SWAT team also considers the following when determining whether to use FHWA funds for projects:

1. Impacts to work program flexibility based upon anticipated cost of construction.
2. Projects where protected species or habitat may be impacted and consultation under the **Endangered Species Act (ESA)** is necessary ([Part 2, Chapter 16, Protected Species and Habitat](#)). **Section 7** would apply for federal projects or

those with a federal nexus. **Section 10** would apply for projects where there is no federal funding or federal nexus.

3. Projects that require a federal permit, such as U.S. Coast Guard (USCG) bridge permit or U.S. Army Corps of Engineers (USACE) **Section 404** permit.

SFO projects that do not qualify for ETDM Screening may proceed as NMSAs (see [Section 10.2.1.4](#)). SFO projects that qualify for ETDM Screening [including those defined as major in **Section 339.155(5)(b), Florida Statutes (F.S.)**], proceed to PD&E as SEIRs. For projects proceeding as SEIRs, the District SWAT team ranks them based on environmental and engineering complexity and expected number of PD&E days that would be saved using the state funded project delivery process.

During the SWAT planning meeting, the SWAT team completes **Section A** of the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40 (Figure 10-3)** based on the District's knowledge of project requirements and potential project impacts. **Section A** of the form documents the recommendations from the SWAT planning meeting and the process followed. See [Section 10.2.1.3](#) for guidance on filling out the form.

10.2.1.2.2 SWAT Strategy Meeting

Following identification of a project in the work program cycle, the SWAT team holds a strategy meeting to develop, for each PD&E project, a high level project strategy and schedule to assure appropriate pre-PD&E milestones are established in FDOT's Project Scheduling and Management (PSM) system with appropriate related PSM codes; such as completing any needed ETDM screening events, Advance Notification preparation, initiation of advance studies and the SWAT Kick-off meeting and PD&E advertisement. See [Part 1, Chapter 4 Project Development Process](#) for project activities or studies that may be advanced prior to PD&E.

Project scope evaluation by the SWAT strategy meeting participants starts by revisiting the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40 (Figure 10-3, Section A)** prepared during the SWAT planning meeting. The SWAT strategy meeting participants review **Section A** and complete **Section B** of the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40** based on available project information to date. During the SWAT strategy meeting participants again evaluate the risk associated with project design ambiguity and environmental complexity in a project schedule. Environmental complexity is estimated based on the likelihood of substantial environmental issues on the project, and the design ambiguity is a function of how quickly a preferred alternative can be determined in the PD&E process. Consideration may also be given to segmenting the project to expedite project delivery.

10.2.1.2.3 SWAT Kickoff Meeting for State Funded Projects

Each project must have a SWAT kickoff meeting. The kickoff meeting occurs approximately one year before PD&E funds are programmed. SWAT team kick-off meeting considerations include:

- Project objectives,
- Environmental conditions that may be affected by the project,
- If and how Design phase activities can be advanced concurrent with PD&E,
- Contracting and project management scheme when PD&E and design activities overlap,
- Elements of the project's scope of services, and
- Development of an efficient and expedient preliminary project schedule.

Project scope evaluation by the SWAT kickoff meeting participants starts by revisiting **Section A** and **Section B** the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** ([Figure 10-3](#)) prepared during the SWAT planning and strategy meetings. The SWAT kickoff meeting participants review **Section A** and **Section B** of the form based on available project information, funding determination, ETDM screening results, COA considerations, field observations, and the level of recommended design activities that will overlap with PD&E. See [Section 10.2.1.3](#) for guidance on preparing the form. The SWAT kickoff meeting participants also develop an expedited project schedule and a scope of services for the project in coordination with the assigned Project Manager.

The SWAT kickoff meeting participants determine or estimate the potential project impact to environmental resources as potential, not potential, enhancement or no involvement. Items that are marked as “No Involvement (NoInv)” must have an acknowledgement that it was evaluated but not present, on the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** and therefore should not be included in the scope of services for further evaluation, simply verification. Items that are marked as “No Potential Impact” or “Enhance” must include the reasoning on the form. Once these items are identified, they should be included in the scope of services for analysis during PD&E Study. Items that are marked “Potential Impact” on the form should be included in the scope of services, and provide reference to supporting documentation.

When developing the schedule for advancing PD&E, the outcome of the kickoff meeting identifies project activities (see [Part 1, Chapter 4, Project Development Process](#)) that can begin prior to the initiation of the PD&E Study to take advantage of time savings. In addition, the kick off meeting identifies approaches for overlapping PD&E and Design phases when appropriate. In creating a preliminary project schedule, the SWAT kickoff meeting participants evaluate the risk associated with project design ambiguity and environmental complexity in a project schedule estimation matrix.

The results of the SWAT project kickoff meeting include a schedule for the project. The schedule includes a target number of months to complete the PD&E Study, recommended project management structure, target number of months from start of the SEIR to completion of the SEIR as well as start of PD&E procurement to construction letting, a draft scope of services, a list of technical documents required, and if needed a plan for a technical panel. Use of a technical panel can facilitate communication of project expectations with respect to project scope and schedule to prospective consultants. Additionally, the SWAT project kickoff meeting for state funded projects estimates what the federal COA would have been for state funded projects. Schedules for state funded PD&E studies are entered into the FDOT SWAT SFO Project Dashboard in the StateWide Environmental Project Tracker (SWEPT) prior to consultant acquisition advertisement by the District's designated editor.

10.2.1.3 Statewide Acceleration Transformation Scoping Form Instructions for State Funded Projects

Section A

During the SWAT planning meeting, **Section A** of the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40** ([Figure 10-3](#)) is first prepared to assist with determining whether a NMSA or SEIR is recommended. The form is completed by providing the project description and purpose and need, as well as funding information. **Section A. 3** provides a checklist to evaluate the potential impacts of the project. If any item is marked "Yes", then it is discussed whether additional evaluation or a SEIR will be necessary. Consideration should be given to potential permitting requirements and needs. If all answers are "No" and the project type is not defined in **Section 339.155(5)(b), F.S.**, as a major transportation improvement, the project is a NMSA.

Section B

During the SWAT strategy meeting and project kickoff meeting **Section B** of the **Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40** ([Figure 10-3](#)) is prepared to aid in scope of services development for the project, narrow the number of issues to be considered, and determine the required level of analysis. The draft form prepared during the SWAT planning meeting (in which **Section A** was completed) must be revisited and added to by filling out **Section B, Potential Project Impacts to Environmental Resources**.

1. POTENTIAL PROJECT IMPACTS TO ENVIRONMENTAL RESOURCES: The participants of the SWAT project kickoff meeting use information that is available such as ETDM Programming Screen, project aeriels, or site visit documentations, coordination with the Project Manager and subject matter experts to fill out the form. The level of potential impact is determined based on the context and intensity of the impact on the issue/resource being analyzed:
 - If there is potential impact, mark the "Yes" column with an "X".
 - If there is no potential impact, mark the "No" column with an "X".

- If the project results in an enhancement, mark the “Enhance” column with an “X”.
- If the issue/resource is not involved, mark the “NoInv” column with an “X”. No involvement means the environmental issue/resource in question is not present or in any way involved with the project.

Items that are marked as “NoInv” must have an acknowledgement that it was evaluated, but not present on the form and therefore should not be included in the scope of services.

Items that are marked as “No potential impact” or “Enhance”, must include the reasoning on the form. Once these items are identified, they should be included in the scope of services for analysis during SEIR preparation.

Items that are marked “potential impact” on the form should be included in the scope of services, and provide reference to supporting documentation.

10.2.1.4 Documentation of Non-Major State Actions

NMSAs are only required when FDOT is the lead agency and do not require a PD&E Study. Projects that are to proceed as NMSA’s are typically identified during the SWAT Planning meeting. NMSAs require an environmental evaluation and completion of the **Non-Major State Action Checklist, Form No. 650-050-30** ([Figure 10-4](#)) through SWEPT. See [Section 10.2.1.4.1](#) for instructions on preparing the **Non-Major State Action Checklist, Form No. 650-050-30**. This checklist documents consideration of environmental impacts in the NMSA and the environmental evaluation is done concurrent with the Design phase.

Environmental evaluations are required for all state funded projects to comply with state and federal laws and FDOT policy. If there is a state law that mirrors a federal law and if the NMSA project needs a federal permit/action such as USACE, USCG, U.S. Fish and Wildlife Service (USFWS), or National Marine Fisheries Service (NMFS), follow the federal provisions ([Section 10.2.1.7](#)). For example, if the project affects any historic or archaeological resources, then the project has to comply with **Section 106** of the **National Historic Preservation Act (NHPA)**. However, if no federal permit/action is required, consultation with the Florida Division of Historical Resources (DHR) is required (see [Part 2, Chapter 8, Archaeological and Historical Resources](#)).

A NMSA does not require a public hearing but may necessitate public involvement activities in accordance with [Part 1, Chapter 11, Public Involvement](#).

The District Environmental Manager or designee should sign and date the **Non-Major State Action Checklist, Form No. 650-050-30**. The signed **Non-Major State Action Checklist, Form No. 650-050-30** should be added to the project file and the project can be advanced.

At the conclusion of the Design phase the District will re-evaluate the NMSA by updating

the ***Non-Major State Action Checklist, Form No. 650-050-30*** and signing it. After signing it, the District Environmental Manager or designee must complete, sign and date the ***Environmental Certification for State Funded Project, Form No. 650-050-14***, as provided in [Figure 10-5](#).

10.2.1.4.1 Completing the Non-Major State Action Checklist

The ***Non-Major State Action Checklist, Form No. 650-050-30*** ([Figure 10-4](#)) should contain the following information:

1. GENERAL INFORMATION: identifies the name of the project, its limits, county, and financial management number(s).
2. PROJECT DESCRIPTION: includes a brief description of the existing conditions, purpose and need if known, and the proposed improvements (i.e., number of lanes, structure, median, and ROW).
3. EVALUATION: provides a checklist to evaluate the potential impacts of the project. If any item is marked “Yes”, then it is discussed whether additional evaluation or a SEIR will be necessary. Consideration should be given to potential permitting requirements and needs. If all answers are “No” and the project type is not defined in **Section 339.155(5)(b), F.S.**, as a major transportation improvement, the project is a NMSA.

A place is provided for the District Environmental Manager or designee to sign and date the form.

10.2.1.5 Documentation of a State Environmental Impact Report

Information already filled out for **Sections A and B** of the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40*** should be reviewed and used as supporting information for preparation of the ***State Environmental Impact Report Form, Form No. 650-050-43*** ([Figure 10-6](#)) during the PD&E Study. This form should be a concise, targeted document based on the results of engineering and environmental analysis and coordination.

The SEIR documents the social and economic, cultural, natural, and physical categories evaluated as part of the project. Additional information for each category is included in attachments, as needed. Technical reports or memorandums should be summarized in each section with reference to the corresponding document for more details.

Other considerations for completing a SEIR are as follows:

1. If no federal permit/action is required, consultation with the Florida Division of Historical Resources is required to address historic or archaeological resources. However, if a federal permit will be required then the project must comply with **Section 106** of the **NHPA**. Additionally, if the project requires consultation with USFWS regarding federally listed species, consultation occurs under **Section 10**

of the **ESA**. See [Part 2, Chapter 8, Historic and Archeological Resources](#) and [Part 2, Chapter 16, Protected Species and Habitat](#) for guidance on these issues/resources. Also see [Section 10.2.1.7](#) for additional guidance.

2. Under the state funded project delivery process, **Section 4(f)** does not apply 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.
3. SEIRs are not subject to Environmental Protection Agency (EPA) review since they do not receive federal financial assistance ([Part 2, Chapter 11, Water Quality and Water Quantity](#)).
4. Farmland and Coastal Barrier Resources are not analyzed for SEIR projects since analysis of these resources is only required for federal projects.
5. Planning consistency information is included in the SEIR, however; it is intended as an information tool and not required for the approval of the document. This information is used to inform planning and programming activities to assist in the timely advancement of project funds for the next phase of the project. A description of actions required for completion of the planning consistency information should be provided if not available at the time of document approval.
6. There is no requirement for multiple 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-action alternative, if determined appropriate.

The public hearing process outlined in [Part 1, Chapter 11, Public Involvement](#) is followed when preparing a SEIR. Regardless of whether a project is state or federally funded, state law (**Section 339.155, F.S.**) requires a public hearing for 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. It is FDOT's policy to promote public involvement opportunities and information exchange activities in all functional areas using various techniques adapted to local area condition and project requirements ([Public Involvement, Policy No. 000-525-050](#)). For a project which does not require a public hearing, an opportunity for a public hearing may still be provided.

In most cases, a public hearing will be held for a SEIR project. The SEIR should be made available to the public a minimum of 15 days prior to the public hearing. Before the public hearing, the **State Environmental Impact Report Form, Form No. 650-050-43** must be approved for public availability by the District Environmental Office Manager, Environmental Manager, or Project Development Manager. Notice of the public hearing will be published in the local newspaper of general circulation and posted on the agency's website and the **Florida Administrative Register**.

OEM may review the SEIR at the District's request. The District Secretary or designee signs and approves the SEIR and the District circulates it to relevant resource agencies and to offices responsible for the next phase of the project.

The District Environmental Office will also complete and provide the date of the approval on the ***Environmental Certification for State Funded Project, Form No. 650-050-14*** form, as shown in [Figure 10-5](#).

Project commitment coordination is accomplished for state funded projects prior to and during the PD&E phase consistent with [Part 2, Chapter 22, Commitments](#) and [Procedure No. 700-011-035, Project Commitment Tracking](#). Project commitments must be documented in the same way as federally funded projects. Commitments are coordinated and agreed upon by appropriate FDOT functional area representatives, and recorded using the ***Project Commitment Record, Form No. 700-011-35***.

Project files will be maintained within FDOT's SWEPT application.

10.2.1.5.1 Completing the State Environmental Impact Report Form

The ***State Environmental Impact Report Form, Form No. 650-050-43*** ([Figure 10-6](#)) is completed to produce the SEIR document. This is accomplished, in part, by using information included in the ***Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40***, and as a result of further environmental analysis and engineering analysis. Results are described in the ***State Environmental Impact Report Form, Form No. 650-050-43*** to create a document which completely and concisely describes anticipated environmental impacts, coordination and consultation with resource agencies, public involvement, engineering analysis, permit status, commitments and resulting decisions. SEIR public availability and public hearing requirements are to be followed as described in [Section 10.2.1.5](#).

1. **PROJECT DESCRIPTION AND PURPOSE AND NEED:** Complete project information as indicated on the form. Briefly describe proposed improvements and purpose and need. Planning consistency information is updated. This information is intended to inform planning and programming activities in order to assist in the timely advancement of project funds and the next phase of the project. Both completed and pending planning and programming activities should be identified in the table provided and described in the text of the document. Actions to be taken to complete pending items should also be described in this section.
2. **ENVIRONMENTAL ANALYSIS:** The results of the environmental evaluation, knowledge of the project area, and input received through agencies and the public, is used to complete the form. Using information provided through scoping efforts, the issues/resources are evaluated using the guidance from chapters in **Part 2** of the [PD&E Manual, Topic No. 650-000-001](#). This section must take into consideration and address, as appropriate, the issues/resources listed in **Section 2. A-D** of [Figure 10-6](#).

The items on the form that were checked during the SWAT project kickoff meeting should be revisited after analysis to ensure they are still appropriate.

- a. If the impact is substantial, mark the column “Yes” with an “X”.
 - b. If the impact is not substantial, mark the column “No” with an “X”. Not substantial means the issue/resource is present and considered as potentially involved with the project. The project impact may range from none to substantial. The form should include a reference to the attachment containing supporting information.
 - c. If the impact is enhanced, mark the column “Enhance” with an “X”. Enhance means the project has enhancements or benefits to the issue/resource. The form should include a reference to the attachment containing supporting information.
 - d. If the issue/resource is not involved, mark the column “NoInv” with an “X”. No involvement means the environmental issue/resource in question is not part of or in any way involved with the project. If an issue /resource is marked in the "NoInv" column, no supporting documentation is needed.
3. **ANTICIPATED PERMITS:** This section identifies permits that are anticipated for the project. Sufficient information for permitting agencies should be provided under the applicable issue/resource of **Section C**. For example, if a USACE permit is anticipated, supporting information should be included in **Section 2.C.1**. (Wetlands and Other Surface Waters), **Section 2.C.7**. (Protected Species and Habitat), and **Section 2.C.8** (Essential Fish Habitat), if applicable.
 4. **ENGINEERING ANALYSIS:** Engineering analysis and design detail are included in the SEIR, so there is no separate ***Preliminary Engineering Report (PER)***. Engineering analysis is prepared according to [Part 1, Chapter 4, Project Development Process](#) and [Part 2, Chapter 3, Engineering Analysis](#).
 5. **COMMITMENTS:** This section discusses all commitments made on the project prior to and during the PD&E phase per [Part 2, Chapter 22, Commitments](#). These commitments should be the same as those on the ***Project Commitment Record, Form No. 700-011-35***.
 6. **FDOT SELECTED ALTERNATIVE:** A brief discussion of the FDOT Selected Alternative is included in this section. This is based upon the engineering and environmental analysis. When only one build alternative is evaluated, reference consideration of build and no-build alternatives with resulting recommendation.
 7. **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required):** This section contains a box to check to confirm the document has gone through a quality assurance/quality control (QA/QC) review and is approved for public availability, as well as a line for the signature of the

Environmental Manager or Project Development Manager and date the project was accepted for public review.

8. PUBLIC INVOLVMENT: The appropriate box regarding the status of public involvement is marked in this section.
9. APPROVAL OF FINAL DOCUMENT: The nondiscrimination standard statement and a signature block are provided for District approval of the SEIR. The SEIR is electronically approved by the District Secretary or designee, in SWEPT.
10. SUPPORTING INFORMATION: Documents referenced in the Supporting Information column of the form are included as attachments. Attachments may include coordination letters, memos, and summaries of the environmental analysis. The standard statements required for **NEPA** projects, provided in other chapters, may be used or modified as appropriate. Keep in mind, for state funded projects, regulatory and resource agencies and issues under their jurisdiction are the same as for federal projects, and using standard statements may save time. Environmental analysis material should be summarized and attached to the form in the order listed. Larger documents, such as technical reports, should be referenced and uploaded to the project file. The project file should contain the analytical documentation to support the project decisions. See [Part 1, Chapter 15, Project File and Records Management](#) for more guidance.

10.2.1.6 Re-evaluation

Re-evaluations should be conducted when a major design change occurs and prior to construction advertisement. Re-evaluation should also be conducted when there are changes in impact that would require additional consultation with an agency or coordination with the public. Re-evaluation is used to update status of commitments, coordination, permits, and other relevant information. Re-evaluation of a SEIR is prepared by using the form provided in [Figure 10-7](#). Final approval is given by the District Secretary (or designee). The approved Re-evaluation is maintained in the project file and distributed to Design, ROW, and Construction Offices, or others as appropriate.

10.2.1.6.1 State Environmental Impact Report Re-evaluation Form

The ***State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44*** ([Figure 10-7](#)) includes the following sections:

Section 1 - GENERAL INFORMATION

This section contains information about the originally approved SEIR and the segment(s) being advanced. Information provided includes:

1. The change in project phase(s) for which the project segment(s) is (are) being re-evaluated (i.e., Preliminary Engineering, ROW, and Construction Advertisement)

2. SEIR date of approval.
3. Project number(s): Financial Management and ETDM number(s) of the original approved document
4. Project name, location, and limits covered under the originally approved SEIR
5. Segment of highway being advanced: Financial Management number(s), location, and limits and identify as state-funded
6. Prior Re-evaluations: A list of Re-evaluations previously prepared for the project, the type, and the date they were approved by the District.
7. Planning consistency information is updated. This information is intended to inform planning and programming activities in order to assist in the timely advancement of project funds and the next phase of the project. Both completed and pending planning and programming activities should be identified in the table provided and described in the text of the document. Actions to be taken to complete pending items should also be described in this section.
8. Name and title of the FDOT District preparer.

Section 2 – EVALUATION OF CHANGES IN IMPACTS

This section is used to document the evaluation of changes in impacts to affected issues/resources. This should also include an evaluation of impacts to new issues/resources, which may have been identified.

If a change has occurred for a given issue/resource, then the analyst marks an "X" in the YES box. An explanation is then referenced in the Supporting Information column and provided as an attachment to discuss the nature of the change or updated information. This column should also include the title of the attachment and the page number (e.g., Attachment A, Page 10). If any new issues/resources are identified, they should be added to the form and addressed accordingly. If no change has occurred, the analyst marks an "X" in the NO box.

Section 3 - EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA

This section includes design changes that have occurred since approval of the original SEIR or most recent Re-evaluation. The extent of the design change(s) and modification of impacts on the project area must be documented.

Examples of design changes include, but are not limited to:

1. Changes in typical section

2. Shifts in roadway alignment
3. Changes in ROW needs
4. Changes due to revised design control or criteria
5. New Design Variations or Design Exceptions
6. Changing a bridge to a box culvert
7. Changes in drainage design and/or requirements

If no major design changes have occurred, then it should be stated.

Section 4 - COMMITMENT STATUS

Section 4 includes a list of commitments and mitigation measures established in the approved SEIR along with their current status (completed, modified, added, or no longer applicable). Any changes in or to commitments require an explanation. New environmental commitments can arise from a variety of sources, such as subsequent agency negotiations or from public involvement. These commitments must be documented, i.e., listed, updated, and discussed. The Districts must review, verify, and update the ***Project Commitment Record, Form No. 700-011-35*** per [**Procedure No. 700-011-035, Project Commitment Tracking**](#). It is important that commitments made by FDOT are documented. They must be tracked throughout the project and satisfied at the appropriate phase of the project. Commitments must be reviewed and documented for their completeness prior to final acceptance of the project.

Section 5 - STATUS OF PERMITS

This section identifies permits required for the project, provides a summary of their status, and documents any modifications since the SEIR approval or last Re-evaluation. The status of the permit(s) should be commensurate with the phase of the project and the type of Re-evaluation. For example, if the permit has been applied for, state the name of the permit, agency, date of application and number; if the permit has been issued, state the name of the permit, agency, date of issuance, and permit number. The preparer of the Re-evaluation must coordinate with the District Permit Coordinator to ensure complete documentation and timely permit issuance. If the permit has not been issued, construction activities cannot begin.

Section 6 - CONCLUSION

This section contains a statement about the Re-evaluation of the project, the validity of the findings in the SEIR, new findings (if necessary), and a recommendation for project advancement.

If no changes affecting the original environmental determination have occurred, mark the box that states the following with an X:

The above SEIR has been re-evaluated. It has been determined that there have been no changes to the project that affect the original SEIR. Therefore, the SEIR determination remains valid. It is recommended that the project identified herein be advanced to the next phase.

Section 7 – DISTRICT APPROVAL RECOMMENDATION

The District Environmental Manager or Project Development Manager, or designee, will sign the signature line electronically in SWEPT and upload any consultation documentation.

Section 8 - DISTRICT SECRETARY APPROVAL

The District submits the Re-evaluation to the District Secretary. The District Secretary, or designee, approves the Re-evaluation by signing the ***State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44*** electronically in SWEPT.

Section 9 - ATTACHMENTS

Other supporting information such as summaries of reports and documentation of coordination may be attached.

10.2.1.7 State Funded Projects with Federal Actions

Federal permits, such as those from USCG or USACE, may be required for state funded projects and may require a ***NEPA*** document be prepared for one of those agencies. In such cases, consultation with the appropriate federal agency(ies) should be performed early. OEM can assist with this consultation.

Projects that are state funded, may still have to follow the federal ***NEPA*** process if a federal permit is required, though FHWA will not be the lead agency. Federal permits/actions may be required by the USACE, USCG, or the USFWS. The permitting agency may become the Lead Federal Agency. They may adopt or modify the FDOT Environmental Document to use as their ***NEPA*** document or may request that FDOT prepare their ***NEPA*** document, depending on the results of coordination.

If a federal permit/action 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

Section 334.30(3), F.S., provides “[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 funded by others, and without FHWA funds, requires execution of an **FDOT Construction Agreement, Form No. 850-040-89**. The local or private entity must apply for a **FDOT Construction Agreement, Form No. 850-040-89** through FDOT's District Maintenance Office. The Construction Agreement application package must include evidence of acquisition of all applicable federal and state environmental permits. For local agency or private entity 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 applicant, prior to environmental permit application, may follow the same process and format as a NMSA or SEIR; however, the local agency or private entity should recognize that these document types are reserved for FDOT funded projects. Instead, the supporting environmental documentation for local and privately funded projects constructed on FDOT ROW, necessary to acquire environmental permits and subsequently an **FDOT Construction Agreement, Form No. 850-040-89**, may be referred to as a PEIR. The PEIR project analysis includes, both environmental and engineering analyses as described the [PD&E Manual, Topic No. 650-000-001](#), as applicable. Although the PEIR is not an FDOT document, it is prepared following the same procedures and requirements as the SEIR, [Section 10.2.1.5.1. Figure 10-8](#) provides a PEIR outline.

In cases where a privately or locally funded project is developed under **Chapter 14-107, FAC** 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. 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 10.2.1.6](#))

These decisions should be documented in the project file.

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), Small County Outreach for Municipalities and Communities (SCOE Municipalities), 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 [Figure 10-8](#) to prepare a PEIR.

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 a federal Environmental Document would be prepared by the local agency with FDOT support as deemed appropriate through early project coordination (per [FDOT Local Agency Program Manual, Topic No. 525-010-300](#)). A thorough understanding of funding sources, system designation, proposed work activity and existing or proposed agreements, such as a Joint Participation Agreement (JPA) or Memorandum of Agreement (MOA), assists in determining if the project should advance as a PEIR, a SEIR or a federal Environmental Document. A private or local entity may not provide FDOT Environmental Certification to advance a project in the FDOT Work Program. At the option of the local agency or private entity, a PEIR project can be screened in the EST, if it satisfies qualifying project type ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)) 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 should contact the District Environmental Office if they anticipate screening it in the EST.

10.3 REFERENCES

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT, Local Agency Program Manual, Topic No. 525-010-300
http://www.fdot.gov/programmanagement/LAP/LAP_TOC.shtm

FDOT, Project Commitment Tracking, Topic No. 700-011-035.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/?viewBy=0&procType=pr>

FDOT, 2015a. FDOT Quick Guide: Transforming our State Pre-Construction Process

FDOT, 2015b. Tentative Work Program- FY25/16-19-20, Chapter 25, Work Program Instructions

Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Rule 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

Status of Environmental Certification for State Funded Project, Form No. 650-050-14*

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

State Environmental Impact Report Form, Form No. 650-050-43

Non-Major State Action Checklist, Form No. 650-050-30*

[Project Commitment Record, Form No. 700-011-35](#)

State Environmental Impact Report Re-evaluation Form, Form No. 650-050-44

Statewide Acceleration Transformation Scoping Form, Form No. 650-050-40

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

10.5 HISTORY

01/10/2001, 5/26/2011, 8/4/2016

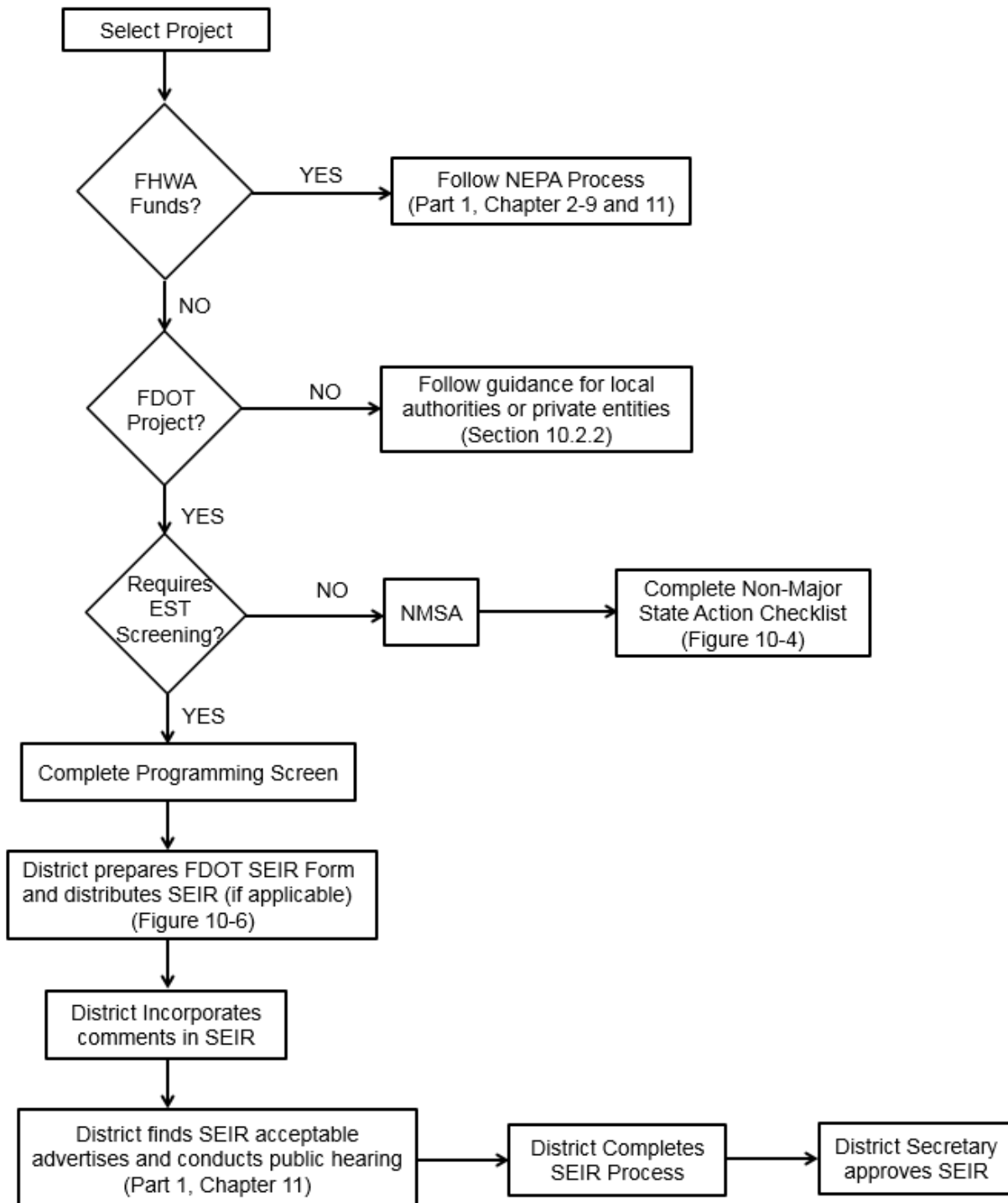


Figure 10-1 FDOT State, Local, or Privately Funded Project Delivery Process

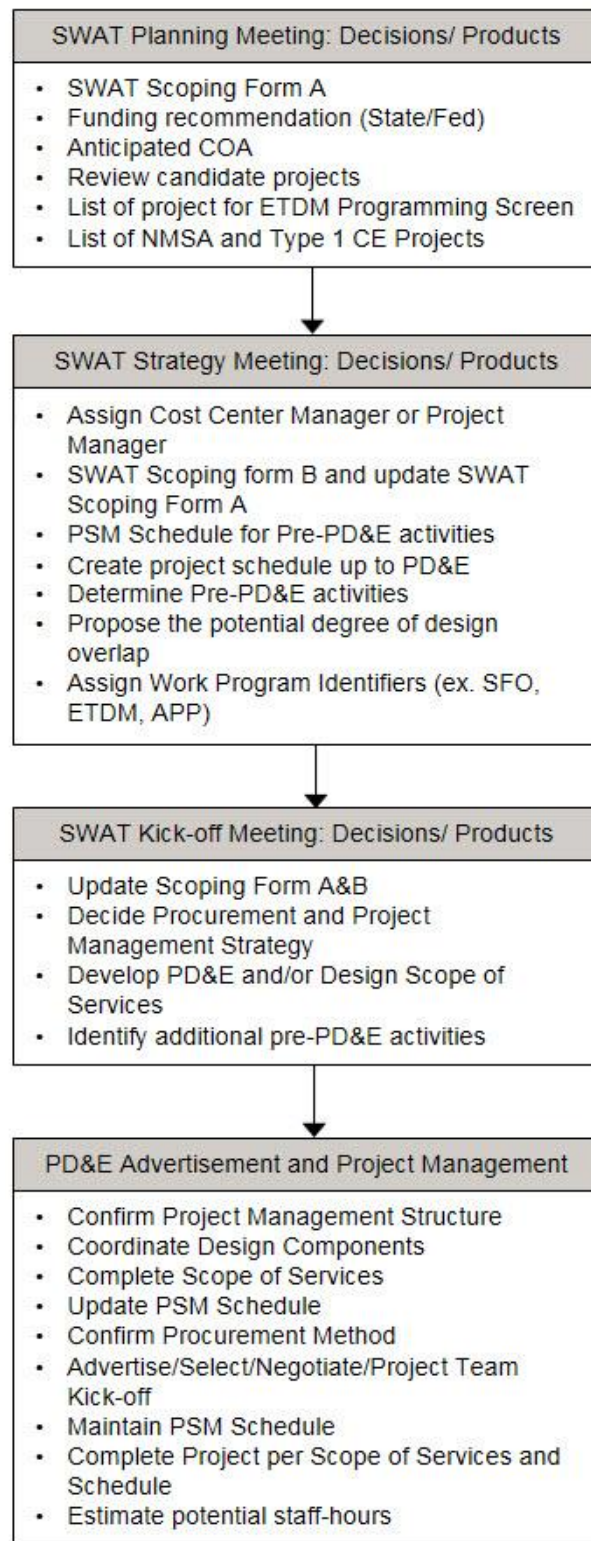


Figure 10-2 Statewide Acceleration Transformation Process

STATEWIDE ACCELERATION TRANSFORMATION SCOPING FORM

To be used for both Federal and State Funded Projects

SECTION A

1. PROJECT DESCRIPTION AND PURPOSE AND NEED

a. Project Information

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Project Manager: _____

b. Background Information

c. Proposed Improvements

d. Purpose and Need

2. FUNDING

Funding type: _____

Figure 10-3 Statewide Acceleration Transformation Scoping Form

3. EVALUATION

YES NO

- Is this a transportation project qualifying for ETDM EST screening?
- Will the project cause adverse impacts to local traffic/travel patterns, property access, community cohesiveness, or planned community growth or land use patterns?
- Will the project cause adverse impacts to air, noise, or water?
- Will the project cause adverse impacts to wetlands requiring a federal permit?
- Will the project cause adverse impacts to navigation requiring a federal permit?
- Will the project cause impacts to floodplains?
- Will the project affect endangered or threatened species or their critical habitats requiring a federal finding?
- Will the project require more than minor amounts of right of way and result in any residential or non-residential displacements?
- Is there any potential involvement with properties protected under Section 4(f) requiring a finding from OEM?
- Will the project affect any properties protected under Chapter 267, Florida Statutes?
- Does the action have known contamination sites which would have more than a minimal impact to design, right of way, or construction activities and can't be avoided or remediated?
- Is a public hearing required in accordance with Part 1, Chapter 11 of the PD&E Manual and 339.155(5)(b), F.S.?
- Will the project have substantial controversy on environmental grounds?

4. ENVIRONMENT PERMITS

Anticipated Permits: _____

5. CLASS OF ACTION

Anticipated COA: _____

Figure 10-3 Statewide Acceleration Transformation Scoping Form (Page 2 of 3)

SECTION B

1. POTENTIAL PROJECT IMPACTS TO ENVIRONMENTAL RESOURCES

Issues/Resources	Potential Impacts?				Supporting Information
	Yes	No	Enhance	*NoInv	
A. SOCIAL and ECONOMIC					
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. CULTURAL					
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality and Quantity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
D. PHYSICAL					
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

* NoInv = Issue absent, no involvement.

2. ACTIVITIES TO BE ADVANCED PRIOR TO PD&E

List the data collection, technical reports, and survey that can be advanced ahead of PD&E start.

3. LEVEL OF DESIGN EFFORTS

State whether design phase activities will be concurrent with PD&E. State level of design effort anticipated with PD&E.

4. PROJECT DELIVERY METHOD

State the anticipated delivery method.

5. SCHEDULE

List the project activities (their durations, milestones and constraints), deliverables, and estimated time in which they will be accomplished.

6. RISK ASSUMPTIONS AND CONSTRAINTS

List current or potential risks, constraints, or assumptions that may affect the project and set any contingency.

Figure 10-3 Statewide Acceleration Transformation Scoping Form (Page 3 of 3)

NON-MAJOR STATE ACTION CHECKLIST

1. GENERAL INFORMATION:

Project Name: _____

Project Limits: _____

County: _____

Financial Management Number: _____

2. PROJECT DESCRIPTION:

3. EVALUATION:

YES NO

___ ___ Is this a transportation project qualifying for ETDM EST screening? (See Part 1, Chapter 2, Class of Action Determination For Highway Projects, of the PD&E Manual)

___ ___ Will the project cause adverse impacts to local traffic patterns, property access, community cohesiveness, or planned community growth or land use patterns?

___ ___ Will the project cause adverse impacts to air, noise, or water?

___ ___ Will the project cause adverse impacts to wetlands requiring a federal permit?

___ ___ Will the project cause adverse impacts to navigation requiring a federal permit?

___ ___ Will the project cause impacts to floodplains in accordance with Part 2, Chapter 13 of the PD&E Manual?

___ ___ Will the project affect federally endangered or threatened species or their critical habitat?

___ ___ Will the project require more than minor amounts of right of way and result in any residential or non-residential displacements?

Figure 10-4 Non-Major State Action Checklist

YES NO

____ Are properties protected under Chapter 267, F.S., adversely affected as determined in consultation with the Florida Division of Historical Resources?

____ Does the action have known contamination sites which would have more than a minimal impact to design, right of way, or construction activities once assessed as described in Part 2, Chapter 20, Contamination of the PD&E Manual, and can't be avoided or remediated?

____ Will the project have substantial controversy on environmental grounds?

____ Is a public hearing needed in accordance with Part 1, Chapter 11 of the PD&E Manual and Section 339.155(5)(b), F.S.?

IF ALL ANSWERS ARE NO, THE PROJECT IS A NON-MAJOR STATE ACTION (SIGN BELOW)

IF ANY ITEM IS MARKED YES, EVALUATE WHETHER A STATE ENVIRONMENTAL IMPACT REPORT (SEIR) WILL BE NECESSARY.

This Checklist is the Environmental Document for a Non-Major State Action. Supporting documents are included in the project file.

The project is not defined in Section 339.155(5)(b) of the Florida Statutes as a major transportation improvement (increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location) and based upon this project evaluation, it has been determined that the project is a Non-Major State Action.

District Environmental Manager or designee:

Date: ____/____/____

Figure 10-4 Non-Major State Action Checklist (Page 2 of 2)

ENVIRONMENTAL CERTIFICATION FOR STATE FUNDED PROJECT

FINANCIAL MANAGEMENT NUMBER: _____

ETDM NUMBER (If applicable): _____

PROJECT DESCRIPTION: _____

This project is a Non-Major State Action. It was verified on _____ and the action remains valid.

This project is a State Environmental Impact Report (SEIR). The SEIR was approved on _____.

A re-evaluation in accordance with the FDOT Project Development and Environment Manual Part 1, Chapter 10 was approved on _____.

SIGNATURE:

District Environmental Manager or designee

DATE: _____

Figure 10-5 Environmental Certification for State Funded Project Form

STATE ENVIRONMENTAL IMPACT REPORT FORM

1. PROJECT DESCRIPTION AND PURPOSE AND NEED:

a. Project Information:

Project Name:

Project Limits:

County:

ETDM Number (If applicable):

Financial Management Number:

Project Manager:

b. Proposed Improvements

c. Purpose and Need:

d. Project Planning Consistency: disregard providing historical details, instead focus on future phases of segments being advanced. If more than one segment is being advanced additional tables should be added.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
R/W	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status and activities needed to achieve consistency)

****Include pages from current TIP/STIP/LRTP***

Figure 10-6 State Environmental Impact Report Form

2. ENVIRONMENTAL ANALYSIS

Issues/Resources	*Substantial Impacts?				**Supporting Information
	Yes	No	Enhance	NoInv	
A. SOCIAL and ECONOMIC					
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. CULTURAL					
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality and Water Quantity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>(unless federal funds sought in the future)</i>
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
D. PHYSICAL					
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

* Substantial Impacts?: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

**Supporting information is documented in the referenced attachment(s).

Figure 10-6 State Environmental Impact Report Form (Page 2 of 3)

3. ANTICIPATED PERMITS

- Individual Dredge and Fill Permit- USACE
- Nationwide Permit- USACE
- Bridge Permit- USCG
- Environmental Resource Permit _____ (FDEP or WMD)
- _____

For guidance on ensuring sufficient information for permitting agencies is included see Section 10.2.1.5.1 of Part 1, Chapter 10 of the PD&E Manual

4. ENGINEERING ANALYSIS

5. COMMITMENTS

6. FDOT SELECTED ALTERNATIVE

7. **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required)**

**Environmental or Project Development
Manager or Administrator**

____ / ____ / ____
Date

8. PUBLIC INVOLVEMENT:

1. A public hearing is not required.
2. A public hearing will be held (insert date). This draft document is publicly available and comments can be submitted to FDOT until (insert date)
District Contact Information: District Contact Name
District Contact Title
Florida Department of Transportation
Street Address
City, Florida, zip code
Phone: (xxx) xxx-xxxx
Email Address
3. A public hearing was held on (insert date) and the transcript is available.
4. An opportunity for a public hearing was afforded and was documented (insert date).

9. APPROVAL OF FINAL DOCUMENT

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

The final SEIR reflects consideration of the PD&E Study and the public hearing.

District Secretary or Designee

____ / ____ / ____
Date

10. SUPPORTING INFORMATION

Figure 10-6 State Environmental Impact Report Form (Page 3 of 3)

State Environmental Impact Report Re-evaluation Form

1. GENERAL INFORMATION (originally approved SEIR)

a. Project Phase: _____

b. SEIR Date of Approval: _____

c. Project Numbers: _____
Financial Management ETDM

d. Project Name, Location and Limits (from original SEIR):

e. Segments of Highway Being Advanced:

f. Prior Re-evaluations:

g. Project Segment Planning Consistency. If more than one segment is being advanced additional tables should be added. Table does not need to include past/completed phases.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
Identify phase(s) being authorized (e.g., PE, ROW, and/or Construction)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)

****Include pages from current TIP/STIP/LRTP***

g. Name and title of FDOT Preparer: _____

Figure 10-7 State Environmental Impact Report Re-evaluation Form

2. EVALUATION OF CHANGES IN IMPACTS

	YES / NO		SUPPORTING INFORMATION
A. SOCIAL & ECONOMIC			
1. Social	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Economic	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Mobility	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. CULTURAL			
1. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Recreational Areas	<input type="checkbox"/>	<input type="checkbox"/>	_____
C. NATURAL			
1. Wetlands and Other Surface Waters	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves and Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality and Water Quality	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Coastal Barrier Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>(unless federal funds sought in the future)</i>
7. Protected Species and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	_____
D. PHYSICAL			
1. Highway Traffic Noise	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Construction	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	_____

Figure 10-7 State Environmental Impact Report Re-evaluation Form (Page 2 of 3)

3. EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA (e.g., Typical Section Changes, Alignment Shifts, Right of Way Changes, Bridge to Box Culvert, Drainage Requirements, Revised Design Standards)

4. COMMITMENT STATUS

5. STATUS OF PERMITS

6. CONCLUSION

If no changes affecting the original SEIR have occurred check the following:

- The above SEIR has been re-evaluated. It has been determined that there have been no changes to the project that affect the original SEIR. Therefore, the SEIR determination remains valid. It is recommended that the project identified herein be advanced to the next phase.

7. DISTRICT APPROVAL RECOMMENDATION

Print Name

District Environmental Engineer/Manager or designee

/ /
Date

8. DISTRICT SECRETARY APPROVAL

Print Name

District Secretary or designee

/ /
Date

9. ATTACHMENTS

Figure 10-7 State Environmental Impact Report Re-evaluation Form (Page 3 of 3)

PROJECT ENVIRONMENTAL IMPACT REPORT

1. PROJECT DESCRIPTION AND PURPOSE AND NEED:

a. Project Information:

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Project Manager: _____

b. Proposed Improvements:

c. Purpose and Need:

2. ENVIRONMENTAL ANALYSIS

*Issues/Resources	*Substantial Impacts?				**Supporting Information
	Yes	No	Enhance	NoInv	
A. SOCIAL and ECONOMIC					
1. Social	[]	[]	[]	[]	_____
2. Economic	[]	[]	[]	[]	_____
3. Land Use Changes	[]	[]	[]	[]	_____
4. Mobility	[]	[]	[]	[]	_____
5. Aesthetic Effects	[]	[]	[]	[]	_____
6. Relocation Potential	[]	[]	[]	[]	_____
B. CULTURAL					
1. Historic Sites/Districts	[]	[]	[]	[]	_____
2. Archaeological Sites	[]	[]	[]	[]	_____
3. Recreational Areas	[]	[]	[]	[]	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	[]	[]	[]	[]	_____
2. Aquatic Preserves and Outstanding FL Waters	[]	[]	[]	[]	_____
3. Water Quality and Water Quantity	[]	[]	[]	[]	_____
4. Wild and Scenic Rivers	[]	[]	[]	[]	_____
5. Floodplains	[]	[]	[]	[]	_____

Figure 10-8 Project Environmental Impact Report

	*Issues/Resources	Substantial Impacts?				**Supporting Information
		Yes	No	Enhance	NoInv	
6.	Coastal Barrier Resources	[]	[X]	[]	[]	<i>(unless federal funds sought in the future)</i>
7.	Protected Species and Habitat	[]	[]	[]	[]	_____
8.	Essential Fish Habitat	[]	[]	[]	[]	_____

D. PHYSICAL

1.	Highway Traffic Noise	[]	[]	[]	[]	_____
2.	Air Quality	[]	[]	[]	[]	_____
3.	Contamination	[]	[]	[]	[]	_____
4.	Utilities and Railroads	[]	[]	[]	[]	_____
5.	Construction	[]	[]	[]	[]	_____
6.	Bicycles and Pedestrians	[]	[]	[]	[]	_____
7.	Navigation	[]	[]	[]	[]	_____

* Substantial Impacts?: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

**Supporting information is documented in the referenced attachment(s).

3. ANTICIPATED PERMITS

- Individual Dredge and Fill Permit- USACE
- Nationwide Permit- USACE
- Bridge Permit- USCG
- Environmental Resource Permit _____ (FDEP or WMD)
- _____

For guidance on ensuring sufficient information for permitting agencies is included see Section 10.2.1.5.1 of Part 1, Chapter 10 of FDOT's PD&E Manual

4. ENGINEERING ANALYSIS

5. COMMITMENTS

6. SELECTED ALTERNATIVE

7. **APPROVED FOR PUBLIC AVAILABILITY (Before public hearing when a public hearing is required)**

____/____/____
 Date

Figure 10-8 Project Environmental Impact Report (Page 2 of 3)

8. PUBLIC INVOLVEMENT:

1. A public hearing is not required.
2. A public hearing will be held (insert date). This draft document is publically available and comments can be submitted to (insert entity) until (insert date)
Contact Information: Contact Name
 Contact Title
 Entity
 Street Address
 City, Florida, zip code
 Phone: (xxx) xxx-xxxx
 Email Address
3. A public hearing was held on (insert date) and the transcript is available.
4. An opportunity for a public hearing was afforded and was documented (insert date).

9. APPROVAL OF FINAL DOCUMENT

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

The final PEIR reflects consideration of the PD&E Study and the Public Hearing.

Signing Authority

____/____/_____
Date

PART 1, CHAPTER 11

PUBLIC INVOLVEMENT

TABLE OF CONTENTS

11.1	OVERVIEW.....	11-1
11.1.1	Public Participation and Public Input.....	11-2
11.1.2	Compliance with Federal and State, Requirements	11-3
11.1.2.1	Title VI / Nondiscrimination	11-3
11.1.2.2	Limited English Proficiency (Executive Order 13166)	11-4
11.1.2.3	Plain Language Initiative	11-4
11.1.3	Public Involvement During the Efficient Transportation Decision Making Process.....	11-5
11.1.4	Public Involvement Based on Environmental Document Type.....	11-6
11.1.4.1	Categorical Exclusions.....	11-6
11.1.4.1.1	Type 2 Categorical Exclusion.....	11-6
11.1.4.2	Environmental Assessment	11-7
11.1.4.3	Environmental Impact Statement.....	11-8
11.1.4.4	State Environmental Impact Report	11-9
11.1.4.5	Non-Major State Action.....	11-10
11.2	PROCEDURES.....	11-10
11.2.1	Developing a Public Involvement Plan.....	11-10
11.2.1.1	Project Background.....	11-11
11.2.1.2	Project Goals	11-11

11.2.1.3	Identification of Elected Officials and Agencies	11-12
11.2.1.4	Identification of Affected Communities and Stakeholders	11-12
11.2.1.5	Outreach Activities	11-13
11.2.1.6	Analysis of Public Comments	11-14
11.2.2	Formation of a Local Advisory Group.....	11-15
11.2.3	Small Group Meetings	11-15
11.2.4	Procedures for Holding a Public Meeting	11-15
11.2.4.1	Types of Public Meetings	11-16
11.2.4.1.1	Scoping Meeting for Environmental Impact Statement Projects.....	11-16
11.2.4.1.2	Kick-off Meeting	11-18
11.2.4.1.3	Public Information Meetings and Workshops	11-18
11.2.4.2	Public Meeting Format and Layout	11-19
11.2.4.3	Public Meeting Dates and Times	11-19
11.2.4.4	Selecting a Meeting Location.....	11-19
11.2.4.5	Meeting Notification and Advertisement Requirements	11-21
11.2.4.5.1	Notification to Elected Officials and Agencies	11-21
11.2.4.5.2	Notification to Property Owners and Tenants.....	11-22
11.2.4.5.3	Newspaper Advertisement.....	11-22
11.2.4.5.4	Florida Administrative Register Notice	11-23
11.2.4.5.5	Florida Department of Transportation Public Notice Website	11-23
11.2.4.5.6	Press Release.....	11-23
11.2.4.5.7	Websites and Social Media.....	11-24

11.2.4.5.8	Alternative Notification Methods.....	11-25
11.2.4.6	Visualization Techniques	11-26
11.2.5	Procedures for Holding a Public Hearing	11-26
11.2.5.1	Public Hearing Format	11-27
11.2.5.2	Public Hearing Dates and Times	11-30
11.2.5.3	Selecting a Hearing Location.....	11-31
11.2.5.4	Public Hearing Notification and Advertisement Requirements....	11-31
11.2.5.4.1	Notification to Elected Officials and Agencies	11-31
11.2.5.4.2	Notification to Property Owners	11-32
11.2.5.4.3	Public Hearing Newspaper Ads	11-32
11.2.5.4.4	Florida Administrative Register Notice	11-33
11.2.5.4.5	Florida Department of Transportation Website	11-33
11.2.5.5	Documents for Public Review	11-33
11.2.5.6	Public Hearing Presentation and Script	11-34
11.2.5.7	Public Hearing Documentation	11-38
11.2.5.8	Specific Public Hearing Concerns.....	11-39
11.2.5.8.1	Noise Abatement and Outdoor Advertising	11-39
11.2.5.8.2	Access Management	11-39
11.2.5.8.3	Toll-Rate Workshops and Hearings	11-40
11.2.5.9	Public Comment Opportunities after the Public Hearing for Environmental Impact Statements.....	11-40
11.2.5.10	Notice of Opportunity to Request a Public Hearing.....	11-40
11.2.5.11	Joint Public Hearings	11-41

11.2.6	Notice of Location and Design Concept Acceptance	11-42
11.2.7	Public Involvement Documentation.....	11-42
11.2.8	Public Involvement Evaluation	11-43
11.2.9	Subsequent Public Hearings.....	11-43
11.2.10	Public Involvement During Re-evaluations	11-44
11.2.11	Community Awareness Plans	11-44
11.3	REFERENCES	11-44
11.4	HISTORY.....	11-47

LIST OF FIGURES

Figure 11-1	Public Involvement Process for Type 2 Categorical Exclusions.....	11-48
Figure 11-2	Public Involvement Process for Environmental Assessments.....	11-49
Figure 11-3	Public Involvement Process for Environmental Impact Statements	11-50
Figure 11-4	Sample Public Involvement Plan.....	11-52
Figure 11-5	Sample Press Release.....	11-63
Figure 11-6	Sample Public Meeting Notice	11-64
Figure 11-7	Sample Public Meeting Facility Checklist.....	11-65
Figure 11-8	Sample Scoping Meeting Invitational Letter	11-68
Figure 11-9	List of Titles and Salutations	11-71
Figure 11-10	Sample Officials/Agencies Kick-off Meeting Invitation	11-72
Figure 11-11	Public Hearing Planning Checklist	11-76
Figure 11-12	Public Hearing Notice Requirements	11-77
Figure 11-13	Sample Florida Administrative Register Ad Form (www.flrules.org/agency/login.asp)	11-78
Figure 11-14	Sample Public Hearing Newspaper Display Ad	11-79

Figure 11-15 Sample Hearing Invitation Letter for Officials and Agencies	11-80
Figure 11-16 Sample Hearing Invitation Letter for Property Owners	11-81
Figure 11-17 Sample Comment Form	11-82
Figure 11-18 Sample Hearing Speaker Card	11-83
Figure 11-19 Sample Public Hearing Transcript Certification	11-84
Figure 11-20 Sample Notice to Request a Public Hearing	11-85
Figure 11-21 Sample Notice of Availability of Final Environmental Impact Statement...	11-86
Figure 11-22 Sample Location and Design Concept Acceptance	11-87

PART 1 CHAPTER 11

PUBLIC INVOLVEMENT

11.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter contains FDOT's procedure for public involvement during the Project Development and Environment (PD&E) phase of a transportation project. 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 issues/impacts early in the project development process so they can be considered and solutions can be found prior to the final design phase.

Public involvement should:

1. Be inclusive of decision-makers and 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, activities are most prevalent during the PD&E phase. This coordination allows the public to provide input in transportation decisions resulting in the development of transportation systems that meet community

needs and desires. Through public involvement, FDOT can gain insight into an affected community and use this knowledge to evaluate the sociocultural effects of the project alternatives. Another important objective of this outreach is to engage other agencies and public entities to facilitate in identifying, evaluating, and addressing the potential project effects on the surrounding community. Public involvement, in conjunction with other sources of data, plays an essential role in the assessment of the social, economic, environmental, and relocation effects of transportation projects.

[**FDOT's Public Involvement Policy, Topic No. 000-525-050**](#), effective January 18, 2017, states:

The Department recognizes the importance of involving the public in information exchange when providing transportation facilities and services to best meet the state's transportation needs. Therefore, it is the policy of the Florida Department of Transportation to promote public involvement opportunities and information exchange activities in all functional areas using various techniques adapted to local area conditions and project requirements.

[**FDOT's Environmental Policy, Topic No. 000-625-001**](#), effective November 18, 2015, includes the following:

...the Department will develop and implement environmental processes and procedures consistent with environmental laws and regulations, and will coordinate and provide the opportunity for input by federal, state and local environmental resource and regulatory agencies, non-governmental organizations and the public to assist the Department in achieving its mission.

Note that links to references in this chapter are provided in **Section 11.3**. An additional resource for public involvement is the [**Public Involvement Handbook**](#), published by FDOT's OEM.

11.1.1 Public Participation and Public Input

Public involvement is the active and meaningful 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 inform 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, including those traditionally underserved by the current transportation system.

Public input can be a statement, fact, or opinion, received via a phone call, personal discussion, e-mail, letter, or through participation in a public forum. Comments may also be received in conjunction with public hearings, which are required for major

transportation improvements. **Section 339.155(5)(b), Florida Statutes (F.S.)** describes major transportation improvements as those increasing the capacity of a facility through the addition of new lanes, providing new access to a limited or controlled access facility, or construction of a facility in a new location.

Comments received from the public serve several purposes. In addition to providing documentation for public involvement activities, they help inform the agency of community issues and needs that should be considered in designing transportation solutions that fit community needs. Information gleaned from public comments may also serve to inform future project phases. The public comment process includes the following:

1. Collection
2. Analysis
3. Acknowledgement
4. Distribution and Tracking
5. Consideration
6. Response
7. Sharing
8. Documentation

The types of comments received help evaluate the individual public involvement activities, as well as the overall **Public Involvement Plan (PIP)**, further explained in **Section 11.2.1**.

11.1.2 Compliance with Federal and State, Requirements

All public involvement guidelines and recommendations in this chapter are in compliance with federal and state requirements. This chapter was reviewed and approved by FHWA for compliance with **23 Code of Federal Regulations (CFR) § 771.111** on (insert date).

11.1.2.1 Title VI / Nondiscrimination

All FDOT project activities must comply with **Title VI of the 1964 Civil Rights Act** and related statutes, as referenced in FDOT's [**Non-Discrimination Policy, Topic Number 001-275-006**](#) and implementing procedure [**Topic Number 275-010-010**](#). This includes all federal and non-federal programs administered by FDOT and its sub-recipients.

11.1.2.2 Limited English Proficiency (Executive Order 13166)

Presidential **Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency (LEP)**, ensures people with LEP will have meaningful access to programs and activities of agencies receiving federal financial assistance.

Guidance implementing **Executive Order 13166** identifies four factors to be balanced in assessing whether LEP services are needed on a case by case basis. These factors are:

Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;

Factor 2: The frequency with which LEP persons come in contact with the program;

Factor 3: The nature and importance of the program, activity, or service provided by the recipient to people's lives; and

Factor 4: The resources available to the recipient and costs.

When applying the Four Factors, the **PIP** accommodations for LEP may include translations of brochures, meeting invitations, and newsletters in the appropriate language(s). Notice of availability of workshops or public meetings should also be provided in appropriate languages. In addition, interpreters may be provided at workshops and public meetings. While recipients must take reasonable steps to address needs of LEP populations, FDOT has flexibility to assess language needs and decide steps to ensure meaningful access for LEP persons.

11.1.2.3 Plain Language Initiative

All notices to the public should comply with the State's Plain Language Initiative. This applies to presentations on websites, letters, advertisements, notices, applications, reports, pamphlets, and any other communication meant for public use. The initiative requires clear language, using the active voice and containing only necessary information presented in a logical sequence. For help in complying with this initiative, contact your District's Public Information Office.

Beginning in 2003, FHWA, American Association of State Highway and Transportation Officials (AASHTO), and American Council of Engineering Companies (ACEC) cooperated in an effort to improve the readability of **NEPA** documents prepared for transportation projects. Their recommendations for quality **NEPA** documents were:

1. Tell the story of the project so that the reader can easily understand the purpose and need of the project and the strengths and weaknesses of alternatives.

2. Keep the document as brief as possible by using clear, concise writing; an easy-to-use format; effective graphic and visual elements; and discussion of issues and impacts in proportion to their relative importance.
3. Ensure that the document meets all legal requirements in a way that is easy to follow for regulators and technical reviewers.

State of Florida requirements are included in the ***Governor's Executive Order 07-01, Section 2 - Plain Language Initiative***. Additional information is provided in the FHWA/AASHTO/ACEC report ***Improving the Quality of Environmental Documents***. A link to this document is provided in ***Section 11.3***.

11.1.3 Public Involvement During the Efficient Transportation Decision Making Process

Florida's Efficient Transportation Decision Making (ETDM) process was developed to streamline and incorporate information from the transportation planning process into the PD&E process. Information collected as part of the ETDM Planning and Programming screening events can assist in identifying project stakeholders and affected communities.

Qualifying transportation projects are screened through the Environmental Screening Tool (EST). See [***Part 1, Chapter 2, Class of Action Determination for Highway Projects***](#) and the [***ETDM Manual, Topic No. 650-000-002***](#) for a list of qualifying project types.

PD&E Project Managers (PMs) can use information from the EST to plan and implement ***PIPs*** and activities. PMs should meet with the District ETDM Coordinator and Community Liaison Coordinator (CLC) for an understanding of the project's background, issues that were identified during the Planning and Programming screening events, and suggestions on proceeding with development of the ***PIP***. The CLC can assist with identifying audiences for PD&E outreach activities.

The PM should review the ***Programming Screen Summary Report*** developed during the Programming Screen. The EST also provides access to a ***Sociocultural Data Report***, which includes United States Census Bureau demographic data and current land use data for the project area. The EST can also be used to generate mailing labels for property owners within the project boundary, as well as provide a list of community desired features.

Information about transportation projects reviewed in the EST is available on the [***ETDM Public Access Site***](#). The website provides contact information, general information, a project diary, project effects, maps, and a project search feature. The Project Effects menu provides comments received from the Environmental Technical Advisory Team (ETAT) and a data query feature for identifying natural, cultural, physical, and sociocultural resources in the project vicinity. The Project Diary menu provides various reports that describe a selected project and its alternatives. The public is not able to comment through

the EST. However, contact information is provided and comments can be given to the ETDM Coordinator or through traditional public involvement activities.

Additional information regarding the ETDM process and access to the [ETDM Public Access Site](#) is available at FDOT's OEM website (see References for link to website) and in the [ETDM Manual, Topic No. 650-000-002](#).

11.1.4 Public Involvement Based on Environmental Document Type

A Class of Action (COA) Determination is required for all federal actions and establishes the level of Environmental Documentation required to comply with *NEPA*, and the regulations of the Council on Environmental Quality (CEQ), *40 CFR, Parts 1500 through 1508*. The Environmental Documentation for state funded actions are Non-Major State Actions (NMSA) and State Environmental Impact Reports (SEIRs).

The procedures for the COA Determination are described in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). The following sections illustrate the public involvement requirements and activities for each COA.

11.1.4.1 Categorical Exclusions

Categorical Exclusions (CEs) are the lowest level COA requiring the least amount of documentation and analysis. *Title 23 CFR § 771.117* establishes two types of CEs: Type 1 - which are listed under section (c) and Type 2 which are documented under **Section (d)**. **11.1.4.1.1**.

For Type 1 CEs, a **Community Awareness Memorandum (CAM)** is prepared if the District determines that a sensitive community issue exists on or near the proposed improvement. This can reduce the potential for conflict as the project advances through future project phases (design, construction, and maintenance). The **CAM** is sent to the District Public Information Office (PIO) and other offices in the District that will be involved in the development of the improvement or that interact with the community. If a **CAM** is prepared, it should recommend public involvement activities that are appropriate to address community concerns and identify phases of project development at which they might occur. The format and content of the **CAM** are at the District's discretion.

11.1.4.1.1 Type 2 Categorical Exclusion

Public involvement activities for Type 2 CEs (see **Figure 11.1**) include the following:

1. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.
2. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of

- a meeting. See **Figure 11.10** for a sample Officials/ Agencies Kick-off Meeting Invitation.
3. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and to receive input.
 4. A public hearing is required pursuant to **Section 339.155(5), F.S.**, for a “Major Transportation Improvement”.
 5. For projects that are not a Major Transportation Improvement, the District may elect to hold a public hearing, provide an opportunity for a public hearing, or provide public involvement without a hearing (in consultation with OEM).
 6. The District uploads the public hearing transcript to the StateWide Environmental Project Tracker (SWEPT) and sends the the Type 2 CE documentation to OEM.
 7. A Location and Design Concept Acceptance (LDCA) announcement is published in the local newspaper.

11.1.4.2 Environmental Assessment

Environmental Assessments (EAs) are used for projects where there is a question of significance. Public involvement activities for EAs (see **Figure 11.2**) include the following:

1. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.

A Citizens Public Advisory Committee (CPAC) **may** be established (optional).

2. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See **Figure 11.10** for a sample Officials/ Agencies Kick-off Meeting Invitation.
3. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and to receive input.

After approval of the EA, the District places a notice in the local newspaper stating the EA has been approved and where it is available for review. The same ad should include the notice of a public hearing. Notice of public hearings should also be placed on the agency website and in the **Florida Administrative Register (FAR)**.

4. A public hearing is conducted to comply with **Section 339.155(5), F.S.**, as applicable).

5. After the public hearing the District uploads the public hearing transcript to the SWEPT, and electronically submits it to OEM, and if significant impacts have been found, the District submits the EA with Finding of No Significant Impact (FONSI) to OEM for approval. If the project impacts are determined to be significant, then the Environmental Impact Statement (EIS) process is followed (see **Section 11.1.4.3**).
6. After the EA with FONSI is approved, the District publishes an announcement in the local newspaper to let the public know that LDCA has been received.

11.1.4.3 Environmental Impact Statement

An EIS is prepared for an action with significant impacts. Public involvement activities for Draft and Final Environmental Impact Statements (DEIS and FEIS) (see **Figure 11.3**) include the following:

1. Once a COA is approved and the decision is made to prepare an EIS, the District prepares a **Notice of Intent (NOI)** for publication in the **Federal Register (FR)** to inform the general public and stakeholders that an EIS is being prepared for the proposed project. The District submits the **NOI** to OEM, who sends it to FHWA to publish the notice in the **FR**. Refer to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for additional information concerning the **NOI**.
2. The District may hold a formal scoping meeting with OEM, government agencies, and other parties with an interest in or jurisdiction over the project area. This meeting is optional but the scoping process is required ([Part 1, Chapter 8, Draft Environmental Impact Statement](#)).
3. The District initiates a **PIP** in compliance with state and federal rules, regulations, and policies.
4. A Citizens Public Advisory Committee (CPAC) may be established (optional).
5. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See **Figure 11.10** for a sample Officials/ Agencies Kick-off Meeting Invitation.
6. Public information meetings/workshops may be held to inform the public of alternative designs and potential impacts, and receive input.

After approval of the DEIS, the District places a notice in a local newspaper(s) stating that the DEIS has been approved and where it is available for review. The notice should also include the public hearing notice. Notice of the public hearing should also be placed on the agency website and in the **FAR**.

7. The District provides OEM with a specifically formatted (see [Part 1, Chapter 8, Draft Environmental Impact Statement](#)) PDF copy of the DEIS for upload into the U.S. Environmental Protection Agency's (USEPA) e-NEPA site for publication in the **FR**. The EPA then publishes the **Notice of Availability (NOA)** of the DEIS in the **FR** for a 45-day comment period.
8. A public hearing is conducted to comply with **Section 339.155(5), F.S.**
9. The District may prepare the combined FEIS/Record of Decision (ROD) or FEIS after the 45-day public comment period for the DEIS closes. The District uploads the public hearing transcript to the SWEPT and submits the FEIS/ROD or FEIS to OEM for review.
10. If a combined FEIS/ROD is prepared then LDCA is granted upon approval. The District must publish an Announcement of LDCA in the same local newspaper(s) used for public hearing notification, informing the public that the project has received LDCA and is being advanced. The District ensures the FEIS/ROD is available upon request by the public.
11. If the FEIS is prepared separately from the ROD, the District places a notice in a local newspaper(s) stating that the FEIS has been approved and where it is available for review (see **Figure 11.21** for a sample notice). The District provides OEM with a PDF copy of the FEIS for upload into USEPA's e-NEPA site for publication in the **FR**. EPA publishes the **NOA** of the FEIS for a 30-day comment period and OEM signs the ROD when the comment period closes. A signed ROD constitutes OEM approval (LDCA).
12. After receiving approval of the ROD, the District must publish an Announcement of LDCA in the same local newspaper(s) used for public hearing notification, informing the public that the project has received LDCA and is being advanced. For noticing of a ROD and LDCA, see **Section 11.2.6**.
13. The District provides OEM the project information to prepare a **Limitations of Claims Notice**. OEM will provide FHWA this information for publication in the **FR** ([Part 1, Chapter 9, Final Environmental Impact Statement](#)).

11.1.4.4 State Environmental Impact Report

The preparation of a SEIR is required for state-funded transportation projects that qualify for screening through the EST (See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for a list of qualifying projects). If a SEIR is prepared, the District Secretary signs the SEIR for public availability prior to the public hearing.

Public Involvement activities for SEIRs are similar to the activities outlined for a Type 2 CE or EA. State law (**Section 339.155, F.S.**) requires a public hearing for 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.

Public Involvement activities for SEIRs include the following:

1. The District initiates a **PIP** in compliance with state and FDOT policies
2. A CPAC may be established (optional).
3. The District may conduct an elected officials/agency kick-off meeting and/or public kickoff meeting. In some cases, a formal letter may be used in place of a meeting. See **Figure 11.10** for a sample Officials/ Agencies Kick-off Meeting Invitation.
4. A public information meeting/workshop may be held to inform the public of alternative designs and potential impacts, and receive input.
5. After approval of the SEIR by the District Secretary, the District places a notice in the local newspaper stating that the SEIR is available for review and noting the location where the document can be reviewed. The same ad includes the notice of a public hearing.

A public hearing is conducted to comply with **Section 339.155(5), F.S.**, and **Section 11.2.5**. In addition to publication in a newspaper of general circulation, public hearing notice should also be placed on the agency website and in the **FAR**.

11.1.4.5 Non-Major State Action

A NMSA does not require a public hearing, but may necessitate public involvement activities as determined by the District. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more information about NMSAs.

11.2 PROCEDURES

11.2.1 Developing a Public Involvement Plan

A **PIP** is developed for transportation projects for which a Type 2 CE, EA, EIS, or SEIR is prepared. The District begins the development of a **PIP** immediately following the approval of the COA Determination ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). The development of a **PIP** depends on the COA determined, as well as the complexity of the project.

The purpose of a **PIP** is to identify potentially affected people in a community and define the outreach methods and schedule to involve and gain their input. The information provided within the **PIP** includes a discussion of the project background and goals, identification of the affected public, and proposed outreach methods.

As the PD&E phase continues, periodic updating of the **PIP** may be needed to keep it current with public involvement activities. The plan, its update (if prepared), a schedule of events, and all accumulated information exhibiting compliance with these procedures are incorporated into the project file and summarized in the Environmental Document.

11.2.1.1 Project Background

The first step in developing a **PIP** is to research the project background by answering the following questions:

1. What is the project history?
2. Has the community previously heard of the project? If so, how long ago?
3. Has the project situation (either the proposed improvement or the project environment) changed since the last public involvement activity?
4. Have any commitments (either real or implied) been made or broken?
5. What are the major concerns and issues on the project?
6. Are there any known controversial issues on the project?

Include in this section of the **PIP** a description of the project, its location, alternatives under consideration, and any information obtained by answering the questions listed above.

11.2.1.2 Project Goals

In order to have an effective **PIP**, it is important to understand the project goals. Answering the following questions can aid in that understanding.

1. What decisions will be made during the current project phase?
2. Is public input needed to help make those decisions?
3. How will the project information be shared?

Include in this section of the **PIP** a discussion of what the project is trying to achieve and/or any problems that need to be solved and how public input will factor into the decision-making process.

11.2.1.3 Identification of Elected Officials and Agencies

This section of the **PIP** involves identification of elected officials and agency representatives. The **PIP** should include a contact list of all the appropriate elected officials, including city, county, state, and federal representatives, whose jurisdictional/political boundary intersects the project area. Native American Tribes must also be included. A contact list for Native American tribes is provided within [FDOT's Native American Coordination website](#).

Agency representatives include local, state, regional, and federal agencies who may have an interest in the project or may be involved in the jurisdictional review process. The [ETDM Public Access Site](#) provides a list of the ETAT agency representatives. Additional agencies can be added, as necessary. The sample **PIP** shown in **Figure 11.4** provides a general list of the elected officials and agencies that should be included. Elected official information should be updated after every election cycle, and the agency representatives list should be updated as appropriate.

11.2.1.4 Identification of Affected Communities and Stakeholders

This section of the **PIP** involves identification of affected communities, property owners/tenants, business owners, community leaders, elected officials, agency representatives, and other parties that may have an interest in the project. The community that will be affected by the decisions made on a transportation project is defined by geographic and political boundaries, physical features, and socioeconomic conditions. Developing an efficient transportation system, where projects move forward smoothly, starts with the identification of affected persons and other stakeholders in the earliest planning stages and encourages their participation throughout the life of the project. The identified community, based on behavior patterns of individuals or groups, can provide the most significant and meaningful input.

Projects processed through the ETDM EST have undergone a Sociocultural Effects (SCE) evaluation as part of the screening process prior to the PD&E phase. Information regarding affected communities may be found under the project name on the [ETDM Public Access Site](#) (see **Section 11.3** for link to website). The information compiled through the ETDM screening process can be used as a starting point and updated, as necessary, when incorporating into the **PIP**.

The **PIP** contact list should include names, addresses, telephone, and email information for local elected officials, key community leaders, adjacent landowners, business owners, chamber of commerce leaders, neighborhood association presidents, religious leaders, senior citizen center coordinators, day care center administrators, school principals.

Under the provisions of **23 USC 135(f)(3)** pertaining to the transportation planning process interested parties are broadly characterized as including the following:

1. Citizens (Residents/Tenants)

2. Affected Public Agencies
3. Representatives of Public Transportation Employees
4. Freight Shippers
5. Private Providers of Transportation
6. Representatives of Users of Public Transportation
7. Representatives of Users of Pedestrian Walkways and Bicycle Transportation Facilities
8. Representatives of the Disabled
9. Providers of Freight Transportation Services
10. Other Interested Parties

One quick resource for identifying a project area's demographics is the Sociocultural Data Report (SDR) provided through the EST. The SDR provides a snapshot of a study area's population, race, age, income, educational attainment, housing types, and language over the last three censuses and most recent American Community Survey. The output from the SDR is summarized in the **PIP** and added as an appendix and summarized in the Environmental Document. More information about the SDR can be found on ***FDOT's SCE Evaluation Process website***.

The demographics of the surrounding community should be identified to help tailor the **PIP**. A review of this information could help the project team determine the need for future translation services and if meeting notifications and advertisements may need to be provided in other languages. To reach people who may not read or speak English well, public involvement opportunities to develop relationships with community leaders within local health clinics, community centers, places of worship, advocacy groups, and schools should be included. The use of this network is an efficient method to reach those who monitor the pulse of the community as the plans and project move forward. Additional information regarding how to identify affected audiences can be found in the FDOT's [**Public Involvement Handbook; PD&E Manual Part 2, Chapter 4, Sociocultural Effects Evaluation**](#); and [**ETDM Manual, Topic No. 650-000-002**](#).

11.2.1.5 Outreach Activities

This section of the **PIP** defines the type and frequency of meetings that occur during the PD&E Study [for example, kickoff meeting(s), public information meeting/workshop(s), public hearing, small group meetings, presentations to county/city commissioners and MPO]; how the public will be notified; whether newsletters will be distributed and when;

and the overall public outreach schedule. Outreach activities are designed to offer everyone in a community the opportunity to participate in the PD&E effort. Public outreach activities take careful preparation and coordination. To determine the best activity format, ask the following questions:

1. What is the purpose of the activity?
2. With whom do you need to meet to accomplish your purpose?
3. What format will be most appropriate for your purpose and audience?
4. Where is the appropriate meeting location, based on the purpose, audience, and format?
5. What type(s) of notification will you use?
6. What materials and distribution methods are the most appropriate?
7. Will it be necessary to use more than one type of material and/or distribution method to reach audiences due to dissimilar cultures?
8. How will input be collected?

A variety of public involvement methods are available. Methods should be chosen after the audience is identified and the nature of the message is identified. Nontraditional approaches should be considered to ensure the involvement of all parties, including the traditionally underserved (for example, elderly, disabled, low-income, minority, Native American, limited English proficiency, limited literacy). All public involvement activities and facilities must comply with the ***Americans with Disabilities Act (ADA) of 1990***.

11.2.1.6 Analysis of Public Comments

The public is the consumer of the transportation services provided by FDOT. The primary objective of any public involvement activity is to inform the public and solicit input as it relates to the proposed transportation improvements. The most common ways for the public in general to relate ideas, concerns, and input is through written or verbally submitted comments. All comments and concerns identified during public involvement activities should be analyzed in relationship to the project, its goals, and the overall impact to the community.

The public comments serve several purposes. Public comments help build an understanding of community issues and needs that should be considered while designing transportation solutions that fit community needs. Comments help provide documentation for public involvement activities. See FDOT's [Public Involvement Handbook](#) for more detailed information on documenting public involvement activities.

11.2.2 Formation of a Local Advisory Group

A local advisory group (or CPAC) is an optional technique to involve local participants through the establishment of a committee or core group for advisory purposes, especially on highly controversial or sensitive projects. An advisory group can be formed for either a limited or an extended period of time, depending on the issues at hand. They usually meet regularly and are sometimes assigned the task of reaching out and informing others who may want to participate. An advisory group can help establish a working relationship with the community and take its pulse as a plan or project moves forward. They can aid in the transportation decision-making process to help select criteria or narrow a set of potential alternatives.

A local advisory group is established early in the project to serve as a special resource to the project team. It is selected with the assistance of local governments, and is usually composed of local persons having an active role in the community, as well as representatives from affected/interested cities, counties, regional agencies, MPOs and committees, and neighborhood associations within the project area. The group meets at key milestones during the PD&E phase to assist in the evaluation of proposed transportation alternatives and to ensure that these alternatives are developed in the best interest of the local community, as well as all roadway users.

It is important to note that the local advisory group is not a decision-making body and carries no authority. Care must be taken to solicit representatives from all interested groups. It is the District's responsibility to outline the group's role so that all members understand their function. The District must keep the group apprised of the project's status; bring them together regularly; and at the conclusion of the project, thank and disband the group. Information regarding the establishment of an advisory group can be obtained through the FHWA's Public Involvement website (see **Section 11.3** for link to website).

11.2.3 Small Group Meetings

Small group meetings may be held with groups of people who may have specific issues or concerns that may not involve the general public in the project area. This may include neighborhood associations, environmental groups or agencies, public interest groups, county or city staff, affected businesses, committees, or other concerned people who may be impacted by the proposed transportation improvements. Meetings organized by outside groups or individuals do not have to follow the notification or advertisement requirements typically associated with a public meeting or hearing.

11.2.4 Procedures for Holding a Public Meeting

A public meeting is an effective tool to provide and receive information, create an exchange of ideas, consider transportation alternatives, and build consensus.

These meetings provide an opportunity for public engagement at regular intervals or project milestones prior to the public hearing, if applicable. An effective **PIP** will include several meetings and opportunities for participation so that no surprises are encountered by the public or project team during the public hearing. This section describes various types of meetings that may be considered, advertisement requirements, and logistical considerations.

11.2.4.1 Types of Public Meetings

11.2.4.1.1 Scoping Meeting for Environmental Impact Statement Projects

The Environmental Scoping Process is a formal process for projects requiring an EIS. Scoping is required by and described in **40 CFR Section 1501.7**. Guidance on this process is provided in [Part 1, Chapter 8, Draft Environmental Impact Statement](#). A formal scoping meeting (which is optional) may be held early in the development process as a part of the Environmental Scoping Process. To determine whether a scoping meeting should be held, information from the ETDM screening process and input/comments from the agencies, as well as coordination with OEM, should be considered. Scoping meetings, like other public meetings, are subject to the **Sunshine Law**. Notification to the public must be provided in the **FAR** and on the FDOT's Public Notices website (see **Sections 11.2.4.5.4** and **11.2.4.5.5**), and the public is permitted to attend and listen to the proceedings. The objectives of scoping are listed below. If a scoping meeting is held, these objectives should be discussed at the meeting.

1. Invite the early participation of affected federal, state, and local agencies, any affected Native American tribe, and other interested persons (including those who might not be in accord with the action on environmental grounds).
2. Determine the scope and significance of issues and the degree of analysis required in the EIS. This includes identification of the range of alternatives and impacts to be evaluated.
3. Identify and eliminate 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.
4. Allocate assignments for preparation of the EIS among FDOT and cooperating agencies, with FDOT retaining responsibility for the EIS.
5. Indicate any public EAs or impact statements that are being prepared and are related to, but are not part of, the scope of the EIS under consideration.

6. Identify 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. This includes related surveys and studies required by the ***Fish and Wildlife Coordination Act of 1934 as amended***, the ***National Historic Preservation Act (NHPA) of 1966***, the ***Endangered Species Act of 1973***, and other environmental review laws and executive orders.
7. Identify whether any permits, licenses, or entitlements are necessary. Determine whether a joint public hearing can be held and outline the coordination required.
8. Determine the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

A scoping meeting is initiated by an invitation letter sent by the District to relevant government agencies, public interest groups, and others with an interest in or knowledge about the project. The letter is formatted as in ***Figure 11.8*** and as described below.

1. Describe the project in the SUBJECT
2. Give notice that a scoping meeting is being held and why
3. Describe what FDOT expects as an outcome of the scoping meeting and the roles of the participants
4. Provide an information package about the project and potential alternatives
5. Provide a project location map
6. Provide a meeting agenda
7. Provide information on the date, time, and site of the scoping meeting, along with directions on how to get to the meeting
8. Provide the name, telephone number, mailing address, and email address of a contact person.

The format of a scoping meeting entails a formal presentation to fully acquaint all parties 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.

To provide a first-hand look at the project location, a field review may be scheduled. After the field review, participants reconvene and further discuss potential project issues. Before adjourning, each agency is asked to state its position on the identified issues. The

cooperating agencies should be finalized and a determination made as to whether these agencies will contribute to the EIS or participate in its development, based on jurisdiction or expertise. Each agency's position is included in a meeting summary (minutes) for use by FDOT.

A copy of the meeting summary is forwarded to agencies that are interested in participating, but could not attend the scoping meeting. Circulation of the meeting minutes to all attendees, and those the invitation mailing list, is essential. The minutes of all events are included in the project files, and coordination is carried forth as the project progresses.

11.2.4.1.2 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. Items usually covered at the meeting include project justification, project priority in local and regional plans, corridor and alternative design concepts presently under review, potential environmental and/or engineering issues, project schedule, and a request for comments and concerns. This meeting is usually held either during a regularly scheduled meeting of the MPO/TPO, the County and/or City Commission/Council, or at a special meeting scheduled by the District, in which case, elected officials are invited to attend. Some Districts may prefer to combine the local officials' kick-off meeting with a public kick-off meeting. Other Districts may have both types of kick-off meetings, depending on the project.

The format of this meeting is generally informal, with a brief presentation followed by a question and answer period. Statements and suggestions made are documented in the project file. Minutes are kept in the project files.

11.2.4.1.3 Public Information Meetings and Workshops

Public information or public alternatives meetings/workshops may be held to acquaint the public with the proposed improvement and give interested persons an opportunity to review and comment on the alternative concepts being analyzed. The meeting is held in close proximity to the project to aid in public attendance.

The format for an information meeting or workshop is at the discretion of the District; however, the format should facilitate good interaction and communication. The format is generally informal. A brief live or recorded presentation may be given and/or an open-house format can be used for attendees to review project maps, alternative concepts, and other information, and discuss issues or concerns with District staff and other project team members. Tables should be provided for people to sit and write down their comments on a comment card or form. A sample comment form is provided within **Figure 11.17**. A summary of the meeting and comments received are placed in the project file. Reference material on holding effective meetings is available in FDOT's [Public Involvement Handbook](#).

11.2.4.2 Public Meeting Format and Layout

Public meetings are typically held as an informal open house, where the public can review project materials and have one-on-one conversations with the study team. In some cases, such as a kick-off or scoping meeting, or a project with a lot of interest, a presentation may be given.

For meetings that do not include a presentation, the layout of the meeting is generally divided into two areas. The first area includes registration and sign-in tables. All attendees are invited to sign-in at a registration table upon entering the room and names and addresses are taken as part of the public record. The second area includes maps and exhibits to convey project alternatives, typical sections, and project information. Comment tables should be provided to allow participants an opportunity to sit down and write their comments.

If a presentation is provided, then a third area should be arranged with seating where the public can sit and watch the presentation. If a live presentation is made, attendees may expect the opportunity to ask questions. Decide ahead of time if questions or statements will be taken.

A board with the standard nondiscrimination statement, along with the contact information for the District Title VI Coordinator and State Title VI Coordinator, must be displayed at the meeting. The standard nondiscrimination statement is as follows:

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

11.2.4.3 Public Meeting Dates and Times

All public meetings are typically held during the work week, Tuesday through Thursday, to facilitate maximum opportunity for the public to participate in the project development process. Public meetings usually begin at 5:30 or 6:00 in the evening and last one and one-half to two hours; however, consider the ages of the anticipated audience, transportation availability, location, access, and distance, when determining the day/time of the meeting.

11.2.4.4 Selecting a Meeting Location

Public meeting facilities are selected based on the anticipated size of attendance, proximity to the project, easy accessibility, safety, and public transportation availability.

All public meetings must be held at a site that is **ADA** compliant and provides “reasonable accommodation” and access for disabled persons wishing to attend. FDOT has interpreted “reasonable accommodation” to mean that a site location and facility must be **ADA** compatible in design so that reasonable access is provided for disabled persons to

attend. FDOT does not provide transportation for disabled persons or pay for transportation of disabled persons to attend public meetings.

When determining the size of the room needed for the public meeting, consider how project information will be communicated and feedback received. If a variety of information is to be communicated for the purpose of receiving feedback, then the room must have ample open space to accommodate multiple workstations, display boards, mingling, and some seating. If a large crowd is anticipated, the meeting location should have a room large enough to accommodate two or more identical sets of workstations and/or displays, allowing people to move about freely. Additional space may be required to accommodate seating if a live or recorded presentation will be given.

The following questions should be considered when selecting a facility:

1. If a sound system is needed, does the facility provide such equipment?
2. Will the facility allow entry into the space early enough for time to set up?
3. Is there a closing time that restricts time to remove meeting materials?
4. Is there plenty of parking?
5. Is the parking lot easily accessible from the meeting room?
6. Is the parking lot well lit for a night meeting?
7. Is there space for signage to direct people to the correct room?
8. Is there a custodian or property manager on duty at the time of the meeting for emergency purposes?
9. Should the local law enforcement office be contacted to request their staff be on hand at the meeting?

The **Jessica Lunsford Act** was passed by the Florida Legislature and signed into law by Governor Bush in 2005. To assist Florida's public schools in complying with the **Jessica Lunsford Act**, school facilities, grades K-12, should not be used for public meetings while students are present. However, in rare circumstances, public K-12 schools may be used when no students are present, as confirmed by an appropriate school principal. In cases where this exception is being considered, approval from FDOT's Assistant Secretary of Engineering and Operations is required. Public schools include district public schools, charter schools, and alternative schools. Alternate facilities that may be used include colleges, universities, and private schools.

All potential meeting sites should be physically investigated for suitability as a meeting location. A meeting facility should be approved by the District Project Manager and

reserved prior to advertising for a public meeting. **Figure 11.7** is an example of a sample public meeting facility checklist that can be used as a guide when reviewing potential meeting sites.

11.2.4.5 Meeting Notification and Advertisement Requirements

There are a variety of methods for notifying the affected community about an upcoming public meeting. Each method and corresponding requirement is discussed in the following sections. It is important to note that the following nondiscrimination standard statements must be included for all notification methods:

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

Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact _____ at _____ at least seven days prior to the meeting.

Similarly, the following standard statement related to project development must be included for all agency outreach and public involvement notification methods:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

11.2.4.5.1 Notification to Elected Officials and Agencies

Before holding a public meeting, a letter of invitation is sent to the local governments and agencies at least 25 but **no more than 30 calendar days prior to the public meeting date**. The letter of invitation should be received by the local governments and agencies before the public is notified by letter or advertisement. See **Figure 11.15** for a sample letter of invitation to officials and agencies which, at a minimum, should include the following, either in the body of the letter or in an attachment:

1. The purpose of the notification
2. A description of the project
3. The date, time, and location of the public meeting
4. A statement requesting public participation

5. Notice of non-discrimination and information about **ADA** requests as provided in **Section 11.2.4.5**
6. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities. Meeting notice and map
7. A copy of the newspaper advertisement

It is important to use the correct salutations and titles when addressing elected and appointed officials and agency contacts. See **Figure 11.9** for a listing of salutations and titles.

11.2.4.5.2 Notification to Property Owners and Tenants

Real property owners, tenants, and leaseholders in whole or in part, within at least 300 feet of the centerline [or Right of Way (ROW) line for interstates] of each proposed project alternative must be notified of an upcoming meeting. The names and addresses of property owners are obtained from the county property tax appraiser's office. Notification must be received by property owners and tenants **at least 14 to 21 calendar days prior to the date of the meeting**. They are notified through the use of invitational letters sent by mail. It is also acceptable to include the invitation as part of a newsletter. **Figure 11.16** is an example of an invitational letter to property owners, which at a minimum should include the same elements as described in **Section 11.2.4.5.1**.

11.2.4.5.3 Newspaper Advertisement

Advertisement of a public meeting is not required, but should be published in the local newspaper(s) with general circulation in the vicinity of the project. The newspaper ad should include:

1. The purpose of the public meeting
2. Project description (the use of a project location map is suggested)
3. Date, time, and location of the meeting
4. Name, telephone number, and email address of a contact person for information on the meeting
5. An address where written comments can be directed
6. Standard statement on nondiscrimination compliance
7. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities.
8. A contact person and information for accommodation of disabilities under **ADA**

It is suggested that the **newspaper ad be published a minimum of one time, 10 to 14 days prior to the meeting.** **Figure 11.6** is an example of an ad for a public information meeting. An affidavit or proof of publication should be obtained from the newspaper.

11.2.4.5.4 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 prior to the 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**. Each District should have one or more agency administrator to manage the agency's submissions on the e-rulemaking website. Some Districts allow consultants to make the submission.

The **FAR** is published each weekday except on those days observed as official state holidays designated by **Section 110.117, Florida Statutes**. All materials to be published must be uploaded to the **FAR** website by 3:00 p.m. on the day prior to publication. For publication on Mondays, the ad must be uploaded to the website by 3:00 p.m. on the previous Friday. See **Figure 11.13** for an example of a **FAR** notice.

11.2.4.5.5 Florida Department of Transportation Public Notice Website

To comply with **Section 120.525, F.S.**, **notice of all public meetings, workshops, and hearings must be published on** FDOT's Public Meeting Notices Website **at least 7 days before the meeting.** Meeting notices are typically added to the website by District PIO. The information to be provided to the PIO includes the meeting title, the District number, meeting type, Financial Management (FM) Number, meeting date and time, location name and address, project website, and contact names and contact information. Include the standard nondiscrimination statement, **NEPA** Assignment statement and information about **ADA** requests.

11.2.4.5.6 Press Release

Press releases should only be used in appropriate circumstances and must be coordinated with the District PIO. On some projects, the press releases are prepared by the consultant and then submitted through the PIO. Writing a press release can result in positive media coverage by following a few simple rules. **Figure 11.5** is an example of a press release.

1. Submit press releases on FDOT letterhead.
2. Type the press release, single-spaced, in an easy-to-read font.

3. Include a contact name and phone number, listed in a prominent place (most commonly on the right side of the page immediately above the headline on the press release).
4. Summarize the press release with a headline that captures the essence of the entire release. Try to incorporate the five “Ws” - who, what, when, where, and why. Also incorporate the five “Ws” in the body of the message: Who is the contact person? What is happening? When is the activity or meeting taking place? Where will the activity be held? Why is the activity taking place?
5. Format the press release properly, starting with a dateline and the city and state from which the information is being released.
6. Keep the press release at one page if possible, but if it is necessary to have more than one page, write “more” at the bottom of each page until the end.
7. Include standard statement: *The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.*
8. End the press release with one of the three universally accepted symbols: “-30-,” “-End-,” or “***.”
9. Have the press release approved by the District PIO. This approval is required.

11.2.4.5.7 Websites and Social Media

Project websites are cost effective means of reaching a broad cross section of the public. Website addresses should be included on all printed materials, including letters to property owners, newspaper ads, newsletters. Project websites may contain information such as announcements, publications, project information, and study updates..

Information for creating a project website compatible with FDOT standards is found on [FDOT's Consultant Managed Website](#) page.

The content of the website should contain the following information, as applicable:

1. Contact information (project manager’s name, mailing address, phone, fax, and e-mail address)
2. The project schedule
3. Meeting calendars and agendas (notice of public meetings, workshops, hearings)

4. A brief project description; include standard statement: *The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.*
5. A public involvement section (brief synopsis of the **PIP**)
6. Links to related agencies (District, MPOs)
7. A comment/question/survey form

In order to track responses, when a comment opportunity is given to the public on a project-specific website, the commenter's email address and/or mailing address should be requested. This will allow the comment to be recorded in the public record and will provide a mechanism for the project manager to respond appropriately.

FDOT has its own Twitter, Facebook, and YouTube accounts, and the District PIO can place notifications about project events and activities on these outlets. Stakeholders and team members can spread project information through their personal and professional online links. Special interest groups may be willing to share updates and notifications about the project on their social media sites. Many people may appreciate a diversified public engagement strategy, one that includes digital material, print material, and ability to speak with someone in person; however, it is important to keep in mind there may be people who feel most comfortable with in-person interaction or tangible media that does not require a power source or internet connectivity.

11.2.4.5.8 Alternative Notification Methods

With a targeted audience in mind, there are many creative ways to approach meeting notifications. Alternative notification methods include the following:

1. Distribute flyers to post on bulletin boards or include in newsletters of major employers, apartment complexes, or home-owners' associations.
2. Provide meeting information to places of worship for inclusion in church bulletins and/or newsletters.
3. Provide informational flyers to local schools to be sent home with school children.
4. Post flyers at commonly frequented retail establishments, laundromats, banks, grocery stores, post offices.
5. Include meeting information on the community calendar in local media.

6. Prepare brochures, newsletters, and postcards for a mailing.
7. Use transit vehicles and stations to post advertisements, information, and notices.
8. Post signs along the project corridor (first check local regulations and ordinances).
9. Hand-deliver brochures, newsletters, flyers to business owners/operators and property owners/tenants along the project corridor.
10. Submit public service announcements to radio and television stations.

Involving affected and/or interested populations in public outreach is an important part of the transportation decision-making process. In order to effectively reach traditionally underserved populations, innovative notification efforts may be necessary. Community leaders may help identify the best methods to reach particular populations.

11.2.4.6 Visualization Techniques

To strengthen public participation in the planning and project delivery process, and aid the public in understanding proposed plans, the ***Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)***, called for states and MPOs to use visualization techniques. Through visual imagery, the complex character of proposed transportation plans, policies, and programs can be portrayed at appropriate scales - state, regional, local area, project architecture and from different points of view. "The effective presentation of project impacts to the public has become an increasingly essential part of the planning and design of the transportation system".

Examples of visualization techniques include sketches, drawings, artist renderings, physical models and maps, simulated photos, videos, computer modeled images, interactive Geographic Information System (GIS) systems, GIS-based scenario planning tools, photo manipulation and computer simulation. Districts should use various visualization techniques as applicable (See **Section 11.3** for a link to the FHWA Visualization in Planning website).

11.2.5 Procedures for Holding a Public Hearing

While public involvement and participation is encouraged for all projects, public hearings are not required for all projects. Rather, public hearings are generally reserved for higher COA or for those projects which constitute major transportation improvements. The public involvement provisions in **23 CFR § 771.111** generally provide that reasonable notice of either a public hearing or an opportunity for a public hearing be provided.

State law contemplates that a public hearing will occur when planning for major transportation improvements (regardless of the funding source or COA) when increasing the capacity of a facility through the addition of new lanes, providing new access to a limited or controlled access facility, or construction of a facility in a new location. **Section 339.155, F.S.**, further states that the public hearing must be held “prior to the selection of the facility to be provided, prior to the selection of the site or corridor of the proposed facility, and prior to the selection of and commitment to a specific design proposal for the proposed facility.”

The primary difference between a public meeting and a public hearing is that a public hearing has specific time frames associated with advertising, hearing notice, and when written comments must be received. A public hearing must also meet formal requirements for the way it is conducted. Typically, project information is presented and then members of the public, elected officials, and other interested persons can provide oral or written comments which become part of the project record. Public hearings are usually held at the end of the PD&E process and prior to the submittal of environmental document to OEM.

In preparation for a public hearing, a **Public Hearing Planning Checklist** is provided in **Figure 11.11**. Also see **Figure 11.12** for requirements related to **Public Hearing Notices**.

11.2.5.1 Public Hearing Format

Public hearings are traditionally held in the evenings, in auditorium style rooms. The format of a public hearing typically begins as an informal open house, where the public can review project materials and have one-on-one conversations with the study team. The open-house portion is then followed by a formal presentation and opportunity for public comment.

The layout of the public hearing venue is generally divided into three areas. The first area includes registration and sign-in tables. All attendees are invited to sign in at a registration table upon entering the room. Their names and addresses are taken as part of the public record.

The second area includes maps, exhibits, and project documents for review. Tables or areas for special interests or concerns (such as ROW acquisition, noise, access management) may be set up at specific locations depending upon the type of project issues and/or potential impacts involved. Tables should be staffed by appropriate District and or consultant technical staff. ROW personnel should be present to answer questions regarding FDOT’s ROW Acquisition and Relocation Programs if ROW acquisitions and/or relocations are anticipated. The Title VI Coordinator should also be available to address questions on **Title VI Compliance** under the **Civil Rights Act of 1964** and related statutes.

The third area includes seating for the formal presentation where the public can sit and watch a live or voiced-over presentation. For those participants interested in providing

oral comments, an opportunity to speak into a microphone is provided for comment purposes. The length of time for the public comment period is at the District's discretion, but is usually two to three minutes per speaker depending on the number of people who wish to speak. The public also has the opportunity to provide their comments in writing or directly to a court reporter. It should be mentioned that all forms comment carry equal weight.

The public hearing generally includes the following elements:

1. All staff attending the hearing should be knowledgeable about the project. Generally, approximately one week prior to the hearing, a briefing or hearing rehearsal takes place at the District office to fully acquaint staff members with the project and the hearing process. The rehearsal must include a thorough discussion of the room arrangement, the content of the presentation, all brochures and handouts, roles and responsibilities, and the type and format of project and general information to be displayed at the public hearing.
2. The moderator is generally an FDOT employee whose principal concern is to coordinate the hearing and ensure that everything runs smoothly. .
3. A specific "script" is used to present the project, explain the ROW acquisition process to the public, and describe some of the compensation requirements at public hearings. A copy of the script can be found in **Section 11.2.5.6**.
4. Wall displays are used to show base/aerial maps, project alternatives, comparative evaluation matrices, schedules, charts, renderings, and other project-related information. These should use plain language as much as possible.
5. Informational posters may be used to provide information to the attendees to help them participate in the hearing or provide instructions regarding how to comment on the project.
6. Laws and regulations applicable to the public hearing process may be placed on a display board or presentation slide. A list of these laws is provided below. If you display them on a board, then include the following statement within the script: "This public hearing was advertised consistent with federal and state requirements." A sample script is provided within **Section 11.2.5.6**.
 - a. **Section 120.525, F.S.** – Meetings, hearings, and workshops
 - b. **Section 286.011, F.S.** – Government in the Sunshine Law
 - c. **Section 335.199, F.S.** – Transportation projects modifying access to adjacent property (use only if there are proposed access changes)
 - d. **Section 339.155, F.S.** – Transportation planning

- e. Americans with Disabilities Act of 1990 (ADA)
 - f. Title VI of the Civil Rights Act of 1964 and Other Nondiscrimination Laws
 - g. **49 CFR Part 24**, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs
 - h. **40 CFR Part 1506**, Other Requirements of **NEPA**
7. Project handouts or brochures may be used at hearings. Handouts are used to convey the same material that is usually found in a formal presentation. Handouts may include:
- a. A project location map
 - b. Federal, ETDM, and FM Numbers
 - c. A description of the project and its logical termini
 - d. The purpose of the public hearing
 - e. An explanation of the information hearing process
 - f. An explanation of how the public can comment on the project
 - g. A statement of the date when the final written comments are due
 - h. The date, time, and place of the hearing
 - i. A discussion of the Federal-State Partnership
 - j. Information regarding the project development process
 - k. A summary of the project: justification/need, alternatives considered, typical sections, potential environmental impacts, potential ROW relocation, **Title VI** programs, the role of a public hearing, and the project status and schedule.

Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities

A "**Letter of Welcome**" may be attached to or made part of the project brochure/handout. This letter should be signed by the District Secretary or designee, welcoming attendees to the public hearing and expressing the District's thanks to each person for taking the time to come and be part of FDOT's decision-making process. It should also provide assurance that all

comments will be considered prior to the District making a final project decision.

8. Staff members will be assigned as greeters to welcome attendees and explain the hearing process. All attendees should be asked to sign-in upon entering the hearing room. Greeters will also orient each attendee to the layout of the room and provide them with handout material, comment forms, and speaker cards, and explain how verbal and written comments may become part of the official public record. Those wishing to speak during the public testimony portion of the hearing are asked to provide their name and address on a speaker card. The speaker card is then given to a staff member and attendees will be invited to speak in the order which their speaker cards are received. **Figure 11.18** provides an example speaker card.
9. The record of the public hearing, or transcript, is accomplished by using one or more court reporters hired to attend the hearing; or the District may choose to tape-record the proceedings and transcribe the tape at a later date. In either case, a verbatim transcript is made to document the proceedings. Attendees may speak directly to the court reporter to express views concerning the project or fill out a speaker card and speak into a microphone during the public testimony portion of the hearing. Written comment forms are also provided for those not wishing to make a verbal statement. Written comment forms are generally deposited in a comment box available at the hearing or may be mailed, postmarked no more than 10 days following the date of the hearing, to be included as part of the public record. A sample comment form is provided in **Figure 11.17**.
10. A live or voiced-over presentation is used to inform the attendees about the project and reiterate how to comment on the project. The general content of the hearing presentation is discussed in **Section 11.2.5.6**.

Complete documentation of all activities must be made in the project file and in the public hearing transcript.

11.2.5.2 Public Hearing Dates and Times

Public hearings are typically held during the work week, Tuesday through Thursday, to maximize the opportunity for public participation in the project development process. Public hearings usually begin at 5:30 or 6:00 in the evening and last two hours. However, consider the ages of the anticipated audience, transportation availability, location access, distance, when determining the time of the hearing. Consideration should be given to

selecting and securing an alternate date during the hurricane season. District representatives are present before the hearing to answer questions.

11.2.5.3 Selecting a Hearing Location

Refer to **Section 11.2.4.4**, for guidance on selecting a public hearing location. Public hearings involve a formal presentation; therefore, the room should be able to accommodate multiple workstations, display boards, mingling, and seating for viewing the presentation. If a large crowd is anticipated, the meeting location should have a room large enough to accommodate two or more identical sets of workstations and/or displays.

11.2.5.4 Public Hearing Notification and Advertisement Requirements

Provisions for public involvement, including public hearings, are contained in **Chapters 120 and 339, F.S.; 23 CFR 771**, and **23 U.S.C. § 128**.

Section 339.155(5)(b), F.S., directs that public hearing shall be conducted so as to provide an opportunity for effective participation by persons interested in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. As part of that process, FDOT is required to present the factors involved in its decisions and alternative proposals such that persons attending may present their views.

11.2.5.4.1 Notification to Elected Officials and Agencies

Before holding a public hearing, a letter of invitation is sent to the local governments and agencies at least 25 but **no more than 30 calendar days prior to the public hearing date**. The letter of invitation should be received by the elected officials and agency representatives before the public is notified by letter or advertisement.

See **Figure 11.15** for a sample letter of invitation to officials and agencies, which at a minimum should include the following, either in the body of the letter or in an attachment:

1. The purpose of the notification
2. A description of the project
3. A list of the places, dates, and times where the Environmental Document and other materials will be available for public inspection
4. The date, time, and location of the public hearing
5. A statement requesting public participation
6. Standard statement of non-discrimination compliance and information about **ADA** requests as provided in **Section 11.2.4.5**

7. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities
8. Hearing notice and map.

It is important to use the correct salutations and titles when addressing elected and appointed officials and agency contacts. See **Figure 11.9** for a listing of salutations and titles.

11.2.5.4.2 Notification to Property Owners

Section 339.155(5), F.S., directs FDOT to notify certain affected property owners when holding a design 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. The names and addresses of property owners are obtained from the county property appraiser's office or its website. Notification must be made by mail **at least 20 calendar days prior to the date of the hearing**. Invitational letters are sent using the same elements as described in **Section 11.2.5.4.1** (See **Figure 11.16**).

Reasonable efforts should also be made to notify and inform tenants and leaseholders within 300 feet of the centerline of the public hearing.

11.2.5.4.3 Public Hearing Newspaper Ads

Collectively, the authorities for public involvement dictate that *reasonable notice* be provided for public hearings. Publication in a local newspaper(s) of general circulation within the project area is one method that meets that objective. **Section 339.155, F.S.**, generally directs FDOT to publish notice in a newspaper of general circulation to allow comment on transportation plans or improvements. This notice must be published in a manner that is sufficient to give the public reasonable notice of and opportunity to attend the public hearing.

In addition to these general notice requirements, **Section 339.155(5)(c)(2), F.S.**, more specifically directs that in regard to design hearings, **subsequent** to the initial hearing where individual notice is mailed to real property owners within 300 feet of the project centerline, FDOT must publish the public hearing notice according to a specified schedule; 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 hearing**. The second ad should run 7-12 days prior to the hearing.

The content of advertisements should be written in plain English (see plain language initiative under **Section 11.1.2.3**) and must include at a minimum the following (see **Figure 11.14** for a sample public hearing newspaper ad):

1. The reason for 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, time, and location of the hearing
5. A list of places, dates, and times where the Environmental Document and other materials are available for public inspection per citation of **23 CFR 771.111**

Standard statement of non-discrimination compliance and information about **ADA** requests, as provided in **Section 11.2.4.5**

6. Notice of standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities
7. An address where written comments are to be sent

An affidavit or proof of publication should be obtained from the newspaper and maintained in the project file.

11.2.5.4.4 Florida Administrative Register Notice

A public notice must be placed in the **FAR** at least 7 calendar days prior to the hearing. Refer to **Section 11.2.4.5.4**, for additional information.

11.2.5.4.5 Florida Department of Transportation Website

To comply with **Section 120.525, F.S.**, notice of all public hearings should be published on [**FDOT's Public Meeting Notices Website**](#) at least 7 days before the hearing. Meeting notices are typically added to the website by District PIO staff through the FDOT INFONET. The information to be provided to the PIO includes the hearing date and time, location name and address, project description, project website, and contact names and contact information. Include the standard nondiscrimination statement and information about **ADA** requests. Additionally the standard statement regarding FDOT assumption of FHWA **NEPA** responsibilities should be included when appropriate.

11.2.5.5 Documents for Public Review

The Environmental Documents for a Type 2 CE, approved EA, approved DEIS, and SEIR must be available for public review at **least 21 calendar days prior to the public hearing date**. Locations where the documents 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.

11.2.5.6 Public Hearing Presentation and Script

The public hearing is officiated by a moderator and includes a live or voiced-over presentation followed by the public comment portion of the hearing. The moderator is generally an FDOT employee. The following information is included in the presentation. The information shown in *italics*, and modified as applicable, **must** be contained in the public hearing presentation, either as a specific citation or as a content item tailored to the specific topic within the script and/or supplemental handout.

1. Introduction

Good evening. The Florida Department of Transportation would like to welcome you to the public hearing for the (name of project). My name is _____. I am the District ____ Project Development Engineer (or insert other title) for the Florida Department of Transportation. This public hearing is for Financial Management Project Number _____ and Federal Aid Project Number (if a federal project) _____. This environmental study has been conducted by FDOT (District x) in compliance with all applicable federal environmental laws and pursuant to 23 U.S.C. § 327 and the implementing MOU between FDOT and FHWA signed on December 14, 2016; the FDOT Office of Environmental Management in Tallahassee is the approving authority. The proposed improvement involves (describe the project action including the location and limits). This hearing is being held to provide you with the opportunity to comment on this project.

Here with me tonight are:

- *(Name and position of persons(s) sitting next to moderator)*
- *And other representatives of the FDOT and consultant project team.*

At this time, we would like to recognize any federal, state, county, or city officials who may be present tonight. Are there any officials who would like to be recognized?

We now will begin the presentation.

After the live introduction by the moderator, the rest of the presentation may be live or recorded, but the content generally follows the outline and standard statements provided below. This portion of the presentation can be conducted by the moderator, other FDOT staff, consultant representative, or pre-recording.

2. Purpose of the public hearing and nondiscrimination compliance

The purpose of this public hearing is to share information with the general public about the proposed improvement; its conceptual design; all alternatives under study; and the potential beneficial and adverse social, economic, and environmental impacts upon the

community. 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.

There are three primary components to tonight's hearing:

- *First, the open house, which occurred prior to this presentation where you were invited to view the project displays and to speak directly with the project team and provide your comments in writing or to the court reporter;*
- *Second, this presentation, which will explain the project purpose and need, study alternatives, potential impacts, both beneficial and adverse, and proposed methods to mitigate adverse project impacts; and*
- *Third, a formal comment period following this presentation, where you will have the opportunity to provide oral statements at the microphone or you may provide your comments directly to the court reporter or in writing.*

*This public hearing was advertised consistent with federal and state requirements (If you are displaying the laws on a slide, then the script could be changed as follows: "This public hearing was advertised consistent with the federal and state requirements shown on the slide." (A list of the laws is provided within **Section 11.2.5.1.**) 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 brochure and on a sign displayed at this hearing.*

3. Purpose and need and project's consistency with local and regional plans

Provide a brief summary of the project's purpose and need and consistency with the Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP), State TIP (STIP), and other regional plans.

4. Discussion of alternatives

All alternatives studied, including the No-Build option, must be briefly discussed; with additional information provided on the recommended alternatives that have been studied in further detail and documented in the Environmental Document. The advantages and disadvantages of each alternative must be provided, including major design features and estimated costs.

5. Discussion of social, economic, and environmental impact

The potential social, economic, and environmental impacts of the project must be briefly outlined. Key factors to be discussed include impacts on air quality, noise, floodplain impacts, wetlands, endangered and threatened species, archaeological or historical resources, residential and business displacements or relocations, ROW requirements, and any other pertinent issues. Information regarding these specific issues can be found in [Part 2 of the PD&E Manual, Topic No. 650-000-001](#).

6. Explanation of FDOT's 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 the Department.

If both ROW acquisition and relocation will take place, the following script will be used:

One of the unavoidable consequences on a project such as this is the necessary relocation of families or businesses. On this project, we anticipate the relocation of ___ families and ___ businesses. All right-of-way acquisition will be conducted in accordance with Florida Statute 339.09 and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act.

If you are required to make any type of move as a result of a Department of Transportation project, you can expect to be treated in a fair and helpful manner and in compliance with the Uniform Relocation Assistance Act. If a move is required, you will be contacted by an appraiser who will inspect your property. We encourage you to be present during the inspection and provide information about the value of your property.

You may also be eligible for relocation advisory services and payment benefits. If you are being moved and you are unsatisfied with the Department's determination of your eligibility for payment or the amount of that payment, you may appeal that determination.

You will be promptly furnished necessary forms and notified of the procedures to be followed in making that appeal.

A special word of caution – if you move before you receive notification of the relocation benefits that you might be entitled to, your benefits may be jeopardized.

The relocation specialists who are supervising this program are (NAME) and (NAME). They will be happy to answer your questions and will also furnish you with copies of relocation assistance brochures.

(NAME) and (NAME), please stand (pause) so that anyone who is involved in relocation on this project will know that they need to see you regarding their property.

If the project requires only right of way, the following script will be used:

This project will not cause any relocation of families or businesses. All right of way acquisition will be conducted in accordance with Florida Statute 339.09 and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act. The right of way specialist who are supervising this program are here tonight and will be happy to answer your questions.

7. Explanation of how the public can provide their comments

There have been various opportunities for the public to provide input on this project. Several public meetings have been held, dating from _____ until tonight. We welcome your oral or written comments that will help us make this important decision. At the conclusion of this presentation our personnel will distribute speaker cards to those in the audience who have not received one and would like to make a statement. A court reporter will record your statement and a verbatim transcript will be made of all oral proceedings at this hearing. If you do not wish to speak at the microphone, you may provide your comments in writing or directly to the court reporter at the comment table. Every comment method carries equal weight.

Written comments received or postmarked no later than 10 days following the date of this public hearing will become a part of the public record for this hearing. All written comments should be mailed to the address shown on the slide or in your handout.

8. Next steps and concluding statement

The next step is to incorporate your input on this public hearing into our decision-making process. After the comment period closes and your input has been considered, a decision will be made and the Final PD&E document will be sent to the FDOT Office of Environmental Management which based on the MOU signed with FHWA on December 14, 2016 has approval authority on this project granting location and design concept acceptance.

This project has and will continue to comply with all applicable state and federal rules and regulations.

This concludes our presentation. We now offer you the opportunity to make a statement.

At the conclusion of the live or voiced-over presentation, attendees who completed a speaker's card upon registering at the door will be given an opportunity to speak into a microphone. Project staff will also distribute speaker's cards to additional attendees who wish to make a verbal statement.

Anyone desiring to make a statement or present written views regarding the location; conceptual design, or social, economic, and environmental effects of the improvements will now have an opportunity to do so. If you are holding a speaker's card, please give it

to a member of the project team. If you have not received a speaker's card and wish to speak, please raise your hand so you can receive a card to fill out.

Written statements may be presented in lieu of or in addition to oral statements. All written material received at this public hearing and at the Florida Department of Transportation District office located at _____ (street address) _____, postmarked no later than _____ (10 days following the date of this public hearing) will become a part of the public record for this hearing. All written comments should be addressed to _____ (contact person's name) _____. Comments may also be emailed to _____ (e-mail address) _____.

We will now call upon those who have turned in speaker's cards. When you come forward, please state your name and address. If you represent an organization, municipality, or other public body, please provide that information as well. We ask that you limit your input to ___ minutes. If you have additional comments, you may continue after other people have had an opportunity to comment (optional). Please come to the microphone so the court reporter will be able to get a complete record of your comments.

After everyone has been given the opportunity to speak, the moderator may close the public hearing with the following statement:

Does anyone else desire to speak? If so, state your name and address and complete a speaker's card after you've given your statement for the public record.

The verbatim transcript of this hearing's oral proceedings, together with all written material received as part of the hearing record and all studies, displays, and informational material provided at the hearing will be made a part of the project decision-making process and will be available at the District Office for public review upon request.

Thank you for attending this public hearing and for providing your input into this project. It is now _____ (state the time) _____. I hereby officially close the public hearing for _____ (project name) _____. Thank you again and have a good evening.

11.2.5.7 Public Hearing Documentation

The hearing proceedings are recorded by a court reporter and transcribed into a written transcript. This transcript must be signed by FDOT's PM or Project Development Engineer. Oral and written comments are a formal part of the public record. The transcript of all hearing proceedings includes FDOT's presentation (including portions that are voiced-over or pre-recorded), all public comment/testimony received at the hearing itself, and all handouts and informational brochures used. Display materials should be retained in the project file as part of the hearing record and be provided to OEM, if requested.

Whenever a public hearing is held, the public record remains open for **a minimum of 10 calendar days after the date of the hearing** to allow for additional written input from

attendees or others who were not able to attend the hearing. All written comments received during that period become part of the public record and are included in the hearing transcript package. After the comment period, the public hearing is officially closed and the transcript is signed by the public hearing officer (FDOT Project Manager or Project Development Engineer), as shown in **Figure 11.19**. The official transcript is then uploaded to SWEPT and available to OEM .

11.2.5.8 Specific Public Hearing Concerns

Specific projects may include particular concerns that should be addressed during the public hearing. These concerns may include noise abatement and outdoor advertising, access management, and toll rates. The following paragraphs describe ways these concerns should be addressed when applicable to the project.

11.2.5.8.1 Noise Abatement and Outdoor Advertising

The identification and design of noise abatement measures during the project design phase may require additional public involvement efforts and will be especially important in the establishment of noise barrier design features. Public coordination is often necessary to finalize barrier locations, heights, and aesthetic features, especially if there are substantial changes to prior commitments. These changes may be the result of the considerations noted in [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.

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 amended 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 [Florida Department of Transportation Plans Preparation Manual, Topic No. 625-000-007, Volume 1, Section 32.4](#)).

11.2.5.8.2 Access Management

Access Management is the process used to plan the location, design, and operation of driveways, median openings, interchanges, and street connections. Median decisions can be particularly controversial. Sound public involvement strategies can facilitate open communication with affected parties. In 1995, FDOT adopted ***Deviations from Median Opening Standards: A Procedure for Engineering Decisions***, which calls for initiating

public involvement on median design during PD&E and carrying this through production. In 2010, **Section 335.199, F.S.**, was passed requiring FDOT to 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 is finalized. The law requires that FDOT hold at least one public hearing 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 PD&E public hearing do not require a separate hearing during the design phase. Additional information is available in [Median Openings and Access Management, Topic No. 625-010-021](#).

11.2.5.8.3 Toll-Rate Workshops and 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 resulting from toll rate changes.

A toll rate rule development workshop may be conducted as part of the PD&E phase. A toll rate rulemaking hearing may be conducted following the 60 percent design phase of project development. However, the scheduling of any rule-related workshop or hearing is at the discretion of FDOT executive management.

11.2.5.9 Public Comment Opportunities after the Public Hearing for Environmental Impact Statements

For a minimum period of 10 days following the public hearing, comments can be made on the project. Such comments are appended to, and become part of, the official hearing transcript record. All comments and issues raised at the hearing; the transcript record; and design, cost, environmental, and other changes occurring since the approval of the DEIS must be considered and documented by the District in the FEIS. A detailed discussion of these procedures is provided in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

11.2.5.10 Notice of Opportunity to Request a Public Hearing

A public hearing is not typically required under **NEPA** for either a Type 2 CE or an EA; however, the District may elect to offer the public an opportunity to request a public hearing. A public hearing may be held if there is sufficient public interest to warrant a hearing. The District should inform OEM and consult as appropriate to determine if a notice for opportunity to request a public hearing should be provided.

A notice to request a public hearing is published in a local newspaper having general circulation in the project area. **An 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 an ***Affidavit of Certification*** from the newspaper that the publication was made and uploads the affidavit to SWEPT. This affidavit must accompany the Type 2 CE or EA, when applicable.

A notice of opportunity to request a public hearing must also be placed in the ***FAR*** (see ***Section 11.2.4.5.4***) and [***FDOT's Public Meeting Notices Website***](#). A sample notice of opportunity is shown in ***Figure 11.20***.

The content of the notice of opportunity for the ***FAR*** and FDOT's 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 meeting 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

If a request to hold a public hearing is received prior to the established deadline, then all notification and hearing procedures described in ***Sections 11.2.5.1*** through ***11.2.5.8*** must be followed. If only one or two persons request a hearing, a meeting should be held with them to discuss their concerns.

11.2.5.11 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 advertisement notification period of the agency is different from FDOT's, then the longer period for hearing notification should be used.

11.2.6 Notice of Location and Design Concept Acceptance

The District publishes an announcement in the same local newspaper in which the public hearing notification was published to let the public know that LDCA has been received from OEM. For an example of an LDCA notice, see **Figure 11.22**.

11.2.7 Public Involvement Documentation

The final documents for EAs, EISs, and Type 2 CEs require a summary of the public involvement activities held. Within the Type 2 CE document, if a public hearing was held, substantive comments are addressed within the supporting information for each issue/resource. Within EAs or EISs, a Comments and Coordination section is included in accordance with [Part 1, Chapter 6, Environmental Assessment](#) and [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

Proper documentation includes compiling all materials related to public involvement activities and summarizing and analyzing the public comments. The following documentation should be included, as a minimum, as part of the public involvement record.

1. The **PIP**.
2. The notification process, including the master contact list(s) for officials, agencies, property owners, and interested persons, as well as details of all methods of notification used to invite the public to activities (letters, newsletters, ads, press releases, news media).
3. A summary of all public involvement outreach activities, including the date, time, and location of public involvement activities. Activity summaries should include photographs, mailing lists, sign-in sheets, maps, graphs, display boards and/or exhibits, comment forms, comment summaries, meeting notifications, evaluation forms, requests, surveys, slide presentations, and meeting minutes, as applicable. The number of people invited and the number of attendees should be documented, as well as specific issues and/or concerns that were expressed as part of each activity.

A verbatim transcript of the public hearing, along with written comments received at the public hearing and written comments received within the established comment period following the hearing (a minimum of 10 days), is electronically submitted through SWEPT to OEM with the Environmental Document at the end of the PD&E phase.

Additional information is provided in FDOT's [Public Involvement Handbook](#).

11.2.8 Public Involvement Evaluation

Periodic evaluation of the **PIP** is needed to determine the effectiveness of public involvement activities. The following (or similar) questions should be asked during in-house debriefings and/or presented to the community in a survey format. The answers will provide information on whether new outreach strategies should be developed to improve public involvement for the project.

- 1. Is the entire project community represented in the public involvement activities?**
If there are representatives or segments of the affected community who are missing from the project activities, it may indicate that the timing and/or location of these activities are inconvenient. Or, it may indicate that the project notices are not reaching the intended audience.
- 2. Is there continuity among participants' attendance?**
If people drop out of the process after one or two activities, it may indicate frustration with the process.
- 3. Are the appropriate communication techniques being employed?**
If input is limited, it may indicate that the audience does not understand the project information. Or, it may indicate that they do not believe their comments are important.
- 4. Are the comments received from the community relevant to the project? Are they realistic and appropriate to the project phase?**
If the comments are not relevant to the project, it may indicate that people do not understand the project scope or the kind of information/input that is being sought. If people have unrealistic expectations about how they can influence the project, it may indicate that they do not understand the decision-making process or the type of decisions that will be made during the current phase of project development.
- 5. Are there significant unresolved issues concerning the project?**
If there is significant opposition to the project, it may indicate that all relevant issues have not been identified and resolved. Continued dialogue with the audience is needed to identify concerns and develop acceptable solutions.

FDOT's [Public Involvement Handbook](#) provides detailed information on how to evaluate public involvement activities.

11.2.9 Subsequent Public Hearings

Public hearings held in the design phase should follow the same procedures and requirements as provided within **Section 11.2.5**.

11.2.10 Public Involvement During Re-evaluations

OEM and the District will determine in consultation whether changes in the project or new information warrant additional public involvement consistent with **23 CFR § 771.111(h)(3)** and **23 CFR § 7771.129**. For information on preparing a Re-evaluation see [Part 1, Chapter 13, Re-evaluations](#).

11.2.11 Community Awareness Plans

Typically, when a project reaches the design phase, many of the project commitments and community issues have been identified. However, this is not always the case. Design alternatives still need to be reevaluated to determine implications for community impacts. Commitments made in previous project phases (see [Part 2, Chapter 22, Commitments](#)) are communicated to designers who are then responsible for their incorporation. A **Project Commitments Record, Form No. 700-011-35** is used to track commitments throughout the project life-cycle. If constraints arise that require design changes that may affect FDOT's ability to meet commitments, the process requires follow-up with the affected community. In such cases, additional public involvement and community impact assessment may be necessary to address public concerns.

A **CAP** is developed during the Design phase. The objective of the **CAP** is to identify the means of notifying local governments, affected property owners, tenants, and the public of the District's proposed construction and the anticipated impact of that construction. In addition to the benefits of advance notification, the process should allow the District to resolve controversial issues during the design phase. Areas of specific concern are:

1. Potential access impacts to business and residential communities
2. Drainage
3. Maintenance of traffic during construction

Each District within FDOT has developed **CAP** guidelines for continued efforts in public involvement to be implemented on all design projects, depending on the level of impact to the community. For additional information, see the [Plans Preparation Manual, Volume 1, Chapter 1, Section 1.10; Topic No. 625-000-007](#).

11.3 REFERENCES

Americans with Disabilities Act (ADA) of 1990

AASHTO/ACEC and FHWA, Improving the Quality of Environmental Documents, May 2006: http://environment.transportation.org/pdf/IQED-1_for_CEE.pdf.

Civil Rights Act of 1964, Title VI, and Related Statutes.

Code of Federal Regulations, Title 23, Part 771, Environmental Impact and Related Procedures.

CFR, Title 40, Sections 1500-1508.

CFR, Title 40, Section 1501.7 (CEQ Regulations).

CFR, Title 40, Part 93.105.

Endangered Species Act of 1973.

ETDM Public Access Site: <http://etdmpub.fla-etat.org/est/>.

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.

EO 12898, Environmental Justice - Avoidance of actions that can cause disproportionately high impacts on minority and low income populations.

EO 13166, Improving access to services for persons with limited English proficiency.

Federal Highway Administration's Public Involvement Website:
http://www.fhwa.dot.gov/planning/public_involvement/index.cfm.

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

Federal Highway Administration (FHWA) Visualization in Planning Website:
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.

Florida Department of State's e-rulemaking website: www.flrules.org.

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002, March 2006.

FDOT, Plans Preparation Manual, Volume 1, Chapter 1, Public Involvement, Topic No. 625-000-007 and Volume 1, Section 32.4.

FDOT Procedural Topic No. 625-010-021-h, Median Openings and Access Management.

FDOT, Environmental Policy, Topic No. 000-625-001.

FDOT, Public Involvement Policy, Topic No. 000-525-050 Public Involvement Opportunities, effective December 6, 2013.

FDOT, [Public Involvement Handbook](#), July 2015.

FDOT's Public Notices Website:

<http://www2.dot.state.fl.us/publicsyndication/PublicMeetings.aspx>.

FDOT's OEM Website: <http://www.fdot.gov/environment/>.

FDOT Website: <http://www.fdot.gov/>.

F.S., Section 110.117, Paid Holidays.

F.S., Chapter 120, Administrative Procedures Act.

F.S., Section 120.525, Meetings, Hearings, and Workshops.

F.S., Section 163. 3181(2), Public Participation in the Comprehensive Planning Process; Intent, Alternative Dispute Resolution.

F.S., Section 286.26, Government-in-the-Sunshine Law.

F.S., Section 335.02, State Highway System.

F.S., Section 335.199, Transportation projects modifying access to adjacent property.

F.S., Section 339, Transportation Finance and Planning.

F.S., Section 339.135, Public Hearings during the development of the Florida Transportation Plan.

F.S., Section 339.155, Transportation Planning.

F.S., Section 339.175, Metropolitan Planning Organization.

F.S., Section 479.25, Outdoor Advertising Signs – Noise Attenuation Barrier, as Amended by House Bill 273.

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NEPA of 1969.

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), August 25, 2005.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

U.S.C., Title 23, Section 109(h) Highways – Economic, Social, and Environmental Effects.

U.S.C., Title 23, Part 128, Public Hearings.

U.S.C., Title 23, Section 135(f)(3), Participation by Interested Parties.

U.S.C., Title 23, Part 135, Statewide and nonmetropolitan transportation planning.

U.S.C., Title 42, Chapter 126, Section 12101: Equal Opportunity for Individuals with Disabilities.

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.

U.S. Department of Transportation, Federal Highway Administration, Public Involvement Techniques for Transportation Decision-Making, September 1996.

11.4 HISTORY

05/27/2003, 05/18/2009, 03/18/2010, 06/24/2010, 06/15/2012, 12/29/2015

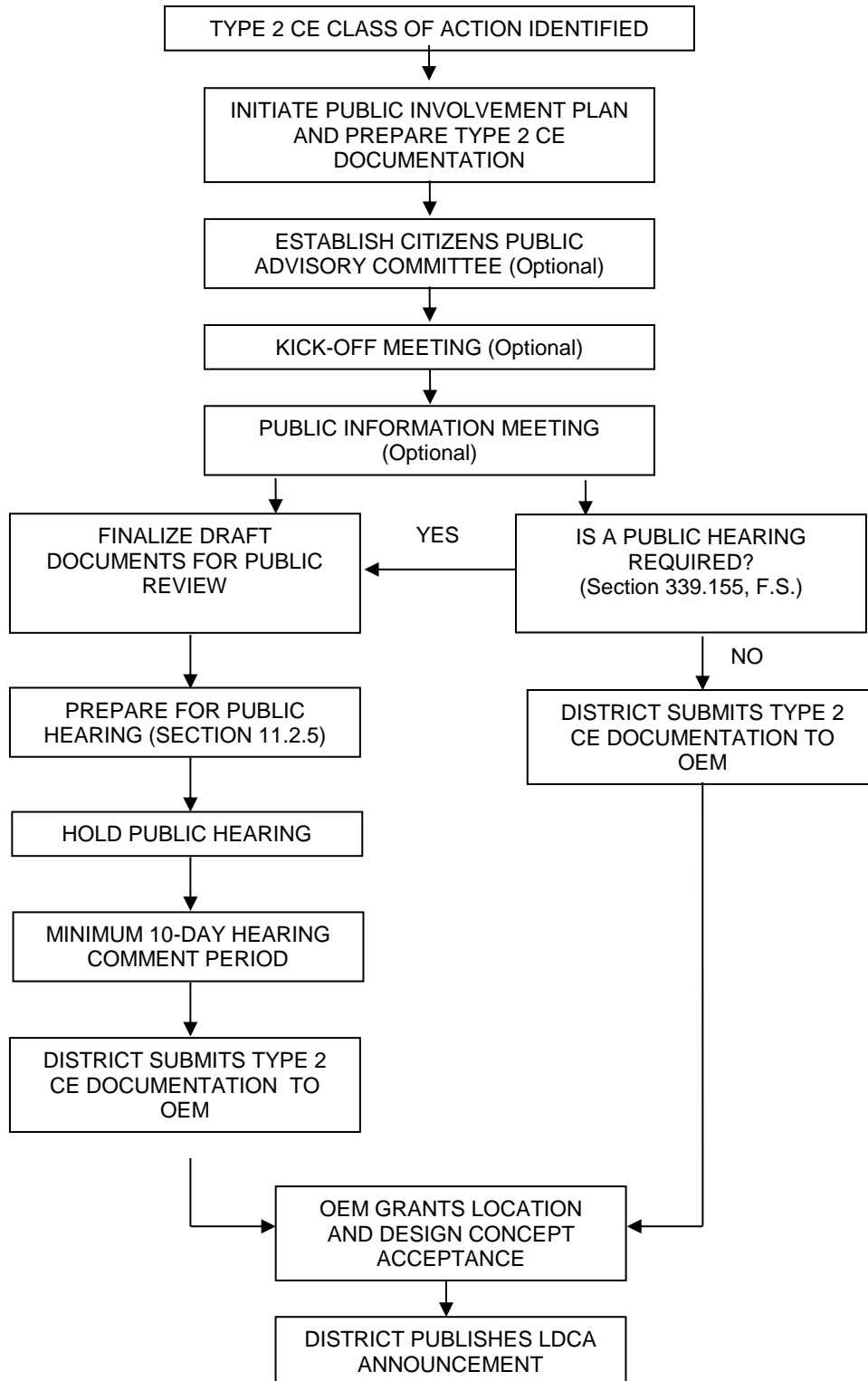


Figure 11-1 Public Involvement Process for Type 2 Categorical Exclusions

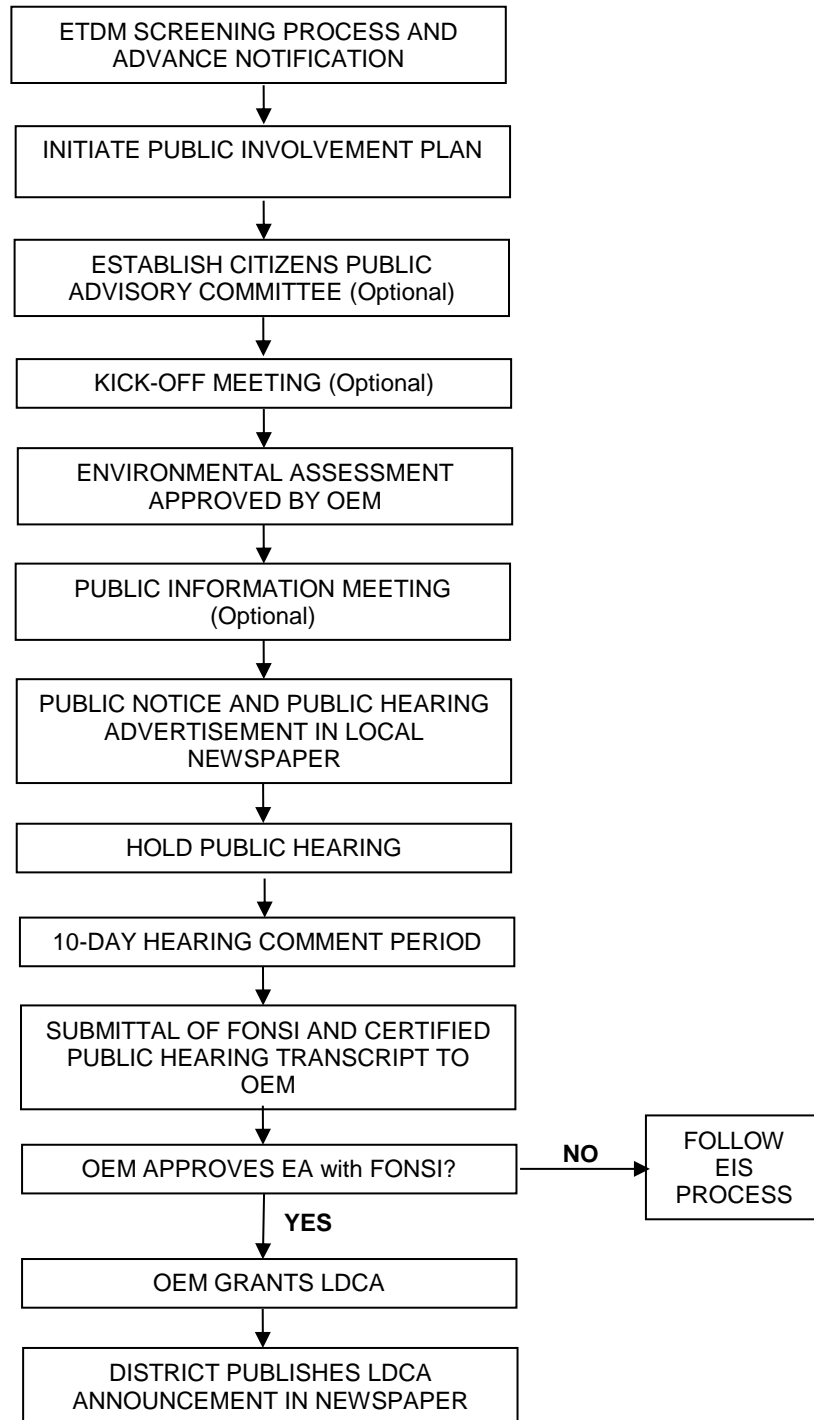


Figure 11-2 Public Involvement Process for Environmental Assessments

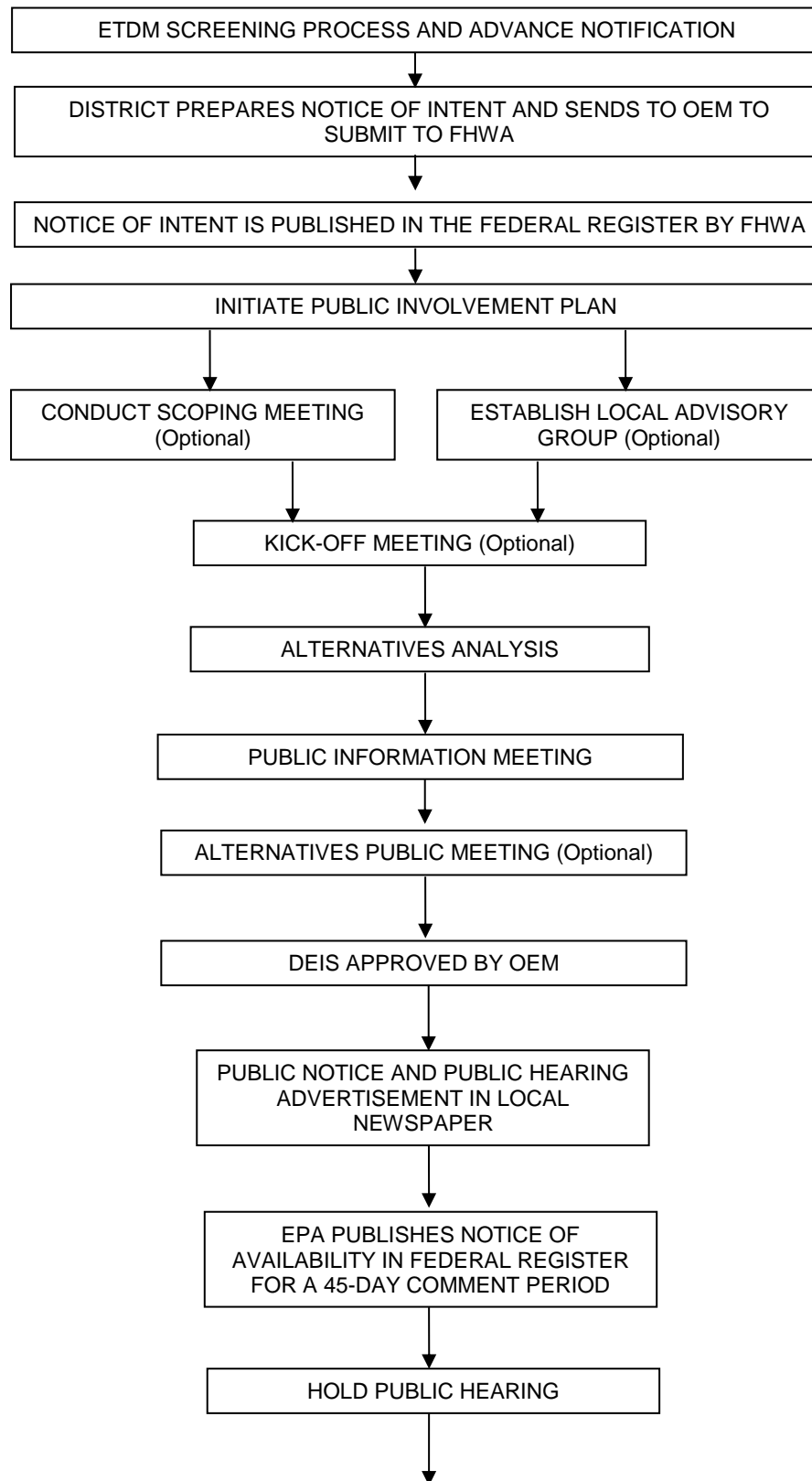
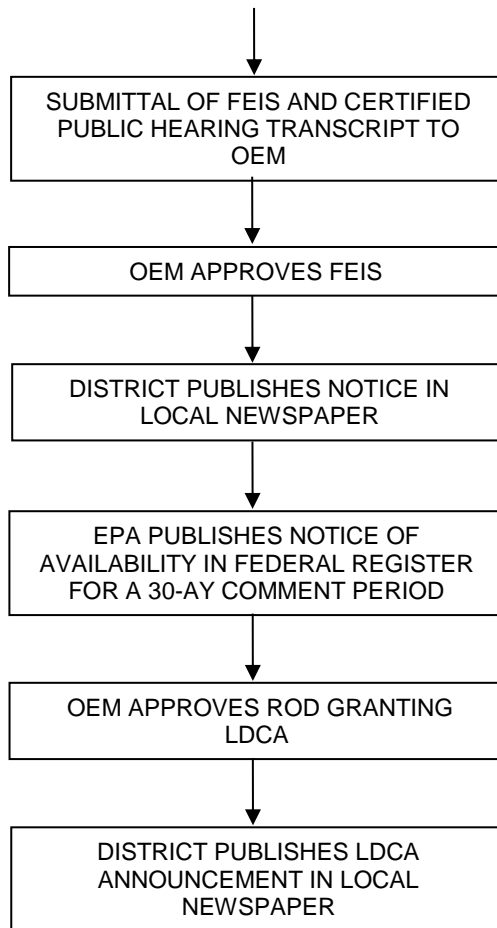


Figure 11-3 Public Involvement Process for Environmental Impact Statements



**Figure 11-3 Public Involvement Process for Environmental Impact Statements
(Page 2 of 2)**

SAMPLE PUBLIC INVOLVEMENT PLAN

Project Name: _____
Project Limits: _____
County/State: _____
Financial Management Number: _____
Federal Aid Project Number: _____
Efficient Transportation Decision Making (ETDM): _____

In accordance with Part 1, Chapter 11 of the **Project Development and Environment (PD&E) Manual**, this Public Involvement Plan is submitted to the manager of the District office in charge of PD&E studies as appropriate based on District organizational structure for his/her review and approval.

Submitted by: _____ (Name)
Project Manager

(Name of Consulting Firm)

Date: _____

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Approved by: _____
Manager of the District office in charge of PD&E studies
as appropriate based on District organizational structure
or Designee

Date: _____

Figure 11-4 Sample Public Involvement Plan

PUBLIC INVOLVEMENT PLAN

Project Development and Environment (PD&E) Study

(Project Name)

from _____ to _____

(County), Florida

The purpose of this Public Involvement Plan (PIP) is to assist in providing information to and obtaining input from concerned citizens, agencies, private groups (residential/business), and governmental entities. The overall goal of this plan is to help ensure that the study reflects the values and needs of the communities it is designed to benefit. A schedule of events and a list of documentation exhibiting compliance with these procedures are included.

This plan is in compliance with the Florida Department of Transportation's *Project Development and Environment (PD&E) Manual, Part 1, Chapter 11*.

I. DESCRIPTION OF PROPOSED IMPROVEMENT

Financial Management Number: _____

Federal Aid Project Number: _____

Project Limits: _____

Proposed Activity: _____

Class of Action: _____

Project Location Map:

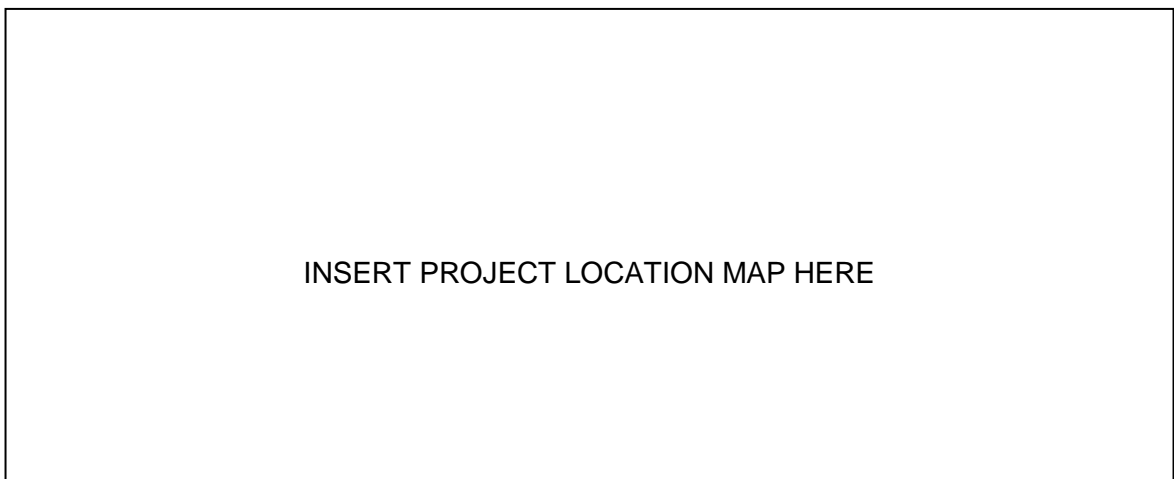


Figure 11-4 Sample Public Involvement Plan (Page 2 of 11)

Project Contact Information

For additional information regarding this project contact:

(Name) _____ FDOT Project Manager	(Name) _____ Consultant Project Manager
Address: _____ _____	Address: _____ _____
Telephone: _____	Telephone: _____
E-mail: _____	E-Mail: _____

II. PROJECT BACKGROUND

(Note: Give a brief project background description)

III. PROJECT GOALS

The following goals and objectives have been defined for this study:

(Note: List and define project goals)

IV. IDENTIFICATION OF ELECTED OFFICIALS AND AGENCIES

The following local, regional, state, or federal agencies having a concern in this project due to jurisdictional review or expressed interest have been identified and will be contacted directly by the Florida Department of Transportation (FDOT) through the Advance Notification (AN) process at the outset of the project in accordance with the PD&E Manual, Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification. As other concerned public agencies are identified throughout the study, they also will be listed and contacted.

(Note: the ETDM/ETAT distribution list can be used for specific names and contact details for state, federal, and regional agencies)

State: Florida Department of State, Division of Historical Resources
Florida Department of Agriculture and Consumer Services
Florida Department of Environmental Protection
Florida Department of Fish and Wildlife Conservation Commission
Florida Department of Economic Opportunity

(Note: Add others that pertain to the project)

Figure 11-4 Sample Public Involvement Plan (Page 3 of 11)

Federal: Federal Highway Administration
Federal Transit Administration
U.S. Army Corps of Engineers
U.S. Coast Guard
U.S. Department of Interior - National Park Service
U.S. Department of Interior - U.S. Fish and Wildlife Service
U.S. Department of Commerce - National Marine Fisheries Service
U.S. Environmental Protection Agency

(Note: Add others that pertain to the project)

Regional: **(List: e.g., Chamber of Commerce, Regional Planning Council, Transportation Planning Organization, Water Management District, or others that may pertain to the project)**

Native American Tribes:

Miccosukee Tribe of Indians of Florida
Muscogee (Creek) Nation
Poarch Band of Creek Indians of Alabama
Seminole Nation of Oklahoma
Seminole Tribe of Florida
Mississippi Band of Choctaw Indians (only contact for projects in the Florida Panhandle, west of the Apalachicola River to the Alabama state line)

Local Elected and Appointed Officials:

(NOTE: ELECTED OFFICIALS SHOULD BE REVIEWED AND UPDATED PRIOR TO MAIL OUTS FOR PUBLIC MEETINGS/HEARINGS)

Florida State Senators for Local Districts:

Name	Senator, District _____
Name	Senator, District _____
Name	Senator, District _____

Florida State Representatives for Local Districts:

Name	Representative, District _____
Name	Representative, District _____
Name	Representative, District _____

Federal Delegation:

Name	U.S. Senator
Name	U.S. Senator
Name	U.S. Representative, District _____
Name	U.S. Representative, District _____

Figure 11-4 Sample Public Involvement Plan (Page 4 of 11)

_____ County:	
Name	County Administrator
Name	Commissioner, District 1
Name	Commissioner, District 2
Name	Commissioner, District 3
Name	Commissioner, District 4
Name	Commissioner, District 5
Name	Clerk of the Circuit Court
Name	Public Works Director
Name	County Engineer
Name	County Sheriff
Name	County Superintendent of Schools
_____ (City)	
Name	Mayor
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilman/Commissioner
Name	Councilwoman/Commissioner
Name	City Manager
Name	City Clerk
Name	Fire Chief
Name	Chief of Police
Name	Recreation and Parks Director
Name	Public Works Director
Name	City Engineer
Name	Airport Director (if applicable)

V. IDENTIFICATION OF AFFECTED COMMUNITIES AND STAKEHOLDERS

This section describes the demographics of the study area and approaches for accommodating any special populations. An example discussion is provided below as a guide but it should be tailored to your specific project. If no special demographic concerns exist, make a statement to that effect and attach a copy of the SDR to the PIP.

This project traverses through the City of _____ and several unincorporated communities including _____ and _____. A map of the communities in relation to the project limits is provided within Figure _____. The demographics of the study area was obtained through a Sociocultural Data Report (SDR) analysis. A copy of the SDR is attached to this PIP. Based on the demographics of the study area, there is a large number of _____ residents (e.g. transit dependent, elderly, limited English proficiency, etc.). Therefore, the project team will _____ (e.g. hold all public meetings at a location accessible by transit, translate all notification materials in another language, ensure that team members fluent in that language are present at the meetings, etc.).

Figure 11-4 Sample Public Involvement Plan (Page 5 of 11)

The following local, state, and national public interest groups or organizations having a direct or expressed interest in the project study have been identified and will be contacted by the Florida Department of Transportation (*e.g., Sierra Club, Audubon Society, local neighborhood associations*).

VI. OUTREACH ACTIVITIES

The following techniques will be used to notify the public of the proposed transportation improvement and to solicit public input into the project development process.

Newspaper(s):

◆ *Name of Publication*
Address

Phone Number

◆ *Name of Publication*
Address

Phone Number

Television:

◆ Name of Television Station
Address

Phone Number

◆ Name of Television Station
Address

Phone Number

Radio:

◆ Name of Radio Station
Address

Phone Number

◆ Name of Radio Station
Address

Phone Number

In addition to working with the media, a number of different notification techniques will be used throughout the project development process. A brief description of these techniques is provided below.

Letters/Newsletters:

Invitational and informational letters and newsletters will be distributed to elected and appointed officials, property owners/tenants, business owners/operators, and interested parties as feasible. It is anticipated that (number) newsletters will be distributed for this study: (note when in the project process). Notices will be hand-delivered to residences and businesses located directly along the project corridor (optional) as deemed necessary by the FDOT.

Figure 11-4 Sample Public Involvement Plan (Page 6 of 11)

News/Press Releases: News/press releases will be submitted to the FDOT seven days prior to each public meeting and the public hearing.

**Public Notices/
Ads:** Public advertisement will be published in the area newspaper with the largest circulation twice prior to the public meeting/hearing, and once to announce Location and Design Concept Acceptance (LDCA) at the end of the study.

**Public
Announcements:** In order to distribute PD&E phase information, fliers will be made available to organizations such as neighborhood/civic groups, the FDOT, and (name) County, to publish in existing newsletters and websites. Any such correspondence will be coordinated through the District's Public Information Office (PIO).

**Direct Mail List
For Public Hearings:** The following will be contacted by direct mail in order to obtain input throughout the project development process and/or in order to provide project information:

- ◆ Those whose property lies, in whole or part, within at least 300 feet on either side of the centerline of each project alternative (Section 339.155, F.S.), as well as other local citizens who may be impacted by the construction of this project. This portion of the mailing list will be based on the County Property Appraiser's tax rolls.
- ◆ Local elected and appointed public officials or individuals who request to be placed on the mailing list for this project.
- ◆ Public and private groups, organizations, agencies, or businesses that request to be placed on the mailing list for this project.

Techniques: **Local Advisory Group:** A local advisory group (or public advisory committee) will be selected with the assistance of local governments; composed of local citizens having an active role in the community, such as representatives from impacted/interested cities, counties, regional agencies, MPOs and committees, and neighborhood associations or other groups within the project area. This group will be organized at the beginning of the project to involve local participants for advisory purposes, especially on highly controversial or sensitive projects (See PD&E, Part 1, Chapter 11, Section 11.2.2). (optional)

Figure 11-4 Sample Public Involvement Plan (Page 7 of 11)

Presentations to Local Officials: Presentations will be given to local officials and agencies such as the MPO prior to the Public Information Meeting(s) and the public hearing to apprise local officials of the project status, specific location, and design concepts, and to receive their comments.

Public Information Meetings: (number) (#) public meeting(s) will be conducted, as required by the FDOT, to present the project and the conceptual project alternatives being considered, and to obtain comments from the general public. These meetings will be informal.

Public Hearing: A formal public hearing, as required by federal regulations and state law, will be held.

Informal Meetings: In addition to the scheduled public meetings, there will be (number) (#) additional meetings with the public, elected and appointed officials, public agencies, or civic groups. The purpose of these meetings will be to apprise the attendees of the project status, specific location, and design concepts, and to receive input.

Public Outreach Activity Schedule:

	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.
Advance Notification	★		Note: This is a sample project schedule. Adjust the months and tasks to pertain to a specific project.							
Newsletter #1	★									
Public Kick-off Meeting		★								
Corridor / Other Public Meeting				★						
Small Group Meetings										
Newsletter #2					★					
Alternatives Public Meeting						★				
Public Hearing								★		
LDCA Announcement										★

Figure 11-4 Sample Public Involvement Plan (Page 8 of 11)

VII. COORDINATION WITH _____ COUNTY

Copies of aerial maps depicting all alignment and design concepts under consideration, along with draft copies of engineering and environmental study documentation, will be furnished to the County Engineers, with their review and written comments solicited. Updated information will also be forwarded to the county(s) for review and comment prior to the scheduled public hearing.

VIII. PUBLIC HEARING

In compliance with the Project Development and Environment (PD&E) Manual, 23 CFR 771, and Section 339.155, F.S., a public hearing will be held.

Public Hearing Site: The public hearing will be held at an appropriate facility convenient to the study area.

Public Advertisement: An advertisement will appear in the _____ (name of newspaper) twice (at least 15 days and no more than 30 days) prior to the public hearing.

Name of Publication
Address

Phone Number

All advertisements will be sent to local newspapers via e-mail or by registered mail, return receipt requested.

In addition, an announcement of the public hearing will be published in the *Florida Administrative Register* at least 7 days prior to the public hearing. See Section 11.2.5.4.4 for instructions regarding FAR Ad submittal.

Figure 11-4 Sample Public Involvement Plan (Page 9 of 11)

Letters of Invitation:	Letters will be mailed to all property owners as required by Section 339.155, F.S., and to local elected and appointed government officials notifying them of the upcoming public hearing. Notices may be hand-delivered to residences and businesses located directly along the project corridor as deemed necessary by the FDOT.
Hearing Preparation:	Slide presentations and/or video presentations, project corridor aerial maps, graphics, and handouts will be prepared to supplement the oral public hearing presentation.
Transcript:	A verbatim transcript of the public hearing will be compiled to include written comments received at the hearing and written comments received within the established comment period after the hearing. All public hearing documentation (handouts, presentation, graphics, etc.) will be included with the transcript. The transcript will include a script of the recorded presentation, if applicable.
Documents for Public Review:	All draft documents to support PD&E studies evaluation will be available for public review at least 21 calendar days prior to the public hearing date.
Locations of Documents for Public Review:	<p>Public notice will be provided in the public hearing advertisement and by mailed invitational letters as to where the study documents are located for public review.</p> <p>Suggested public review sites are:</p> <ul style="list-style-type: none">◆ County Libraries◆ District Offices◆ County Offices◆ City Offices
Title VI and Related Statutes:	Information about the Title VI Program will be provided in the presentation, by handout, signage, and through availability of personnel, on the Title VI Program and the Relocation Assistance Program.
Americans with Disabilities Act Compliance:	Notification of the Department's intent to comply with the Americans with Disabilities Act will be provided in the public advertisements for the public hearing, in invitational letters to property owners/tenants and local officials, in handouts, and by selection of a public hearing site that meets ADA requirements.

Figure 11-4 Sample Public Involvement Plan (Page 10 of 11)

IX. PUBLIC HEARING FOLLOW-UP

The following procedures will occur after the public hearing.

Responses: Responses to letters received as a result of the hearing and questions and comments not answered at the public hearing will be made in writing.

Recommendation

Notice: A legal notice announcing the Office of Environmental Management's (OEM's) approval of the final document and recommendations will be published in the (Name of Local Publication) newspaper. In addition, press releases detailing the Department's recommendations will be provided to local media.

Public Hearing

Transcript Package:

A Transcript Package will be produced and submitted following the public hearing. The Transcript Package will include a verbatim hearing transcript prepared by an approved court reporter, an errata sheet detailing any transcript discrepancies, a copy of correspondence received by the Department as part of the public hearing record, and affidavits of publication for newspaper ads advertising the hearing.

Public Involvement Summary:

A public involvement summary will be produced and submitted at the conclusion of the study, containing, at a minimum, documentation regarding public participation performed throughout the study period. This summary will include comments and responses received from the public, as well as Advance Notification, coordination with local officials and agencies, and public meetings; the verbatim transcript from the public hearing; proof of publication of ads; sign-in sheets; public hearing certification by the Project Manager (Moderator); and public comments.

X. PUBLIC INVOLVEMENT DURING DESIGN

To the extent public involvement activities are necessary in the Design phase, the Design Project Manager will be responsible for coordinating any such activities.

Figure 11-4 Sample Public Involvement Plan (Page 11 of 11)



Florida Department of Transportation

GOVERNOR

District Address
District City, State and Zip Code

SECRETARY

PRESS RELEASE

FOR IMMEDIATE RELEASE: _____ Date _____
PROJECT CONTACT: _____ (Name) _____
_____ (Phone Number) _____

PUBLIC MEETING/PUBLIC HEARING NOTICE

The Florida Department of Transportation (FDOT) District ___ Office has scheduled a public hearing regarding proposed improvements to _____ from _____ to _____ in _____ County, Florida. The hearing is scheduled for (day of week), (month) (date), (year), at (meeting location) from to _____. The hearing will begin as an informal open house, with a formal presentation at _____ followed by a comment period.

This hearing is being held to allow interested persons an opportunity to be informed and provide comments concerning the location; conceptual design; and social, economic, and environmental effects of the proposed project to (name of project). The proposed project consists of improving [the roadway capacity to meet future travel demand, improving existing drainage and bridge deficiencies, constructing a sidewalk, and improving safety (select or add items pertaining to a specific project)].

The _____ (Environmental Document type), along with other pertinent information developed by the Department, will be available for public review on weekdays from _____, 20__ through _____, 20__, at (name of facility), _____ (address) _____, (City/State) _____. These materials will also be available at the hearing site from _ p.m. until the end of the hearing. Persons desiring to submit written comments in place of or in addition to oral statements, may do so at the hearing or by sending them to _____ at FDOT District __, (FDOT address) _____. All comments postmarked no later than (10 days after hearing), 20__ will become a part of the public hearing record.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact _____ at _____ at least seven days prior to the meeting.

Figure 11-5 Sample Press Release



PUBLIC MEETING ANNOUNCEMENT

Project Name

Project Limits

_____ County, Florida

Financial Management Number #

Federal Aid Project ID #

Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation (FDOT), District (District number), will conduct an Public Meeting for (name of facility) from _____ to _____ in _____ County, Florida. The meeting will be held on (day of week), (date), from (time) to (time), at (location and street address). The meeting will be an open house with representatives from the FDOT available to answer questions. There will be **[no formal presentation OR a brief informational presentation at (time)]**. Maps, drawings and other information will be available.

The project's primary objective is to provide continuous dedicated bike lanes on both sides of NW 19th Street between SR 7 and Powerline Road. From SR 7 to NW 29th Avenue and from NW 24th Avenue to NW 15th Avenue, 4-foot-wide bike lanes will be provided by reducing the width of the traffic lanes; existing 12-foot-wide lanes will be reduced to 10-foot-wide via pavement milling, resurfacing, restriping, and isolated widening. From 29th Avenue to NW 24th Avenue and from NW 15th Avenue to Powerline Road, 5-foot-wide bike lanes with 3-foot-wide buffers will be provided by converting the outside traffic lane to a buffered bike lane through pavement milling, resurfacing, and restriping. In addition, this project will also retrofit a number of existing curb ramps to meet current Americans with Disabilities Act (ADA) requirements, upgrade bicycle signing and pavement markings, and install new pedestrian countdown signals at all signalized intersections.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act (ADA) or persons who require translation services (free of charge) should contact _____, at least seven (7) days prior to the public hearing at (phone #). Email: name@dot.state.fl.us.

For more information, please visit our website at www._____.com

Figure 11-6 Sample Public Meeting Notice

PUBLIC MEETING FACILITY CHECKLIST

Project Name: _____ Project Number: _____
 Facility Name: _____ Phone Number: _____
 Facility Address: _____ Contact Name: _____
 _____ Date of Visit: _____
 _____ Time of Visit: _____

Facility Information	Notes/Information	✓
Meeting Room Dimensions		
Capacity Number		
ADA Compatible: Wheelchair Access Ramps Parking		
Sound System: Microphone Speakers Podium		
Audiovisual Equipment Available: Screen Projector Projector Table		
Room Layout (Draw Sketch): Wall Space Available Location of Doors, Windows Room for Display Boards Stage Presentation Area		
Number of Chairs Needed		
Number of Tables Needed		
Janitor Service/Self Service		
Fees: Facility Rental Fee Janitorial Fee Other		
Available Parking		
Access to Meeting Room from Parking Lot		

Figure 11-7 Sample Public Meeting Facility Checklist




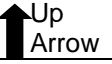
Facility Information	Notes/Information	✓
Number of Directional Signs Needed (Outside)	 Right Arrow  Left Arrow  Down Arrow  Up Arrow Double Sided Welcome Sign	
Restroom Facilities: Location from Meeting Room ADA Accessibility		
Food/Beverage Allowed? Soft Drink Dispenser Water Fountain Trash Containers		
Electrical Outlets: Number/Locations Extension Cords Needed		
Special Instructions: Lights Thermostat Lock-Up Other		
Insurance Needed:		
Facility Agreement Needed:		
Facility Schedule/Conflicts: Other Meetings/Activities Split Use/Exclusive Use		
Overall Site Security: Lighting Fire Exits		
General Notes		

Figure 11-7 Sample Public Meeting Facility Checklist (Page 2 of 3)

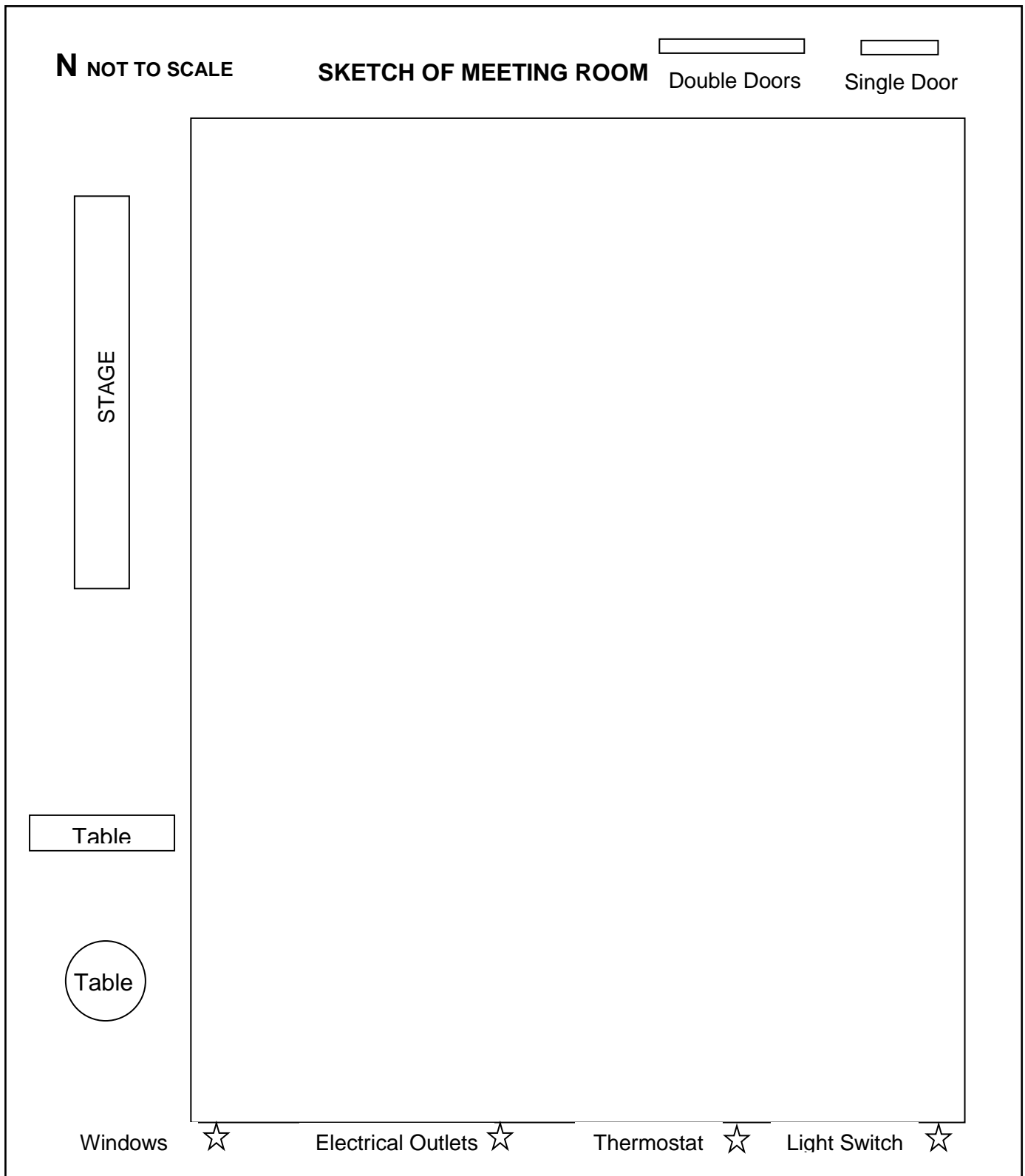


Figure 11-7 Sample Public Meeting Facility Checklist (Page 3 of 3)



Florida Department of Transportation

GOVERNOR

District Address
District City, State and Zip Code

SECRETARY

Date

Name
Position
Agency
Address
City, State Zip Code

Subject: Project Name _____
Project Limits _____
County/State _____
Financial Management Number: _____
Federal Aid Project Number: _____
ETDM Number: _____

Dear Mr./Ms. Last Name:

The Florida Department of Transportation (FDOT) District x is preparing an Environmental Impact Statement (EIS) on the above-referenced project. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT. This letter is an invitation for your agency to attend a scoping meeting.

The purpose of this scoping meeting is to:

1. Determine the scope and significance of issues and the degree of analysis required for the EIS. This will also include identification of the range of alternatives and potential impacts to be evaluated.
2. Identify issues that are not significant or have been covered by prior environmental studies, and eliminate them from detailed study. This would narrow discussion in the EIS to a brief description of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.
3. Allocate assignments for sections of the EIS among FDOT and cooperating agencies, with FDOT retaining responsibility for the EIS preparation.
4. Identify any environmental assessments or impact statements that are being prepared and are related to, but not part of, the scope of the EIS under consideration.

Figure 11-8 Sample Scoping Meeting Invitational Letter

5. Identify other environmental review and consultation requirements so FDOT and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the EIS. Examples of additional requirements include surveys and studies required by the National Historic Preservation Act and the Endangered Species Act.
6. Identify permits, licenses, or entitlements that will be necessary.
7. Determine the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

(name of consultant firm) of _____ (City/State), has been retained by the Florida Department of Transportation to develop the conceptual design features for the proposed project and an EIS.

The scoping meeting will be held on _____ (day of week), _____ (month), _____ (date), 20____ from _____ (time) to _____ (time) at _____ (street address) _____.

The proposed improvements would involve _____ (project description) for _____ (project name and project limits).

Alternatives currently under consideration include:

1. Taking no action;
2. Widening to a _____;
3. Widening to a _____; and
4. Alternate corridors.

The study also includes consideration for _____.

(Additional project description - e.g., *The project may be an influencing factor for an increased rate of development in an area containing transitional wetlands. It may affect pedestrian safety and have an economic effect on existing commercial property that may be displaced or lose parking spaces.*)

This formal scoping meeting is necessary to aid the Department in project development and to increase interagency awareness of concerns. An agenda and project location map are enclosed to assist you in studying this project and outlining potential issues. If you have any questions prior to the meeting, please contact: _____ (FDOT Project Manager's name) _____ (District address) or _____ (consultant Project Manager's name) _____ (consultant's address).

Your agency's participation and cooperation in this preliminary issues identification effort are encouraged, and the Department would appreciate being notified by _____ (date) whether your agency will attend this meeting.

Sincerely,

District Environmental Management Engineer

xx/xx
Enclosures

Figure 11-8 Sample Scoping Meeting Invitational Letter (Page 2 of 3)

Scoping Meeting Suggested Invitation Mailing List

Early agency coordination and involvement are part of the Efficient Transportation Decision Making (ETDM) process. Review the ETDM Public Access Site at <http://etdmpub.fl-a-etat.org> to help determine which agencies have already been contacted regarding a specific project. Include those agencies and others as necessary:

Florida Department of Agriculture - Division of Forestry

Florida Department of Economic Opportunity

Florida Department of Environmental Protection (FDEP) - Branch Office

Florida Department of Environmental Protection (FDEP) - District Office

Florida Department of Environmental Protection (FDEP) - Office of Environmental Services-

Florida Department of Environmental Protection (FDEP) - Land Management Advisory Council

Florida Department of Environmental Protection (FDEP) - Office of Greenways and Trails

Florida Department of State - State Historic Preservation Officer

Florida Fish and Wildlife Conservation Commission (FFWCC) - Division of Marine Fisheries

Florida Fish and Wildlife Conservation Commission (FFWCC) - Office of Environmental Services

Florida Fish and Wildlife Conservation Commission (FFWCC) - Regional Office

National Oceanic and Atmospheric Administration (NOAA) - National Marine Fisheries Services (NMFS) Regional Office

U.S. Army Corps of Engineers (USACE) - Branch and Permits Section

U.S. Coast Guard - District

U.S. Department of the Interior - Bureau of Indian Affairs

U.S. Department of the Interior - Bureau of Land Management

U.S. Department of the Interior - Fish and Wildlife Service (USFWS)

U.S. Environmental Protection Agency (USEPA) - Ecological Review Branch

U.S. Forestry Service

Water Management District (for project location)

Figure 11-8 Sample Scoping Meeting Invitational Letter (Page 3 of 3)

TITLES AND SALUTATIONS			
Title	Address on Envelope	Salutation in Letter	Close
U.S. Senator	The Honorable (full name) United States Senate Address	Dear Senator (last name)	Sincerely or Respectfully yours
U.S. Representative	The Honorable (full name) House of Representatives Address	Dear Congressman/Congresswoman (last name)	Sincerely or Respectfully yours
Governor	The Honorable (full name) Governor of (State) Address	Dear Governor (last name)	Sincerely or Respectfully yours
State Senator	The Honorable (full name) Florida Senate Address	Dear Senator (last name)	Sincerely or Respectfully yours
State Representative	The Honorable (full name) House of Representatives Address	Dear Representative (last name)	Sincerely or Respectfully yours
Chairman City/County Commission/Council	The Honorable (full name), Chairman (City/County) Commission/Council Address	Dear Chairman/Chairwoman/Chairperson (last name)	Sincerely or Respectfully yours
Commissioner City/County	The Honorable (full name) (City/County) Commissioner Address	Dear Commissioner (last name)	Sincerely or Very truly yours
Mayor	The Honorable (full name), Mayor City of _____ Address	Dear Mayor (last name)	Sincerely or Very truly yours
Rear Admiral	Rear Admiral (name), U.S. Coast Guard (number) Division Address	Dear Admiral (last name)	Sincerely or Respectfully yours

Figure 11-9 List of Titles and Salutations



Florida Department of Transportation

GOVERNOR

District Address
District City, State and Zip Code

SECRETARY

Date

(Mr./Ms./The Honorable) First Name Last Name, Suffix
Position/Title
Address
City, State Zip Code

SUBJECT: Kick-off Meetings
Name of Project
Project Limits
County/State
Financial Management Number
Federal-Aid Project Number

Dear (Salutation - see Figure 11.9 for proper salutations):

The Florida Department of Transportation (FDOT), District ____, has scheduled both an Elected Officials/Agencies Kick-off Meeting and Public Kick-off Meeting to discuss the (name of project) from (begin limit) to (end limit) in _____ County, Florida. The study will consider (describe proposed improvements).

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The Elected Officials/Agencies Kick-off Meeting is scheduled for (date), from (time) to (time) at (location and address).

This Elected Officials/Agencies Kick-off Meeting is an opportunity to provide you with a short presentation of the proposed project, including potential improvements as well as social, environmental and economic effects, followed by a question and answer session.

Figure 11-10 Sample Officials/Agencies Kick-off Meeting Invitation

The Public Kick-off Meeting is scheduled on the same day and at the same location as the Elected Officials/Agencies Kick-off Meeting, but will be held from (time) to (time). This meeting will be conducted as an informal, open house with a brief presentation at (time). The open house setting will provide a more relaxed opportunity for the public to learn about the project, become familiar with the study process, and provide initial feedback. Enclosed is a copy of the notice for the Public Kick-off Meeting.

If you would like further information about this project, please contact (name) at (phone) or by email at name@dot.state.fl.us. You may also visit the project website at www._____.com.

Sincerely,

District Environmental
Manager or Designee

Enclosure

Figure 11-10 Sample Officials/Agencies Kick-off Meeting Invitation (Page 2 of 2)

PUBLIC HEARING PLANNING CHECKLIST - Project Name: _____ Public Hearing Date: _____

Task	Person Resp.	Target Start	Target Complete	Date Complete	Comments
Meeting Facility					
Identify Public Hearing Facility					Ensure ADA compliant
Reserve/Confirm Public Hearing Facility					
Send Letter of Reservation/Confirmation to Facility					
Newspaper Ads - Two (2) 1/4 Page Size and Press Release					
Draft Newspaper Ad and Press Release					Newspaper Ads: PUBLISH TWICE First Notice at least 15 days but not more than 30 days prior to Public Hearing When needed, Second Notice 7-12 days prior to Public Hearing
Submit Draft Ad and Press Release to Consultant PM for Review					
Consultant PM Review of Draft Ad and Press Release					
Submit Draft AD and Press Release to FDOT for Review					
FDOT Review of Draft Ad and Press Release					
Final Revisions to Ad and Press Release					
Submit Ad to Newspaper (Send by E-mail or Return Receipt Requested)					
First print date at least 15 calendar days prior to Hearing					
Second print date 7 to 12 calendar days prior to Hearing					
Fax Press Release to Media 5 Days Prior to Hearing					
Obtain Affidavit of Publication from Newspaper - Forward to FDOT					
FAR AD (Publish Not Less Than 7 Days Prior to Hearing)					
Draft Florida Administrative Register Ad					FAR Ad FAR notice to be printed no less than 7 calendar days prior to Hearing
Submit Draft FAR Ad to Consultant PM for Review					
PM Review of Draft FAR Ad					
Make PM Revisions to FAR Ad					
Submit Draft FAR Ad to FDOT for Review					
FDOT Review of Draft FAR Ad					
Final Revisions to FAR Ad					
Submit FAR Ad to District PIO to be Received:					
FAR Ad to FAR - to be Received on or Before 12:00 p.m. on:					
Mailing Lists					
Update Mailing List for Elected/Appointed Officials and Agencies					Public Mailing Lists Update to include any new elections/appointments and new property owners
Update Property Owners/Tenants/Interested Citizens Mailing List(s)					
Submit Mailing Lists to PM for Review					
PM Review of Mailing Lists					
Make Consultant PM Revisions to Mailing Lists					
Submit Mailing Lists to FDOT for Review					
FDOT Review of Mailing Lists					
Make Final Revisions to Mailing Lists					
Letters to Elected/Appointed Officials and Agencies					
Draft Letter to Officials and Agencies					Letters to Elected/Appointed Officials and Agencies Officials/Agencies to receive notification at least 25 days but no more than 30 calendar days prior to Public Hearing
Submit Draft Letter to Consultant PM for Review					
PM Review of Draft Letter					
Make PM Revisions to Draft Letter					
Submit Draft Letter to FDOT for Review					
FDOT Review of Draft Letter					
Make Final Revisions to Letter and Merge with Officials Mailing List					
Send Letters to FDOT EMO for Signature					
Letters to be Mailed No Later Than:					
Newsletters (or Letter) to be Sent to Property Owners					

Draft Newsletter (or Letter)					<p>Newsletter (or Letter) to Property Owners</p> <p>Property Owners to receive notification no less than 20 calendar days prior to Public Hearing</p>
Submit Draft Newsletter to PM for Review					
PM Review of Draft Newsletter					
Make PM Revisions to Draft Newsletter					
Submit Draft Newsletter to FDOT for Review					
FDOT Review of Draft Newsletter					
Make Final FDOT Revisions to Newsletter					
Prepare Newsletter for Distribution - Print, Fold, Address, Stamp					
Locations for Documents to be Available for Public Review					
Facility Name/Address					<p>Documents to be available for public review 21 days prior to the Public Hearing</p>
Facility Name/Address					
Facility Name/Address					
Facility Name/Address					
Presentation/Hearing Materials					
Engage Court Reporter for Public Hearing					<p>Meeting materials should be prepared well in advance of the Public Hearing to allow for reviews and revisions</p>
Prepare PowerPoint or Video Presentation					
Prepare Narration Script and Moderator's Script					
Sign-in Sheets					
Comment Forms					
Project Facts Sheet (for Team Members)					
Handouts and/or Brochures					
Speaker Cards					
List of Project Team Attendees and Name Tags					
Table Signs					
Directional Signs (outdoor/indoor)					
Welcome Sign					
Title VI Display Board and Complaint Forms					
Roadway Profiles and/or Typical Sections					
Comparative Evaluation Matrix					
Aerial Photograph Display Boards					
Submit Draft Hearing Materials to PM for Review					<p>Preparations for Briefing with FDOT</p>
PM Review of Meeting Materials					
PM Revisions to Meeting Materials					
First Briefing Meeting with FDOT - Public Hearing Preparation Review					<p>First Briefing Meeting with FDOT</p>
FDOT Review of Hearing Materials					
FDOT Revisions to Hearing Materials					
Second Briefing Meeting with FDOT					<p>Finalize Materials in Preparation for Public Hearing</p>
Finalize Materials for Public Hearing					
Post Public Hearing Activities and Tasks					
Obtain Hearing Transcript from Court Reporter					
Review Transcript and Prepare Errata if Necessary					
Prepare Transcript Certification Form					
Review and Revisions to Errata and Certification Form					
Submit Transcript, Errata, and Certification to FDOT for Signature					
Public Involvement Summary					
Prepare Public Involvement Summary containing transcript, errata, and signed certification, as well as documentation for all public involvement activities conducted throughout the project.					<p>Public involvement activities may be summarized in the environmental document. Environmental Document. Method used for documentation should be provided within the Public Involvement Plan.</p>
Submit Public Involvement Summary to PM for Review					
Consultant PM Review of Public Involvement Summary					
Consultant PM Revisions to Public Involvement Summary					
Submit Public Involvement Summary to FDOT for Review					

Location and Design Concept Acceptance (LDCA) Newspaper Ad and Press Release				
Prepare LDCA Announcement and Press Release and have PM Review				
Make LDCA Announcement and Press Release Revisions and Submit to FDOT				
Finalize LDCA Announcement and Submit to Local Newspaper				
Finalize Press Release and Submit to FDOT for Media Notification				
Obtain Affidavit of Publication from Local Newspaper - Forward to FDOT				

Publish LDCA Announcement after receiving OEM acceptance

Figure 11-11 Public Hearing Planning Checklist

Public Notice Type	Statute/Laws	Federal/State Requirements	FDOT Timeframes	Justification
Florida Administrative Register Ad	Section 120.525, F.S.	7 days	7 days	FDOT's FAR ad requirement is consistent with Chapter 120, F.S.
Newspaper Ads	Section 339.155, F.S.	Published Twice 1 st – 15-30 days 2 nd – Not Specified	Published Twice 1 st – 15-30 days 2 nd – 7-12 days (when needed)	the first newspaper ad should coincide with the time frame of the property owner notification, as well as when project documents will be available for public review.
Officials and Agencies	Section 339.155, F.S.	Not Specified	25-30 days	notification to officials and agencies should be prior to notification to property owners so that they can obtain additional project information to prepare for any questions they might receive from the public.
Property Owners	Section 339.155, F.S.	20 days	21 days	property owner notification is consistent with the time frame when project documents will be available for public review. It also coincides with the first newspaper ad.

Figure 11-12 Public Hearing Notice Requirements

**Notice of Meeting/Workshop Hearing
DEPARTMENT OF TRANSPORTATION**

The Florida Department of Transportation, District XX

announces a (hearing, workshop, telephone conference call – Choose one) to which all persons are invited.

DATE AND TIME _____

PLACE _____

GENERAL SUBJECT MATTER TO BE CONSIDERED:

At the end include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

A copy of the agenda may be obtained by contacting:

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least _____ (days, hours – choose one) before the workshop/meeting by contacting:

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

_____ If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, that person will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact:

Figure 11-13 Sample Florida Administrative Register Ad Form
www.flrules.org/agency/login.asp



**P Name of Project
Project Limits
County, Florida**

Financial Management #
Federal Aid Project ID #
Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation (FDOT), District ____, will conduct a public hearing for the proposed improvements to (name of facility) from _____ to _____ in ____ County, Florida. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT. The public hearing will be held on (date) at (location and street address). The public hearing will begin as an open house at (time), with a formal presentation at (time), followed by a public comment period. The proposed improvements consist of (describe improvements).

This public hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. Draft project documents will be available for public review from (date) to (date) at the (location and address) and on the project website, www.____.com.

Persons wishing to submit statements, in place of or in addition to oral statements, may do so at the hearing or by sending them to (FDOT contact name and address) or at (email address). All statements postmarked on or before (end of 10-day comment period) will become part of the public hearing record.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act (ADA) or persons who require translation services (free of charge) should contact _____, at least seven (7) days prior to the public hearing at (phone #). Email: ____@dot.state.fl.us.

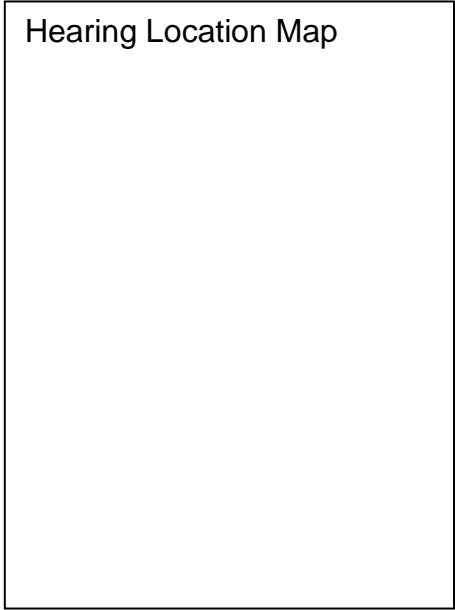


Figure 11-14 Sample Public Hearing Newspaper Display Ad



Florida Department of Transportation

GOVERNOR

District Address
City, State and Zip Code

SECRETARY

Date

(Mr./Ms./The Honorable) First Name Last Name, Suffix
Position/Title
Address
City, State Zip Code

SUBJECT: Public Hearing Announcement
Name of Project
Project Limits
County, State
Financial Management Number
Federal Aid Project Number
Efficient Transportation Decision Making (ETDM) Number

Dear (Salutation - see Figure 11.10 for proper salutations):

The Florida Department of Transportation (FDOT), District _____, will hold a public hearing for the above referenced project on (date) at (location and address). The hearing will begin as an open house at (time) with a formal presentation at (time). A copy of the newspaper ad, including a location map for the hearing is enclosed. Notices are being sent to all property owners and tenants located within at least 300 feet on either side of the proposed alignment and to other public officials, regulatory agencies, organizations, and individuals interested in the project. The hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

This hearing is being held as part of a current Project Development and Environment (PD&E) Study that is being conducted to evaluate proposed transportation solutions for this segment of (facility name) and to provide documented information necessary for FDOT to reach a decision on the type, design, and location of the improvements. The project is being developed to (describe what the project is trying to achieve – reduce congestion, enhance safety, achieve an acceptable level of service, etc.) while minimizing potential impacts to the natural and human environments.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact (name) at (phone #) or by email at name@dot.state.fl.us at least seven days prior to the hearing.

If you have questions about the project or scheduled public hearing, please contact the Project Manager, (name), at (phone #), or by email at name@dot.state.fl.us. You may also visit the project website at www._____.com.

Sincerely,

FDOT Contact

Enclosure

Figure 11-15 Sample Hearing Invitation Letter for Officials and Agencies



Florida Department of Transportation

GOVERNOR

District Address
City, State and Zip Code

SECRETARY

Date

SUBJECT: Public Hearing Announcement
 Name of Project
 Project Limits
 County, State
 Financial Management Number
 Federal Aid Project Number
 Efficient Transportation Decision Making (ETDM) Number

Dear Property Owner or Current Resident:

The Florida Department of Transportation (FDOT), District _____, will hold a public hearing for the above referenced project. The proposed improvements involve (name of project) from (begin limits) to (end limits), for a distance of _____ miles. The hearing will be held on (date) at (location and address). The hearing will begin as an open house at (time) with a formal presentation at (time). A location map of the hearing site is provided at the end of this letter.

This public hearing is being conducted to give interested persons an opportunity to express their views concerning the location, conceptual design, and social, economic, and environmental effects of the proposed improvements. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT. The project consists of (describe project improvements). The draft project documents and other information will be available for public review from (date) to (date) at (location and address) and on the project website (www._____.com).

Persons wishing to submit written statements, in place of or in addition to oral statements, may do so at the hearing or by sending them to (FDOT contact name and address) or by email at [name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us). All statements postmarked on or before (end of 10-day comment period) will become a part of the public hearing record.

This letter is being sent to all property owners and tenants within at least 300 feet of either side of the proposed project and to other public officials, regulatory agencies, organizations, and individuals interested in the project.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact (name) at (phone #) or by email at [name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us) at least seven days prior to the hearing.

If you have questions about the project or scheduled public hearing, please contact the Project Manager, (name), at (phone #), or by email at [name@dot.state.fl.us](mailto:_____.name@dot.state.fl.us). You may also visit the project website at www._____.com.

Sincerely,

District Environmental Management Engineer

Enclosure

Figure 11-16 Sample Hearing Invitation Letter for Property Owners



Project Name
Public Hearing/Meeting

Date _____
Financial Management No. _____

Comments

(Please print)

Contact Information (please print):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

If you require extra time, please forward comments by (end of 10-day comment period) to be included in the project record, to:

Contact Name
Florida Department of Transportation
Address
City, State Zip

Figure 11-17 Sample Comment Form

Speaker Request Card		Number <input type="checkbox"/>
<i>To be completed prior to making a recorded statement</i>		
PUBLIC HEARING - (date) ____, 20__		
_____ (project name)		
_____ (project limits)		
PLEASE PRINT:		
Name:	_____	
	First	Middle Last
Address:	_____	
	Street	

	City	State Zip code
Telephone:	_____	
Representing:	Self _____ Firm/Agency _____	
	Government Agency _____	
	Civic Organization _____	
	Homeowners Association _____	
	Other _____	

Figure 11-18 Sample Hearing Speaker Card

PUBLIC HEARING TRANSCRIPT CERTIFICATION

I hereby certify that on (date) _____, beginning at (time) _____ p.m., I presided over a Public Hearing for the following project:

(Project Name) _____

Project Development and Environment (PD&E) Study

from (Project Limits) _____

_____ County, Florida

Financial Management No.: _____

I further certify that the subject public hearing was conducted relative to the economic and social effects of the location and design concept for the subject project and its impact on the environment, that a transcript was made and the document attached herein is a full, true, and complete transcript of what was said at the hearing, and that the Florida Department of Transportation has considered the social, economic, and environmental effects of the proposed improvement and is of the opinion that it is properly located and should be constructed.

(Name)
FDOT Hearing Moderator

Date

Figure 11-19 Sample Public Hearing Transcript Certification

The FLORIDA DEPARTMENT OF TRANSPORTATION announces an opportunity for a public hearing. The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

PURPOSE: Notice is hereby given that interested persons may request a location and design concept public hearing for:

Project Name: _____
Type of Project: _____
Project Limits: _____
City/Town/County: _____, Florida
Financial Management Number: _____
Federal-Aid Project Number: _____
This Project Includes (Project Description):

This proposed project involves the use of properties protected under the National Historic Preservation Act of 1966. Persons interested in this project may review the approved Draft Section 4(f) Statement at the following Florida Department of Transportation Office: (if applicable)

Florida Department of Transportation District ____
Mailing Address
City, State Zip Code
Telephone Number

Persons interested in requesting a location and design concept public hearing should submit a request in writing to:

Florida Department of Transportation
District Environmental Management Engineer
Mailing Address
City, State Zip Code
E-Mail Address

The request should be postmarked no more than 21 days following the publication of this notice.

Figure 11-20 Sample Notice to Request a Public Hearing



**NOTICE OF
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**Name of Project
Project Limits
County, Florida**

Financial Management #
Federal Aid Project ID #
Efficient Transportation Decision Making (ETDM) #

The Florida Department of Transportation, District ____ has released a Final Environmental Impact Statement (FEIS) for the proposed improvements to (name of project) in ____ County, Florida.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried-out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The project consists of (provide a brief summary of the project and recommendations). The FEIS will be available for a 30 calendar-day review period effective (date) to (date), at (locations and address).

Persons wishing to submit written statements, may do so by sending them to (FDOT contact name and address).

All statements postmarked on or before (end of 30-day comment period date) will become a part of the project record.

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

(Include name, telephone number and email of contact person).

Figure 11-21 Sample Notice of Final Environmental Impact Statement



**ANNOUNCEMENT OF
LOCATION AND DESIGN CONCEPT ACCEPTANCE**

**Name of Project
Project Limits
County, Florida**

Financial Management #
Federal Aid Project ID #
Efficient Transportation Decision Making (ETDM) #

On (month/day), (Year), the Florida Department of Transportation (FDOT), pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT, granted Location and Design Concept Acceptance for the (name of project) from (begin limits) to (end limits). The proposed improvements consist of (describe improvements).

This project will now proceed to the next phase of development. For more information please contact:

FDOT Project Manager
Address
City, State Zip
Contact phone #

**Figure 11-22 Sample Location and Design Concept Acceptance
Announcement**

PART 1, CHAPTER 12

ENVIRONMENTAL PERMITS

TABLE OF CONTENTS

12.1	OVERVIEW	12-1
12.1.1	District Roles and Responsibilities.....	12-2
12.1.2	Definitions.....	12-3
12.2	PERMITTING AGENCIES AND ENVIRONMENTAL REGULATIONS	12-7
12.2.1	Federal Permitting	12-10
12.2.1.1	United States Army Corps of Engineers.....	12-11
12.2.1.2	United States Coast Guard	12-15
12.2.2	State Permitting	12-16
12.2.2.1	Environmental Resource Permitting.....	12-17
12.2.2.2	State-owned Submerged Lands Authorizations	12-19
12.2.2.3	National Pollutant Discharge Elimination System	12-20
12.2.2.4	Coastal Zone Management Act Consistency	12-21
12.2.2.5	Right of Way Occupancy Permit	12-21
12.2.2.6	Coastal Construction Control Line.....	12-21
12.2.2.7	Consumptive Water Use Permits	12-22
12.2.2.8	Class V Stormwater Well Permits	12-22
12.2.3	Federal and State Protected Species Permits	12-23
12.2.3.1	American Bald Eagle.....	12-24
12.2.3.2	Florida Burrowing Owl.....	12-25
12.2.3.3	Osprey	12-26

12.2.3.4 Gopher Tortoise	12-26
12.3 PROCEDURE	12-28
12.3.1 Projects Not Qualifying for Screening	12-28
12.3.2 Projects Qualifying for Screening	12-29
12.3.2.1 Planning Screen.....	12-29
12.3.2.2 Programming Screen	12-29
12.3.3 Project Development and Environment Phase	12-30
12.3.3.1 Preparation for Permitting during PD&E.....	12-30
12.3.4 Re-evaluation	12-34
12.3.5 Design and Permitting	12-34
12.3.5.1 Finalize Mitigation	12-35
12.3.5.2 Permitting Process	12-36
12.3.6 Construction	12-43
12.3.6.1 Permit Compliance.....	12-43
12.4 REFERENCES	12-44
12.5 FORMS.....	12-50
12.6 HISTORY.....	12-51

LIST OF TABLES

Table 12-1 Legislation Related to Environmental Permitting.....	12-52
Table 12-2 Federal Permit Types.....	12-55
Table 12-3 State Permit Types.....	12-56
Table 12-4 Listed Wildlife Permit Types.....	12-57

LIST OF FIGURES

Figure 12-1 Federal Permitting Information Sources.....	12-58
Figure 12-2 State Permitting Information Sources	12-60
Figure 12-3 Protected Wildlife Permitting Information Sources	12-63
Figure 12-4 Typical Permitting Process.....	12-66
Figure 12-5 Permit Transmittal Memorandum.....	12-67

PART 1, CHAPTER 12

ENVIRONMENTAL PERMITS

12.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter details the environmental permits that may be required for transportation projects as well as coordination required with regulatory agencies and within the FDOT from project planning through construction and maintenance. The need to obtain an environmental permit for a transportation project is dictated by the project's impact on a protected resource. [Table 12-1](#) identifies the major federal and state laws, and agency rules and policies associated with environmental permits. It is not meant to be all inclusive. 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 ultimately identifies the alternative to be designed. Resource impacts are evaluated, mitigation options are considered, and commitments may be made with regulatory/resource agencies. Information gathered during PD&E can be used in 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 60% plan/design completion), but can be advanced in the PD&E phase if enough detailed information regarding project and resource impacts is available. In order to prepare for and efficiently navigate the permitting process, a project should be designed to include features, such as mitigation, that would assure regulatory agencies that the project would not result in

unacceptable impacts to environmental resources under their purview. After FDOT meets the regulatory agency's permitting criteria, the permit is issued. Guidance on the permitting process in Design 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](#).

12.1.1 District Roles and Responsibilities

The District ETDM Coordinator screens qualifying projects in the Environmental Screening Tool (EST) and provides agency comments to the PD&E Project Manager and Permit Coordinator. See the [ETDM Manual, Topic No. 650-000-002](#) for details on ETDM Coordinator and Permit Coordinator responsibilities during ETDM.

The FDOT Environmental Office prepares the appropriate Environmental Document and supporting technical reports and must ensure that these documents are available to the PD&E Project Manager and the District Permit Coordinator.

The Permit Coordinator is ultimately responsible for obtaining the necessary project permits. They are also tasked with coordinating with Environmental Office staff during PD&E, reviewing the Environmental Document and applicable technical reports, coordinating with resource agencies during project permitting, and coordinating with Construction later in the project as necessary. The responsibilities of the Permit 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 Permit Coordinator.

Design Project Managers in coordination with the District Drainage Engineer and Permit Coordinator ensure that permits are obtained in accordance with the project schedule and the project design incorporates appropriate environmental commitments.

The Construction Project Administrator is responsible for compliance during the Construction phase. For more information on the responsibilities of the Construction Project Administrator, please see [Section 8.2, Environmental Permit Compliance](#) of the [Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000](#).

12.1.2 Definitions

The definitions below are used throughout this chapter.

As-Built Drawings - Plans certified by a registered professional engineer that accurately represent the constructed condition of a project, including identifying any substantial deviations from the permitted design. See **Rule 62-330.310(4)(a)1, Florida Administrative Code**.

Coastal Zone Management Act Consistency Determination - A finding that an activity that affects land or water uses or natural resources in a state's coastal zone is in compliance, or not in compliance, with that state's federally-approved Coastal Management Program. See **33 Code of Federal Regulations (CFR) § 330.4(d)(1)** and **33 CFR § 325.2(b)(2)**.

Compensatory Mitigation (federal definition) - The restoration, establishment, enhancement, or protection/maintenance of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization have been achieved via the mandatory federal mitigation sequence process. See **33 CFR § 332.2**.

Critical Habitat - For federally listed species 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 § 3 (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 bidding.

Direct Impact - Project impacts to environmental resources, water quality, water quantity, protected species or cultural/historical resources caused by the action within FDOT Right of Way (ROW).

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)** for the complete definition of this term.

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), Florida Statutes**.

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 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), Florida Statutes**. See **Section 373.403(14), Florida Statutes**.

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 **Chapter 68A-27, Florida Administrative Code**.

Indirect Impact - Those impacts caused by the authorized activity that are not considered direct, and are later in time or farther removed in distance but are still reasonably foreseeable. The terms “indirect” and “secondary” are used interchangeably.

Local Agency Program (LAP) - A program where towns, cities and counties develop, design, and construct transportation facilities with federal funds with oversight conducted by FDOT.

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.

Mitigation Sequence - A mandatory 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**.

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 soils. See **Volume 1** of the state **Applicant’s Handbook**.

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 - The State of Florida acquired title to sovereignty submerged lands 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. 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 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 of Mexico, 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.**"

- **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** - Actions 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 (**Chapter 68A-27, F.A.C.**).

- The term "**harm**" in the definition of take means 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.
- The term "**harass**" in the definition of take means 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 - Defines "take" to mean 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" [*U.S. Fish and Wildlife Service (USFWS) 2007b*]. The *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), Florida Administrative Code*.

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.

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), Florida Statutes*.

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 specific 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 adverse to the resources (i.e. wildlife, habitat, cultural)

under their purview. Also, for protected species impacts a specific species permit may be required.

Below is a list of agencies FDOT typically coordinates with throughout the permitting process. More details on the permitting agencies can be found in [Section 12.2.1](#).

Federal Agencies

The U.S. Army Corps of Engineers (USACE) has the authority to issue permits for activities involving the discharge of dredge and fill materials into waters of the United States, including wetlands.

The U.S. Coast Guard (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. These agencies act as lead permitting agencies for **Section 10** permitting under the **ESA**.

The Advisory Council on Historic Preservation (the Council) 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** 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. In the case of projects occurring 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 the State's five Water

Management Districts (WMDs) and specified local governments. FDEP continues to implement the National Pollution Discharge Elimination System (NPDES) and Coastal Construction Control Line (CCCL) permitting programs. The permitting responsibilities of each agency is detailed in the FDEP and WMD agency operating agreements.

The five WMDs are: Northwest Florida, Suwannee River, St. Johns River, South Florida, and Southwest Florida. 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. 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 Division of Historical Resources (DHR) at the Department of State serves as the SHPO for the State of Florida. The DHR 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**.

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**.

Section 335.02(4), F.S., provides that FDOT is not subject to county, municipal, or special district regulations for projects on the 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 that 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 federal **Source Book (USACE, 2014)** and in the state **Applicants Handbook, Volume I (FDEP, 2015a)**, 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 use certain species-specific “effect” determination keys in order to assess the degree of effect a given project may have on a federally protected species. These keys, and supplemental protected species information, can be found at web links provided in [Figure 12-3](#).

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 handled by multiple federal agencies under various regulatory authorities. They are typically required for proposed impacts to jurisdictional wetlands and other surface waters, or 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](#) provides the federal permit types that are often needed from these regulatory agencies. See [Section 12.2.3](#) for federal species permit information.

The USACE is the Lead Federal Agency when a given activity involves dredge and fill in Waters of the United States in accordance with **Section 404** of the **Clean Water Act (CWA)** and **Section 10** 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.

If a project involves a bridge over navigable waters of the U.S., the USCG is the Lead Federal Agency or may serve as a Cooperating Agency 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 the Lead Federal Agency, either the USACE or USCG must prepare a **NEPA** document in support of their **NEPA** action (permit). If either agency participates as a Cooperating Agency in a FDOT **NEPA** study, they may adopt the study as their own, or they may use it to develop their own **NEPA** study. It is important to coordinate early in the **NEPA** study with the USACE or USCG to confirm that the FDOT **NEPA** document, or a State Environmental Impact Report (SEIR), will meet the Cooperating Agency’s **NEPA** requirements.

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. 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 nexus (i.e., if a federal wetland permit is not required), when an action has the potential to 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 lead or cooperating agencies for a given federal action, the issuance of federal permits requires coordination with resource agencies. If a given 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 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.

Additionally, the USACE, USCG or USFWS acting as the permit issuing agency is 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 Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by **Section 106** is outlined in regulations issued by ACHP ([Part 2, Chapter 8, Archaeological and Historic Resources](#)).

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 waters of the United States, 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. If impacts are unavoidable, that their adverse effects on the resource have been minimized, and
- c. That compensation (i.e., wetland or listed wildlife mitigation) will be provided for all remaining unavoidable impacts such that there is no net loss of wetland function as a result of 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, 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. **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 be able to be executed without review by or approval of the USACE. However, it is recommended to submit an application package to the USACE as if applying for a higher level permit 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. 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 in writing as early as possible prior to commencing the proposed activity. 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** in order to modify, suspend, or revoke the NWP authorization.

Both the NWP, and the General Conditions required in PCN, are itemized in the **Federal Register (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**. NWP are reviewed and 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 and No. 15 USCG Approved Bridges.

2. **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 or suspended. Regional General Permit **SAJ-92** may be applicable to FDOT and Florida's Turnpike Enterprise (FTE) project's with identified impact thresholds (i.e., including, but not limited to, fewer than five acres of non-tidal waters of the United States impacts for any one-mile segment, up to a maximum of 50 acres, where USFWS concurrence is received in advance of the federal approval under SAJ-92). This regional general permit is limited to projects that have been reviewed through the FDOT's ETDM and/or PD&E processes. The USACE's **Source Book**, included by reference in **[Figure 12-1](#)**, or the current approved version of **SAJ-92**, should be reviewed for an entire listing of required thresholds in order for a project to qualify under this general permit. The remainder of the General Permits are not typically applicable to FDOT projects.
3. **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](#)**.
4. **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 wildlife agencies and complete a public interest evaluation as outlined in **33 Code of Federal Regulations (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.

5. **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 Letter of Permission. See **33 CFR § 325.2** for more information on the Standard Permit.

[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 information 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 **Engineer Circular 1165-2-216, Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408 (USACE, 2015b)**. **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 ordinances. Like traditional federal **Section 10/404** permitting, insufficient supporting documentation may result in requests for additional information until the file is deemed complete by USACE. The **NEPA** process is set forth in **40 CFR §§ 1500-1508** and 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 in order 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 USACE will determine whether the **Section 408** review can be conducted at the District level in Jacksonville or whether the review would need to be elevated to USACE Headquarters in Atlanta, Georgia. 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. As a general rule, 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, once it is made. 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.

The USCG has only one permit type, a bridge permit. A 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).

Modification of existing bridges to add bicycle paths, sidewalks, or non-capacity features, even if it causes widening of the existing bridge, results in the need for a minor deviation. Minor deviations are not permits, but they must be reviewed and approved by the USCG.

The USCG consults with and obtains comments from state and federal agencies with jurisdiction or special expertise concerning environmental or navigational impact involved. Such agencies include but are not limited to the NMFS, USFWS, FWC, WMD, SHPO, and EPA. Comments are generally obtained through direct coordination with affected agencies, responses to the public notice, and the Local Notice to Mariners.

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 years and five years, respectively, from the date of the permit issuance. Longer construction times can be requested and must be substantiated.

The applicant should contact the local USCG District Bridge Office when a project includes a plan to construct a new bridge or causeway or modify an existing bridge or causeway over a canal, channel, stream, river, lake, bay, or other body of water or waterway. If the applicant is uncertain whether a waterway is susceptible to improvement for navigation, is tidal, or is considered navigable, the USCG can be contacted to obtain information regarding a navigability determination. The District should contact the appropriate USCG representative. The USCG representative determines whether the waterway is navigable and jurisdictional and provides comments in the Environmental Screening Tool for qualifying projects or an email confirming the determination.

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 (logs, log rafts, kayaks, canoes, outboard John boats). In these scenarios 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. If there is a particular potential candidate "bridge/waterway crossing" the District should contact the USCG to initiate the evaluation process.

[Figure 12-1](#) provides links 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.

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 for FDOT projects. WMDs issue ERPs for most FDOT projects; whereas, FDEP issues NPDES and CCCL permits ([Sections 12.2.2.3 and 12.2.2.6](#) 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, **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, Florida Statutes**. 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 Florida Division of Historical Resources a reasonable opportunity to comment with regard to 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 ***Applicant's Handbook, Volume I (FDEP, 2015a)***. These requirements include consultation and findings letters from the Florida Division of Historical Resources. See [***Part 2, Chapter 8, Archaeological and Historical Resources***](#) for more information.

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, Florida Administrative Code (F.A.C.)***, Environmental Resource Permitting (ERP). The ERP program was adopted to provide more consistency throughout the state in permitting thresholds, requirements, and processes. 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 (AHI)***. The ***AHI (FDEP, 2015a)*** 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 ***AHI*** apply statewide.

The ***AHI*** provides general background information on the ERP program, including points of contact, 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 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 [*Applicant's Handbook-Volume II (AHII)*] for each of the WMDs. *Volume II (SFWMD, 2014; SWFWMD, 2013; SJRWMD, 2013; SRWMD, 2012; and NFWWMD, 2013)* primarily applies to activities that require the services of a registered professional to design a stormwater management system. Links to *AHI* (identical for all WMDs) and *AHII* (unique to each of the five WMDs to address regional differences) are provided in [Figure 12-2](#).

One section of the *AHII* is uniform among all the WMDs, **Section 2.10 Flexibility for State Transportation Projects and Facilities**. This section states that the language of **Section 373.413(6), F.S.**, governs ERP regulation of state linear transportation projects and facilities. This statutory language provides FDOT with additional flexibility, such as regional treatment facilities, for providing treatment of stormwater runoff from linear projects. FDOT is also only required to treat stormwater generated by its transportation projects, not water entering its treatment systems from offsite, unless cost-effective to do so.

Depending on the size, location and nature of proposed project activities, they 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 their 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.

It should be noted that **exempt** activities do not require notice be given to the FDEP or WMDs. However, if it is desirable to verify that the activity is exempt, an on-line self-

certification can be obtained for free, or the appropriate regulatory agency can perform the certification for a fee. Although some projects may be exempted 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 particular 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](#)) also require a proprietary authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) 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 Board of Trustees 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 state-owned submerged lands authorization rests with the Governor and Cabinet of the state of Florida, who serve as the Board of Trustees. 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 greater than one acre of land, 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 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.) that is designed or used for collecting or conveying stormwater and 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 prohibit 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 62-624.20(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.**, **Chapter 62-244, 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 determination of consistency is made by FDEP in coordination with other agencies early in the planning process for transportation projects (see [Part 2, Chapter 15, 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 allowing for a compatible public or private use while protecting the 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. 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(11), 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 should 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, Florida Administrative Code**.

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, Florida Statutes**. 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, Florida Statutes**. This authority applies to public water supplies, agricultural and landscape irrigation, contamination clean-up, commercial/industrial uses, and dewatering/mining activities. The WMDs issues 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 directs 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 provides the most common types of protected species permits required for transportation projects. 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](#)).

The FWC also requires Incidental Take permits for activities that may result in take of state listed species. These species also may be federally listed. State incidental take permit applications 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 rendered to offset the take. Additional information on **HCPs** and incidental take permits is available on the FWC website ([Figure 12-3](#)).

The species discussed below (American bald eagle, Florida burrowing owl, and osprey) are not subject to **ESA** review, but receive federal protection by 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. It should be noted that 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 will not be addressed in regards to **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.**

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 remain protected under state **Bald Eagle Management Plan (FWC, 2008)** requirements.

In an effort to account for the federal de-listing of the bald eagle and to minimize overlap with federal regulation, the state revised its bald eagle regulatory guidelines, resulting in the **Bald Eagle Management Plan (FWC, 2008)**.

The **Bald Eagle Management Plan** essentially addresses eagles in two ways:

1. It identifies conditions, that if followed, would result in no impact to the species and no state permit would be required; and
2. If said conditions could not be followed and the applicant wanted to avoid liability for the possible disturbance or take, the applicant could apply for a state Bald Eagle Disturbance Permit.

See [Figure 12-3](#) for a link to the FWC web site describing the **Bald Eagle Management Plan** and associated permitting process.

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 1500 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 is defined under **50 CFR § 22.3** as 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, which can be found in web links included in [Figure 12-3](#).

2. A permit for taking eagles when the take is associated with, but not the purpose of, an activity and cannot practicably be avoided. This type of take is referred to as "non-purposeful take" and is entitled an Eagle Disturbance Permit. Authorization is subject to conditions to minimize impacts. The regulation authorizing Eagle Disturbance Permits for bald and golden eagles can be 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](#).

12.2.3.2 Florida Burrowing Owl

The Florida burrowing owl (*Athene cunicularia floridana*) is listed by the State of Florida, FWC as a Species of Special Concern (**Rule 68A-27.005, F.A.C.**). As a Species of Special Concern, 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 only to inactive nest burrows (i.e., burrows containing no eggs or flightless young). Burrowing owl nest burrows can generally be considered inactive from July 10th to February 15th, although some nesting occurs as early as October each year. Between February 15th and July 10th, 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 10th). 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 a state listed species in **Chapter 68A, F.A.C.**, specifically **Rule 68A-4.001, F.A.C.**, which prohibits the taking or transporting of "...wildlife...or their nests, eggs, young, homes, or dens..." Additional state protection is provided in **Rule 68A-16.002, F.A.C.**, which adopts as state rules the federal **MBTA** and all rules promulgated thereunder. Ospreys and their nests in Monroe County are provided even further protection by virtue of that population being listed as a Species of Special Concern (**Rule 68A-27.005, F.A.C.**). Permits for removal of active nests (i.e. containing eggs and/or flightless chicks) are issued if the nest presents a safety hazard for the birds or humans. Active nest removal permits are issued with less frequency on a case-by-case basis. See [Figure 12-3](#) for information on how to request osprey permits from the FWC.

The osprey is federally protected by the **MBTA (16 U.S.C. §§ 703 – 712)**. The USFWS requires federal permits for taking active nests. See [Figure 12-3](#) for guidance on contacting the USFWS regarding osprey nests. FDOT's Project Manager should coordinate with the District Environmental Office and if necessary, the OEM to discuss nest removal management plan options prior to committing FDOT to a course of action.

12.2.3.4 Gopher Tortoise

Gopher tortoises (*Gopherus polyphemus*) are protected by state law, **Rule 68A - 27.003, F.A.C.**, and are currently a candidate species for federal listing under the **ESA**. 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 relocation of 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 ***The Gopher Tortoise, Guidance for Each Phase of FDOT Project Delivery***.

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).
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.
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 to an official declaration of a state of emergency by the Governor of Florida or a local governmental entity. This permit type is not likely to be applicable to FDOT projects. Applications submitted for this permit must include all information that is required from any other applicant

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). In these cases, the Project Manger 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 Highway Projects](#) and [Chapter 2](#) of 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. Decisions should be documented in the Environmental Document and 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, complete a **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). Include documentation of permitting agency coordination and mitigation for impacts (as appropriate) in the project file.
2. **Non Major State Actions (NMSAs)** - For a NMSA, include documentation of permitting agency coordination and mitigation for impacts (as appropriate) 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 documented on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** 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 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 Permit Coordinators, District Environmental Offices, and others who may be involved in the PD&E process that will follow 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 may 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 Highway Projects](#), qualifying projects must complete the ETDM Programming Screen and may also 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 reconsider 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 agree with the types of 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***.

12.3.2.2 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 issue/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 Quality and Quantity sections of the report.

12.3.3 Project Development and Environment Phase

If available, 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 utilize 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, FWC, or WMDs to discuss upcoming projects, 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/DHR) 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. Providing project priority lists may also assist regulatory agencies with prioritizing their review of FDOT projects.

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 Quality and Quantity,” “Navigation,” “Cultural Resources,” and “Wildlife 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.

Later in PD&E, an impact assessment is conducted for direct and indirect/secondary impacts to wetlands/surface waters and impacts to listed 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 discussion should include comparing the list of anticipated permits identified during the ETDM screening to those permits necessary for the project as a result of the analysis/impact assessment. This coordination may include a field review with appropriate resource agencies.

The impact assessment typically requires the preparation of a **Natural Resources Evaluation (NRE)**. Coordination between the Permit Coordinator and the Environmental Office during development of the **NRE** will assure that the resulting report contains information sufficient to support subsequent permitting. It is recommended that the **NRE** be sent to the resource agencies for review so that they may provide input in advance of finalization of the Environmental Document. The District and OEM concurrently review the draft **NRE** prior to agency submittal. Preparation of an **NRE** where OEM is the Lead Federal Agency under the **NEPA MOU** requires use of the following standard statement on the report 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

At the conclusion of the PD&E process, the **NRE** is submitted to OEM along with the Environmental Document.

PD&E projects follow the principles of the Statewide Acceleration Transformation (SWAT) process. The SWAT process is a project management initiative that streamlines FDOT’s project delivery process where the PD&E Study is scoped aggressively to reduce project time and cost. SWAT projects conduct design activities concurrently with the PD&E phase, potentially resulting in advancing environmental permitting. It is important for the PD&E Project Manager, in coordination with the Permit Coordinator, to determine the appropriate time to apply for environmental permits. Several factors should be discussed and may include:

- Adequacy of information obtained in PD&E to complete the permit application
- Environmental issues including agency consultation that may require additional time to obtain the environmental permit (i.e. protected species consultation)
- The anticipated date of project construction

- If the project will need a State-Owned Submerged Lands authorization requiring a decision by the Board of Trustees
- Whether project funding is available to support the permitting effort, including mitigation, during PD&E

More information on the SWAT process can be found in [Part 1, Chapter 4, Project Development Process](#).

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. For those projects that have unavoidable wetland and species impacts, 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 mitigation sequencing: 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.

To validate that the project design in PD&E is feasible (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 option 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 the Design phase that have no 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 according to [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.**, as amended, mitigation options may include “the use of mitigation banks and any other mitigation options that satisfy state and federal requirements” (i.e., mitigation bank credit purchases, funding to WMD for mitigation services and FDOT- responsible mitigation projects). Such options must be identified 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 Permit Coordinator assist with preparation, or review of the conceptual mitigation plan and mitigation discussion that is included in the Environmental Document. The Permit Coordinator may provide input on mitigation banks 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 on the **Project Commitment Record (PCR), Form 700-011-35** according to the [Project Commitment Tracking, Procedure No. 700-011-035](#). Some commitments may become permit conditions at the discretion of the regulatory agency. The **PCR** must be updated to reflect any change in status of a commitment. See [Part 2, Chapter 22, 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 must be added to the project file.

Permits are documented in the Environmental Document as described below:

1. **Type 2 CE and SEIR** – For Type 2 CEs, permits needed for the project are listed in Section 3. E, “Anticipated Permits.” For SEIRs permits needed for the project are listed in the Anticipated Permits section. They are also documented in the applicable Environmental Analysis section (Wetlands and Other Surface Waters,

Protected Species and Habitat, Navigation) as a part of the discussion of coordination with the resource agency requiring the permit. The Navigation Section of the report should identify whether USCG has determined if a bridge permit is required. See [Part 1, Chapter 5, Type 2 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 a part of the discussion of 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 discussion of 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.

12.3.4 Re-evaluation

Any 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; provide a summary and status of all permits required on the project including pending issuance dates. If a project’s design has changed, the re-evaluation should also address whether the design changes impact permitting and associated mitigation. This information should be included in the “Commitment Status” and “Status of Permits” sections of the *Re-evaluation Form, Form No. 650-050-29* ([Part 1, Chapter 13, Re-evaluations](#)).

12.3.5 Design and Permitting

The purpose of the Design phase is to refine the project design initiated in PD&E, apply for and obtain federal and/or state environmental permits authorizing the construction of

the proposed project, and generate plans and specifications consistent with permit allowances and conditions. During this phase it is important for the Permit Coordinator and Project Designer(s) to refer to information prepared during the PD&E phase such as the Environmental Document, **NRE**, and agency coordination, 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](#). This includes 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 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 execution 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 Agency Program Manual, Topic No. 525-010-300](#).

12.3.5.1 Finalize Mitigation

As the project design is refined and permitting is initiated, the previously-identified quantities and mitigation options 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 net adverse 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. The mitigation option must be coordinated with the appropriate regulatory agency. Mitigation for wetland impacts may also provide conservation benefit for listed species. When finalizing mitigation, coordination with regulatory agencies can help to determine whether project mitigation may serve mitigation

needs of multiple permits. The final mitigation plans are then carried through the permitting process and become conditions 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** 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.

It is important that the Permit Coordinator, environmental staff, and the PD&E Project Manager coordinate during permitting to ensure that information gathered during the PD&E Study is utilized during permitting. The PD&E Project Manager should transmit the Environmental Document as well as relevant technical reports, such as the **NRE**, **Cultural Resource Assessment Survey** and resource agency correspondence to the Permit Coordinator. In some cases, the Environmental Document and **NRE** may include agency concurrence documentation, which when submitted with the permit applications, may expedite the review and identify important commitments which need to be addressed during the Design phase. It is the responsibility of the Permit 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 studies 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 Quality and Water Quantity](#) and [Part 2, Chapter 13, Floodplains](#) 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 that these items/updates can be recognized 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 should 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 Permit 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

Joint state and federal "dredge and fill" permit applications, in general, describe who, what, when, where, and how through forms, narrative, tables and graphics. The joint application form includes an application for a state and/or federal wetland permit, as well as a request for authorization to use state-owned submerged lands. Applicants are not required to submit a separate application for sovereign submerged lands authorization. Application packages are typically initiated when project design approaches 60% completion. 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 low risk of further revision that would result in the need to re-quantify project impacts and mitigation.

Permit application packages may be generated by in house by the District or by consultants. The timing of initiation of the application process is directed by the Permit 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 Permit 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 WMD or FDEP to initiate the joint state/federal 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.

Also upon receipt, the WMD or FDEP copies and forwards the application to the USACE to initiate the federal permitting process. Joint application forms are available on line on WMD or FDEP (**2015b**) web sites. USACE has requested FDOT use **Form ENG 4345** to increase the potential that all documentation required by the USACE for a complete review is included. The form, and instruction on how to complete the form, are available on the USACE web site (**USACE, 2015a**). After joint application submittal, the permitting process with the USACE is separate from the ERP process. The Permit Coordinator with assistance from the Environmental Manager should coordinate with the USACE, and WMD or FDEP.

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 Permit Coordinator work with the Design Project Manager to ensure permits are obtained at the appropriate time 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 Bureau of Beaches and Coastal Systems 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 **Volume 1 of the Applicant's Handbook** 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 an **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 **Section 104 Erosion Control Plan**, 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. **Chapter 11** of the FDOT [Plans Preparation Manual, Volume 1, Topic No. 625-000-007](#) describes the purpose, objective, and signing and noticing requirements of the **SWPPP** and **Chapter 28** of the FDOT [Plans Preparation Manual, Volume 2, Topic No. 625-000-008](#) describes the required narrative and graphical components of the Plan. The **SWPPP** 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 also 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. 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.

Unlike the state process, the federal permitting process is not tied to a statutory timeframe for permit issuance. However, like the state process, both USACE and USCG notify an applicant of apparent errors or omissions in application materials and request any additional information needed to clarify the information on 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.

Both the USACE and USCG solicit comments from the public and resource agencies (e.g., USFWS, NMFS, EPA) by publishing a public notice during the permitting process. The period for the public to submit comment is finite and identified in the public notice (i.e., typically between 15 and 30 days). Once the public comment period closes, the Lead Federal 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 described previously.

As commenting agencies, 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 that the project has “no effect,” or “may affect, is not likely to adversely affect” federally listed species, or that the action “may affect” one or more listed species

and incidental take is authorized. A review by NMFS for listed species may take a 180 days or longer, depending on the level of impact proposed.

The WMD or FDEP may solicit comment from FWC in regards to a proposed project's potential effect on state-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 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 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), Florida Administrative Code**. The Project Manager and Permit Coordinator should facilitate the communication of FWC decisions and commitments (if any) to the WMD as part of the state permit application process, and 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 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 rendered to offset the take. Additional information on **HCPs** and incidental take permits is available on the USFWS **Ecological Services** site and in the online FWC **Florida Wildlife Conservation Guide**. See [Figure 12-3](#) for links to these resources. The NMFS website has information on permits they issue. The USFWS and NMFS have a **Habitat Conservation Planning and Incidental Take Permitting Processing Handbook** that provides guidance on this permitting process.

FWC will approve or deny a complete permit application 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.). Complete permit applications, renewals, and amendment requests should be submitted a minimum of 45 days prior to the requested effective date.

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, the FDOT District must 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

With issuance of environmental permit(s), the Permit Coordinator utilizes a **Permit Transmittal Memorandum, Form No. 650-040-01** ([Figure 12-5](#)) to transfer the permit(s) to the District Construction Engineer and posts the permit(s) to [FDOT's File Transfer Protocol \(FTP\) site](#). 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 parameters 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, 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 Agency Program Manual for Federal Aid Projects, Topic Number 525-010-300](#).

12.3.6 Construction

The Permit Coordinator should participate in the pre-construction meeting to brief Construction staff on permitting and environmental issues. The Permit Coordinator should also send a pre-construction environmental permit briefing memorandum 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 National Pollutant Discharge Elimination System (NPDES)
4. Reporting and Enforcement

In addition, the Construction Office should coordinate with the Environmental Office and Permit 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 ensuring compliance with the permit prior, 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 assure that construction contractors, and/or DB firms are aware of their contractual obligation to follow approved commitments, permit conditions and project design in order that FDOT remains compliant with permit requirements.

In accordance with **Section 8.2** of the [Construction Project Administration Manual, Topic No. 700-000-000](#), the Project Administrator is responsible for permit compliance during Construction. The Project Administrator should meet with the Permit 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 Permit 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 assure the continued awareness of project progress by 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 located at **Rule 62-330.310(1), Florida Administrative Code**.
3. Submitting an as-built certification form to the USACE (typically an attachment to the permit).
4. Submitting as-built drawings to both 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 from both agencies 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 Engineer of construction completion.

The Construction Project Administrator is also responsible for monitoring all permit expiration dates and advising the Environmental Manager and Permit 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 Permit 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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<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=18-21>

Chapter 62B-33, F.A.C., Rules and Procedures for Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty Foot Setback)

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

Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

Chapter 68A, F.A.C., Establishes wildlife code of the state of Florida

Chapter 373 Part IV, F.S., Water Resources. Management and Storage of Surface Waters. http://www.flsenate.gov/Laws/Statutes/2016/Chapter373/Part_IV

EPA. 2015. Section 404 Permit Program. <https://www.epa.gov/cwa-404/section-404-permit-program>

FHWA. 2014. Memorandum of Agreement between the United States Coast Guard and the Federal Highway Administration to Coordinate and Improve Bridge Planning and Permitting

FDEP. 2015. Reference and Design Aids for the Environmental Resource Permit Applicant's Handbook Volume I. <http://www.dep.state.fl.us/WATER/wetlands/forms/62-330/DesignAidsAH-I.pdf>

FDEP and FDOT. 2013. Part 1 of the State of Florida Erosion and Sediment Control Designer and Reviewer Manual. <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>

FDOT. 2007. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between South Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 5/15/2007- 5/14/2016

FDOT. 2011a. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Northwest Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 6/6/2011-6/6/2016

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- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>
- FDOT. 2013. Environmental Mitigation Payment Processing Handbook. http://www.dot.state.fl.us/emo/pubs/Mitigation%20Payment%20Handbook_10%202013.pdf
- FDOT. FDOT Plans Preparation Manual, Volume I, Topic No. 625-000-007. <http://www.dot.state.fl.us/rddesign/PPMManual/2014PPM.shtm>
- FDOT. FDOT Plans Preparation Manual, Volume II, Topic No. 625-000-008. <http://www.dot.state.fl.us/rddesign/PPMManual/2014PPM.shtm>
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- FDOT. 2015b. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between U.S. Army Corps of Engineers and the Florida Department of Transportation and the Federal Highway Administration. 6/30/2015-6/30/2020
- FDOT. 2015c. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between U.S. Fish and Wildlife Service and the Florida Department of Transportation and the Federal Highway Administration. 5/1/2015-4/30/2020
- FDOT. Construction Project Administration Manual, Topic No. 700-000-000. <http://www.dot.state.fl.us/construction/Manuals/cpam/CPAMManual.shtm>
- FDOT. Local Agency Program Manual, Topic No. 525010-300. http://www.dot.state.fl.us/programmanagement/LAP/LAP_TOC.shtm
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Rule 62-330.010(4), F.A.C.

Rule 62-330.020, F.A.C., Regulated Activities

Rule 62-330.051(4), F.A.C.

Rule 62-330.051(9), F.A.C.

Rule 62-330.056(7), F.A.C.

Rule 62-330.301(1)(d), F.A.C.

Rule 62-330.302(1), F.A.C.

Rule 68A-1.004(79), F.A.C.

Rule 68A-4.001, F.A.C., General Prohibitions

Rule 68A-9.002, F.A.C., Permits to Take Wildlife or Freshwater Fish for Justifiable Purposes

Rule 68A-13.002, F.A.C., Migratory Birds; Adoption of Federal Statutes and Regulations

Rule 68A-27.003, F.A.C., Rules Relating to Endangered or Threatened Species

Rule 68A-27.005, F.A.C., Designation of Species of Special Concern; Prohibitions; Permits

Section 334.03, F.S., Definitions.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0334/Sections/0334.03.html

Section 335.02(4), F.S.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.02.html

Section 373.019(27), F.S.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.019.html

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http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4131.html

Section 373.4137, F.S., Mitigation requirements for specified transportation projects.

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Section 373.441, F.S., Role of counties, municipalities, and local pollution control programs in permitting process; delegation.

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Title 33 CFR § 115.70, Advance Approval of Bridges. http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.1.115&rgn=div5#se33.1.115_170

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Title 33 CFR Part 230, Procedures for Implementing NEPA. <http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.230&rgn=div5>

Title 33 CFR § 323.2(d), Definitions. http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.323&rgn=div5#se33.3.323_12

Title 33 CFR § 325.2(a) Processing of Applications. http://www.ecfr.gov/cgi-bin/text-idx?SID=edfce0760950d89a77a3c2ccfd9bf7d6&mc=true&node=pt33.3.325&rgn=div5#se33.3.325_12

Title 33 CFR Part 328, Definition of Waters of the United States. <http://www.ecfr.gov/cgi-bin/text-idx?SID=30ea9056a7eb08f3f433ac58b032b795&mc=true&node=pt33.3.328&rgn=div5>

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Title 40 CFR § 230.10(d), Restrictions on Discharge. http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt40.27.230&rgn=div5#se40.27.230_110

Title 40 CFR §§ 1500-1508, Chapter V – Council of Environmental Quality. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

Title 50 CFR Part 17, Endangered and Threatened Wildlife and Plants. <https://www.gpo.gov/fdsys/search/pagedetails.action?collectionCode=CFR&searchPath=Title+50%2FChapter+I%2FSubchapter+B%2FPart+17&granuleId=CFR-2010-title50-vol2-part17&packageId=CFR-2010-title50-vol2&oldPath=Title+50%2FChapter+I%2FSubchapter+B%2FPart+17&fromPageDetails=true&collapse=false&ycord=2772>

Title 50 CFR Part 21, Migratory Bird Permits. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.21&rgn=div5>

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Title 50 CFR § 22.26, Permits for Eagle Take that is associated with, but not the purpose of, an activity. http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.9.22&rgn=div5#se50.9.22_126

Title 50 CFR Part 226, Designated Critical Habitat. <http://www.ecfr.gov/cgi-bin/text-idx?SID=d0a52e9cdad29c73a89c0c47797eb296&mc=true&node=pt50.10.226&rgn=div5>

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USACE. 2015b. USACE Section 408. <http://www.usace.army.mil/Missions/Civil-Works/Section408/>

United States Code, Title 16 U.S.C. Sections 703-712, Migratory Bird Treaty Act. <https://www.fws.gov/laws/lawsdigest/migtrea.html>

United States Coast Guard (USCG). 2016. Office of Bridge Programs, Bridge Permit Application Guide. [https://www.uscg.mil/hq/cg5/cg551/BPAG%20COMDTPUB%20P16591%203D_Sequential%20Clearance%20Final\(July2016\).pdf](https://www.uscg.mil/hq/cg5/cg551/BPAG%20COMDTPUB%20P16591%203D_Sequential%20Clearance%20Final(July2016).pdf)

USCG. 2014. Bridge Permit Processing Procedure. <https://www.uscg.mil/hq/cg5/cg551/PROCESSING%20PROCEDURE.pdf>

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](#)

Re-evaluation Form, Form No. 650-050-29 *

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

12.6 HISTORY

1/12/1999, 8/26/2016

Table 12-1 Legislation Related to Environmental Permitting

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
Federal Legislation		
<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 Office/Officer (SHPO)

Table 12-1 Legislation Related to Environmental Permitting

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
Federal Legislation		
<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
State Legislation		
<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.	DEP or WMD / FWC and SHPO
<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

Table 12-1 Legislation Related to Environmental Permitting

Title and Citation	Relevance to Permitting	Lead Agency/ Required Commenters
Federal Legislation		
Bald Eagle Management Plan, 2008 (adopted by FWC in 2008)	The goal of the State's Bald Eagle Management Plan is to maintain a stable or increasing population of bald eagles throughout Florida in perpetuity. To achieve this goal, bald eagles and their nests must continue to be protected through science-based management, regulation, public education, and law enforcement.	FWC typically lead agency unless federal permitting initiated for same action.
<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 12-2 Federal Permit Types

Lead Agency	Action/Permit Type	Permit Number/Name or Activity Description	Commenting Agency	Remarks
U.S. Army Corps of Engineers	No Permit Required	N/A	N/A	Utilize Permit Involvement Form or other checklist to ensure correct determination.
	Nationwide Permit (NWP)	52 NWPs exist as of March 2012	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
	General Permit (GP)	SAJ-92, FDOT and Florida's Turnpike Enterprise	USFWS (SAJ-92, p. 4), SHPO	Capacity improvement projects. GPs are reviewed every 5 years, and changes are made, as appropriate.
	Letter of Permission	Letter of Permission	USFWS, NMFS, SHPO	Refer to USACE Source Book
	Standard Permit	Standard Permit	USFWS, NMFS, EPA, SHPO	Refer to USACE Source Book
U.S. Coast Guard	Bridge Permit	Bridge permit	NMFS, USFWS, EPA, SHPO	Refer to USCG Bridge Permit Application Guide

Table 12-3 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 12-4 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 and 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)
	Osprey	Migratory Bird Nest Removal Permit	Contact FWC for differences in requirements between Monroe County and the remainder of the state
	American Bald Eagle	Bald Eagle Disturbance Permit	Permit required if applicant cannot abide by FWC Bald Eagle Management Plan guidelines, and if a federal eagle permit is not also required for the same action
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)
		Disturbance Permit	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:

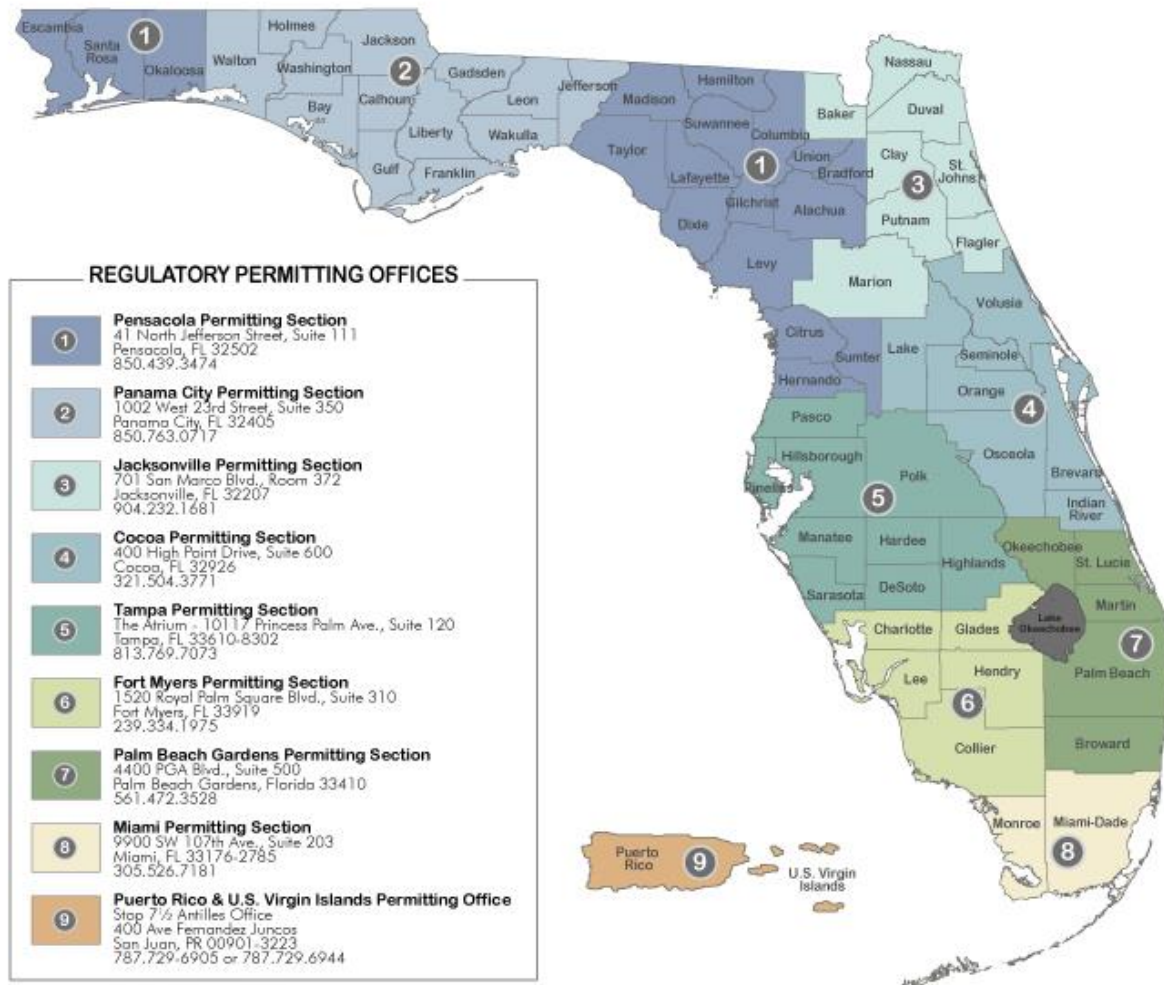
United States Coast Guard

- 1) A description of the bridge permitting process can be found at <http://www.uscg.mil/hq/cg5/cg551/PROCESSING%20PROCEDURE.pdf>
- 2) Application content for bridge permits can be found at http://www.uscg.mil/hq/cg5/cg551/CP_16591_3C.pdf
- 3) A MOA between USCG and FHWA establishing mandatory permit review timeframes can be found at http://www.environment.fhwa.dot.gov/strmlng/MOA_USCG_bridge_permits.pdf
- 4) The local Coast Guard District Bridge Office is one of the best sources of information. The applicant should direct all project-related questions, concerns, comments, and requests to the bridge program staff in the Coast Guard District Bridge Office where the project is located. A list of the mailing addresses and telephone numbers of the Coast Guard District Bridge Offices is located on the Bridge Program website: http://www.uscg.mil/hq/cg5/cg551/District_Page.asp. Note that the majority of Florida is located within USCG District 7, but the western Florida panhandle is within District 8.

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

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:
<http://nwfwmd.state.fl.us/permits/environmental-resource-permits/>
- St. Johns River WMD:
http://www.sjrwm.com/handbooks/pdfs/PIM_incl_volIII.pdf
- Suwannee River WMD:
<http://www.srwmd.state.fl.us/DocumentCenter/View/8654>
- Southwest Florida WMD:
http://www.swfwmd.state.fl.us/files/database/site_file_sets/2479/Applicants_Handbook_II_-_Revised.pdf
- South Florida WMD:
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

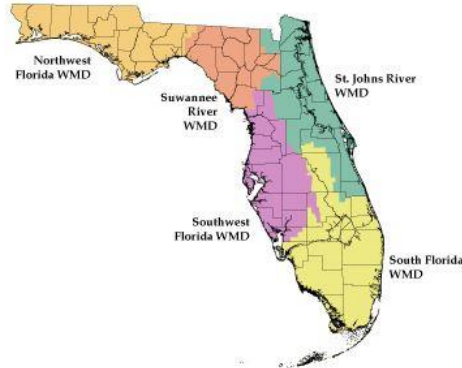
Figure 12-2 State Permitting Information Sources

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
Northwest Florida WMD	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
Suwannee River WMD	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)
St. Johns River WMD	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
Southwest Florida WMD	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)
South Florida WMD	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 FDOT's flexibility in their stormwater management design. The statute can be found within:

<http://www.flsenate.gov/Laws/Statutes/2012/373.413>

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

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>

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) State permits to take active and inactive osprey nests are issued for the Executive Director of the Commission by the Section Leader of the Species Conservation Planning Section
Division of Habitat and Species Conservation
620 South Meridian Street, Mail Station 2A
Tallahassee, Florida 32399-1600

2) Osprey nest removal policies can be found at
<http://myfwc.com/media/2887096/OspreyPolicies.pdf>

3) Requests for nest removal permits for active or inactive nests may be applied for on-line at <http://myfwc.com/license/wildlife/protected-wildlife/>

4) Federal permits to remove active osprey nests are issued by the:

U.S. Fish and Wildlife Service Region IV
Division of Law Enforcement
Special Agent in Charge
1875 Century Boulevard
Atlanta, Georgia 30345
(404) 679-7049

5) 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/>

Figure 12-3 Protected Wildlife Permitting Information Sources

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:

<http://myfwc.com/media/4210363/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/>

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) State bald eagle permitting guidelines describing eagle nest protection zones, allowed uses within those zones, and overall state eagle permitting program are found in the following link:

<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 an eagle disturbance permit, 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.

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/>

Figure 12-3 Protected Wildlife Permitting Information Sources (Page 2 of 3)

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/southeast/tags/habitat-conservation-plan/> and in the online FWC Florida Wildlife Conservation Guide: <http://myfwc.com/conservation/value/fwcg/>

Figure 12-3 Protected Wildlife Permitting Information Sources (Page 3 of 3)

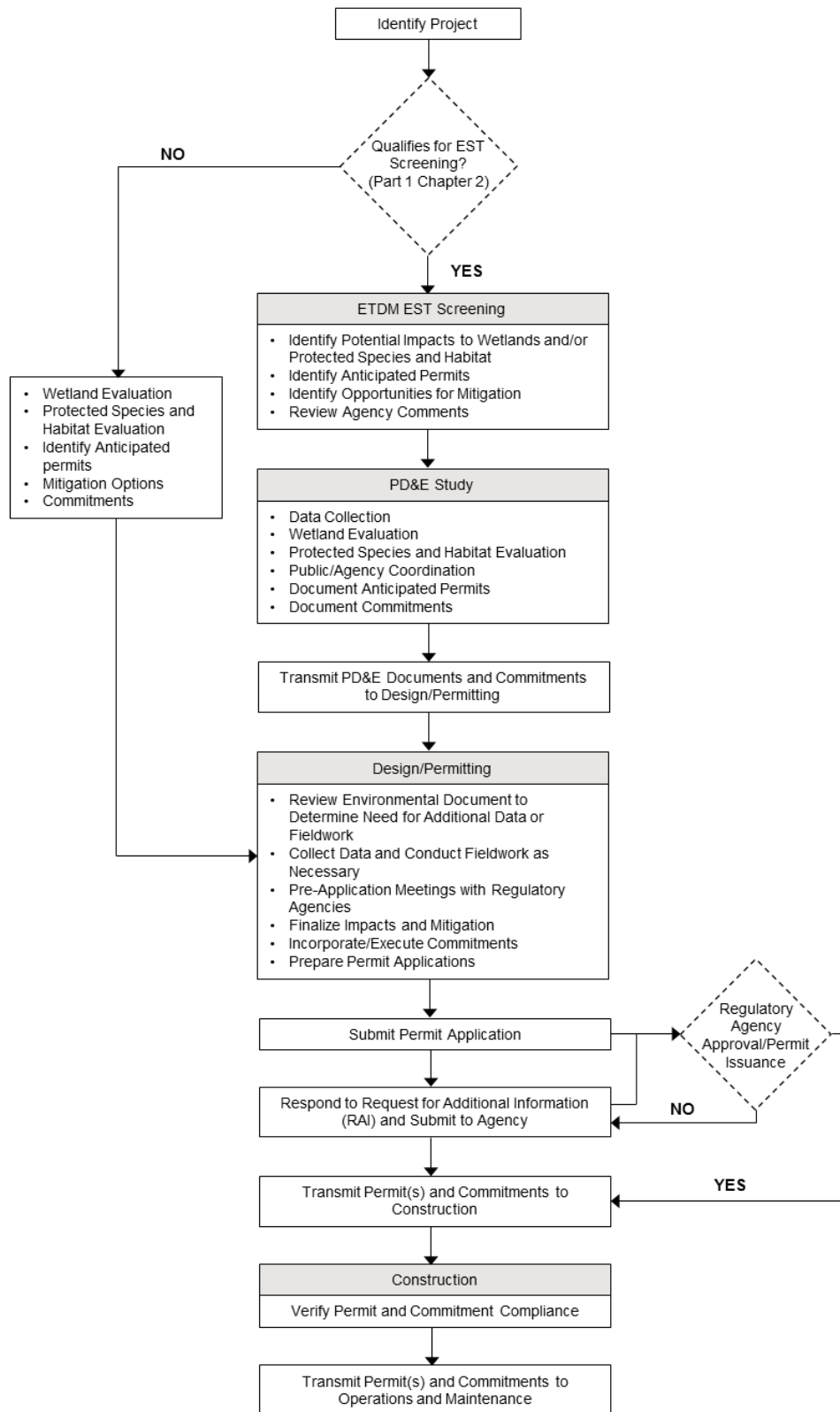


Figure 12-4 Typical Permitting Process

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

TABLE OF CONTENTS

13.1	OVERVIEW	13-1
13.2	PROCEDURE.....	13-2
13.2.1	Re-evaluation of Type 2 CE, EA with FONSI, and EIS Projects	13-3
13.2.1.1	Re-evaluation Preparation	13-4
13.2.1.2	Processing of Re-evaluations	13-8
13.2.1.3	Supplemental Environmental Impact Statements	13-8
13.2.2	Type 1 Categorical Exclusion Projects.....	13-9
13.3	REFERENCES	13-9
13.4	FORMS.....	13-10
13.5	HISTORY.....	13-10

TABLE OF FIGURES

Figure 13-1	Re-evaluation Process.....	13-11
Figure 13-2	Re-evaluation Form	13-17
Figure 13-3	Status of Environmental Certification for Federal Project.....	13-18

PART 1, CHAPTER 13

RE-EVALUATIONS

13.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

The Re-evaluation process outlined in this chapter establishes the framework to meet the consultation requirement in **23 Code of Federal Regulations (CFR) § 771.129**, to consider the continued validity of the approved Environmental Document. Re-evaluations are not **NEPA** documents. This chapter provides guidance to ensure compliance with applicable federal and state laws prior to advancing a project to its next major phase [e.g., Design, Right of Way (ROW) or Construction]. The Re-evaluation process also updates the status of PD&E commitments made during prior project phases. FDOT uses the same re-evaluation process for state-funded projects as detailed in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#). The Re-evaluation process is shown in [Figure 13-1](#).

The Re-evaluation documents what changes, if any, have occurred in the project, including changes in the design, project limits, scope of a project, new or modified laws and regulations, circumstances or project area changes or other new information affecting the project, to determine whether the Environmental Document remains valid or additional analysis is needed.

Project managers in phases subsequent to the Project Development and Environment (PD&E) phase (e.g., Design, Construction) should 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 changes and construction may advance concurrently. Consideration of 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. Design Project Managers should, whenever possible, minimize project changes that could impact previously coordinated avoidance, minimization, and

mitigation of impacts or commitments made during the PD&E phase. Project Managers should recognize that changes may require additional interagency coordination or public involvement, as well as the identification of new impacts requiring additional evaluation.

13.2 PROCEDURE

The Districts prepare Re-evaluation documents as required by **23 CFR § 771.129** and OEM serves in the role of the “Administration.” 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 (see [Design-Build Request for Proposals](#) boilerplate, available from the Office of Construction).

In accordance with **23 CFR § 771.129(a) and (b)**, Re-evaluations for a Draft Environmental Impact Statement (DEIS) and a Final Environmental Impact Statement (FEIS) must be prepared when:

(a) A **written** evaluation of the DEIS shall be prepared by the applicant in cooperation with the Administration if an acceptable FEIS is not submitted to the Administration within three years from the date of the DEIS circulation. The purpose of this evaluation is to determine whether or not a supplement to the DEIS or a new DEIS is needed.

(b) A **written** evaluation of the FEIS will be required before further approvals may be granted 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, FEIS supplement, or the last major Administration approval or grant.

Title 23 CFR § 771.129(c) specifies that Re-evaluations of approved Environmental Documents must occur as follows:

(c) After approval of the Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE), the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved Environmental Document remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

Re-evaluation of projects with an approved Environmental Document is required prior to requesting federal approval action (i.e., federal-aid authorization associated with change in project phase: Design, ROW, Construction) or when major changes in project design, changes in issue/resource status, or changes in law have occurred.

Re-evaluations are necessary, under the following circumstances:

1. Prior to requesting federal-aid authorization for subsequent project phases (Final Design, ROW, and Construction)
2. Any time there are major design/project changes including during a design-build project
3. Any time there are project changes due to changes in law or the passage of time
4. Any time a project changes from federal aid to state funded. Note: the federal process applies to all interstate projects.

Re-evaluations to advance subsequent production phases may serve to advance a single or multiple project segments; however, the project limits covered in the approved final Environmental Document must be considered in the Re-evaluation. The limits of the entire project and referenced Environmental Document are noted on the **Re-evaluation Form, Form No. 650-050-29** Individual segments being advanced from within the original limits are also specifically described on the **Re-evaluation Form, Form No. 650-050-29 (Figure 13-2)**. 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. 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, then those changed limits are also considered in the Re-evaluation.

13.2.1 Re-evaluation of Type 2 CE, EA with FONSI, and EIS Projects

Re-evaluations of approved documents are initiated by the District through consultation with OEM, and completion of the **Re-evaluation Form, Form No. 650-050-29** to determine whether the Environmental Document remains valid. This consultation includes discussion of phase status, changes in design, existing conditions, issue/resource impact status, laws, or regulations that may affect the project, permitting, and PD&E commitments. It is important to begin the re-evaluation process early enough to provide sufficient time for completion prior to the needed authorization.

Consultation with OEM also helps determine whether the **Re-evaluation Form, Form No. 650-050-29** will require OEM's approval. If through consultation no changes in impact are identified, the District may proceed with the project by documenting the results of the OEM consultation on the **Re-evaluation Form, Form No. 650-050-29 (Figure 13-2)**. OEM approval of the form is not required and the Re-evaluation is complete. If OEM requests to review the Re-evaluation, the form and any supporting documentation is sent to OEM for review.

If new impacts are identified, the District and OEM should determine the level of analysis necessary, if supplemental **NEPA** is needed, and whether public involvement is required to advance the project. If the project is an Environmental Impact Statement (EIS) (draft or

final), a Supplemental Environmental Impact Statement (SEIS) may need to be prepared see [Section 13.2.1.3](#).

13.2.1.1 Re-evaluation Preparation

The extent of re-evaluation documentation is contingent upon the project phase status, changes in impact, and the reason for the Re-evaluation (e.g., design change). Documentation can be as simple as completing the **Re-evaluation Form, Form No. 650-050-29** in [Figure 13-2](#) and verifying that there have been no changes. Additional information supporting the Re-evaluation should be submitted with the **Re-evaluation Form, Form No. 650-050-29** and uploaded to the project file in the StateWide Environmental Project Tracker (SWEPT).

If a Re-evaluation reveals new or additional impacts to a resource (e.g., wetlands), coordination with the jurisdictional agency may be necessary, especially when a permit or permit modification may be needed.

The Re-evaluation documents any changes in law or regulation, which have come into effect since the approval of the final Environmental Document or the most recent Re-evaluation, and FDOT's actions to comply with such changes, if any. It should document any change in project conditions or scope, and/or impact determinations. The Re-evaluation should also document updates to the status of existing PD&E commitments, document changes in commitments, and identify new environmental commitments. Changes in commitments may result in coordination and consultation with agencies, the public and other stakeholders. Environmental commitments are reviewed as part of the Re-evaluation process and will be incorporated into the project, as appropriate. Changes to PD&E commitments are also coordinated and documented on the **Project Commitment Record (PCR), Form No. 700-011-35** according to [Procedure 700-011-035, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more details on commitments.

13.2.1.1.1 Re-evaluation Form

The **Re-evaluation Form, Form No. 650-050-29** ([Figure 13-2](#)) is completed for a Type 2 CE, Environmental Assessment (EA) with FONSI, EIS, and SEIS, and includes the following sections:

Section 1 - General Information

This section contains information about the approved Type 2 CE, EA with FONSI, EIS, ROD, or any supplemental environmental document and the segment(s) being advanced. Information provided under this section includes:

- a. **Re-evaluation Type.** Select the appropriate type of re-evaluation. The options include: ROW, Design Change, and Construction Advertisement. Note that multiple types can be selected.

- b. **Original approved Environmental Document.** Include the original approved Environmental Document Type (e.g., Type 2 CE, EA with FONSI, EIS, or SEIS), date of approval, project numbers [e.g., Federal Aid, Financial Management (FM), and ETDM], project name, and project location.
- c. **Prior Re-evaluation(s).** Include information on prior approved re-evaluation(s) including FM number, type of re-evaluation (e.g., ROW, Design Change, and Construction Advertisement), District approval date, lead agency concurrence date if applicable, and brief description of approval. If concurrence was not required, then the date of consultation must be included. If there was no previous re-evaluation, make that selection on the form.
- d. **Project or project segment(s) being advanced.** Include Project/Segment numbers [Federal-aid project number(s), FM number(s)], Project/Segment name, location, and identify letting type (i.e. Design Bid Build or Design Build).

Section 2 - Project Description

This section includes a brief summary of the project description and segment(s) being advanced.

Section 3 – Changes in Applicable Law or Regulation

This section includes a summary of changes in federal or state laws, rules, regulations, or guidance that require consideration since the date of the original Environmental Document or most recent Re-evaluation. If no changes have occurred, select “NO”. If changes have occurred, select “YES” and provide a summary of the changes.

Section 4 - Evaluation of Major Design Changes and Revised Design Criteria

This section includes major design changes that have occurred since approval of the Environmental Document or most recent Re-evaluation. The extent of the design change(s) and modification of impacts on the project area must be documented. Examples of design changes include, but are not limited to:

1. Changes in typical section
2. Shifts in roadway alignment
3. Changes in ROW needs
4. Changes due to revised design control and criteria
5. New design variations or exceptions
6. Changes in drainage/stormwater requirements

If no major design changes have occurred, select “NO”. If changes have occurred, select “YES” and provide a summary of the changes.

Section 5 – Public Involvement

This section includes a summary of additional public involvement activities completed since the approval of the Environmental Document or most recent Re-evaluation. If no additional public involvement activities have occurred, select “NO”. If public involvement activities have occurred, select “YES” and provide a summary of the activities.

Section 6 – Project or Segment(s) Planning Consistency

This section includes information regarding Planning Consistency with the Transportation Improvement Program (TIP), State Transportation Improvement Program (STIP), and Long Range Transportation Plan (LRTP) Cost Feasible Plan (CFP). Planning consistency documentation is only required for Re-evaluations which constitute a subsequent phase approval for advancement of the project to the next phase. For these types of Re-evaluations, complete the table and include appropriate pages from these plans. If more than one segment is being advanced for different phases, this distinction must be specified. This table does not need to include phases which have already occurred. Guidance on how to complete this section is included in [Part 2, Chapter 1, Project Description and Purpose and Need](#).

If project planning consistency is not required for the re-evaluation, make that selection on the form. The **Re-evaluation Form** will include the following statement:

Planning Consistency is not required for this re-evaluation.

Section 7 - Evaluation of Changes in Impacts

This section is used to document the evaluation of changes in impacts to affected issues/resources, as well as impacts to new issues/resources, which may have been identified. The section is divided into Social & Economic, Cultural, Natural, and Physical.

If the issue/resource is not present in the project area, the analyst selects “N/A” for not applicable. If no change to an issue/resource has occurred, the analyst selects “NO”. If a change has occurred for a given issue/resource, then the analyst selects “YES” and provides a summary of the change(s). If supporting documentation is required (e.g. USFWS concurrence letter or SHPO concurrence letter) those documents should be included in the project file.

For the following issues/resources updates are required as described in the form:

- Contamination – provide an update on the status of contamination assessment for sites rated “high” or “medium”. If there is a change in impacts to potentially contaminated sites, describe the changes.

- Mitigation status – provide a status update for protected species and wetland mitigation.
- Highway traffic noise – provide a status update for noise impacts.

Section 8 - Commitment Status

This section provides an update on the status of commitments and new commitments from the original approved Environmental Document or most recent re-evaluation. If there are no existing or new commitments for the project, the analysts selects “NO” in the corresponding boxes. If there are existing or new environmental commitments for the project, the analyst selects “YES” in the corresponding box(es) and links the **PCR**. The Districts must review, verify, and update the **Project Commitment Record, Form No. 700-011-35** and link the updated **PCR** to the re-evaluation. Commitments must be tracked throughout the project, and satisfied at the appropriate phase of the project per [Procedure No. 700-011-035, Project Commitment Tracking](#).

Section 9 - Status of Permits

This section identifies federal, state and local permits required for the project and provides permit status since the Environmental Document or last Re-evaluation. The status of the permit(s) should be commensurate with the phase of the project and the type of Re-evaluation. The preparer of the Re-evaluation must coordinate with the District Permit Coordinator to ensure complete documentation and timely permit issuance.

Section 10 - Conclusion

This section contains a statement about the Re-evaluation of the project, the validity of the findings in the Environmental Document, new findings (if necessary), and a recommendation for project advancement.

If no changes affecting the original environmental determination have occurred, mark the box that states the following with an X:

- The above Environmental Document has been re-evaluated as required by 23 CFR § 771.129. It has been determined that there have been no changes to the project that affect the original environmental determination. Therefore, the Administrative Action remains valid.

Section 11 – District Review and Approval

This section includes the name of the FDOT Preparer and the standard statement of FDOT **NEPA** Assignment:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

It also includes a section to confirm OEM approval is required. If OEM approval is not required, the analyst selects “NO” and includes the date of OEM consultation. The District approving authority or designee is required to electronically sign the form using the SWEPT tool.

Section 12 - OEM Concurrence

The District submits the Re-evaluation to OEM, only if OEM approval is required. The Director of OEM (or designee) approves the Re-evaluation by signing the **Re-evaluation Form, Form No. 650-050-29** electronically in SWEPT.

Section 13 – Links to Supporting Documentation

Supporting information such as summaries of reports and documentation of stakeholder coordination should be listed and linked.

13.2.1.2 Processing of Re-evaluations

The District prepares the Re-evaluation, conducts a quality review, and prepares the **Environmental Document Submittal Form, Form No. 650-050-15** in SWEPT. When OEM approval is required, the District uploads the **Re-evaluation Form, Form No. 650-050-29**, and any supporting information to the Electronic Review Comments (ERC) and assigns to OEM Project Delivery Coordinator for review. Once the form is finalized and OEM comments, if any, have been addressed it is completed in SWEPT for approval by the Director of OEM or designee.

Upon receipt of the signed **Re-evaluation Form, Form No. 650-050-29** from OEM, or if OEM signature was not needed, an electronic notification will be sent to the Design, ROW, and Construction offices, Cooperating Agencies, and others as appropriate. The District Environmental Office will also provide the date of the signed Re-evaluation on the **Status of Environmental Certification for Federal Project, Form No. 650-050-13**, as shown in [Figure 13-3](#), which is required as part of the contract file for federal oversight projects.

13.2.1.3 Supplemental Environmental Impact Statements

A SEIS may be necessary [**40 CFR § 1502.9(c)**] 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)**, the OEM may determine that a SEIS is needed when:

- (1) Changes to the proposed action would result in significant environmental impacts that were 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 environmental impacts that are significant and were not evaluated in the EIS; or
- (2) The Administration 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 done on an existing 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, Form No. 650-050-29**, but rather through re-submittal of the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** in SWEPT. The **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** found in Part 1, Chapter 2, Class of Action Determination for Highway Projects, should be reviewed and updated when changes have been made to the project, or existing conditions have changed. The completion of the checklist is documented in the **Status of Environmental Certification for Federal Project, Form No. 650-050-13** (Figure 13.3) which provides the District Environmental Office's clearance for the project to advance to the next phase. The **Status of Environmental Certification for Federal Project, Form No. 650-050-13** is sent to the District Federal-Aid Coordinator.

13.3 REFERENCES

FHWA, October 30, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents, FHWA Technical Advisory T6640.8A
<https://www.environment.fhwa.dot.gov/projdev/impTA6640.asp>

FHWA. Federal-Aid Project Authorization/Agreement Form, PR-1240.

<http://flh.fhwa.dot.gov/CFLHD/Chapter1/forms-templates/FormPR1240.pdf>

FDOT. Design-Build Request for Proposals boilerplate

<http://www.dot.state.fl.us/construction/DesignBuild/DBDocuments/DBDocsMain.shtm>

FDOT. Plans Preparation Manual, Topic No. 625-000-007 and 008

<http://www.dot.state.fl.us/rddesign/PPMManual/PPM.shtm>

FDOT. Project Commitment Tracking, Topic No. 700-011-035

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=700-011-035>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Title 23 CFR § 636, Design-Build Contracting

Title 23 CFR § 771, Environmental Impact and Related Procedures

Title 40 CFR §1502.9, Draft, Final, and Supplemental Statements

13.4 FORMS

Environmental Document Submittal Form, Form No. 650-050-15 *

[Project Commitment Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29 *

Status of Environmental Certification for Federal Project, Form No. 650-050-13 *

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12 *

*To be completed in [SWEPT](#),

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

13.5 HISTORY

10/9/1998, 1/31/2007, 6/20/2011, 5/27/16, 7/15/2016

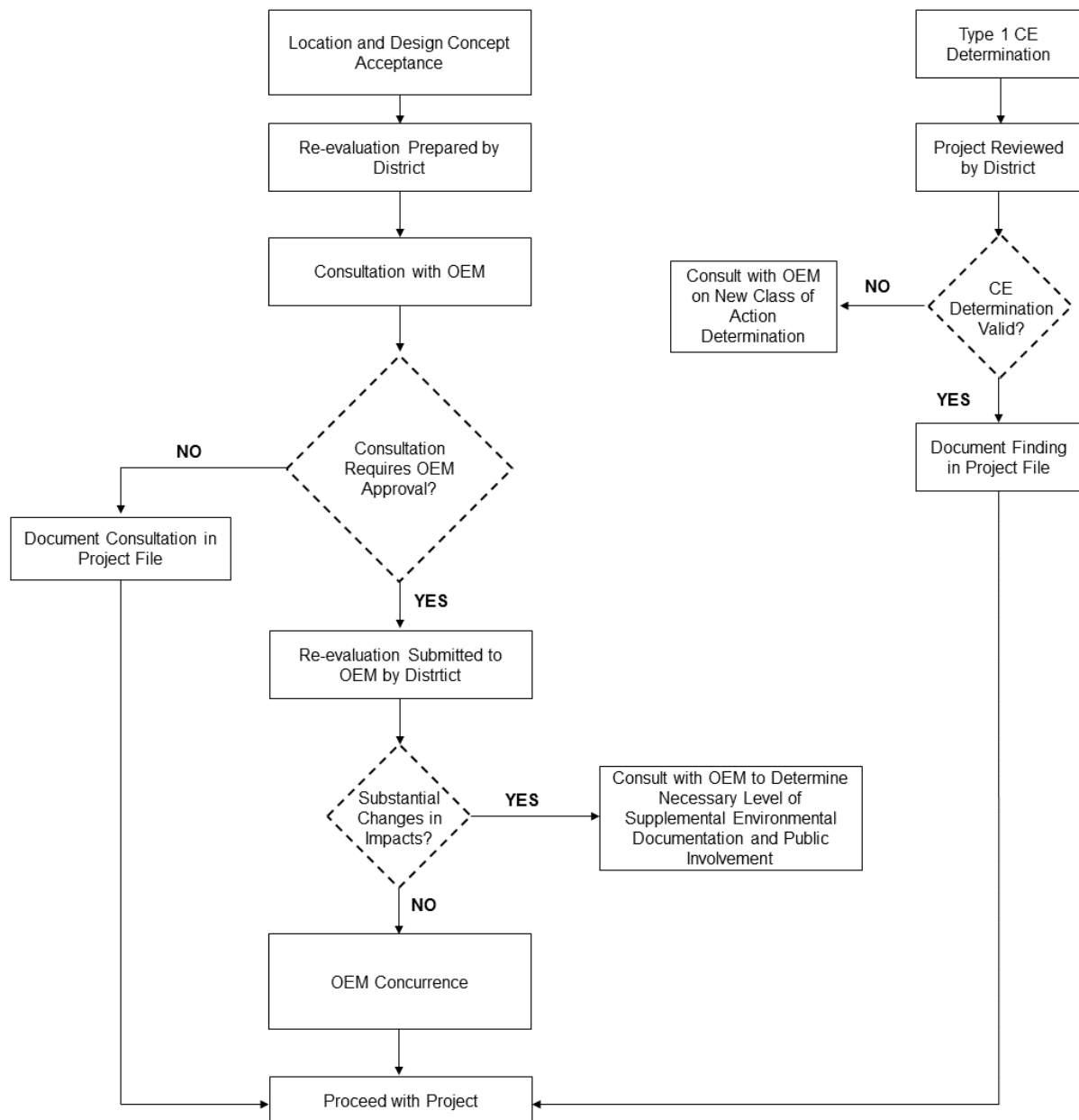


Figure 13-1 Re-evaluation Process

RE-EVALUATION FORM

The purpose of this re-evaluation is to ensure the findings of the original Environmental Document or previous re-evaluation remain valid.

1. GENERAL INFORMATION

A. Re-evaluation Type(s): _____

B. Original approved Environmental Document

Document Type: _____ Date of Approval: _____

Project Numbers: _____
Federal Aid FM ETDM

Project Name: _____

Project Location: _____

C. Prior Re-evaluation(s):

There is no previous re-evaluation of this Environmental Document.

FM Number	Type	Date District Approved	Date Lead Agency Consultation	Date Lead Agency Concurred	Description of Approval

D. Project or project segment(s) being advanced

Project/Segment Numbers: _____
Federal Aid FM

Project/Segment Name: _____

Project/Segment Location: _____

Project/Segment Letting Type: _____

2. PROJECT DESCRIPTION

Provide brief summary of the project description and segment(s) being advanced, as applicable.

Figure 13-2 Re-evaluation Form (Page 1 of 6)

3. CHANGES IN APPLICABLE LAW OR REGULATION

Are there changes in federal or state laws, rules, regulations, or guidance that require consideration since the date of the original Environmental Document or subsequent Re-evaluation(s)? Yes No

Describe the changes and link supporting documentation as appropriate.

4. EVALUATION OF MAJOR DESIGN CHANGES AND REVISED DESIGN CRITERIA

Are there major design changes, including but not limited to changes in the alignment(s), typical section(s), drainage/stormwater requirements, design control and criteria, or temporary road or bridge?

Yes No

Describe the changes and link supporting documentation as appropriate.

5. PUBLIC INVOLVEMENT

Were there additional public involvement activities? Yes No

Describe public involvement activities and link supporting documentation as appropriate.

6. PROJECT or SEGMENT(S) PLANNING CONSISTENCY

Planning Consistency is not required for this re-evaluation.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
Identify phase(s) being authorized (e.g., PE, ROW, and/or Construction)	Y/N	Y/N	\$		(If phase completed, make note, otherwise provide comments describing status and activities needed to achieve consistency)

Figure 13-3 Re-evaluation Form (Page 2 of 6)

7. EVALUATION OF CHANGES IN IMPACTS

a. SOCIAL & ECONOMIC

Are there changes in impacts to the social, economic, land use, mobility, and aesthetic effects? Yes No N/A

Describe the changes and link supporting documentation as appropriate.

Are there changes in right-of-way needs? Yes No N/A

Is there a change in anticipated relocation(s)? Yes No

Describe the changes and link supporting documentation as appropriate.

Are there changes in impacts to Prime or Unique Farmlands? Yes No N/A

Describe changes and link supporting information as appropriate.

b. CULTURAL

Are there changes in impacts to cultural resources (historic sites/districts and archaeological sites)?

Yes No N/A

Describe the changes and link coordination/consultation documentation as appropriate.

Are there changes in effects to Section 4(f) of the Department of Transportation Act protected resources, recreational areas, or other protected state lands?

Yes No N/A

Describe the changes and link coordination/consultation documentation as appropriate.

Are there changes in impacts to lands purchased under Section 6(f) of the Land and Water Conservation Fund Act? Yes No N/A

Describe the changes and link coordination/consultation documentation as appropriate.

Figure 13-4 Re-evaluation Form (Page 3 of 6)

Are there changes in impacts to recreational areas or other protected state lands?

Yes No N/A

Describe the changes and link supporting information as appropriate.

c. NATURAL

Are there changes in impacts to protected species and habitat, wetlands and other surface waters, or essential fish habitat? Yes No N/A

Describe the changes and link coordination/consultation documentation and or technical report as appropriate. Provide status of mitigation, as appropriate.

Are there changes in impacts to designated Aquatic Preserves, Coastal Barrier resources, Wild and Scenic Rivers, or Outstanding Florida Waters? Yes No N/A

Describe the changes and link coordination/consultation documentation as appropriate.

Are there changes in impacts to Floodplains or Water Quality and Water Quantity?

Yes No N/A

Describe the changes and link supporting documentation as appropriate.

d. PHYSICAL

Are there changes in Air Quality? Yes No N/A

Describe the changes and link supporting documentation as appropriate.

What is the status of Highway Traffic Noise? N/A

Provide a status update for noise impacts and link supporting documentation as appropriate.

What is the status of Contamination? N/A

Provide an update on the status of contamination assessment for sites rated "high" or "medium". If there is a change in impacts to potentially contaminated sites, describe the changes and link supporting documentation as appropriate.

Figure 13-5 Re-evaluation Form (Page 4 of 6)

Are there changes in impacts to Utilities and Railroads? Yes [] No [] N/A []

Describe the changes and link supporting documentation as appropriate.

Are there changes in impacts to Navigation? Yes [] No [] N/A []

Describe the changes and link supporting documentation as appropriate.

8. COMMITMENT STATUS

Are there existing environmental commitments? Yes [] No []

Are there new environmental commitments? Yes [] No []

List new environmental commitments

9. STATUS OF PERMITS

Federal Permit(s):

- USACE Section 10 or Section 404 Permit
- USACE Section 408
- USCG Bridge Permit

Status:

State Permit(s):

- DEP or WMD Environmental Resource Permit (ERP)
- DEP Coastal Construction Control Line Permit
- DEP National Pollutant Discharge Elimination System Permit
- FWC Gopher Tortoise Relocation Permit
- WMD Right of Way Permits

Status:

Local Permit(s):

Status:

Other Permit(s):

Status:

Add comment/explanation if permit listed in original Environmental Document is no longer required.

Coastal Zone Consistency is achieved at the time of state ERP issuance.

Figure 13-6 Re-evaluation Form (Page 5 of 6)

10. CONCLUSION

If no changes affecting the original environmental determination have occurred check the following:

- The above Environmental Document has been reevaluated as required by 23 CFR § 771.129. It has been determined that there have been no changes to the project that affect the original environmental determination. Therefore, the Administrative Action remains valid.

11. DISTRICT REVIEW AND APPROVAL

Name and title of FDOT Preparer: _____

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

OEM signature required? Yes No (date of consultation)

_____/ /
District approving authority or designee Date

12. OEM CONCURRENCE

_____/ /
Director of the Office of Environmental Management, or designee Date

13. Links to Supporting Documentation

Figure 13-2 Re-evaluation Form (Page 6 of 6)

STATUS OF ENVIRONMENTAL CERTIFICATION FOR FEDERAL PROJECT

Financial Management No. _____

Federal Aid No. _____

Project Description (include project title, limits, and brief description of the proposed scope of work): _____

This project is a Categorical Exclusion under 23 CFR § 771.117:

- A Type 1 Categorical Exclusion per (c)____ or (d)____ as determined on _____
- A Type 2 Categorical Exclusion approved on _____

The final environmental document for this project was a (check one):

- A Finding of No Significant Impact under 23 CFR § 771.121 approved on _____
- A Record of Decision under 23 CFR § 771.127 approved on _____

A re-evaluation in accordance with 23 CFR § 771.129 was (check one):

- Approved on _____
- Not required.

Signature: _____ Date: _____

Environmental Manager or designee

Figure 13-7 Status of Environmental Certification for Federal Project

PART 1, CHAPTER 14

TRANSIT PROJECT DELIVERY

TABLE OF CONTENTS

14.1	OVERVIEW	14-1
14.1.1	Definitions	14-1
14.2	AGENCY ROLES IN THE ENVIRONMENTAL REVIEW PROCESS	14-3
14.2.1	Agency Roles and Responsibilities	14-3
14.2.1.1	Lead Agencies	14-5
14.2.1.2	Joint Lead Agencies	14-6
14.2.1.3	Participating Agencies	14-7
14.2.1.4	Cooperating Agencies	14-7
14.3	PROCEDURE	14-8
14.3.1	Planning and Community Support	14-9
14.3.1.1	Transit Systems Planning	14-10
14.3.1.2	Operational Analyses	14-10
14.3.1.3	Potential Funding Source Identification	14-10
14.3.2	Concept Development and Alternatives Screening	14-11
14.3.2.1	Coordination with Partners and Lead Agency	14-11
14.3.2.2	Alternatives Screening	14-12
14.3.2.3	Environmental Screening Tool	14-13

14.3.2.4	Determine NEPA Class of Action	14-14
14.3.2.5	Linking Prior Planning Work with NEPA.....	14-15
14.3.2.6	Requesting Entry into Project Development.....	14-15
14.3.3	FTA Project Development/NEPA	14-17
14.3.3.1	Evaluation of Environmental Impacts	14-18
14.3.3.1.1	Noise	14-18
14.3.3.1.2	Vibration and Ground Borne Noise.....	14-19
14.3.3.1.3	Air Quality.....	14-20
14.3.3.1.4	Transportation Impacts.....	14-20
14.3.3.1.5	Safety and Security	14-20
14.3.3.1.6	Historic Resources	14-21
14.3.3.1.7	Archaeological Resources.....	14-21
14.3.3.1.8	Wetlands	14-21
14.3.3.1.9	Ecologically Sensitive Areas and Endangered Species	14-21
14.3.3.1.10	Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zone Management.....	14-21
14.3.3.2	Categorical Exclusions.....	14-23
14.3.3.3	Environmental Assessment.....	14-30
14.3.3.3.1	Public and Agency Review Requirements.....	14-30
14.3.3.3.2	Finding of No Significant Impact.....	14-31

14.3.3.4	Environmental Impact Statement	14-32
14.3.3.4.1	Notice of Intent	14-33
14.3.3.4.2	NEPA Scoping.....	14-33
14.3.3.4.3	Annotated Outline.....	14-34
14.3.3.4.4	Coordination Plan.....	14-34
14.3.3.4.5	Draft Environmental Impact Statement.....	14-35
14.3.3.4.6	Public and Agency Review Requirements.....	14-35
14.3.3.4.7	Final Environmental Impact Statement.....	14-35
14.3.3.4.8	Record of Decision	14-36
14.3.3.4.9	Accelerated Decision-Making for Environmental Impact Statements	14-36
14.3.3.5	Request Entry into Engineering.....	14-37
14.4	FTA FUNDING PROGRAMS.....	14-38
14.4.1	Capital Investment Grant Programs.....	14-39
14.4.1.1	New Starts	14-39
14.4.1.2	Core Capacity	14-40
14.4.1.3	Small Starts.....	14-40
14.4.1.4	Programs of Interrelated Projects.....	14-40
14.4.2	Formula Programs	14-41
14.4.3	Discretionary Programs	14-41

14.5	REFERENCES	14-42
14.6	HISTORY	14-46

LIST OF FIGURES

Figure 14-1	Transit Planning and Development Phase	14-47
Figure 14-2	New Starts Development Process	14-48
Figure 14-3	Core Capacity Development Process	14-49
Figure 14-4	Small Starts Development Process.....	14-50
Figure 14-5	New Starts, Core Capacity, and Small Starts Project Evaluation and Rating Under MAP-21	14-51
Figure 14-6	FTA Region IV Categorical Exclusion Checklist.....	14-52
Figure 14-7	Environmental Impact Statement Outline.....	14-61
Figure 14-8	Environmental Re-Evaluation Consultation Worksheet.....	14-64

PART 1, CHAPTER 14

TRANSIT PROJECT DELIVERY

14.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter outlines the environmental review process and project delivery requirements for transit projects, particularly those led by the Federal Transit Administration (FTA). All transit projects receiving federal funds or transit projects that involve federal actions, such as new or extended transit systems, maintenance facilities, or multimodal centers, must comply with the **National Environmental Policy Act (NEPA)**. Federal actions are described in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). FTA is typically the Lead Agency in the development of transit projects; however, the FDOT and the Federal Railroad Administration (FRA) can be involved in the development of transit projects and may serve as the Lead Agency. Each agency has its own set of procedures for ensuring **NEPA** compliance. The Project Development and Environment (PD&E) process is how the FDOT complies with **NEPA** and FTA's Project Development process for capital investments projects. Given the competitive grant based nature of FTA projects, there is a two-year timeframe to complete the FTA Project Development phase for New Starts and Core Capacity projects. There is no time requirement to complete Project Development for Small Starts projects. This chapter focuses on the **NEPA** and project delivery requirements for a FTA-led transit project.

14.1.1 Definitions

The terms used by various agencies may be similar but there are notable distinctions for certain key terms used by FDOT and FTA for transit planning purposes. The following definitions clarify key terms used in this chapter:

Alignment – Refers to the length, station locations, intermodal connections, degree of right of way (ROW) separation, horizontal use of ROW and vertical placement within a transportation facility. Horizontal alignment refers to the location within the transportation facility on existing tracks, new track alignment, exclusive lane, mixed traffic, or separate

lane except at intersections. Vertical alignment refers to the orientation of the facility (i.e., below grade, at grade, or above grade).

Alternative – Refers to the Alignment (see above) as well as the transit technology, operating characteristics (local, express, non-stop, headways and operating standards, loading characteristics, fares, financial strategy, and start/end points). Also refers to a potential transportation improvement alternative under consideration that addresses the project's purpose and need.

Capital Investment Grant (CIG) Program – Refers to the discretionary fixed guideway funding program authorized by **49 U.S.C. § 5309**. There are three categories of eligible transit projects within the CIG Program; they include: New Starts, Core Capacity, and Small Starts projects.

Class of Action (COA) – [**23 Code of Federal Regulations (CFR) § 771.115**] refers to the level of documentation required to comply with the **NEPA** process for FTA-led or other federally funded projects. Environmental document types are Categorical Exclusion (CE), Environmental Assessment (EA) with Finding of No Significant Impact (FONSI), or Environmental Impact Statement (EIS)/Record of Decision (ROD).

Locally Preferred Alternative (LPA) – Refers to the alternative that emerges from the Project Development phase of the **NEPA** environmental review process and is documented in an Environmental Document. The project sponsor then recommends the LPA to the Metropolitan Planning Organization (MPO)/ Transportation Planning organization (TPO) and requests approval by the MPO/TPO Board for inclusion in the region's Long Range Transportation Plan (LRTP) Cost Feasible Plan.

Project Development – Project Development has two meanings, one within the context of FTA projects that are funded by the CIG Program and one within the context FDOT in completing PD&E. Under the FTA definition, Project Development is the phase where project sponsors work with FTA to develop and evaluate transit alternatives and complete the environmental review process. A formal Request to Enter Project Development is submitted to FTA and the Project Development must be completed within two years for New Starts and Core Capacity projects. Under the FDOT definition, Project Development is the "PD" component of PD&E. PD&E is the project phase where project sponsors comply with FTA's Project Development process requirements. During PD&E, planning decisions for projects are further assessed, transportation alternatives are developed and evaluated in a **NEPA** study, and preliminary design activities for these alternatives are completed.

Project Sponsor – Refers to a transit agency, local government, and/or MPO/TPO that has proposed to support and advance a transit project or proposed action, including the development of a **NEPA** document, in coordination, consultation, and cooperation with a Lead Agency. Multiple agencies may serve as the Project Sponsor. The project sponsor does not need to be the FTA grant applicant. The District Modal Development Office may also serve as a project sponsor but usually only serves as a stakeholder in the environmental review process. When seeking FTA CIG Program funds or other federal

funds for a project, project sponsors will need to identify local project partners to support the project and be certain that federal funds are supplemented by state and local funds.

Recommended Alternative – Refers to an alternative developed during the Planning phase and determined by the community, stakeholders, project partners, and the project sponsor to meet the project’s purpose and need while minimizing adverse impacts. The Recommended Alternative should be presented with supporting information and documentation for endorsement by the MPO/TPO (in an urban area) and/or affected local governments for further evaluation in a **NEPA** study.

Sufficient Engineering – At least 30 percent design and engineering, including documents at the level of detail described in the **Final Interim Policy Guidance - FTA Capital Investment Grant Program**.

Transit Development Plan (TDP) – Refers to an FDOT required, 10-year horizon plan, intended to support the development of an effective multimodal transportation system by transit agencies. The TDP documents anticipated projects, associated schedules, and budgets for FDOT, as well as consistency with local comprehensive plans and the LRTP. The TDP is updated annually, with major updates occurring every five (5) years. **Sections 339.135 and 339.155, Florida Statutes (F.S.)**, govern the development of TDPs.

14.2 AGENCY ROLES IN THE ENVIRONMENTAL REVIEW PROCESS

FTA primarily serves as a grant-administering agency; managing grant programs to state Departments of Transportation (DOTs), transit agencies, MPOs/TPOs, Native American Tribes, local governments, and other public entities. FTA makes COA determinations and actively manages the environmental review process for all FTA-funded projects; FTA review and approval is required for all FTA **NEPA** documents. FTA expects to be involved at the beginning stages of the environmental review process before any extensive environmental work begins. It is good practice to request FTA’s review and comments on the level of effort and methodology to assess each environmental impact area required for the **NEPA** study, particularly for those listed in [Section 14.3.3.1](#). FTA is available to serve as a technical resource to ensure successful and timely completion of the environmental review process. FTA should always facilitate consultation and discussions with other federal resource agencies and Native American Tribes.

14.2.1 Agency Roles and Responsibilities

Transit projects are typically advanced by an agency outside of FDOT. There are several key agencies with specific roles and responsibilities associated with the development of a transit project from concept to completion; these may include:

1. Lead Agency;
2. Project sponsor/FTA grant applicant/FTA grantee;
3. FDOT (Public Transit Office, OEM, and District staff);

4. MPOs/TPOs;
5. Transit agencies;
6. Local governments; and,
7. Cooperating, participating, regulatory, and federal resource agencies.

Typically, the MPO/TPO or a local or regional transit agency identifies projects. These entities may serve as the project sponsor or FTA grant applicant/grantee. The project sponsor will be responsible for conducting the **NEPA** study, coordinating with FDOT and partner agencies, and complying with the grant requirements. The transit agency will typically serve as the FTA grantee, but not always.

Some of the activities for which the project sponsor/FTA grantee is involved include:

1. Developing a detailed scope of work/work plan identifying the tasks that will be performed, the sequence in which they will be completed, agency responsibilities for completing the work, project schedule, and the anticipated cost of the respective tasks. It is important to note that this activity usually takes more time with transit projects than with roadways projects. These items should be reviewed by the Lead Agency.
2. Identifying stakeholder responsibilities for completing assigned tasks and ensuring that the involved agencies are organized, staffed, and supported so that they may fulfill their roles in a timely manner.
3. Providing professional management and direction as the work progresses, ensuring that work is done in an efficient manner and that deliverables are obtained in a timely fashion.
4. Taking necessary steps, such as establishing a Technical Advisory Committee (TAC), to ensure the technical quality of the work.
5. Coordinating with local cooperating agencies and the FTA or other Lead Agency by means of project steering committees, monthly/quarterly reports, transmission of key project documents for review, etc.
6. Keeping other interested agencies, private operators, and the public informed and seeking their input through established public involvement mechanisms.
7. Responding to information requests by local decision makers and FTA or other Lead Agency during the course of the Project Development process.

For FTA-led projects that require an EIS, the roles, responsibilities, the organization, and schedule for the coordination among agencies and the public is discussed in the **Coordination Plan** (see [Section 14.3.3.4.4](#)). A summary of agency roles and responsibilities is provided below.

14.2.1.1 Lead Agencies

For transit projects, the Lead Agency is typically FTA; however, OEM, FRA, and other agencies may serve this role depending on the funding source or federal actions required for the project. A project is considered an FTA-led project only if FTA funds will be spent on construction or vehicle acquisition. Allocating FTA funds to Project Development or Design does not make the project an FTA-led project or an FTA-led federal action. In addition to the Lead Agency, several other agencies may be involved in different capacities such as Cooperating or Participating agencies.

The lead agency must also:

- (1) Identify and involve participating agencies [**23 U.S.C. § 139(d)**]; develop **Coordination Plans** [**23 U.S.C. § 139(g)**];
- (2) Provide opportunities for public and participating agency involvement in defining the purpose and need as well as determining the range of alternatives [**23 U.S.C. § 139(f)**]; and,
- (3) Collaborate with participating agencies in determining methodologies and the level of detail for the analysis of alternatives [**23 U.S.C. § 139(f)(4)(C)-(D)**].

Federal actions are described in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). Even if federal funds are not used, the project may still have a federal action requiring the preparation of a **NEPA** document. Certain environmental impacts trigger the need for **NEPA** evaluations with various federal resource agencies. For example, wetlands impacts may trigger a need for a **NEPA** document led by the U.S. Army Corps of Engineers (USACE), while new or modified bridges or interchanges on the interstate highway may trigger a need for a **NEPA** document led by OEM, even though no federal funds are used for project implementation.

FTA divides its roles and responsibilities between staff at the Region IV office in Atlanta and the Headquarters office in Washington, D.C. Contacts from both offices may be assigned to work with the project sponsor/FTA grantee. These FTA contacts work with other appropriate FTA technical staff, project stakeholders, federal resource agencies, and consultant teams to offer specialized technical assistance on areas such as environmental technical analysis, transit service planning, travel demand forecasting, capital cost estimates, and financial planning. The project sponsor should be prepared to present all proposed technical analysis methods to FTA staff for comments and approval. FTA Region IV staff will provide assistance on programmatic procedures and requirements. FTA Headquarters staff may provide assistance and reviews to the FTA Region IV office during technical reviews. Although FTA's role is less formal before the Project Development phase, it is important to coordinate with FTA Region IV staff to ensure that the resulting planning analysis is consistent with FTA's accepted methods so that any planning documentation may securely link the planning and **NEPA** processes.

The FTA Region IV office serves as the lead point of contact for local agencies on the

FTA programmatic matters. It handles grant-making activities, serves as the focal point for contacts and correspondence, represents FTA at meetings, monitors progress, processes the draft documents, and seeks assistance from the FTA Offices of Planning and Environment and Program Management on planning, technical, and programmatic issues. The roles of FTA's Region IV office in the Project Development phase are specifically summarized below:

1. Grant Making - Reviews grant applications, approves grants, and performs typical grant administration functions.
2. Program Guidance - Provides study sponsors with basic guidance on discretionary programs, including Project Development requirements, project evaluation procedures, and grants requirements.
3. Representation at Meetings - As necessary, and to the extent possible, Region IV office staff represents FTA at most technical and policy-level meetings that occur during Project Development. Their role is to explain overall FTA policies and procedures, FTA positions on specific issues related to Project Development, and the process for advancing major transit investments into subsequent phases, and to provide technical guidance.
4. Metropolitan and Systems Planning Issues - Provides guidance and direction on metropolitan planning requirements and issues which may impact the final Environmental Documents and subsequent project advancement, such as air quality conformity, financial constraint, and project programming.
5. Project Schedules - Reviews project schedules and provides guidance to the project sponsor.

All correspondence should be directed to the FTA Region IV Regional Administrator. The Regional Administrator may then delegate responsibility to other staff members to respond accordingly. Therefore, it is very important to copy the director of the FTA Region IV Planning and Development Director as well as the environmental protection specialist and the community planner assigned to the project.

FTA provides transit funding through one of the grant programs described in [Section 14.4](#). Each of these programs has its own set of guidance. Additionally, FTA has considerable involvement and decision-making in the conduct of the environmental review process during the PD&E phase continuing through to design and construction. As such, FTA policies and evaluation criteria should always be reviewed prior to initiating a project.

14.2.1.2 Joint Lead Agencies

For projects on which both FTA and another federal or lead agency are required to take federal actions, both agencies may serve as a Joint Lead Agency, or in the Lead Agency role together. Examples of FTA funded projects where FTA may be a joint lead agency

with other federal or lead agencies include:

1. OEM and FTA on a transit project located on the National Highway System (NHS);
2. OEM and FTA on a transit project that includes a new or modified bridge structure over an interstate corridor;
3. OEM and FTA on a multimodal project that involves roadway widening and new transit-only lanes on the NHS;
4. FRA and FTA on a transit project located in a freight or intercity railroad corridor; and,
5. U.S. Coast Guard (USCG) and FTA on a transit project that includes a new bridge structure over a navigable river.

The Joint Lead Agencies have the primary responsibility for overseeing the environmental review process to ensure that all work is performed in a technically sound manner and in accordance with each agency's **NEPA** implementing regulations and requirements. While both agencies will make sure the environmental review process is successfully completed within a project schedule and budget that is acceptable to both agencies, FTA will take the lead role in making sure the project sponsor completes all requirements of the Project Development process for New Starts, Core Capacity, and Small Starts projects. FTA's decision on its role depends on the relative magnitude of the transit elements of a multimodal project and the timing of FTA funds for the project.

14.2.1.3 Participating Agencies

Participating agencies may include any federal, state, tribal, regional, and local government agencies that have an interest in the project. Participating agencies must identify any issues of concern which could substantially delay the project. It is the responsibility of the Lead Agency to identify and collectively invite potential participating agencies. Private and nongovernmental organizations are not eligible to serve as participating agencies. The fact that an agency accepts the designation of a participating agency does not imply support or provide them with increased oversight or authority over the project.

14.2.1.4 Cooperating Agencies

Cooperating agencies are any federal agency, other than the Lead Agency, that has legal jurisdiction or special expertise as it applies to the environmental impact of a proposed project or project alternative. Cooperating agencies can also include, through agreement with the Lead Agency, a state or local agency with similar qualifications as well as Native American Tribes with lands or cultural resource areas of interest that may be impacted by a proposed project. Cooperating agencies are, by definition, participating agencies, but not all participating agencies are cooperating agencies. The cooperating agencies have

a greater role of involvement, responsibility, and authority in the environmental review process.

14.3 PROCEDURE

This section describes the procedure for advancing a proposed transit project from local transit systems planning to the FTA Project Development phase ([Figure 14-1](#)). These procedures are consistent with FDOT's planning process and FTA's discretionary CIG program requirements. For FTA New Starts and Core Capacity projects, the procedure is a two-step process, Project Development and Engineering as shown in [Figures 14-2](#) and [14-3](#). For Small Starts projects, the procedure is a simplified process as shown in [Figure 14-4](#). The Project Development phase for CIG projects is when the **NEPA** document is completed and a formal designation of the LPA is selected, the LPA is included in the MPO/TPO's LRTP Cost Feasible Plan, and sufficient information is developed for FTA to complete project rating. In addition to preparing the **NEPA** document, sufficient information must be gathered during this phase to develop the goals, objectives, and performance measures of the project. Information from planning activities can be used to support documentation submitted to FTA. The LPA is evaluated based on FTA's ratings criteria.

The CIG program is the most common funding source for major transit investment projects. The CIG program requires FTA approvals to begin the Project Development and the Engineering phases, which is within the context of the environmental review process. Project sponsors who want to enter Project Development must submit a letter with specific information to FTA's Associate Administrator for the Office of Planning and Environment ([Section 14.3.2.6](#)). There are two sets of criteria considered by FTA in evaluating projects for its New Starts, Core Capacity, and Small Starts Programs: Project Justification and Local Financial Commitment. Each of these criteria has a set of measures that are used to calculate the composite score for each criterion. [Figure 14-5](#) shows these criteria, their associated measures, and weighting applied to each. Projects must receive at least a Medium rating to move into the Engineering phase. The CIG program requirements are periodically updated and FTA's guidelines should be reviewed early in the planning phase to take full advantage of the opportunity to link work completed in the planning phase with the work to be completed during the environmental review process.

Florida has a prescribed five-step process for moving transit projects from concept to construction. Early planning and Project Development encompasses the first three steps: Planning and Community Support, Alternatives Screening, and PD&E. Public involvement is an important component of all five steps to include diverse viewpoints and values in the entire process.

- **Step 1 (Planning and Community Support)** includes systems planning, such as local or regional LRTPs, Transit Development Plans or other regional transportation plans. Projects are general, with little more information than potential corridor, termini, project type (e.g., premium transit), and the project's expected impact on mobility at the countywide or regional level. During this step, the Efficient Transportation Decision Making (ETDM) process is initiated to identify

potential issues and resources of concern as well as potential avoidance and mitigation opportunities.

- **Step 2 (Concept Development and Alternatives Screening)** is the alternatives screening process and includes continued agency and public coordination as well as analysis of alternatives. This step typically involves refining the purpose and need of the project, defining the general travel corridor and preferred or recommended transit mode, evaluating corridor alternatives, and describing the environmental setting including any anticipated environmental impacts and recommended mitigation. Most importantly, when considering FTA funding, this Step identifies partner agency roles and responsibilities as well as general order of magnitude costs for construction, operations and maintenance. This step terminates with a **NEPA** COA Determination and if the project pursues a CIG, a Request to Enter Project Development to FTA.
- **Step 3 (PD&E Study)** combines project development and detailed environmental analysis to comply with state and federal environmental laws. During PD&E, FDOT performs preliminary engineering, conducts environmental analysis, and continues public involvement activities, as well as prepares necessary studies and reports consistent with either FTA or State Environmental Impact Report (SEIR) requirements to advance the project into design and construction. During PD&E, FDOT refines the alternatives identified in the Step 2; further defines potential impacts to natural, physical, cultural, and community resources; and, documents compliance with state and federal environmental laws. [Section 14.3.3](#) details the procedures for completing a **NEPA** document. If the project pursues a CIG, this step terminates with a Request to Enter Engineering to FTA.
- **Steps 4 and 5 (Design, Construction and Operations)** take the preferred study alternative into design, construction, and operations.

Planning activities are accomplished in Steps 1 and 2, and are summarized in [Section 14.3.1](#). This chapter focuses on Step 3, which is the completion of PD&E and how that process fulfills the FTA requirements for Project Development in the context of the CIG program. FTA projects receiving funding through other FTA formula grants and discretionary programs are subject to **NEPA** and the PD&E process with coordination with FTA as the Lead Agency.

14.3.1 Planning and Community Support

Early planning activities are typically accomplished at the local level. Needs for transit investments are identified through long range planning process and transit development plans. Through these early planning activities an understanding of public support is garnered through community outreach related to long range plans or planning studies conducted by MPOs/TPOs or transit providers. This section highlights activities that are considered early planning, transit systems planning, operational analyses, and identification of potential funding.

14.3.1.1 Transit Systems Planning

Transit agencies most often conduct regional transportation planning studies or systems planning to identify broad transportation needs and deficiencies. The MPO/TPO and the District Office of Modal Development may choose to participate in these studies. An essential component of the systems planning analysis is to identify future travel demands and complete an analysis to identify demand and potential regional connections between modes and regional centers. The analysis typically results in identifying numerous corridors within the region where the transportation network is not currently meeting travel demand or will not meet future travel demand.

14.3.1.2 Operational Analyses

FDOT requires transit agencies to prepare a 10-year TDP, which is intended to support the development of an effective State multi-modal transportation system. One requirement of the TDP is for transit agencies to examine their transit operations at the systems planning level. Information in these documents can highlight service needs, unmet demand, needed operational adjustments, and quality of service considerations. Together, the travel market analysis and the operational analysis can help to define the project study area, transit mode, and transit alignment alternatives for further analysis. Once transportation needs are identified through systems planning, it is recommended that a travel market analysis be completed for individual corridors to understand where people travel most frequently. The agency leading the travel market analysis should consult with the transit agency for information from the TDP and any operational analyses to help inform the travel market analysis. If the travel market analysis reveals that a major transit project is necessary to meet the forecast travel demand, then a decision should be made regarding the primary project sponsor and the source of funding.

14.3.1.3 Potential Funding Source Identification

The anticipated costs as well as availability of local, state, and/or federal funding sources should be identified during the planning and community support phase. The FDOT Work Program, State Transportation Improvement Program (STIP), and LRTP Cost Feasible Plan (CFP) should be updated to reflect anticipated costs and funding sources for the proposed action. Most federal funding sources do not fund 100 percent (100%) of the total construction costs for the project. Therefore, state and/or local funds are required not only to meet grant application requirements but also to be competitive with other grant applicants from across the country.

FTA is typically the Lead Agency in the development of transit projects funded with FTA funds. There are three categories of FTA funding programs: Formula, Discretionary, and CIG. Generally, funding from Formula programs is allocated to pay for transit operating and maintenance costs; therefore, these funds are rarely used for advancing construction for a new transit project. Funding from FTA's Discretionary programs is allocated through a competitive process with detailed evaluation criteria used for comparison purposes. The CIG program is comprised of discretionary grants (New Starts, Small Starts and Core Capacity) which are discussed separately in this chapter as they have distinctive

requirements including legislatively directed multi-year, multi-step processes with FTA project evaluation, and ratings required at specific points. Additional guidance for the requirements for FTA's formula and discretionary grant programs should be obtained from the FTA Region IV office. A link for FTA Region IV's website is provided in the [Section 14.5](#).

Once a potential FTA funding source is identified, the grant applicant should contact FTA Region IV to review the program requirements and confirm that the project could potentially meet those requirements. Consideration for the operating and maintenance funds for the proposed project must be included in grant requests, and funding options for the operation of the proposed project should be discussed during the planning and community support phase.

Project sponsors should consult with FTA Region IV staff to determine the reasonableness of seeking FTA funding for construction or vehicle acquisition and coordinate on identifying the appropriate Lead Agency.

14.3.2 Concept Development and Alternatives Screening

Once a need and a potential project are identified in the Planning phase, the project is advanced to concept development and alternatives screening. This process begins to shape the details of a project to be carried forward to PD&E. The following sections describe transit concept development and alternatives screening process.

14.3.2.1 Coordination with Partners and Lead Agency

Early coordination with the public, agencies, partners, special interest groups, and elected officials is crucial to obtaining feedback and information to support local planning work. Public involvement activities during this stage should be documented for inclusion in the **NEPA** document to capture local decision making in the overall process. Local study partners should discuss the transit study costs, planning requirements, capital costs, potential environmental impacts, Right of Way (ROW) needs, operating costs, potential funding sources, and agency responsibilities. This early planning work gives the Lead Agency, and other project partners, an opportunity to understand regional needs and the project purpose prior to the Project Development process. Coordination with the MPO/TPO and transit providers is also important to incorporate available data, reflect existing conditions, understand existing and planned transit services, examine technical inputs, and generate support for the project.

Establishment of the project's purpose and need, corresponding goals, objectives, and preliminary evaluation measures should be defined during planning and should be reviewed by local partners and the Lead Agency. The roles and responsibilities of local partners should be established through a Memorandum of Understanding (MOU) or transit service agreements, as appropriate. Local partners may have access to considerable data and forecasting models that will be necessary to conduct certain steps.

As soon as practical, the project sponsor should schedule meetings with FDOT staff to discuss the appropriate environmental documentation requirements, designation of the Lead Agency, and grant programs. Most federal funding programs only contribute a portion of construction costs with the balance typically provided by state, local, and private funds. Operating and maintaining the system is typically a local responsibility. These funding decisions will influence the parameters of the proposed action as well as the planning and Project Development processes beginning in their earliest stages.

FTA encourages the use of early scoping (not **NEPA** scoping) in conjunction with early planning work as a way of securely linking the transportation planning and **NEPA** processes. **NEPA** scoping is discussed in [Section 14.3.3.4.2](#). Early scoping is appropriate during the Planning phase when there are several alternatives and alignments under consideration. Project sponsors, who are considering early scoping during planning, should notify FTA Region IV staff and develop an early scoping notice for publication in the **Federal Register (FR)** as well as early scoping announcements locally in newspapers, project websites, and other media. Early scoping activities can include public meetings, newspaper advertisements, and meetings with interested federal, state, tribal, and local agencies. The initial **Public Involvement Plan (PIP)** can also be developed; however, it does not need to be as formal as the **Coordination Plan** (see [Section 14.3.3.4.4](#)) developed during Project Development.

14.3.2.2 Alternatives Screening

Alternatives screening performed during planning combines best transit corridor planning practices with the information needed to prepare the letter for FTA to request entry into Project Development. The purpose of the alternatives screening is to gather information and conduct early evaluations of transit alternatives, including transit modes and alignments to streamline the process so that project sponsors can complete the Project Development process within the two-year timeframe established by FTA for New Starts and Core Capacity projects. If the District Office of Modal Development leads the planning, then close coordination with the transit operator, MPO/TPO, and affected jurisdictions is required. In addition, the District Offices and other project sponsors should contact FDOT's Transit Office and OEM and discuss the study methods and assumptions throughout the process. FTA may also have tools or preferred methods for analyses to support the concept development and alternatives screening.

Transit projects that are advanced without FTA funds for construction or vehicle acquisition are not required to coordinate with FTA. Transit projects that are funded by other federal fund should follow the FDOT PD&E process. Project sponsors of non-federally funded projects should continue to coordinate with FDOT because a SEIR or Project Environmental Impact Report (PEIR) may be required to fulfill environmental review requirements. For more information about state, local, or privately funded project delivery, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#). The number of alternatives to be evaluated in a SEIR is determined by FDOT and shall include a No-Build Alternative. However, if more than one alternative is evaluated in the SEIR, a study conducted during planning must also follow the best corridor transit planning practices and FTA's environmental streamlining practices. This requirement is

especially important for transit projects, since future legislation could introduce new grant programs or make changes to current grant programs that would make FTA funding or other federal funding more attractive for the project.

The alternatives screening includes an assessment of a various public transportation or multimodal alternatives to address transportation problems in a corridor or subarea. The alternatives screening produces a Recommended Alternative(s). The Recommended Alternative(s) is carried into Project Development and the environmental review process. The selection of the LPA is the result of the **NEPA** process and is recorded in the FTA-issued CE, EA with FONSI, or Final Environmental Impact Statement (FEIS)/ROD. The results of the alternatives screening link to the **NEPA** process to ensure the Project Development phase is completed within the required two-year timeframe. The Planning Screen should be conducted during the alternatives screening phase in accordance with the [ETDM Manual, Topic No. 650-000-002](#) to assess initial environmental impacts of the alternatives considered and document possible mitigation strategies. The Planning Screen should be conducted using the ETDM Environmental Screening Tool (EST) discussed in the next section. The project study area, conceptual alternatives, environmental issues to be addressed, and travel market analysis may be brought forward for use to document the alternatives screening and inform the ETDM Planning Screen.

Detailed information and agency comments gathered through the EST can be used to inform the FTA or other Lead Agency about resource agency comments and concerns, anticipated impacts in support of the COA determination, and early scoping. FDOT's Work Program and production schedule should also incorporate the timeline for advancing the proposed action and any related planning or engineering activities. Continuous stakeholder engagement and input is needed throughout the alternatives screening phase to identify community preferences, goals, needs, and to generate support for the project.

The final step during the alternatives screening phase is selection of the Recommended Alternative. Although there are no requirements that the MPO/TPO (urbanized areas) adopt the Recommended Alternative, it is advised that the project sponsor seek a resolution of support of the Recommended Alternative from the MPO/TPO or Regional Planning Council, and affected local governments. This documentation can be included in the request to enter Project Development to demonstrate local support for the proposed action. The result of the alternatives screening phase the preparation of an application letter to FTA requesting entry into the Project Development phase. [Section 14.3.2.6](#) explains the process for requesting entry into Project Development.

14.3.2.3 Environmental Screening Tool

The EST is an internet-based interactive database and mapping application that integrates a geo-relational database of ETDM projects, Geographic Information System (GIS) data layers, automated and standardized GIS-based environmental screening analysis application, as well as numerous tools for data entry, review, and reporting. The EST brings together information about a project and provides analytical and visualization

tools that help synthesize and communicate project information. It provides a single point of reference where stakeholders have access to the same information to assess of the project.

The EST efficiently manages early interaction with agencies and affected communities through two ETDM screening events, which are completed and then incorporated into the transportation planning process: the Planning Screen and the Programming Screen. The Planning Screen occurs when considering projects for inclusion or prioritization within the LRTP. The Programming Screen supports development of FDOT's Work Program. The results of both screening events centers on a project review and include project preparation activities and follow-up tasks occurring before and after the review. For transit projects it is recommended that non-FDOT project sponsors, such as MPO's or transit agencies, use the Planning Screen to gather project information as well as agency comments. Alternatively, a non-FDOT project sponsor can use the Area of Interest (AOI) tool in the EST to generate GIS environmental information on the proposed project and coordinate with agencies and other interested parties using other methods. For FDOT-led transit projects the District can follow the normal ETDM Planning Screen process.

For FTA-led projects, direct consultation with FTA Region IV staff concerning the environmental review process is necessary in addition to completion of the EST. Data obtained from ETDM screening provides information to assist with FTA consultation and discussions concerning the environmental review process, including the preliminary purpose and need, environmental resource information to support FTA's COA determination, and identification of cooperating and participating agencies. FTA does not require the use of the EST; however, the information can be repackaged and submitted to FTA to meet the requirements for requesting entry into Project Development. See [ETDM Manual, Topic No. 650-000-002](#) (Chapter 2, ETDM Process and [Chapter 3, Planning Screen](#)) for details.

14.3.2.4 Determine NEPA Class of Action

As discussed in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), the COA determination identifies the level of documentation required for a project. A COA determination is primarily driven by the nature of the federal action and the context where it occurs. The COA determination is made in consultation with the Lead Agency for all projects with a federal action requirement. FTA is typically the Lead Agency for federally funded transit projects and makes the COA decision. FTA, FRA, Federal Aviation Administration (FAA), USCG, or the USACE may serve as the Lead Agency for transit projects that received federal funding or that require an action from one of these agencies as a result of project implementation. When an FTA grant applicant identifies a project concept that is not listed as a CE under **23 CFR § 771.118(c)**, the FTA grant applicant should notify FTA Region IV staff and provide the following information on the proposed project to apply request entry into Project Development:

1. Project description;
2. Summary of prior planning work;

3. The summary of the alternatives screening;
4. Final draft purpose and need or a statement of need;
5. Maps or figures showing the location of the project, project termini, proposed station locations and sizes, and proposed vehicle storage and maintenance facility location;
6. Information from the ***Programming Screen Summary Report*** concerning any known environmental issues and constraints, but not the entire report; and,
7. Information describing other known project features such as bridge structures.

FTA will make the COA determination for all FTA-led projects. Project sponsors should request written correspondence for all COA determinations from FTA. Any documentation related to determining the ***NEPA*** COA should be included in the environmental review files and may be uploaded to the EST.

14.3.2.5 Linking Prior Planning Work with NEPA

Per Federal Regulation ***23 CFR Part 450*** and ***23 U.S.C. § 168***, linking the transportation planning and the ***NEPA*** process is encouraged. This is particularly important for requesting entry into the Project Development phase for New Starts, Core Capacity, or Small Starts projects. Prior to providing information sufficient for the Associate Administrator of FTA's Office of Planning and Environment to determine whether the project is ready to enter the Project Development phase, the project sponsor of a New Starts, Core Capacity, or Small Starts project should conduct local planning studies and/or feasibility studies. The project sponsor may initiate the environmental review process to gather the information required to request entry into Project Development. In Florida, project sponsors have two tools to ensure that all transportation planning work is securely linked to the environmental review process for the project: the alternatives screening phase and the ETDM process. The ETDM process connects the planning phase with the PD&E phase, which consists of the environmental review process and the Project Development phase for FTA New Starts, Core Capacity, and Small Starts projects. The ETDM process carries forward planning products, previous analyses, and decisions supporting transportation project implementation during subsequent project development phases and is fully consistent with the streamlining objectives prescribed in the current funding legislation.

14.3.2.6 Requesting Entry into Project Development

Project sponsors who want to enter the Project Development phase as a New Starts, Core Capacity, or Small Starts project should submit a letter to the Associate Administrator for FTA's Office of Planning and Environment. This can be submitted upon completion of the planning activities. The application letter should be succinct with only two (2) to five (5) pages to summarize the pertinent information developed during the feasibility or planning process. Coordination with FTA Region IV staff is highly

recommended prior to preparing this information to ensure the guidance has not changed. The letter should include the following information or attachments:

1. The name of the study sponsor, any partners involved in the study, and the roles and responsibilities of each;
2. Identification of a project manager and other key staff that will perform the Project Development work;
3. A brief description and clear map of the corridor being studied including its length and key activity centers;
4. The transportation problem in the corridor or a statement of purpose and need;
5. Identification of a proposed project if one is known and alternatives to that project if any are being considered;
6. Identification of a preliminary cost estimate for the project, if available;
7. Identification of whether the project will be a New Starts, Core Capacity, or Small Starts project;
8. A brief description of current levels of transit service in the corridor, including a listing of the existing transit routes in the corridor, their frequency, and existing ridership;
9. Copies of prior planning studies done in the corridor. Project sponsors should submit the summary of the planning process in addition to other studies to fulfill this requirement;
10. The anticipated cost of Project Development;
11. Identification of the funding available and committed to conduct the Project Development work;
12. Documentation demonstrating commitment of funds for the Project Development work (e.g. Board resolutions, adopted budgets, approved Capital Improvement Programs, approved Transportation Improvement Programs (TIP) or LRTP Cost Feasible Plans, and letters of commitment);
13. An anticipated timeline for completing the following activities (ensure the schedule demonstrates the ability to complete the Project Development work within two (2) years for New Starts and Core Capacity projects:
 - a. Compliance with **NEPA** and related environmental laws;
 - b. Selection of a LPA;

- c. Adoption of the LPA in the LRTP Cost Feasible Plan;
- d. Completion of the activities required to obtain a project rating under the evaluation criteria outlined in the Law;
- e. Completion of the readiness requirements for entry into Engineering (for New Starts and Core Capacity projects only);
- f. Anticipated receipt of a construction grant agreement from FTA; and
- g. Anticipated start of revenue service.

FTA has 45 days to respond in writing to the request. The response may indicate that the proposed project is accepted into Project Development or that additional information is required.

FTA requires that the Project Development phase be completed within two (2) years from the time that FTA approves entry into the Project Development (for New Starts and Core Capacity projects only). FDOT encourages Small Starts project sponsors to also complete their Project Development within two (2) years. The more certainty that exists about a project, in terms of its potential impacts and benefits, community support, and implementation challenges, the more likely it is that the **NEPA** document and other Project Development activities can be completed within the two-year timeframe. Project sponsors should be aware that any activities undertaken prior to a project entering Project Development are not covered by automatic pre-award authority and will not be eligible for future reimbursement from the CIG program should a construction grant be awarded in the future. The following must be completed during the two-year timeframe:

1. Complete **NEPA** and obtain FTA approval of the **NEPA** document;
2. Identify the LPA in the final **NEPA** decision document (CE, FONSI, FEIS/ROD or ROD);
3. Adopt the LPA as part of the cost feasible component of the LRTP; and,
4. Assemble information for FTA to evaluate and rate the project.

In addition, sufficient engineering and design work (equivalent to 30% design effort) should be completed to prepare the construction, real estate, and operating cost estimates as well as a summary of the scope and risks associated with the project. Project sponsors should work closely with FTA Region IV staff when preparing this information.

14.3.3 FTA Project Development/NEPA

This section discusses the requirements of **NEPA** documents for transit projects with FTA as the Lead Agency. The extent of environmental analysis and review will depend on the scope and complexity of the proposed project and the associated environmental impacts. FTA's environmental impact regulations, codified in **23 CFR Part 771**, classifies the most

common projects according to the different levels of environmental analysis required. To ensure that the environmental analysis counts towards the local match for federal funds, the **NEPA** process should not begin until after the project receives approval from FTA to proceed with Project Development. Environmental work performed prior to FTA's approval should be limited to the extent sufficient to present to FTA for determination of the COA.

14.3.3.1 Evaluation of Environmental Impacts

It is important for project sponsors and **NEPA** practitioners to review this section before drafting the **NEPA** document. Project sponsors and **NEPA** practitioners should also refer to the most recent FTA guidance to ensure that evaluation criteria meet FTA's expectations for environmental review. Furthermore, it is highly advisable that the project sponsor/FTA grantee discuss the scope and proposed methodology for **NEPA** documents with the FTA Region IV office prior to conducting any environmental analysis. In most cases, **ETDM Screening** will provide information to support the evaluation of environmental impacts in the **NEPA** document.

Each FTA region has its own CE form, the project sponsor is responsible for making sure that the FTA Region IV CE form is used for the project (see [Figure 14-6](#)).

The following sections highlight the environmental areas where FTA requires evaluation methodologies and techniques that are different from those of the **PD&E Manual** equivalent analysis chapters.

14.3.3.1.1 Noise

For FTA analysis, project sponsors should refer to the **Transit Noise and Vibration Impact Assessment Handbook, FTA-VA-90-1003-06, May 2006**. Three levels of noise analysis are employed, depending on the type and scale of the proposed transit project, the phase of project development, and the environmental setting and existing conditions. The **Transit Noise and Vibration Impact Assessment Handbook** specifies the technical content of each of the three levels

1. Screening Procedure – identifies noise-sensitive land uses in the vicinity of a proposed project and, if present, determines the study area for further analysis.
2. General Assessment – identifies and estimates the severity of noise and impacts identified in the Screening Procedure. Provides the appropriate level of detail needed to compare alternative modes and alignments.
3. Detailed Analysis – quantifies impacts through an in-depth analysis usually only performed for a single alternative and usually documented in the FEIS.

The FTA noise criterion is measured depending on the land use and categorized numerically (1-3). Category 1 land use is defined as “tracts of land where quiet is an essential element in their intended purpose such as outdoor amphitheaters, concert

pavilions, and National Historic Landmarks with significant outdoor use.” Category 2 land use is defined as “buildings and residences where people normally sleep including but not limited to homes, hospitals, and hotels where nighttime sensitivity to noise is of supreme importance.” Category 3 is defined as “institutional land uses such as schools, libraries, theaters, and religious facilities which are primarily used during day and evening hours where it is important to avoid interference with activities that include speech, meditation, and concentration on reading materials.” For further information on noise impact criteria see Chapter 3 of the *FTA Transit Noise and Vibration Impact Assessment Handbook*.

14.3.3.1.2 Vibration and Ground Borne Noise

FTA requires that a vibration impact assessment be conducted for most transit rail projects. For FTA analysis, project sponsors should refer to the *Transit Noise and Vibration Impact Assessment Handbook, FTA-VA-90-1003-06, May 2006*. Vibration is the motion of the ground transmitted into a building that can be described in terms of displacement velocity or acceleration. Ground-borne noise (GBN) is also assessed for transit rail and freight rail projects that are located in tunnels. GBN is a form of low-frequency noise that radiates from building walls and ceilings due to vibration caused by transit rail or freight rail operations. Because airborne noise typically masks GBN for above ground (at-grade or elevated) transit systems, GBN is only assessed for operations in a tunnel where airborne noise is not a factor or near noise-sensitive locations such as recording studios that are well insulated from airborne noise. Vibration and GBN are assessed by comparing the levels predicted to be generated by a project with the appropriate criteria.

Much like noise, the vibration and GBN criteria used by FTA consider the sensitivity of the receiver by land use category. Category 1 is highly vibration sensitive, and includes buildings where vibration would interfere with operations within the building, including hospitals with advanced research technology and other research or manufacturing facilities. Category 2 includes all residential land uses and any buildings where people sleep, such as hotels and hospitals. Category 3 includes schools, churches, and other institutions where the environment is typically quiet.

Three levels of vibration and GBN analysis may be employed, depending on the type and scale of the proposed transit project, the phase of project development, and the environmental setting and existing conditions. The technical content of the three levels is specified in the *Transit Noise and Impact Assessment Handbook*, and include the following:

1. Screening Procedure - identifies vibration and GBN-sensitive land uses in the vicinity of a proposed project and, if present, determines the study area for further analysis.
2. General Assessment - identifies and estimates the severity of vibration and GBN impacts identified in the Screening Procedure. Provides the appropriate level of detail needed to compare alternative modes and alignments.

3. Detailed Analysis - quantifies impacts through an in-depth analysis usually only performed for a single alternative and usually documented in the FEIS.

For further information on FTA's vibration and GBN impact criteria see Chapter 8 of the ***FTA Transit Noise and Vibration Impact Assessment Handbook***.

14.3.3.1.3 Air Quality

Transit projects funded by federal funds must meet the requirements of the ***Clean Air Act*** and the ***1990 Clean Air Act Amendments***. Project-level air quality analysis is performed as part of the ***NEPA*** process for the purpose of identifying and disclosing project-related impacts and to evaluate possible mitigation for these impacts. The FTA ***Categorical Exclusion Checklist*** does not include an air quality impact category for a comprehensive air quality impact discussion for the FTA-funded project. Rather, the checklist includes separate impact categories for carbon monoxide (CO) hot spots and particulate matter (PM) hot spots at levels of PM_{2.5} and PM₁₀. However, where applicable, an air quality impact analysis for project-level impacts should be performed and documented in a technical memorandum or report, while summarizing the potential CO and PM_{2.5} and PM₁₀ hot spots impacts in the CE document itself. Project sponsors should contact the FTA Region IV office to discuss the emissions modeling or "hot-spot" analysis requirements for the transit mode included in each project alternative.

14.3.3.1.4 Transportation Impacts

Transit projects are influenced by and influence the overall transportation network and as such, effects on traffic, parking and transit need to be considered at a minimum in an EA and an EIS. The level of analysis is dependent on the project type and the relationship to the transportation network. For example, in road running bus service may directly impact traffic flows, whereas fixed guideway systems may impact traffic near major transit stop locations. The methodology for assessing impacts will vary by project and should be coordinated with FDOT and FTA based on project type. Traffic analysis may include traffic modeling or simulation using industry accepted software.

A major element in understanding transportation impacts is determining ridership for the proposed transit project. The assumptions from the operations analysis are used to develop ridership forecast. Ridership data is needed in the documentation required for CIG program and can be estimated using FTA's Simplified Trips-on-Project Software (STOPS). Projects can be modeled as stand-alone projects or in relation to a larger system. For more information on assessing transportation impacts and accessing the STOPS model, visit FTA's website. Technical assistance on the STOPS model is available through FTA.

14.3.3.1.5 Safety and Security

Safety and security are concerns with all transit projects and should be addressed in the environmental document so that the public is aware that they have been considered in the development of a project. Specifically, projects should be evaluated to identify

potential pedestrian and traffic hazards, as well as user and employee security issues. Particular focus should be on the transit stop locations and station areas. Where adverse impacts are identified, mitigation measures should be considered and discussed. Depending on the project size and type, particularly those with major transit stations, this section may require discussion of safety features within the stations.

14.3.3.1.6 Historic Resources

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 8, Archeological and Historical Resources](#).

14.3.3.1.7 Archaeological Resources

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 8, Archeological and Historical Resources](#).

14.3.3.1.8 Wetlands

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 9, Wetlands and Other Surface Waters](#).

14.3.3.1.9 Ecologically Sensitive Areas and Endangered Species

FTA uses the same guidance included in the *PD&E Manual* for the impact evaluations for these resources. For further information, see [Part 2, Chapter 16, Protected Species and Habitat](#). Because the FTA *Categorical Exclusion Checklist* does not include separate impact categories to evaluate potential impacts to essential fish habitat and coastal barrier resources, these resources may be simultaneously discussed under the “Ecologically-Sensitive Areas and Endangered Species” and the “Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zones” sections of the CE. For further information, see [Part 2, Chapter 17, Essential Fish Habitat](#) and [Part 2, Chapter 15, Coastal Barrier Resources](#).

14.3.3.1.10 Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zone Management

FTA uses the same guidance included in the *PD&E Manual* for these resources. For further information, see [Part 2, Chapter 11, Water Quality and Water Quantity](#), [Part 2, Chapter 12, Wild and Scenic Rivers](#), and [Part 2, Chapter 14, Coastal Zone Consistency](#). Since the FTA *Categorical Exclusion Checklist* does not include separate impact categories to evaluate potential impacts to essential fish habitat and coastal barrier resources, these resources may be simultaneously discussed under the Ecologically-Sensitive Areas and Endangered Species and the Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zones sections of the CE. For further information, see [Part 2, Chapter 17, Essential Fish Habitat](#) and [Part 2, Chapter 15, Coastal Barrier Resources](#).

Pursuant to **23 CFR 650 Subpart H**, FTA can determine that a project is exempt from a USCG permit whenever the proposed construction, reconstruction, rehabilitation, or replacement of the federally-aided or assisted project 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 not tidal; or,
3. If tidal, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

In order for FTA to determine that a project is exempt from a USCG navigational permit, the project sponsor must provide the following information on the determination form:

1. Three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.
2. Provide name of waterway including: (1) mileage along waterway measured from mouth to confluence; or (2) tributary of (name of river) at mile ____.
3. Geographical location including: road number, city, county, and state.
4. Section, Township, and Range, if applicable.
5. Whether waters are tidally influenced at the proposed bridge site and the range of tide.
6. Whether the waters are used to transport interstate or foreign commerce and also indicate:
 - a. If these waters are susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce.
 - b. If there are any planned waterway improvements to permit larger vessels to navigate based on coordination with the USACE.
7. Whether there are any downstream or upstream natural or manmade obstructions, bridges, dams, weirs, etc.
 - a. If obstruction exists, provide upstream/downstream location with relation to the proposed bridge.
 - b. Provide a photograph of the bridge from the waterway showing channel spans.

8. Names and addresses/locations of marinas, marine repair facilities, public boat ramps, private piers/docks, along waterway within one half-mile of site.
9. Location map and plans (if available) for the proposed bridge, including intended or desired vertical clearances above mean high water and intended or desired mean low water and horizontal clearance normal to axis of waterway.
10. Description of the navigational clearances provided by the existing bridge(s).
11. Description of waterway characteristics at the bridge site(s), including width at mean high and mean low water, depth at mean high and mean low water, and currents.
12. Description of the type, size, and number of vessels using the waterway; and, when applicable, the number of documented bridge openings required to serve waterborne traffic. This includes the vertical clearance requirement for the known tallest vessel using the waterway, a representative photograph of vessels using the waterway, and the length of the largest type vessel using the waterway. If the types or dimensions of vessels using the waterways are not known, coordinate with the USCG to determine if that agency has any of this information and document the results of the coordination efforts.
13. Description of any bridge-related boating accidents.
14. Description of the potential impacts of the project on navigation including effects during the construction period.
15. The need for navigational lighting or signals or special notices to mariners for the proposed bridge and its construction activity.

If FTA cannot determine that the project is exempt from a USCG permit, coordination with the USCG will be needed prior to approval of the **NEPA** document.

14.3.3.2 Categorical Exclusions

The definitions of “categorical exclusion” (CE) is found in **40 CFR § 1508.4** and **23 CFR Part 771**. FTA has not delegated its authority to make CE determination to FDOT. For CE determinations, FTA Region IV will review and approve the CE checklist and associated documentation. Pursuant to **40 CFR § 1508.4**, **23 CFR Part 771**, and FTA guidance, there are two general types of CEs: (1) those actions that only need a record in the project file that confirms the action fits the CE description and normally do not require additional approval by FTA; and, (2) those additional actions that require FTA’s approval, as applicable, after consideration of documentation demonstrating that CE criteria are satisfied. Generally, CEs are flexible documents that can vary based on the level of coordination and documentation needed to support the determination.

For a project to be classified as a CE, it must meet the definition for CEs contained in **40 CFR § 1508.4**, and meet certain criteria contained in **23 CFR § 771.118**. The criteria must

be met and documented as appropriate before a CE determination can be made. It must be sufficiently evident that the proposed action will not involve significant environmental impacts such as:

1. Induce significant impacts to planned growth or land use for the area;
2. Require the relocation of significant numbers of people or businesses;
3. Have a significant impact on any natural, cultural, recreational, historic, or other resources;
4. Involve significant air, noise, or water quality impacts;
5. Have significant impacts on travel patterns; or,
6. Have significant impacts either individually or cumulatively.

Title 23 CFR § 771.118(b) provides that in unusual circumstances a project normally classified as a CE will require coordination with or a finding from FTA to determine if the CE classification is appropriate. These unusual circumstances may include:

1. Significant environmental impacts;
2. Substantial controversy on environmental grounds;
3. Significant impact on properties protected by **Section 4(f)** of **USDOT Act** or **Section 106** of the **National Historic Preservation Act**, or,
4. Inconsistency with any federal, state, or local law, requirement, or administrative determination relating to environmental aspects of the action.

The FTA Region IV **Categorical Exclusion Checklist**, provided in [Figure 14-6](#) is used to determine if documentation for a proposed CE submittal is needed. It is advisable to check with the FTA Region IV office prior to using the checklist to ensure the most recent version is obtained. Documentation of the results of any analysis or coordination should be placed in the project files and may be attached with the CE checklist. This documentation may include any supporting documents and/or technical reports required to substantiate the findings discussed in the CE checklist. For CE projects, the level of detail required to support the determination depends upon the magnitude of environmental impacts and the particular circumstances. Since projects approved with CEs are generally minor in nature and have less than significant direct impacts, indirect, and cumulative impacts assessments will generally not be necessary. There may be exceptions, which can be evaluated on a case-by-case basis. The actions identified in **23 CFR § 771.118(c)** normally do not require any further **NEPA** approvals and are identified as CEs listed in FTA guidance. These actions include:

Utility and Similar Appurtenance Actions

1. Acquisition, installation, operation, evaluation, replacement, and improvement of discrete utilities and similar appurtenances (existing and new) within or adjacent to existing transportation ROW, such as: utility poles, underground wiring, cables, and information systems; and power substations and utility transfer stations.

Pedestrian or Bicycle Action

2. Acquisition, construction, maintenance, rehabilitation, and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as a multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.

Environmental Mitigation or Stewardship Activity

3. Activities designed to mitigate environmental harm that cause no harm themselves or to maintain and enhance environmental quality and site aesthetics, and employ construction best management practices, such as: noise mitigation activities; rehabilitation of public transportation buildings, structures, or facilities; retrofitting for energy or other resource conservation; and landscaping or re-vegetation.

Planning and Administration Activity

4. Planning and administrative activities which do not involve or lead directly to construction, such as: training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.

Action Promoting Safety, Security, Accessibility

5. Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility, and effective communication within or adjacent to existing ROW, such as: the deployment of Intelligent Transportation System (ITS) and its components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.

Acquisition or Transfer of Real Property Interest

6. Acquisition or transfer of an interest in real property that is not within or adjacent to recognized environmentally sensitive areas (e.g., wetlands, non-urban parks, wildlife management areas) and does not result in a substantial change in the functional use of the property or in substantial displacements, such as: acquisition for scenic easements or historic sites for the purpose of preserving the site. This CE extends only to acquisitions and transfers that will not limit the evaluation of

alternatives for future FTA-assisted projects that make use of the acquired or transferred property.

Acquisition or Maintenance of Vehicles/Equipment

7. Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that do not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a CE.

Maintenance, Rehabilitation, or Reconstruction of Facilities

8. Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.

Assembly or Construction of Facilities

9. Assembly or construction of facilities that are consistent with existing land use and zoning requirements (including floodplain regulations) and uses primarily land disturbed for transportation use, such as: buildings and associated structures; bus transfer stations or intermodal centers; busways and streetcar lines or other transit investments within areas of ROW occupied by the physical footprint of the existing facility or otherwise maintained or used for transportation operations; and parking facilities.

Joint Development of Facilities

10. Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities, that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: police facilities, daycare facilities, public service facilities, amenities, and commercial, retail, and residential development.

Emergency Response Actions

11. 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 of the United States pursuant to the ***Robert T. Stafford Act (42 U.S.C. § 5121 et. seq.)***:
 - a. Emergency repairs under ***49 U.S.C. § 5324***; 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), that is in operation or under construction when damaged and the action:

- i. Occurs within the existing ROW and in a manner that substantially conforms to the pre-existing 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.

Action within Existing Operational ROW

12. Projects, as defined in **23 U.S.C. § 101**, which would take place entirely within the existing operational ROW. Existing operational ROW refers to ROW that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of ROW that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational ROW.

Action with Limited Federal Funding

13. Federally-funded projects:

- a. That receive less than \$5,000,000 of federal funds; or
- b. With a total estimated cost of not more than \$30,000,000 and federal funds comprising less than 15 percent (15%) of the total estimated project cost.

Bridge Removal and Related Activities

14. Bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

Preventative Maintenance of Culverts/Channels

15. Preventative maintenance, including safety treatments, to culverts and channels

within and adjacent to transportation ROW to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts or drainage pipes; and expanding existing culverts and drainage pipes.

Geotechnical and Other Similar Investigations

16. Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archaeological investigations for archaeology resources or similar survey; and wetland surveys.

Additional actions listed in **23 CFR § 771.118(d)** require the preparation of documentation to demonstrate the CE criteria are satisfied and significant environmental effects will not result. The Documented CE is determined to be sufficient in coordination with and when approved by FTA. Examples of such actions include but are not limited to:

Highway Modernization

17. Modernization of a highway by resurfacing, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).

Bridge Replacement or Rail Grade Separation

18. Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.

Hardship or Protective Property Acquisition

19. Acquisition of ROW 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.

Acquisition of ROW

20. Acquisition of ROW. No Project Development on the acquired ROW may proceed until the **NEPA** process for such Project Development, including the consideration of alternatives, has been completed.

Reserved for Future Use

21. This CE example is reserved for future use per FHWA and FTA joint final rule published on January 13, 2014.

Facility Modernization

22. Facility modernization through construction or replacement of existing components.

Modern Facility Realignment for Rail Safety Purposes

23. Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.

Facility Modernization/Expansion Outside Existing ROW

24. Modernization or minor expansions of transit structures and facilities outside of existing ROW, such as bridges, stations, or railyards.

For CE projects, coordination with resource agencies may need to take place to verify the finding that there is no potential to significantly impact relevant environmental resources. A Preliminary Environmental Discussion (PED) can be used to provide the project information to the Environmental Technical Advisory Team (ETAT) (see [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). Coordination and documentation is also important because it may affect environmental permitting (e.g., Water Management District permits). Coordination with FTA may also be required in order to make findings under concurrent laws (such as the **Endangered Species Act, Section 106 of the Historic Preservation Act** and **Section 4(f)**, prior to finalizing the COA determination (see [Section 14.5](#)).

The environmental review /PD&E process is considered complete when FTA approves and issues a signed CE. The grant applicant should note approval of all CEs in FTA's Transit Award Management System (TrAMS). The signed CE reflects FTA's environmental decision and does not commit FTA to awarding a grant for a project. Prior to approving a CE, FTA Region IV staff will confirm the project is a candidate to receive FTA funding, could receive an award from one of FTA's programs, or is programmed for

federal funding by the MPO/TPO in the LRTP CFP. The timeframe required for FTA to review and approve the CE will vary depending on the complexity of the project but generally, the project sponsor should expect the review to be less than that required for EAs and EISs.

For CEs, the project sponsor should prepare a **Public Involvement Plan (PIP)** to outline the process for community input into the decision-making process; however, FTA does not require CE documentation to be made available for an advertised public and agency review period. However, project sponsors may choose to publish a notice in the local newspaper that FTA has approved a CE for a transit project. The advertisement also serves as a notice of opportunity for the public to request to hold a public hearing (see [Part 1, Chapter 11, Public Involvement](#)).

14.3.3.3 Environmental Assessment

FTA requires an EA be prepared when the significance of environmental impacts associated with a project's activities is unknown or not clearly established. (**23 CFR § 771.119**) According to FTA guidance, the project sponsor should prepare an EA for any action that is not a CE but does not clearly require the preparation of an EIS. Based on the degree of environmental impacts as discussed in the EA, FTA may issue a FONSI. Alternatively, if a project's EA concludes that there is the potential for significant impacts as a result of its implementation, FTA requires that the project sponsor prepare an EIS.

An EA should be concise and include information on the purpose and need for the project, the alternatives considered, the environmental impacts, and the agency and public coordination that occurred. The format for an FTA-led EA is very similar to that provided in [Part 1, Chapter 6, Environmental Assessment](#). For FTA-led EAs, there are several additional environmental disciplines that should be addressed if relevant to the project, including Economic Development, Safety and Security, and Vibration and GBN. Resources for which the potential impact is insignificant should be mentioned briefly. These resources are typically summarized at the beginning of the document and in a section titled "Resources of No Concern." Technical reports or studies that support the findings included in the EA, but which are not significant should be incorporated by reference.

14.3.3.3.1 Public and Agency Review Requirements

FTA will review and approve the EA prior to releasing the EA and the supporting technical reports for public and agency review. FTA Region IV approval of the EA will be in the form of the Regional Administrator's signature on the document. Once approved the FTA Region IV staff will send an electronic copy of the EA to the project sponsor, this should then be attached to the document before the public and agency review period. The public and agency review period for an EA is typically 30 days but depending on the complexity of the project, the project sponsor and FTA may agree to a longer public and agency review period. During this time, a public hearing may be held. Per FTA requirements as outlined in **23 CFR § 771.119(e)**, the public hearing will be held after a notice to the public and agencies of no less than 15 days prior to a public hearing. The public hearing is the

official public forum through which the general public and elected officials express their concerns, opinions, comments, or support regarding the project. The schedule and process for the public and agency review period and the public hearing for the EA should be outlined in the *PIP*. Distribution of the approved EA is governed by **23 CFR § 771.119(d)-(h)**. FTA's methods for providing public and agency access and review for the EA include:

1. Publication on the project website;
2. Electronic distribution on a Compact Disk (CD); and,
3. Hardcopy delivery to interested agencies and placement of hardcopies in public viewing places, such as the project sponsor's office, libraries, and other government buildings.

14.3.3.3.2 Finding of No Significant Impact

After the public hearing for the EA, FTA may determine that the proposed project will not have significant environmental impacts and will not require the preparation of an EIS. A FONSI is a final decision document for an EA. The FONSI does not commit FTA to awarding a grant for a project. Prior to issuing a FONSI, FTA Region IV staff will confirm the project is a candidate to receive FTA funding, could receive an award from one of FTA's programs, or is programmed for federal funding by the MPO/TPO in their LRTP CFP.

The FONSI serves the following purposes:

1. Briefly describes the LPA;
2. Rationale used to select the LPA from the alternatives considered;
3. Summarizes all environmental impacts and findings associated with the LPA including a statement of findings on all relevant impact disciplines and environmental laws (e.g., **Section 106**, **Section 4(f)**, wetlands, floodplains, coastal zone consistency);
4. Summarizes specific mitigation measures that will be incorporated into the LPA to reduce environmental impacts to less than a significant magnitude; and,
5. Includes an attachment of the summary of comments received during the public and agency review period and public hearing for the EA.

Once completed, the FONSI is attached to the EA, which may be updated to respond to comments received during the public and agency review period, and along with the public hearing transcript and a cover letter, is submitted by the project sponsor to FTA for approval. FTA conducts a document review for compliance with its rules and regulations. Once the FONSI is approved, the FTA Region IV office will send an electronic copy of the FONSI to the project sponsor who should then announce locally that the environmental

review process is complete for the project.

14.3.3.4 Environmental Impact Statement

When a project's actions are likely to cause a significant environmental impact, FTA requires that the project sponsor complete the EIS process, which consists of a substantial technical evaluation and public comment. An EIS is conducted to evaluate the project's reasonable alternatives, specify the significant social, economic, and environmental impacts of the proposed action, and designate methods to avoid or mitigate these impacts.

The principal components of an EIS include the following (see [Figure 14-7](#)):

1. Purpose of and need for the proposed action;
2. Alternatives considered, including the Build Alternatives and No-Build alternative for the proposed action;
3. Transportation Analysis;
4. Community and Social Analysis;
5. Physical and Environmental Analysis (the built and natural environments);
6. Indirect and Cumulative Impacts;
7. Environmental Justice;
8. **Section 4(f)** Analysis;
9. Consultation and Coordination;
10. Financial Considerations (particularly important for New Starts, Core Capacity, and Small Starts projects); and,
11. Evaluation of Alternatives.

Refer also to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for principal components for a DEIS.

An EIS must be signed by the FTA Regional Administrator and the authorized official of the project sponsor and/or cooperating agency. The approved EIS is then concurrently filed by FTA with the U.S. Environmental Protection Agency (EPA) and distributed to federal and state agencies for review.

The EIS is written for use by the public as well as professional staff and the information should be presented in a logical and reader-friendly format. It documents the study process and those issues that influenced decisions. It is commensurate with the

complexity of the project but should be concise, where possible. Supporting technical reports or memoranda should be incorporated by reference. To improve the reader-friendly nature of the report, consider developing a document that has several volumes where the first volume contains a concise description of the required items listed above and more detailed information about specific resources or issues are provided in subsequent volumes.

14.3.3.4.1 Notice of Intent

The EIS process begins with the publication of a **Notice of Intent (NOI)** to prepare an EIS in the **FR**. The project sponsor also announces the intent to prepare an EIS in local newspapers, project websites, and other media. The **NOI** presents the draft purpose and need, a tentative list of alternatives considered, potential environmental impacts, lists the dates and locations of scoping meetings, addresses where comments can be sent via mail or electronic format, and contact information for representatives at the project sponsor's and the Lead Agency's offices. The **NOI** officially initiates the **NEPA** scoping period and is prepared by the project sponsor in accordance with procedures in [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 11, Public Involvement](#). When completed, the **NOI** is forwarded to the FTA Region IV office for publication in the **FR**. [Part 1, Chapter 8, Draft Environmental Impact Statement](#) provides a sample transmittal letter for an **NOI**.

14.3.3.4.2 NEPA Scoping

NEPA scoping (scoping) is a formal process for projects requiring an EIS. Scoping is required and described in **40 CFR § 1501.7**. According to **23 CFR Part 771**, scoping should begin early in the Project Development process to identify potentially significant environmental impacts and alternatives to avoid or minimize impacts are identified for further evaluation in the **NEPA** document. Impacts that can be deemed inconsequential at this stage in the process should be identified as not needing further evaluation or only requiring limited evaluation (e.g. coastal zone management for inland area projects or prime farmland for project in a dense urban environment), thereby keeping the **NEPA** document focused on impacts of significance. **NEPA** scoping usually targets affected governmental agencies and public interest groups and organizations with specific knowledge about a project study area. Issues identified in the ETDM screening process are used for **NEPA** scoping.

The objectives of scoping are to:

1. Determine the set of alternatives that will be examined in the Draft Environmental Impact Statement (DEIS);
2. Give interested agencies and the public an opportunity to comment on the scope of the analysis and raise issues that should be addressed in the DEIS;
3. Promote efficiency by assembling cooperating agencies, determining related environmental requirements, scheduling concurrent reviews, and setting

milestones in the process; and,

4. Reduce the overall processing time by ensuring that the DEIS adequately addresses all relevant issues and minimize the possibility that comments will raise new issues to be evaluated or require supplemental documents.

Scoping may include a formal scoping meeting held early in the PD&E process. To determine if a scoping meeting should be held, comments from the ETDM screening and coordination with FTA should be considered. Scoping meetings, like other public meetings, fall under **Florida's Sunshine Law**. At a minimum, notification to the public must be provided in the **Florida Administrative Register** as well as the project sponsor agency's public website. Requirements for providing notice for scoping meetings can be found in [Part 1, Chapter 11, Public Involvement](#).

14.3.3.4.3 Annotated Outline

The Annotated Outline provides the directions to follow in the development of the **NEPA** document. Annotated Outlines are usually prepared for EISs after the close of the **NEPA** scoping period but may be prepared for EAs and CEs to focus the scope of the analysis. Overall, the Annotated Outline identifies scoping issues from the public and agencies determined important for inclusion, prioritizes the impact areas for further consideration, and provides key information on Project Development activities, including fieldwork needs and conceptual design. The Annotated Outline also provides FTA staff, the project sponsor, and where applicable, members of the FTA New Starts, Core Capacity, and Small Starts team with an opportunity to establish the important environmental disciplines and topics and the estimated number of pages per chapter or section to be expected in the **NEPA** document.

14.3.3.4.4 Coordination Plan

A **Coordination Plan** provides the communication protocol and schedule for coordination among the FTA, the project sponsor, other federal resource agencies, participating and cooperating agencies, stakeholders, and the public during the process of preparing an EIS. The dates and locations for public hearings, as required by **23 CFR § 771.123(h)** and **Section 339.155, F.S.**, should also be included. The main goal of the **Coordination Plan** is to expedite and improve the environmental review process by clearly establishing agency roles, responsibilities, and expectations (see [Section 14.2.1](#), "Agency Roles and Responsibilities"). The **Coordination Plan** satisfies the federal requirements of **Section 6002 of SAFETEA-LU**, as amended and continued by **Moving Ahead For Progress in the 21st Century Act (MAP-21)**.

The **Coordination Plan** differs from the **PIP**, which identifies potentially affected people in a community and defines the outreach methods and schedules for seeking their input (see [Part 1, Chapter 11, Public Involvement](#)). The **PIP** is developed for all transportation projects for which a Type 2 CE, EA, EIS, SEIR, or PEIR is prepared, whereas the **Coordination Plan** is developed for projects for which an EIS is prepared with FTA as the Lead Agency. The **PIP** for an EIS is a component of the **Coordination**

Plan and may be incorporated by reference into the **Coordination Plan**.

14.3.3.4.5 Draft Environmental Impact Statement

A DEIS is prepared to document the project's reasonable alternatives, discuss the significant social, economic, and environmental impacts of the proposed action, and designate methods to avoid or mitigate these impacts. The outline of the DEIS should closely follow the principal EIS components as presented in [Section 14.3.3.4](#) and in [Figure 14-7](#).

A DEIS must be signed by the FTA Region IV Administrator and the authorized official of the project sponsor and/or cooperating agency. The approved DEIS is then concurrently filed by FTA with U.S. EPA and distributed by the project sponsor to federal and state agencies for review. In addition, the project sponsor should place an advertisement in a local newspaper stating that a DEIS has been approved and where it is available for public review (see [Part 1, Chapter 11, Public Involvement](#)). The same advertisement may include a notice of public hearing for the DEIS.

The DEIS is written for use by the public as well as professional staff at interested agencies; therefore, the information should be presented in a logical and reader-friendly format. It documents the study process and those issues that influenced decisions. It is commensurate with the complexity of the project but should be concise where possible. Supporting technical reports or memoranda should be incorporated by reference and included as a second volume appended to the main document. This may be accomplished by providing electronic CDs attached to the inside cover the DEIS document.

14.3.3.4.6 Public and Agency Review Requirements

Once a DEIS has been completed and signed by FTA Region IV Regional Administrator, a **Notice of Availability (NOA)** is published in the **FR** by FTA and advertised through local media by the project sponsor to solicit public and agency review of the DEIS. The DEIS is circulated to those agencies with jurisdiction by law, parties that have expressed an interest, either through the scoping process or in response to the **NOA**, and other entities potentially affected by any of the alternatives. Per FTA requirements as outlined in **23 CFR § 771.123 (h)** and **(i)**: the DEIS shall be available to the public both at the public meeting as well as 15 days in advance of the public meeting; and, the **Federal Registrar** notice shall establish a period of not fewer than 45 days nor more than 60 days to return comments on the DEIS. The public hearing for the DEIS must also be conducted to comply with **Section 339.155(5), F.S.** (see [Part 1, Chapter 11, Public Involvement](#)).

14.3.3.4.7 Final Environmental Impact Statement

Following the public hearing for the DEIS, the project sponsor will prepare an FEIS. To the extent possible, the FEIS should document compliance with all applicable environmental laws and Executive Orders and will provide a response to all substantive comments received during the public and agency review period. The FEIS should clearly

identify the preferred alternative, which includes the alignment, preferred locations of stations, maintenance facilities, and other associated structures. The FEIS will undergo a legal sufficiency review by FTA Region IV counsel prior to approval by the Regional Administrator. The project sponsor should make every reasonable effort to resolve interagency disagreements on actions before submitting the FEIS to FTA Region IV staff, as this can delay approval of the FEIS. If significant issues remain unresolved, the FEIS should identify those issues and the consultations and other efforts being made to resolve them (see [Part 1, Chapter 9, Final Environmental Impact Statement](#)). FTA typically does not advertise a public and agency review period for a FEIS. However, if the project sponsor prefers a review period, then the FTA or other Lead Agency will upload a copy of the FEIS to U.S. EPA's "e-NEPA" website for publication in the *FR* for a 30-day comment period.

14.3.3.4.8 Record of Decision

Following completion of the FEIS, the FTA or other Lead Agency may issue a ROD. **Title 23 USC § 139** directs the use of a combined FEIS and ROD (FEIS/ROD) as the final project decision to the maximum extent practicable. If a combined FEIS/ROD is not possible, the ROD will be issued after the review period on the FEIS. All substantive comments received during the 30-day wait period following completion of the FEIS should be addressed in the ROD. The ROD is a concise report that states FTA's determination that *NEPA* has been completed for the project. The ROD describes the FTA decision, identifies alternatives that were considered, identifies the LPA, the rationale for selecting the LPA from the alternatives considered, and summarizes specific mitigation measures that will be incorporated into the LPA. FTA has very specific language it prefers to use for a ROD. The project sponsor should coordinate with FTA Region IV staff for confirmation of language that should be used in the ROD, including the **Limitation on Claims** notice language.

14.3.3.4.9 Accelerated Decision-Making for Environmental Impact Statements

Title 40 CFR § 1503.4(c) and **Title 23 USC § 139** allow for the preparation of an FEIS by attaching errata sheets to the DEIS if certain conditions are met. To the maximum extent practicable, and unless certain conditions exist, FTA should develop a single document that combines the FEIS and ROD.

FEIS Errata Sheet

Under **Title 23 USC § 139**, FTA may direct project sponsors to use errata sheets attached to a DEIS in lieu of rewriting the entire DEIS document if:

1. Comments received on the DEIS are minor; and
2. FTA's responses to those comments are limited to factual corrections or explanations of why the comments do not warrant further response.

When applying this provision, FTA must make both the errata sheets and the DEIS available for public and agency review to the same extent as a traditional FEIS. The errata sheets and the information required in an FEIS are attached to the DEIS for submittal to FTA as the FEIS. This document will undergo legal sufficiency review required by **23 CFR § 771.125**.

The errata sheets must include, at a minimum, the following information:

1. A list and explanation of:
 - a. The 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 the agency; and
 - b. The DEIS comments and the reasoning why the DEIS comments do not warrant additional response by the agency, citing the sources, authorities, or reasons that support the position of the Lead Agency;
2. If appropriate, an indication of the specific circumstances that would trigger the agency's environmental reassessment or further response, particularly information that could lead to re-evaluation or a supplemental environmental impact statement; and
3. A web address or other indication of where a copy of the DEIS may be obtained.

Combined FEIS and ROD Documents

Traditionally, FEIS and ROD documents are issued as separate documents with a minimum 30-day period between the FEIS and ROD. **Title 23 USC § 139** directs FTA, to the maximum extent practicable, to combine the FEIS and ROD unless:

1. The FEIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or
2. There are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

Application of Both FEIS Errata Sheet and Combined FEIS and ROD Documents

FTA may use the errata sheet and combined FEIS/ROD provisions together so long as the conditions of both **Title 40 CFR § 1503.4(c)** and **Title 23 USC § 139** are met. When both provisions are used together, the final **NEPA** document would consist of a DEIS, errata sheets, responses to DEIS comments, and the ROD.

14.3.3.5 Request Entry into Engineering

During Project Development, prior to the completion of the environmental review process,

a sufficient level of engineering must be performed before the project sponsor request entry into Engineering phase. At a minimum, the level of design detail should be as described in **FTA's Checklist for Approval to Enter Engineering**. FTA will work with the project sponsor to assess the strengths and weaknesses of alternatives still under consideration and provide technical assistance on how to meet the requirements to enter the Engineering phase. Technical assistance may include workshops or other methods focused on the readiness requirements to enter the Engineering phase. Formal oversight will generally begin at the completion of **NEPA** and will be designed for each project sponsor based on how far the project has advanced in conceptual design work, the complexity of the project, and the project sponsor's capability to undertake engineering and construction.

Before entering the Engineering phase, a **NEPA** re-evaluation may be necessary if there have been changes to the project design or project boundaries, or changes to laws, regulations, or policies that may affect the environmental review process. Decisions about whether a new or supplemental **NEPA** document is required should be made in consultation with the FTA Region IV office. An **Environmental Re-Evaluation Consultation Checklist** is provided in [Figure 14-8](#). Project sponsors should consult with FTA Region IV staff to verify that the latest version of the **Environmental Re-Evaluation Consultation Checklist** is used.

Project sponsors who want to enter the Engineering phase as a New Starts or Core Capacity project should submit a letter to the Associate Administrator for FTA's Office of Planning and Environment upon completion of the Project Development Phase. Coordination with FTA Region IV staff is highly recommended prior to preparing this information to ensure the guidance has not changed. This process serves as an application for funding.

14.4 FTA FUNDING PROGRAMS

The environmental review process is largely dictated by the funding source being used to develop transit projects. Therefore, understanding the funding programs provides guidance in delivering projects that are compliant with **NEPA** but also provide supportive information to submit grant applications to FTA. The **Fixing America's Surface Transportation Act, (FAST Act)** provides a long term funding strategy for transportation improvements nationwide. This act clarifies, modifies, and updates past transportation legislation including **MAP-21**. Guidance on implementing changes as a result of **FAST Act** will be developed by transportation authorities under the U.S. DOT. As guidance becomes available, this chapter will be updated with references as applicable. The modifications to the grant programs in the **FAST Act** are reflected in this chapter.

When seeking FTA funding, FTA will be the Lead Agency in the development of transit projects. There are three categories of FTA funding programs: Formula, Discretionary, and CIG. Generally, funding from Formula programs is allocated to pay for transit operating and maintenance costs; therefore, these funds are rarely used for advancing construction for a new transit project. Funding from FTA's Discretionary programs is allocated through a competitive process with detailed evaluation criteria used for

comparison purposes. The CIG program discretionary grants are discussed separately in this chapter as they have distinctive requirements including legislatively directed multi-year, multi-step processes with FTA project evaluation and ratings required at specific points. Additional guidance for the requirements for FTA's formula and discretionary grant programs should be obtained from the FTA Region IV office. A link for FTA Region IV's website is provided in the [Section 14.5](#).

The sections below discuss FTA's CIG program, Formula Programs, Discretionary Programs in more detail. If another federal funding source is being pursued, the appropriate program requirements should also be reviewed throughout the planning and PD&E processes.

14.4.1 Capital Investment Grant Programs

Funding legislation outlines a detailed process that proposed transit construction projects must go through to be eligible for and receive discretionary CIG program funding from FTA. It establishes three categories of eligible projects under the CIG program, New Starts, Small Starts, and Core Capacity projects. Each type of project has a unique set of requirements although many similarities exist among them. Project sponsors interested in pursuing funding for an eligible project under the CIG program should contact FTA Region IV to obtain guidance for requirements beyond those specific to the environmental review process. The processes for both the New Starts and Core Capacity programs are similar. Each consists of a Project Development and an Engineering phase, and both require an initial and final FTA evaluation, rating, and approval. By law, a project must receive at least a Medium overall rating on the required evaluation criteria to be eligible for entry into the Engineering phase. The final FTA evaluation and rating may result in a Full Funding Grant Agreement (FFGA) so that the grant applicant may proceed with project construction ([Figures 14-2](#) and [14-3](#)). The process for the Small Starts program consists of a Project Development phase and requires only one FTA evaluation, medium overall rating, and approval that may result in an Expedited Grant Agreement (EGA), where the grant applicant may proceed with project construction (see [Figure 14-4](#)).

14.4.1.1 New Starts

FTA's New Starts Program provides funding to support new locally planned and operated fixed guideway systems or extensions to existing fixed guideway systems. Eligible projects can include, but are not limited to, heavy rail transit (HRT), light rail transit (LRT), fixed guideway Bus Rapid Transit (BRT), commuter rail, aerial cable transit (ACT), passenger ferries, or the extension of any of these existing systems. Potential New Starts projects are evaluated and rated based on specific FTA criteria, which establish the justification for the project and determine the degree of local financial commitment ([Figure 14-5](#)). To be eligible for the New Starts Program, a project's total cost must be greater than or equal to \$300 million and/or the amount of New Starts funding sought must be greater than \$100 million. It should be noted that if the federal share request is 50% or less and the rating is Medium, the rating for Financial Commitment gets bumped up one level. The Project Development phase for New Starts projects includes completion of the environmental review process with FTA's approval of a CE, FONSI, or ROD as

prepared by the project sponsor. The Project Development phase also includes the selection of a LPA for the project as documented in the final CE, FONSI, or ROD and the adoption of the LPA into the MPO/TPO's LRTP CFP. The Engineering phase includes completion of engineering and final design of the LPA. The final phase is the grant agreement phase where grant applicants may receive a FFGA.

14.4.1.2 Core Capacity

Core Capacity projects are also eligible for **Section 5309** funds. Core Capacity projects are substantial, corridor-based investments to existing fixed guideway systems that are "at capacity" today or will be within the next five (5) years. An additional eligibility requirement is that the Core Capacity project must increase the overall capacity of the existing, fixed guideway system by at least ten percent (10%). Examples of activities that could be considered include: the acquisition of real property or ROW, double tracking, signalization improvements, expanding system platforms, and the acquisition of rolling stock for added capacity. Funding may not be applied to project elements designed to maintain a State of Good Repair (SOGR) and may not be used to improve general station facilities, parking, or the acquisition of rolling stock alone. The process for Core Capacity improvement projects is similar to that of New Starts projects in that it consists of the Project Development and Engineering phases prior to receiving an FFGA ([Figures 14-2](#) and [14-3](#)).

14.4.1.3 Small Starts

In addition to the New Starts and Core Capacity Programs, FTA also administers a Small Starts Program. Small Starts projects are typically smaller in size and scope than New Starts and Core Capacity projects. As such, the Small Starts process contains only one legislatively directed FTA evaluation, rating, and approval (as shown in [Figure 14-4](#)). It also consists of only one phase, Project Development, prior to being eligible to receive an EGA. To be eligible for the Small Starts Program, a project's total cost must be less than \$300 million and the amount of Small Starts funding sought must be less than \$100 million. Projects eligible for Small Starts funding include new fixed guideway systems and extensions that meet the funding eligibility requirements, including fixed guideway BRT. Also eligible are corridor-based BRT projects that represent a substantial investment in a defined corridor but do not fully operate within exclusive ROW or travel lanes, but do have other features including defined stations, transit signal priority (TSP), and short headway, bi-directional service for a substantial part weekdays.

14.4.1.4 Programs of Interrelated Projects

This is a funding combination of two or more projects receiving New Starts, Small Starts or Core Capacity funds that have logical connectivity. The maximum share of CIG funds is 80%, and total federal funds for the Program of Interrelated Projects as a whole may not exceed 80%. Non-federal funds committed to a project in the Program of Interrelated projects may be used as a match for any other project in the program as long as the federal share does not exceed 80%.

14.4.2 Formula Programs

Funding is available from FTA's Formula programs for a variety of activities that may require the preparation of a **NEPA** document. The formulas used to determine the funding available varies by program and specific requirements apply. A partial list of Formula program funds is provided below. Refer to FTA's website for additional program funding sources and grant requirements.

1. **Bus and Bus Facilities (Section 5339)** – for the purchase or rehabilitation of vehicles and related equipment and construction of bus-related facilities.
2. **State of Good Repair Grants (SOGR) (Section 5337)** – for the repair and upgrade of existing rail transit systems and high-intensity bus systems that utilize high occupancy vehicle lanes, including BRT.
3. **Urbanized Area Formula Grants (Section 5307)** – for areas with populations of 50,000 or greater, these funds allow for the implementation of capital projects, planning, Job Access and Reverse Commute (JARC) projects, and operating funds in certain circumstances.
4. **Formula Grants for Rural Areas (Section 5311)** – for the same activities covered by the Urbanized Area Formula Grants but for areas with populations less than 50,000.
5. **Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310)** – for capital projects and other activities that enhance the mobility of seniors and persons with disabilities.

14.4.3 Discretionary Programs

Funding is available from FTA's Discretionary programs for a variety of activities that may require the preparation of a **NEPA** document. The funding available varies by program and specific requirements apply and many of the current discretionary grants are for planning activities only and as such most may not be used for project construction, and therefore not require **NEPA** documentation. A partial list of Discretionary program funds is provided below. Refer to FTA's website for additional program funding sources and grant requirements.

1. **Mobility Services for All Americans (MSAA) Deployment Planning Projects** – funds for ITS to coordinate deployment of on-demand public transportation systems, such as paratransit for people with mobility issues.
2. **Innovative Safety, Resiliency, and All-Hazards Emergency Response and Recovery Demonstration** – funds innovative research and demonstration projects that develop and showcase promising technologies, methods, practices, and techniques that improve the operational safety, infrastructure resilience, and all-hazards emergency response and recovery capacities of transit agencies. All-

hazards may include natural disasters, terrorist acts, hazardous materials releases, structural failures involving the transit system, and civil unrest.

3. **Low or No Emissions Vehicle Deployment Program** – funds capital acquisitions and leases of zero-emission and low-emission transit buses, including acquisition, construction, and leasing of required supporting facilities such as recharging, refueling, and maintenance facilities.
4. **Innovative Public Transportation Workforce Development Program** – funds innovative public transportation workforce development models and programs of regional and national significance, which invest in America’s economic growth and promote ladders of opportunity for all Americans.
5. **Prior Year Section 5309 Bus and Bus Facilities Program (Ladders of Opportunity Initiative)** – funds may be used to purchase, replace, or rehabilitate transit buses and vans as well as to modernize or construct bus facilities (such as maintenance facilities and intermodal facilities) in urban, suburban, and rural communities.
6. **Section 20005(b) Pilot Program for Transit-Oriented Development Planning** – funds efforts to integrate land use and transportation planning with a transit capital investment that will seek funding through the FTA’s CIG program.
7. **Passenger Ferry Grant Program** – funds public ferry systems in urbanized areas. Funds are awarded based on factors such as the age and condition of existing ferry boats, terminals and related infrastructure; benefits to riders, such as increased reliability; project readiness; and connectivity to other modes of transportation.
8. **Tribal Transit Program** – funds transit projects for federally recognized Indian Tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of Interior (DOI), Bureau of Indian Affairs (BIA).

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14.6 HISTORY

7/10/2008, 9/01/2016

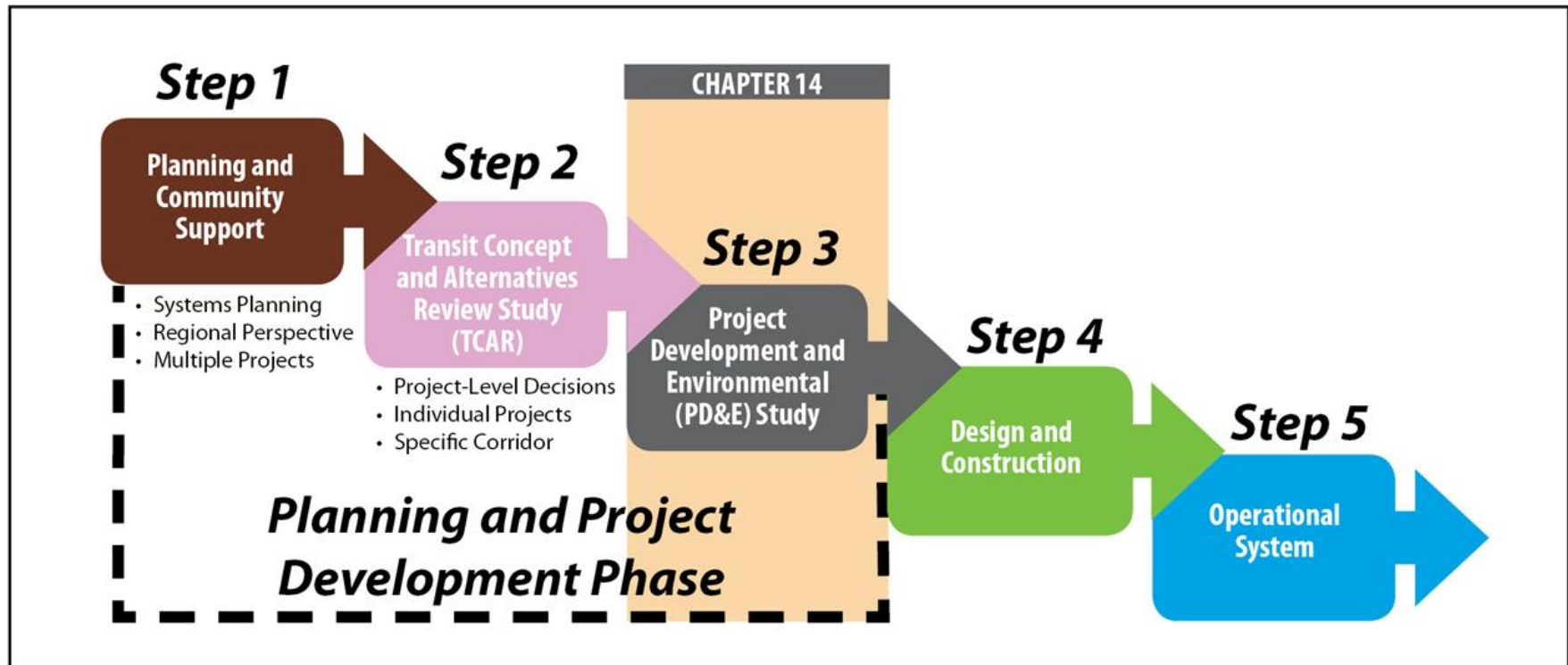


Figure 14-1 Transit Planning and Development Phase

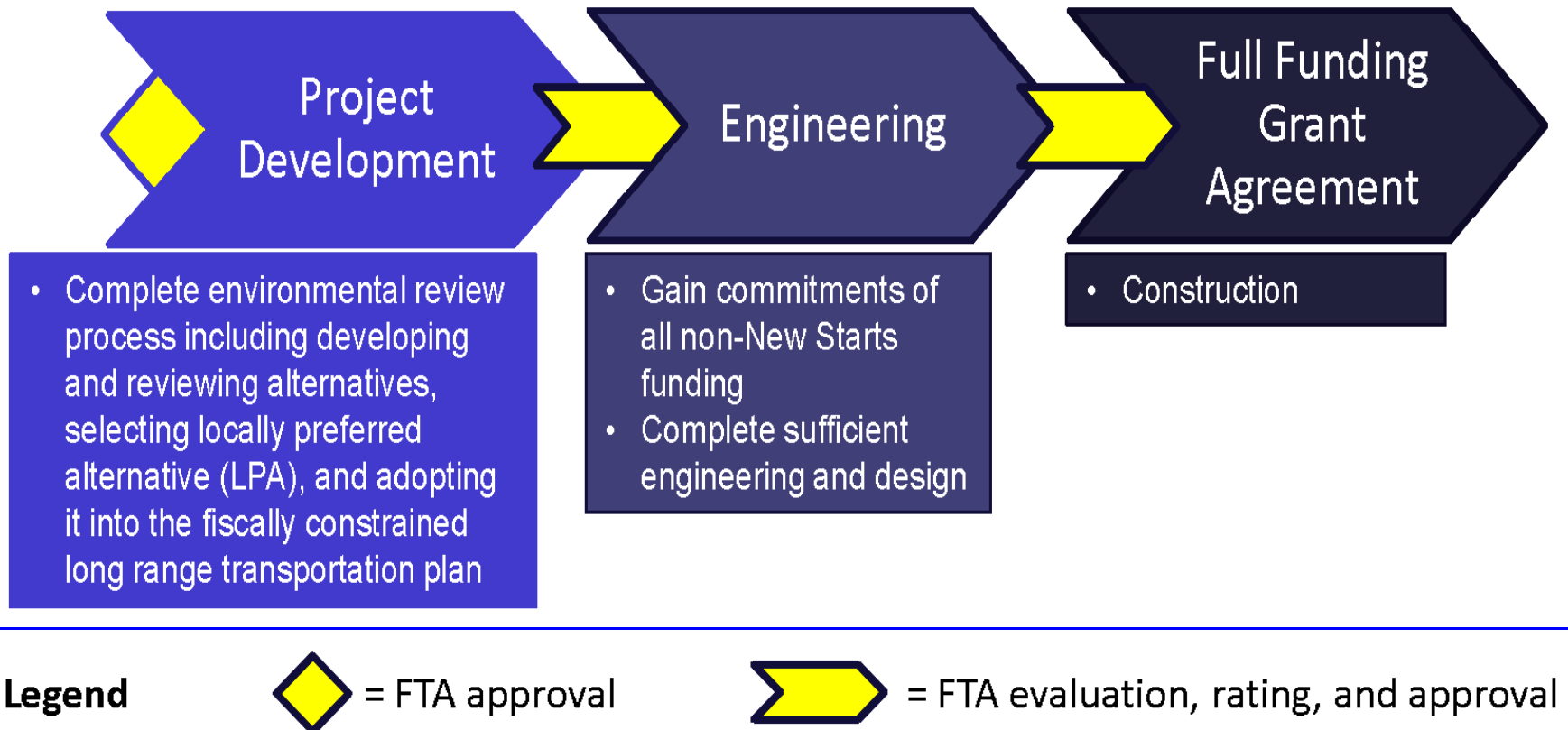


Figure 14-2 New Starts Development Process

MAP-21 Core Capacity Process

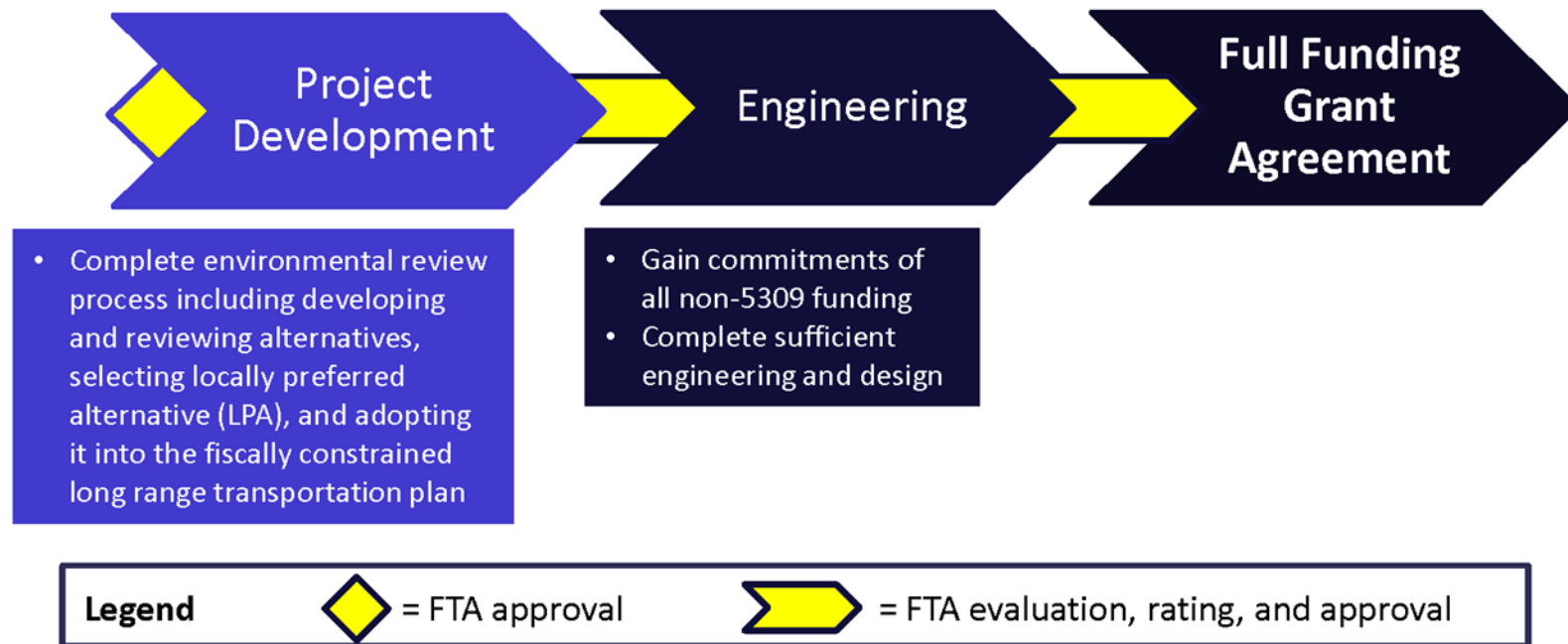


Figure 14-3 Core Capacity Development Process

Small Starts Process

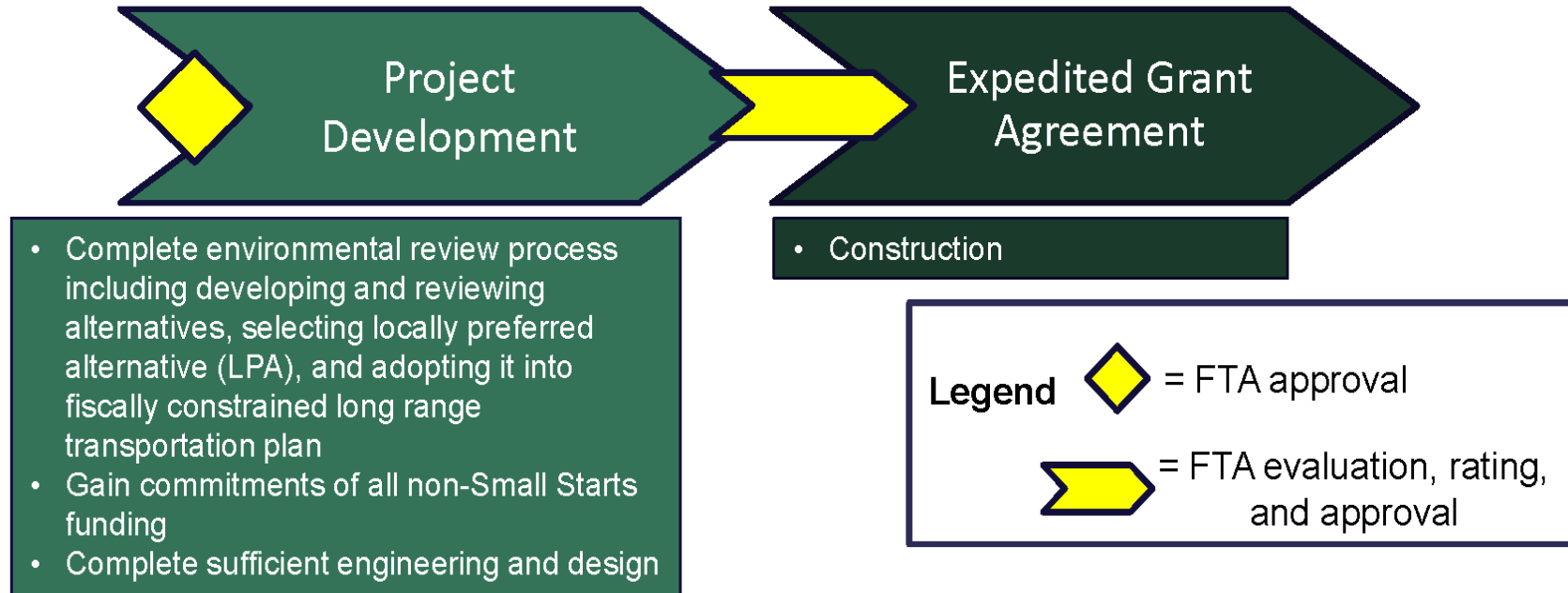


Figure 14-4 Small Starts Development Process

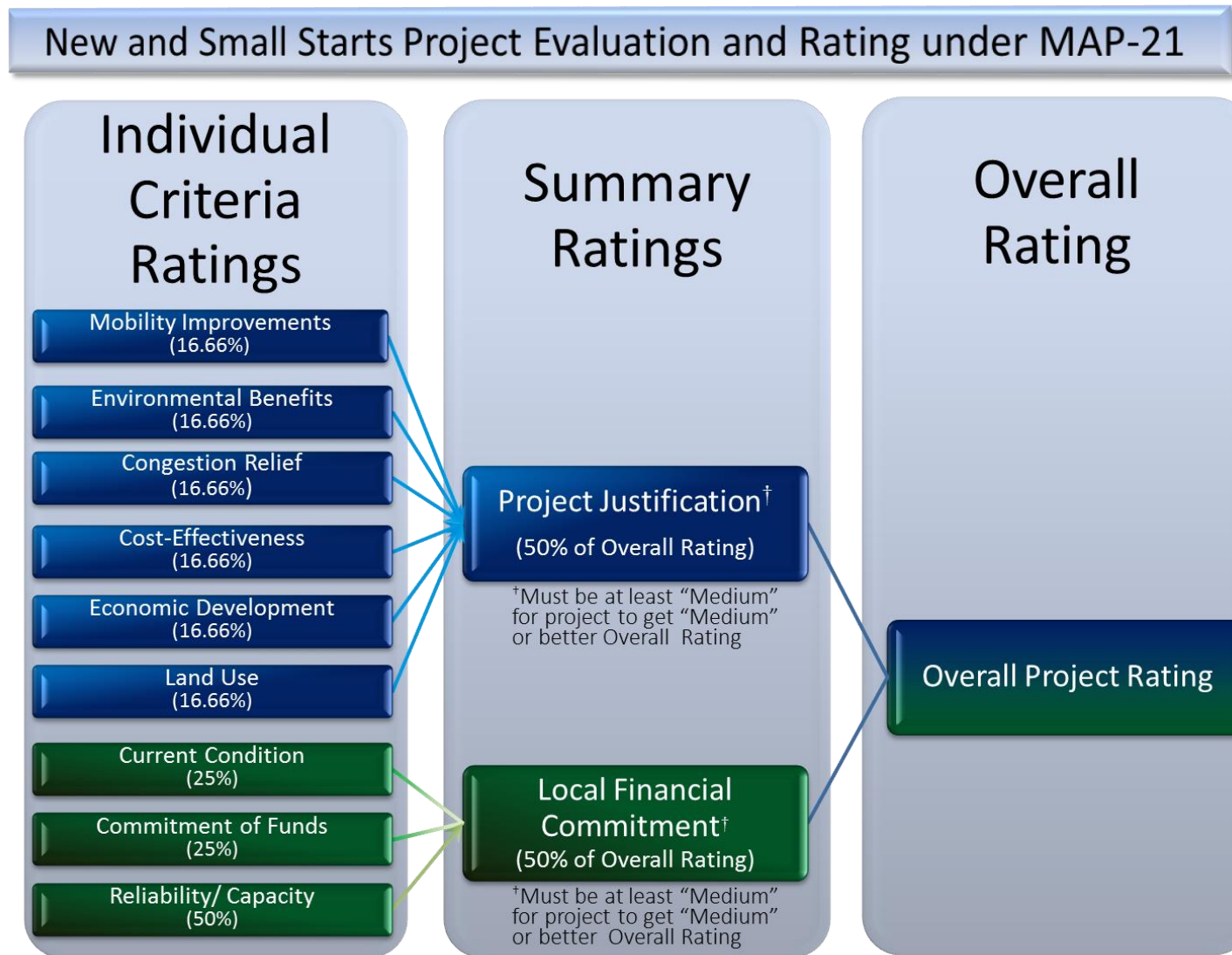


Figure 14-5 New Starts, Core Capacity, and Small Starts Project Evaluation and Rating Under MAP-21

Date _____

Grant Applicant/Project Sponsor _____

Project Name _____

City, County, State _____

[NOTE: Pursuant to 40 C.F.R. § 1506.5, applicants or applicants' contractors may prepare NEPA documents for submittal to federal agencies. However, the applicant is responsible for submitting accurate and complete documentation to FTA. Please prepare a separate transmittal letter or statement to accompany the CE verifying that you have reviewed the information contained in the document when you transmit it to FTA. The transmittal should include the following statement: "in submitting the (project name) categorical exclusion (CE) to the FTA, the applicant (insert name/agency info) affirms that it has reviewed and supports the information presented documenting the proposed action as meeting the criteria for a CE in accordance with 23 CFR Part 771.118 (d)(# - insert appropriate number here), or 23 CFR Part 771.117(d)(# - insert appropriate # here *NOTE: 771.117 CEs are only applicable to FTA/FHWA CEs. FTA-only CEs are now included 771.118). Following independent review and verification by FTA, applicant (insert DOT name/info) requests that it be notified of the acceptability of its submission". PLEASE DELETE THE HIGHLIGHTED INFORMATION IN THIS NOTE AND ALL HIGHLIGHTED INFORMATION BELOW BEFORE SUBMITTAL TO FTA. THE HIGHLIGHTED INFORMATION BELOW IS ONLY MEANT TO ASSIST THE APPLICANT WITH INFORMATION TO INCLUDE AS PART OF THE DOCUMENTATION, NOT SERVE AS LANGUAGE TO BE USED.]

INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION

(SECTION 771.118(d)(# - insert appropriate #. If a joint FTA/FHWA DCE, then include appropriate reference to 771.117(d)(#) instead of 771.118)

A. **DETAILED PROJECT DESCRIPTION AND PURPOSE AND NEED:** Describe type of project and transit nexus (include applicable FTA Transit Programs supported by this project). This description should include the proposed use, property size, parcel history, ownership information, acreage, and previous and current planning studies and/or environmental evaluations.

- Include a brief discussion summarizing the need and purpose for the project (e.g., congestion, state of good repair).
- Explain in common language how implementation of the project will address the project need, and its proposed use. Include a complete description of the project components such as length of the project in feet or miles, property size, history, ownership information (land management authority), acreage, and document previously conducted studies if applicable.
- Include as many specifics as possible such as number of buses, cars, employees using the facility.

B. **LOCATION (INCLUDING ADDRESS):** Attach a project location map or site map, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources (rivers, streams, wetlands, historic properties, parks and recreation areas). This must include adjacent parcels.

Figure 14-6 FTA Region IV Categorical Exclusion Checklist

- The project limits must be clearly marked. Include all streets and features specifically called out in the “project description.” If the project work occurs at more than one location, include those locations on the map, as well as on adjacent parcels.

- Land use plans, and zoning maps can be obtained from the tax assessor, city, county, or metropolitan planning organizations.

____ C. **METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY:** Is the proposed project in a nonattainment area or maintenance area for National Ambient Air Quality Standards (NAAQS)? Is the proposed project included in the currently conforming LRTP/TIP either explicitly or in a grouping of projects or activities? If the proposed project is in a nonattainment or maintenance area, then project-level conformity must be demonstrated by including specific reference to project in the currently conforming LRTP/TIP (40 CFR 93.115-117). In carbon monoxide (CO) and particulate matter (PM 2.5 and PM10) nonattainment and maintenance areas, additional analysis called “hot spot” analysis, may be required to determine if the project has localized air quality impacts (See Sections D and E below). If the project is not located within MPO boundaries, then indicate in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

____ D. **CO HOT SPOTS:** If there are serious traffic impacts at any affected intersection, and if the area is a nonattainment or maintenance area for carbon monoxide (CO), then demonstrate that CO “hot spots” will not result from project implementation. In nonattainment areas, interagency concurrence (IAC) and documentation must be attached. If the proposed project is not in a nonattainment or maintenance area for CO, state in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

____ E. **PM2.5 AND PM10 HOT SPOTS:** If there are serious traffic impacts at any affected intersection, and if the area is a nonattainment or maintenance area for any particulate matter (PM2.5 or PM10), then demonstrate that PM2.5 or PM10 “hot spots” will not result. In nonattainment areas, interagency concurrence (IAC) and documentation must be attached. If the proposed project is not in a nonattainment or maintenance area for PM2.5 and PM10, state in narrative response.

- Refer to the non-attainment/maintenance area maps at: <http://epa.gov/airquality/greenbk/index.html> to determine if the project is located in an area that meets all National Ambient Air Quality Standards.

____ F. **ZONING:** Description of zoning and land use and consistency with proposed project. Describe in narrative response why project is compatible with current land use and/or zoning. In cases where additional ordinances (such as overlay districts or design constraints) exist describe ordinance and explain project compatibility.

- Land use plans, and zoning maps can be obtained from the tax assessor, city, county, or metropolitan planning organizations. May provide a letter from appropriate city/county/town official.

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 2 of 9)

- ____ G. **TRAFFIC IMPACTS:** Describe potential traffic impacts, including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. Also include description of ingress, egress and safety.
- Determine if the project will result in any construction-related impacts such as lane closures, detours, or dust abatement requirements. Briefly describe construction-related traffic impacts, and traffic control measures required to minimize impacts for construction. May provide a letter from the traffic engineer or other appropriate official verifying traffic impacts.
- ____ H. **CULTURAL RESOURCES:** Show resources on a project location map. Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. FTA initiates all consultation per Section 106 of the National Historic Preservation Act (NHPA), following the applicant’s submittal of the Section 106 Worksheet to FTA. FTA then makes a “No Effect/No Historic Properties” or “No Historic Properties Affected” determination, if no historic resources or potential to affect resources exists. FTA then requests concurrence for this determination from the appropriate State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO). The FTA Section 106 Worksheet and SHPO/THPO concurrence must be included as an attachment before NEPA approval.
- Note:** If an “Adverse Effect” determination is made as a result of the proposed project, rather than a “No Effect/No Historic Properties” or “No Historic Properties Affected” determination, then FTA may request a higher NEPA class of action to evaluate alternatives or mitigation measures to deter these adverse effects.
- For more about Section 106 consultations: <http://www.achp.gov/106summary.html>. If the project has potential effects to NRHP-eligible or listed projects, the Section 106 process must be followed: <http://www.achp.gov/regsflow/html>
 - Refer to the Section 106 consultation letter(s) and identify site eligibility. List each site in narrative. Attach consultation letters to checklist. If NO resources are present within the project’s area of potential effect (APE), attach the SHPO/THPO concurrence letter to checklist.
 - Projects involving modifications to historic buildings or structures should comply with the *Secretary of the Interior Standards for the Rehabilitation of Historic Structures*, which is available from the SHPO/THPO and <http://www.nps.gov/hps/TPS/tax/rhb/stand.htm>.
- ____ I. **NOISE:** Assess the noise impacts using the FTA Noise and Vibration Manual (http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf). The first level for noise assessment is “Screening.” Identify areas of potential impact for noise source types in Table 4-1. Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for the type of project per the manual. If it is determined that none of the land uses are within the distances noted in Table 4-1, then no further noise analysis is needed. If one or more of the noise-sensitive land uses are within the screening distances noted in Table 4-1, as adjusted, then the potential for impacts exists and further analysis is needed. Identify locations for second level, “General Assessment.” Attach General Assessment with conclusions and any identified mitigation locations and summarize in the narrative response.
- ____ J. **VIBRATION:** Assess the vibration impacts using the FTA Noise and Vibration Manual

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 3 of 9)

(http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf). The first level for vibration assessment is “Screening.” Identify potential for vibration impact associated with project types in Table 9-1. If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA’s guidelines. If potential impacts exist, Table 9-2 identified locations for second level, “General Assessment.” Attach General Assessment with conclusions and any identified mitigation locations and summarize in the narrative response. Most projects that do not include steel-wheel trains do not cause significant vibration impacts. Any project that does not include some type of vehicle is not likely to cause vibration impacts. If the project does not involve rail transit or some type of vehicle, please state in narrative response.

 K. **ACQUISITIONS & RELOCATIONS REQUIRED:** Describe land acquisitions and displacements of residences and businesses. Include current use, ownership information and date of property acquisition (if applicable). If a structure is located on the property include the date of construction for that structure.

Note: If FTA funds are used to acquire property or the property is used as local match, then the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (<http://www.fhwa.dot.gov/realestate/ua/ualic.htm>) must be followed and documented. No offers or appraisals may occur prior to FTA’s approval of a NEPA evaluation.

 L. **HAZARDOUS MATERIALS:** If real property is to be acquired, has a Phase I site assessment to investigate the potential for contaminated soils and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the appropriate State agency regarding the proposed remediation?

Note: It may be necessary to demonstrate that real property previously acquired and currently owned by the applicant is not contaminated prior to construction and use of FTA funds at the site. Certain liability concerns and cleanup considerations that may not be eligible for FTA funds may result.

- If there are any known hazardous materials sites or previous land uses with a potential for hazardous materials remaining within the project area or right-of-way, including existing structures have been previously painted, or road striping removed (RCRA <http://www.epa.gov/osw/inforesources/online/>), a Phase I/Phase II hazardous materials study must be performed.
Map: <http://www.epa.gov/wastes/hazard/correctiveaction/eis/eimap.htm>
- The hazardous materials documentation should be attached or provided in narrative, including concurrence with the local/state agency clean-up or mitigation plan.

 M. **COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE ANALYSIS:** Provide a socioeconomic profile (and socioeconomic census map) of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect. Identify any minority and/or low income communities on a project location map. Describe any disproportionate and adverse effects to minority and/or low-

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 4 of 9)

income communities as a result of the proposed project (Executive Order 12898). If minority and/or low income populations do not exist within the proposed project area, provide narrative and census map documentation (<http://www.fhwa.dot.gov/environment/ej2.htm>).

Note: Environmental Justice populations are minority and/or low income populations. Minority means a person who is Black, Hispanic, Asian American, American Indian, or Alaskan Native. Low-income means a person whose household income is at or below the Department of Health and Human Services poverty guidelines. Environmental Justice is not a measurable impact. Rather, Environmental Justice analysis focuses on the presence of Environmental Justice populations and evaluates disproportionately high and adverse impacts to these populations as compared to a reference population, considers alternatives, conducts public involvement, and develops mitigation efforts. A disproportionately high and adverse effect pertains to significant individual or cumulative effects. Common impacts to Environmental Justice populations include, but are not limited to, potential changes in ambient air quality and water quality, noise, vibration, and construction. These may occur during construction or during operation of the facility and may be temporary or permanent. When these impacts are disproportionate relative to the other populations within the proposed project area, then further evaluations and possible mitigation measures are necessary.

- If this project will have NO effects to the community or its population, document in narrative.
- Determine if any temporary, adverse, or permanent effects on any businesses, residents, or landowners will occur as a result of this project. This could include effects to access, relocations, and neighborhood continuity. If effects will occur, determine if there are any protected populations. These populations include:
 - Minorities – refer to census tables for correct categories
 - Low-income –population whose median household income is at or below the US Department of Health and Human Services poverty guidelines
 - Age, gender, and disability
- To determine if any of the above populations are present in the project area, find the census tract and block groups for the project area, which can be found with the property address, on the US Census website:
http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?_pageId=gn7_maps
http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=DEC&_submenuId=datasets_0&_lang=en
The EPA's EJ View tool is also useful for evaluating project sites for Environmental Justice:
<http://epamap14.epa.gov/ejmap/entry.html>

____ N. **USE OF SECTION 4(F) RESOURCES:** Show parks, recreational areas, and/or wildlife/waterfowl refuges on a project location map. If the activities and current and intended uses of these resources will be affected by the proposed project, state how and determine the amount of property to be used. If the proposed project is not located in or in the vicinity of these resources, then state in the narrative response.

Note: FTA will determine if the proposed project will result in direct, temporary, or constructive use of the resources. Section 4(f) impacts require further evaluations, including an alternatives analysis to measure adverse effects. FTA may request an Environmental Assessment (EA) as the appropriate NEPA class of action to

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 5 of 9)

evaluate alternatives and consider mitigation or avoidance measures to deter these adverse effects.

- Based on the definitions of use outlined in 23 CFR § 774, determine if the project will result in an actual (direct), temporary, or constructive (proximity impacts) use of the Section 4(f) resource. Locate Section 4(f) properties on project vicinity map. <http://www.section4f.com/home.htm>

O. IMPACTS ON WETLANDS: Show wetlands on a project location map. Describe the proposed project's impact to on-site and adjacent wetlands. If the project impacts wetlands, please provide documentation of coordination efforts/applications for permits from the appropriate U.S. Army Corps of Engineers (USACE) office, as well as, minimization and mitigation efforts. If no wetlands are present or if the proposed project will not impact any wetland areas, please state and provide documentation.

- Determine if wetlands or other Jurisdictional Waters of the US are present in the project area: <http://www.fhwa.dot.gov/hep/23cfr777.htm> Locate wetlands, streams, and/or open waters on project vicinity map.
- If wetlands or other jurisdictional waters of the US are impacted, a Section 404 Permit may be required. http://www.epa.gov/wetlands/pdf/reg_authority_pr.pdf. If waters have been delineated (http://www.usace.army.mil/cecw/pages/reg_supp.aspx) and determined to be under the jurisdiction of the Army Corps of Engineers, include the Corps File Number (or attach Nationwide Permit (NWP)), or state in narrative if waters are NOT under Corps jurisdiction.
- Include any state requirements.
- Determine if the wetland(s) will be avoided by the project, if no mitigation is necessary for avoidance, explain how/why the area will be avoided (for example: at bottom of slope where no work will occur.) Include all applicable mitigation measures specific to the wetland (s) including mitigation necessary for avoidance.

P. FLOODPLAIN IMPACTS: Show floodplain areas on a project location map. Is the proposed project located within the 100-year or 500-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to fill and reduction of the floodplain capacity. In addition, please provide documentation on how project will be designed to restore floodplain capacity. If project is not located in the 100- year or 500-year floodplain, please state and provide documentation.

- Determine if the project is within a 100-year floodplain. Review FEMA 100-year FIRMs on the FEMA website: http://msc.fema.gov/webapp/wcs/storeservlet/info?storeId=10001&catalogId=10001&langId=-1&content=firmetteHelp_0&title=FIRMette%20Tutorial
- Include all floodplain FIRM numbers that occur in the project area and the effective or revision date for each FIRM. Include the FEMA FIRM numbers for the project area, even if the 100-year floodplain has not been delineated.
- If a determination cannot be made whether or not the project is within a 100-year floodplain, contact the county flood control district or the local floodplain manager for assistance.
- If the project is within a floodplain, determine if the floodplain will be impacted by the project. Impacts typically occur when topography within the floodplain is substantially modified either by

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 6 of 9)

placement or removal of materials within the floodplain. If the project will impact a 100-year floodplain, provide an explanation of project impacts in the narrative. Additionally, follow the requirements of 23 CFR Part 650(A).

Q. IMPACTS ON LOCAL WATER QUALITY, WILD AND SCENIC RIVERS, NAVIGABLE WATERWAYS, AND COASTAL ZONES: If any of these are implicated, provide detailed analysis of potential impacts and provide documentation of coordination tasks with appropriate agencies.

- **Water Quality:** Determine if project area is in a sole-source aquifer, if not document in narrative: <http://cfpub.epa.gov/safewater/sourcewater/sourcewater.cfm?action=SSA>. Refer to the current EPA/FHWA MOU regarding the Sole Source Aquifer review pursuant to Section 1424(e) of the Safe Drinking Water Act to determine if an EPA review is required: <http://ceq.hss.doe.gov/nepa/regs/sdwa.html>. FTA must notify the EPA of all projects located in a sole source aquifer that do not require a Safe Drinking Water Act Section 1424(e) review by the EPA. Include any mitigation measures required by the state or EPA.
- **Water Quality:** Determine if appropriate NPDES permits are applicable as a result of ground disturbance. How will stormwater be treated during and after construction? How will wastewater from bus washing facilities be treated?
- **Wild and Scenic River:** Determine if a recommendation for listing, or designated, Wild and or Scenic River is present in the vicinity: <http://www.rivers.gov/wildriverslist.html>. Note on CE if NO Rivers are present, and if project is located near a river and it will NOT be impacted.
- If a designated wild and scenic river, or a river recommended for listing, occurs within the project area, insert the name of the river. If the project will affect the river, determine if the project will have an adverse effect on the river as outlined in Guide for Identifying Potential Adverse Effects: <http://environment.fhwa.dot.gov/guidebook/voll/doc15c.pdf>. Coordinate with the agency responsible for managing the river. After coordination is complete, describe the potential impacts to the river, explain why the effects are not adverse, and include information on the agency coordination/concurrence (for example: NPS) with the effect determination.
- Mitigation to minimize effects to rivers designated—or recommended for designation—to the Wild and Scenic River System must be developed in coordination with FTA and the agency responsible for managing the river prior to submittal of the environmental document.
- **Navigable Water and Coastal Zones:** State in narrative if Waters are present within the project area, but will not be impacted (for example, will be avoided by construction). If waters are impacted, indicate the location on a project map.

R. IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES: Describe any natural areas (large wooded/forested parcels, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the appropriate state-level department of natural resources and U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) for the potential impacts to these natural areas and on any threatened and endangered plant, animal and invertebrate species that may be affected.

Note: FTA will initiate all Section 7 interagency consultation with USFWS and/or NMFS. The applicant must notify FTA immediately, if after state-level coordination, protected natural areas or species will experience potential adverse effects as a result of the proposed project.

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 7 of 9)

- <http://www.fws.gov/Endangered/>
- http://www.fws.gov/ecos/ajax/tess_public/pub/stateOccurrence.jsp. States will have their own list of protected and endangered species. Document what species are listed in the project area, and attach FWS and state documentation, as well as any measures taken to protect sensitive biological resources. This includes discussion with the state addressing their concerns, and how mitigation measures were addressed (for example: nesting boxes for migratory bird species attached to bus barn.) Migratory Bird Treaty Act, <http://www.fws.gov/pacific/migratorybirds/mbta.htm>.
- If project vicinity is on tribal lands, the Tribal governments should be consulted for sensitive biological resources, and concurrence or directives should be included with CE documentation.

____ S. **IMPACTS ON SAFETY AND SECURITY:** Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

____ T. **IMPACTS CAUSED BY CONSTRUCTION:** Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and soil disposal, invasive plant species, air and water quality, safety and security, and disruptions of traffic and access to property. If applicable, please include any National Pollutant Discharge Elimination System best practice measures (<http://cfpub.epa.gov/NPDES/>).

____ U. **PERMITS/VARIANCES/COMMITMENTS REQUIRED:** Please indicate and describe if any of the following will be required for project implementation: U.S. Coast Guard Permit; Forest Service/USACE Land; Clean Water Act Section 404 Permit; Tennessee Valley Authority Permit; Stream Buffer Variance; Coastal Zone Management Coordination; NPDES; Cemetery Permit; and other permits and commitments as required by local and/or state governments. If required, describe the appropriate stage (before, during or after construction).

- NPDES Permit is required if project vicinity in a unique or impaired watershed. Include the name of the water and coordinate with EPA and relevant state agency to identify applicable best management practices, and add the mitigation to narrative, and concurrence if appropriate: http://iaspub.epa.gov/waters10/attains_nation_cv.control?p_report_type=T#imp_water_by_state.

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 8 of 9)

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.118(d) (-insert # here, as appropriate- or include appropriate reference to 771.117(d)(#) for joint FTA/FHWA DCE).

Primary Applicant's Environmental Reviewer

Date

Agency: _____

Secondary Applicant's Environmental Reviewer

Date

Agency: _____

Federal Transit Administration

Date

Figure 14-6 FTA Region IV Categorical Exclusion Checklist (Page 9 of 9)

Volume I: Environmental Impact Statement

Cover Page
Signature Page
Abstract
Contact Information and Notice of Availability
Table of Contents
List of Tables
List of Figures
Glossary of Terms
Acronyms
Executive Summary

Chapter 1 - Purpose and Need

- a) Project Study Area
- b) Project Background
- c) Project Purpose
- d) Project Need
- e) Need for Improvements
- f) Goals and Objectives

Chapter 2 - Alternatives Considered

- a) Alternatives Development Process
- b) Draft EIS Scoping Process
- c) Alternatives Not Recommended for Further Study
- d) Alternatives Advanced for Further Study
- e) Locally Preferred Alternative Selection Process
- f) Description of Locally Preferred Alternative

Chapter 3 - Transportation Analysis

- a) Transit Conditions
- b) Freight Rail Conditions
- c) Traffic Conditions
- d) Pedestrians and Bicycles
- e) Parking, Driveways, and Loading Zones
- f) Aviation
- g) Ports and Navigable Waterways

Figure 14-7 Environmental Impact Statement Outline

Chapter 4 - Community and Social Analysis

- a) Land Use Plan Compatibility
- b) Community Facilities/Community Character and Cohesion
- c) Displacement of Residents and Businesses
- d) Cultural Resources (Historic and Archaeological Resources)
- e) Parks and Recreation Areas
- f) Visual/Aesthetics
- g) Economic Impacts
- h) Safety and Security

Chapter 5 - Physical and Environmental Analysis

- a) Utilities
- b) Floodplains
- c) Water Resources
- d) Water Quality and Stormwater
- e) Geology, Soils, and Topography
- f) Hazardous Materials and Contamination
- g) Noise
- h) Vibration and Ground Borne Noise
- i) Ecology (Habitat, Threatened and Endangered Species)
- j) Air Quality
- k) Energy

Chapter 6 - Indirect and Cumulative Impacts

- a) Introduction
- b) Methodology
- c) Reasonably Foreseeable Future Actions
- d) Potential Indirect Effects and Cumulative Impacts

Chapter 7 - Environmental Justice Analysis

- a) Introduction and Regulatory Overview
- b) Methodology
- c) Environmental Justice Context of Project Study Area
- d) Community Engagement
- e) Environmental Justice Impacts
- f) Environmental Justice Analysis Conclusions

Figure 14-7 Environmental Impact Statement Outline (Page 2 of 3)

Chapter 8 - Section 4(f) Evaluation

- a) Introduction and Regulatory Overview
- b) Alternatives Evaluation and Description of the Project
- c) Identification of Properties Protected by Section 4(f)
- d) Direct Use of Section 4(f) Properties
- e) Temporary Occupancy of Section 4(f) Properties
- f) Preliminary Determination of Section 4(f) Use

Chapter 9 - Consultation and Coordination

- a) Community Engagement Approach
- b) Summary of Community Engagement Activities
- c) Agency Coordination
- d) Section 106 Consultation
- e) Other

Chapter 10 - Financial Considerations

- a) Capital Cost Estimate
- b) Operations and Maintenance Costs
- c) Sources of Funding

Chapter 11 - Evaluation of Alternatives

- a) Evaluation Framework and Methodology
- b) Key Differentiators for Alternatives
- c) Locally Preferred Alternative
- d) Next Steps

Appendix A: List of Recipients

Appendix B: List of Preparers

Appendix C: Sources and References

Appendix D: Agency Correspondence

Appendix E: Conceptual Drawings

Volume II: Supporting Technical Reports (list reports only and include copies on a CD attached to inside cover of EIS)

Figure 14-7 Environmental Impact Statement Outline (Page 3 of 3)

ENVIRONMENTAL RE-EVALUATION CONSULTATION

Note: The purpose of this worksheet is to assist sponsoring agencies in gathering and organizing materials for re-evaluations required under the National Environmental Policy Act (NEPA). It is designed to provide FTA with information needed to do a re-evaluation. In lieu of the worksheet, the sponsoring agency may submit the same information in a different format. Submission of the worksheet by itself does not meet NEPA requirements. **FTA must concur in writing** with its determination and/or the sponsoring agency's NEPA recommendation. Contact the FTA Region 4 Planner if you have any questions regarding this worksheet. We strongly encourage you to contact us to discuss your project changes before you fill out this worksheet.

<i>For Agency Use</i>	
<i>Date Received:</i>	
<i>Recommendation by Planner or Engineer:</i> <input type="checkbox"/> <i>Accept</i> <input type="checkbox"/> <i>Return for Revisions</i> <input type="checkbox"/> <i>Not Eligible</i>	<i>Reviewed By:</i> <i>Date:</i>
<i>Comments:</i>	
<i>Concurrence by Regional Counsel:</i> <input type="checkbox"/> <i>Accept Recommendation</i> <input type="checkbox"/> <i>Return with Comments</i>	<i>Reviewed By:</i> <i>Date:</i>
<i>Comments:</i>	
<i>Concurrence by Approving Official:</i>	<i>Date:</i>

Please answer the following questions, fill out the impact chart and attach project area and site maps.
 Using a site map from the previously approved NEPA document, show project changes using a different color. Include additional site maps to help reviewer understand project changes.

PROJECT TITLE

LIST CURRENT, APPROVED ENVIRONMENTAL DOCUMENTS (e.g. EIS/ROD, EA/FONSI, BA, RE-EVALUATION, etc.) If Re-evaluation, briefly describe.		
Title:	Date:	Type and Date of Last Federal Action
Title:	Date:	Type and Date of Last Federal Action
Title:	Date:	Type and Date of Last Federal Action

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet

HAS THE MOST CURRENT AND OTHER PERTINENT APPROVED ENVIRONMENTAL DOCUMENTS BEEN RE-READ TO COMPARE PROPOSED PROJECT CHANGES?

NO (STOP! The most current approved environmental document MUST be re-read prior to completing a re-evaluation.)

YES NAME: DATE:

IS THE PROJECT CURRENTLY UNDER DESIGN OR CONSTRUCTION?

REASON FOR RE-EVALUATION

DESCRIPTION OF PROJECT CHANGES OR NEW INFORMATION

HAVE ANY NEW OR REVISED LAWS OR REGULATIONS BEEN ISSUED SINCE APPROVAL OF THE LAST ENVIRONMENTAL DOCUMENT THAT AFFECTS THIS PROJECT? If yes, please explain.

NO
 YES

WILL THE NEW INFORMATION HAVE THE POTENTIAL TO CAUSE A CHANGE IN THE DETERMINATION OF IMPACTS FROM WHAT WAS DESCRIBED IN THE ORIGINAL ENVIRONMENTAL DOCUMENT FOR ANY OF THE AREAS LISTED BELOW? For each impact category, please indicate whether there will be a change in impacts. For all categories with a change, continue to the table at the end of this worksheet and provide detailed descriptions of the impacts as initially disclosed, new impacts and a discussion of the changes. The change in impact may be beneficial or adverse.

Transportation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Land Use and Economics	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Acquisitions, Displacements, & Relocations	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Neighborhoods & Populations (Social)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Visual Resources & Aesthetics	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Air Quality	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Noise & Vibration	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Ecosystems (Vegetation & Wildlife)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 2 of 7)

Water Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Energy & Natural Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Geology & Soils	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hazardous Materials	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Public Services	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Utilities	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Historic, Cultural & Archaeological Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Parklands & Recreation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Construction	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Secondary and Cumulative	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Will the changed conditions or new information result in revised documentation or determination under the following federal regulations?

Endangered Species Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Magnuson-Stevens Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Farmland Preservation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 404-Clean Water Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Floodplain Management Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hazardous Materials	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 106 National Historic Preservation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Uniform Relocation Act	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 4(f) Lands	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 6(f) Lands	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Wild & Scenic Rivers	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Coastal Barriers	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Coastal Zone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Sole Source Aquifer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
National Scenic Byways	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you checked yes to any of these, describe how the changes impact compliance and any actions needed to ensure compliance of the new project:

Will these changes or new information likely result in substantial public controversy?

Yes No

Comments:

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 3 of 7)

COMMENTS:

CONCLUSIONS AND RECOMMENDATIONS:

LIST OF ATTACHMENTS:

SUBMITTED BY:

By signing this, I certify that to the best of my knowledge this document is complete and accurate.

Name	Date
Title	

Submit two paper copies of this form, attachments, and a transmittal letter recommending a NEPA finding to the address below. Or you may submit one electronic version to the appropriate FTA Region 4 Planner. When the document is approved, FTA may request additional copies.

Federal Transit Administration, Region 4
230 Peachtree Street, Suite 800
Atlanta, GA 30303-1512

phone: (404) 865-5600
fax: (404) 865-5605

Impact Category	Impacts as Initially Disclosed	New Impacts	Change in Impacts
Sample—Water Resources/Impervious Surface/	Initial design included 0.60 acres of new impervious surface for the parking lot.	Modified design changes the striping pattern and results in 0.75 acres of new impervious surface.	The new design results in 0.15 more impervious surface than initially planned.
Transportation			
Land Use and Economics			
Acquisitions, Displacements, & Relocations			
Neighborhoods & Populations (Social)			
Visual Resources & Aesthetics			
Air Quality			

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 5 of 7)

Noise & Vibration			
Ecosystems (Vegetation & Wildlife)			
Water Resources			
Energy & Natural Resources			
Geology & Soils			
Hazardous Materials			

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 6 of 7)

Public Services			
Utilities			
Historic, Cultural & Archaeological Resources			
Parklands & Recreation			
Construction			
Secondary and Cumulative			
Other			

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 7 of 7)

PART 1, CHAPTER 15

PROJECT FILE AND RECORDS MANAGEMENT

TABLE OF CONTENTS

15.1 OVERVIEW	15-1
15.2 PROCEDURE	15-2
15.2.1 Project File.....	15-2
15.2.2 Administrative Record.....	15-2
15.2.3 Records Management	15-3
15.2.4 File Naming Convention	15-3
15.2.5 Retention	15-4
15.3 REFERENCES.....	15-5

PART 1, CHAPTER 15

PROJECT FILE AND RECORDS MANAGEMENT

15.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

FDOT maintains its Project Development and Environment (PD&E) files in accordance with FDOT's [Procedure No. 050-020-025, Records Management](#). For documents pertaining to FDOT's assumption of responsibilities under the **NEPA** Assignment Program, FDOT complies with the requirements of **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 FDOT's [Information Technology Resource User's Manual, Topic No. 325-000-002](#) (Chapters 12 and 13) serves as the environmental file of record for **NEPA** actions, including those under the **NEPA** Assignment Program. The EDMS stores and archives files, provides backup and disaster recover while maintaining document access and managing records to appropriate retention and disposal schedules. When the files are imported into the EDMS, they are reviewed, published to the archive, and made available to other FDOT computer applications.

To support PD&E recordkeeping and retention responsibilities, the StateWide Environmental Project Tracker (SWEPT) application is used in conjunction with EDMS. SWEPT is an interactive web site that supports activities during FDOT's Document Review Process. SWEPT provides an interface to the EDMS that is integrated with the document review work flow. 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 a PD&E Study, FDOT determines how to manage its project files, as long as the procedures satisfy FDOT record-keeping and retention requirements and meets or exceeds 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 PD&E Study and resulting **NEPA** decision or approval. Documents maintained in the project file for each PD&E project include, but are not limited to, letters, technical reports, correspondence, emails, comments, responses, meeting minutes, studies, 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 **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 all 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 for PD&E projects 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 on 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 shall be maintained electronically within SWEPT. The 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. 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 reviewed by OEM Technology Resources Coordinator and made available through EDMS according to the Environmental EDMS protocols established in the ***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-Document Type Abbreviation-Document subtype Abbreviation-Date;

Example: 43257425201-CE1-D4-Approved_Type_1_Categorical_Exclusion_Checklist-2016-0802.pdf

or

- b. FM#-COA-District-Document 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.)
- b. COA = Abbreviated Class of Action:
 - CE1 = Type 1 Categorical Exclusion
 - CE2 = Type 2 Categorical Exclusion
 - SEIR = State Environmental Impact Report
 - EA = Environmental Assessment

- EIS = Environmental Impact Statement
- c. District = Abbreviated District number or FTE for Turnpike: D1, D2,...FTE
- d. 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 COA. And a subtype of that report could be data, correspondence, concurrence request, concurrence.
- e. Document_Name = The original file name, minus extension (apply this before the date), with spaces replaced by underscores
- f. 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 documents pertaining to FDOT's assumption of responsibilities under the **NEPA** Assignment Program, 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 PD&E 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 PD&E 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, 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) shall be 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. <http://environment.transportation.org/pdf/programs/ph01-2.pdf>

FHWA. 2013. FHWA Records Disposition Manual (Field Offices) Chapter 4. <http://www.fhwa.dot.gov/legregs/directives/orders/envi-reg.cfm>

FHWA. 2013. FHWA Order No. 1324.1B, issued July 29, 2013. <https://www.fhwa.dot.gov/legregs/directives/orders/13241b.cfm>

FDOT. 2010. Records Retention and Disposal Schedule

FDOT. Records Management, Procedure No. 050-020-025. <http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/?viewBy=0&procType=pr>

FDOT. 2016. EEDMS QA/QC Process Office of Environmental Management

FDOT. 2016. StateWide Environmental Project Tracking website. <https://www.fla-etat.org/est/swept/>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

National Environmental Policy Act (NEPA) of 1969

PART 2, CHAPTER 1

PROJECT DESCRIPTION AND PURPOSE AND NEED

TABLE OF CONTENTS

1.1	OVERVIEW	1-1
1.2	PROCEDURE.....	1-2
1.2.1	Defining the Project.....	1-2
1.2.1.1	Development of Project Description.....	1-2
1.2.1.1.1	Logical Termini	1-3
1.2.2	Purpose and Need	1-4
1.2.2.1	Development of Purpose and Need.....	1-4
1.2.2.1.1	Purpose	1-5
1.2.2.1.2	Need.....	1-5
1.2.2.2	Purpose and Need during the ETDM Screening.....	1-9
1.2.2.3	Purpose and Need during PD&E	1-10
1.2.2.3.1	Documentation	1-11
1.3	REFERENCES	1-11
1.4	FORMS	1-12
1.5	HISTORY	1-12

PART 2 CHAPTER 1

PROJECT DESCRIPTION AND PURPOSE AND NEED

1.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance on developing and documenting the project description and purpose and need for the project prior to and during the Project Development and Environment (PD&E) phase. The project description briefly describes the existing facility or existing conditions, project limits, project location, and the proposed improvements so that the Lead Federal Agency, resource agencies, and the public can understand the scope of the project and its effects on the environment. The purpose and need for a project is a basis for the development of the range of reasonable alternatives required in an Environmental Impact Statement (EIS), or identification of the build alternative(s) for other Classes of Action (COA). Moreover, the purpose and need for the project assists the Lead Federal Agency in evaluating project alternatives and selecting a preferred alternative (see [Part 2, Chapter 3, Engineering Analysis](#)).

The purpose and need in an Environmental Document is where the planning process and the PD&E process (**NEPA** for federal projects) most clearly intersect. The development of the purpose and need begins early in the planning process and evolves into the final purpose and need in the PD&E Study. FDOT and planning agencies [e.g., Metropolitan Planning Organizations (MPO), Transportation Planning Organizations (TPO)] identify transportation needs during the development of their respective transportation plans based on planning data.

FDOT uses the Efficient Transportation Decision Making (ETDM) process to obtain input from resource agencies and the public on the purpose and need for projects that are screened through the Environmental Screening Tool (EST).

The purpose and need discussion in the Environmental Document provides details about the objectives of the proposed action, such as achieving transportation-related needs identified in an MPO plan. If project alternatives do not fully address the stated purpose and need, they can be eliminated from further consideration with documentation.

Further guidance regarding the development of the purpose and need can be found in ***FHWA Technical Advisory T6640.8A***, and ***FHWA Environmental Review Toolkit***.

1.2 PROCEDURE

1.2.1 Defining the Project

Prior to the PD&E Study, a description of the project is developed through the planning process and documented during the ETDM process. The project description used in the PD&E Study should be similar to the one used in the ETDM process. When developing a transportation project, the logical termini are determined for the scope of both transportation improvements and environmental analysis.

1.2.1.1 Development of Project Description

The project description must be written to allow a person without prior knowledge of the project to clearly understand what the project is. The project description must include the following information:

1. A brief description of the existing facility;
2. The limits of the proposed project (such as its length and logical termini);
3. The names of the City and County where the project is located; and
4. A brief description of the proposed improvements (such as mode, typical section features, facility type, multi-modal features, and any major structures).

A project location map illustrating the project limits. The map should display any landmarks mentioned in describing the proposed project or action (i.e., cities, towns, rivers, airports). The EST can be used to generate this map for screened projects.

An example of a project description is provided below:

This project involves a 3.1 mile segment of SR-XX extending north from SR-YY to SR-ZZ (Figure 1) located in City X, County Y. The proposed project improves the existing two-way, two lane roadway to a four (4) lane, divided roadway with provisions for future expansion to an ultimate six (6) lane divided roadway with a curbed median. Bridge structures are not located on this segment of SR-XX; however, bridge widening or replacement is anticipated for side street connections to SR-XX, SR-YY, and SR-ZZ over the Any Drainage District Canal.

1.2.1.1.1 Logical Termini

The establishment of a project's logical termini is an important aspect of the proposed project and serves to define the study area. The identification of logical termini should be completed during the planning process and finalized through the ETDM screening. For federal projects, the determination of logical termini is coordinated with the Lead Federal Agency during the Programming Screen when the purpose and need is accepted.

Logical termini are defined as the rational beginning and end points for a transportation project and serve as the basis for the area of potential effect for environmental issues/resources to be evaluated during the PD&E Study. They are often located at major traffic generators, such as an intersecting roadways. In most cases traffic generators determine the size and type of facility being proposed. The PD&E Study area generally covers a broader geographic area than the limits of the transportation improvements to ensure consideration of potential project impacts. Pursuant to **23 Code of Federal Regulations (CFR) § 771.111(f)**, alternatives developed for EISs and Environmental Assessments (EAs) shall:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
2. Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Consideration of the items above will prevent the problem of "segmentation" which may occur when a transportation need extends throughout an entire corridor but environmental issues and transportation needs are inappropriately discussed for only a segment of the corridor.

When describing the logical termini, it is common to describe the termini points broadly, such as "the intersection at SR-XX." However, termini that may not be considered logical without further discussion are county lines, rivers, and city limits.

The logical termini presented in an Environmental Document should be consistent with the "project limits" identified in the adopted cost feasible Long Range Transportation Plan (LRTP) of the respective MPO/TPO or other planning documents in a non-MPO area. The logical termini for a project in a "Non-attainment" or "Maintenance" area for Air Quality need to be consistent with the project limits established by the MPO/TPO. Any inconsistencies need to be resolved in coordination with FDOT's District Planning Office, the MPO/TPO, and OEM.

1.2.2 Purpose and Need

The purpose and need for a project provides the basis for developing, considering, evaluating, and eliminating alternatives. The purpose and need shapes the alternatives and in the case of an EIS assists with identification of reasonable and feasible alternatives.

The purpose and need should be clearly written in plain language, succinct and well defined to set the framework for the development and evaluation of alternatives. The purpose and need should briefly describe the project context including actions taken to date, other agencies and governmental units involved, actions pending, and schedules. In many cases the project purpose and need can be adequately explained in one or two paragraphs.

Project needs developed during the transportation planning process and identified in a statewide or metropolitan transportation plan can be the primary source of a project's purpose and need. The transportation planning process enables state and local governments and MPOs, with the involvement of resource agencies and the public, to establish a vision for a region's future transportation system, define a region's transportation goals and objectives for realizing that vision, decide which needs to address, and determine the timeframe for addressing these needs. Out of the process emerge proposed projects intended to meet the needs and achieve the objectives of the plan.

The initial purpose and need developed during the Planning phase or ETDM screening may be refined during the PD&E Study if new information or needs are identified. If the purpose and need changes during the PD&E Study, the OEM must be made aware of and agree to the proposed changes before they can be incorporated into the Environmental Document.

1.2.2.1 Development of Purpose and Need

Transportation planning data developed for FDOT in non-MPO areas or for MPO/TPO LRTPs are the primary source of information used to establish the purpose and need. These data are obtained from corridor plans, subarea plans, regional models and other sources that help identify corridors and facilities where transportation improvements are needed. These data are also summarized in the Strategic Intermodal System (SIS) plan, MPO/TPO Transportation Improvement Program (TIP), and the State Transportation Improvement Program (STIP). District staff preparing the purpose and need during ETDM screening should coordinate with planning staff to obtain relevant data that support the purpose need for the project. Consistent with the conditions set forth in **23 CFR Part 450** and **23 U.S.C. § 168** planning products can be adopted or incorporated by reference into **NEPA**.

1.2.2.1.1 Purpose

The purpose identifies the primary goals of the project and guides the range of alternatives that will be developed and considered in response to the established need. The purpose should be broad enough to encompass a reasonable range of alternatives, but not so broad that it encompasses every possible alternative. Conversely, the purpose should not be so narrow as to preclude a range of alternatives that could reasonably meet the defined objectives or restrict decision-makers' flexibility in resolving conflicting interests.

An alternative that does not achieve the primary purpose of the project would be eliminated as unreasonable or not feasible. Secondary purposes do not, by themselves, provide a basis for eliminating alternatives from further study, but could be considered in the selection of a preferred alternative.

1.2.2.1.2 Need

The need for the project arises from deficiencies, issues, and/or concerns that currently exist or are expected to occur within the project area. The need serves as the foundation for the proposed project and provides the principal information upon which the "no-build" alternative discussion is based. It establishes the rationale for pursuing the action and is generally reflected in local, state or MPO/TPO transportation plans. The need should consist of a factual, objective description of the specific transportation problem supported by data and analysis. Detailed analysis supporting the need should be referenced in the purpose and need discussion.

The following list may assist project sponsors in the discussion of the need for the proposed action. This list is not all-inclusive. **With exception of the project status, the remaining elements are not applicable in every situation.**

1. **Project Status** - Discuss the planning status of a project documenting the progression of the project towards implementation. Due to the time elapsed between a document signed for public availability and the final Environmental Document, the status will likely require updating. Planning consistency is necessary to receive OEM approval. For the specific funding scenarios to obtain approval of the Environmental Document, refer to the [Guidance for Meeting Planning Requirements for NEPA Approval](#) prior to submitting the Environmental Document. See [Part 1, Chapter 4, Project Development Process](#) for more information on documenting planning consistency at the conclusion of PD&E and the [FDOT/FHWA Consistency Guidance](#) for more information on planning consistency.

Briefly discuss actions taken to date, coordination with other agencies and governmental units involved, actions pending, and schedules. Using the information contained in the appropriate planning consistency form ([Part 1, Chapter 4, Project Development Process](#)), present the project implementation information in a clear and concise manner. Summarize information contained in the planning documents including: project scope, project phases, cost, general funding sources, project description, and logical termini. Describe project implementation and document the status of the planning requirements as follows:

a. **MPO Areas:**

1. Identify which MPO the project is located in. The information provided in the Environmental Document must reference the MPO's current LRTP and TIP. Also, the current STIP should be used since the TIP must be consistent with the STIP.
2. Project limits: Confirm that the project description in the LRTP and Environmental Document are similar. Explain any differences, such as the **NEPA** project is a shorter section than what is described in the LRTP or that the Environmental Document includes more than one LRTP project. If the LRTP shows that the project will be implemented in segments, then the segments must be described. Also confirm that the STIP/TIP and Environmental Document descriptions are similar, describing any differences.
3. Project Funding: Provide a narrative referencing the Cost Feasible LRTP, STIP and TIP that describes all projects phases [PD&E, Design, Right of Way (ROW), and Construction], when those phases are anticipated, which phases are funded, and which type of funds are proposed to be used (e.g., state, local, federal, private or toll). If any phase is not funded, the estimated implementation dates should be provided, which can typically be found in the LRTP Needs Plan. The estimated total project cost and anticipated date of construction must also be included.

a. **Non-MPO Areas:**

1. In a non-MPO area, the information provided must reference the most current STIP. Acknowledge consistency with the Florida Transportation Plan. Other long range planning documents, such as SIS Cost Feasible Plan (CFP), Local Government Comprehensive Plan or other publicly adopted plans may be used to support the project's planned implementation.

2. Project limits: Confirm that the project description in the STIP or other long range document and Environmental Document are similar. Explain any differences, such as the **NEPA** project is a shorter section than what is described or that the Environmental Document includes more than one project.
3. Project Funding: Provide a narrative referencing the STIP or other transportation plan that describes all projects phases (PD&E, Design, ROW, and Construction), when those phases are anticipated, which phases are funded, and which type of funds are proposed to be used (e.g., state, local, federal, private or toll). If any phase is not funded, the estimated implementation dates should be provided. The estimated total project cost and anticipated date of construction must also be included.

In either case, if the project is going to be designed or constructed in segments, then these segments should be discussed in the Environmental Document and clearly shown on the project location map. This discussion should include the approximate implementation timeframes and estimated costs.

In this section briefly discuss planning consistency. If the project is an EA or EIS, a consistency form is prepared. There are two forms, **Planning Requirements for Environmental Document Approvals, Form No. 650-050-41** for use when there is no segmentation and **Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42** which is completed for projects with segmented (phased) implementation.

The applicable form and LRTP, TIP, and current STIP pages should be included in the Appendix of the EA or EIS. The consistency form in an EA or Draft Environmental Impact Statement (DEIS) should tell the story of how and when the project will be implemented. The consistency form in an EA with Finding of No Significant Impact (FONSI), Final Environmental Impact Statement/Record of Decision (FEIS/ROD), or FEIS must be complete and include a signature when the final Environmental Document is submitted to OEM for approval. For Type 2 CE projects, planning consistency information is included in the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, no separate form is needed.

When a draft Type 2 Categorical Exclusion (CE), EA or DEIS is released for public availability and there are inconsistencies between the Environmental Document and the planning documents, this section of the Environmental Document should describe the differences and the steps needed to achieve consistency and a timeframe when this will occur. After the public hearing, planning consistency must be achieved prior to signing the Type 2 CE, EA with FONSI, ROD or FEIS/ROD. Please refer to the [Guidance for Meeting Planning Requirements for NEPA Approval](#) for additional information regarding planning consistency.

2. **System Linkage** - Is the proposed project a local, regional, or intraregional “connecting link?”

Discuss how the proposed project fits into the existing and future local, regional and state transportation system (network) and contributes to the movement of people, goods, and services. Include a description of how the proposed action contributes to the multi-modal transportation network.

3. **Capacity** - Is the capacity of the existing facility inadequate to serve the traffic? Projected traffic? What capacity is needed? What is the Level of Service (LOS) for existing and proposed facilities?

Discuss the capacity of the existing facility, its existing and anticipated LOS, and any operational deficiencies of the facility.

4. **Transportation Demand** - Will the project accommodate the forecasted transportation demand as shown in the adopted state and local transportation plans? Will the project meet future transportation demands based on projected population, employment growth, an increase in freight movement, or other demands on the transportation system?

Discuss the project relationship to any statewide transportation plan or adopted urban transportation plan.

5. **Legislation** - Is there a federal, state, or local governmental mandate for the action? Document the need to respond to federal, state, or local government requirements.

6. **Social Demands or Economic Development** - What projected economic development/land use changes indicate the need to modify the transportation network or system?

Describe how the action will foster new employment, benefit schools, land use plans, recreation facilities. Discuss types of social and economic traffic generators, both existing and planned, which exert travel demands on the facility. For example, include businesses, neighborhoods, recreational facilities, shopping centers, new developments, and any other traffic generators which could increase travel demands on the proposed facility.

7. **Modal Interrelationships** - How will the proposed project interface with and serve to complement other modes of transportation such as airports, freight facilities, rail and port facilities, mass transit services?

Identify the need to address other modes of transportation (e.g., airports, rail and port facilities, mass transit services, bicycle accommodations, ridesharing, special use lanes) associated with the project and discuss how the proposed action will complement other modes.

8. **Safety** - Is the proposed project necessary to correct an existing or potential safety hazard? Is the existing crash rate higher than the statewide average for similar facilities? How will the proposed project improve it?

Discuss crashes which have occurred in the study area that may indicate a need for improvement. The discussion may include crash types, frequency, percentage increase or decrease over a period of time, and the rate of crashes when compared with the statewide average for similar facilities. Identify existing high-hazard sections of the facility. Discuss any traffic or transportation safety issues which are or could become a problem (e.g., hazardous material transportation).

9. **Roadway Deficiencies** - Is the proposed project necessary to correct existing roadway deficiencies? How will the proposed project address the deficiencies? Is there a deficient or substandard bridge?

The need and rationale behind reconstructing or replacing a roadway or existing bridge **must** be provided. Provide a detailed description of the existing structure(s) and their deficiencies. Deficiencies may include substandard geometrics, load limits on structures, inadequate typical sections, poor pavement condition, inadequate drainage, and inadequate SIS roadway design standards. For bridges, the deficiencies identified may be the result of structural and functional ratings, horizontal and vertical clearances, state of repair, weight restrictions or limitations.

1.2.2.2 Purpose and Need during the ETDM Screening

The purpose and need should be refined over time and become more detailed as the project advances through the Planning phase, ETDM process, and into the PD&E phase. A project's purpose is usually first identified in the transportation plan(s), e.g., MPO LRTPs, the SIS plan and the TIP/STIP. While the purpose of a project does not change substantially over time, it can change as the project advances and more information becomes available.

The Lead Federal Agency must provide opportunities for participating agencies; and the public to provide input on the purpose and need in accordance with **23 U.S.C. § 139(f)**. Prior to engaging in the environmental review process, this obligation may be satisfied if agencies and the public are involved in the development of the project purpose and need during the transportation planning process. Nonetheless, FDOT accomplishes this goal through the ETDM process for all projects that are screened. The ETDM process has two screening events: the Planning and Programming Screens. See the [ETDM Manual, Topic No. 650-000-002](#) for more information on project screening.

The following briefly describes the purpose and need during the screening events:

1. **Planning Screen** - The Planning Screen may be the first opportunity agencies and other interested parties have to provide input on a project's purpose and need.

- Coordinate with the District Planning Office to obtain the project purpose as identified in the MPO/TPO LRTP and SIS Plan.
2. Programming Screen - The Programming Screen is intended to occur prior to a project's adoption into the FDOT Work Program or TIP/STIP, and/or prior to the PD&E phase. This screening helps focus the scope of the PD&E Study and can provide scoping information for an EIS, if necessary. The information for the purpose and need should be coordinated with the District Planning Office to ensure consistency. If the project was screened previously, then the purpose and need from the screening should be refined to reflect the information presented in the **Planning Screen Summary Report** with updated information, as appropriate. If any new information is available it should also be provided.

1.2.2.3 Purpose and Need during PD&E

The purpose and need information from the **Programming Screen Summary Report** is used to prepare the purpose and need for the Environmental Document. According to **40 CFR § 1502.13**, "the statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." Review the most up to date transportation plans and verify whether information supporting the purpose and need is still valid, gather new data to fill any information gaps, and refine the purpose and need if necessary. OEM must be consulted if the project description or the purpose and need for a project changes substantially during the PD&E Study.

The purpose and need for PD&E:

1. Should be a statement of the transportation problem (not a statement of a solution such as specific project alternatives);
2. Should be based on articulated planning factors and developed through a planning process pursuant to applicable federal law;
3. Should be specific enough so that the range of alternatives developed will offer real potential for solutions to the transportation problem;
4. Must not be so narrow in definition or so specific as to pre-determine a solution; and
5. May reflect other priorities and limitations in the area, such as environmental resources, growth management, land use planning, and economic development.
6. Should not list specific design criteria or standards to be met by the project.

1.2.2.3.1 Documentation

The location of the project description and purpose and need in the Environmental Document differs depending on the COA:

1. **Type 2 CE** – Project description and purpose and need information is included in Section 1 (Project Description and Purpose and Need) of the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-011***.
2. **EA or EIS** - Project description and purpose and need information is included in a section titled “Project Description and Purpose and Need”.
3. **SEIR** – Project description and purpose and need information is included in Section 1 (Project Description and Purpose and Need) of the ***State Environmental Impact Report Form, Form No. 650-050-43***.

1.3 REFERENCES

American Association of State Highway and Transportation Offices (AASHTO).

Practitioner’s Handbook: Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects. August, 2007

Council on Environmental Quality (CEQ), Executive Office of the President, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Reprint 43 FR 55978-56007, [40 CFR Parts 1500-1508](#)

FHWA, Environmental Review Toolkit: Development of Logical Project Termini and Elements of Purpose and Need. <http://www.environment.fhwa.dot.gov/index.asp>

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

FHWA memorandum “Guidance on Purpose and Need”, to FHWA Division Administrators and FTA Regional Administrators, July 23, 2003

FDOT, Efficient Transportation Decision Making (ETDM) Manual, Topic No. 650-000-002 <http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 6002

Section 339.177, Florida Statutes (F.S.)

Title 23 U.S.C. § 134

Transportation Research Board. Highway Capacity Manual. HCM2000

1.4 FORMS

Planning Requirements for Environmental Document Approvals, Form No. 650-050-41

Planning Requirements for Environmental Document Approvals with Segmented Implementation, Form No. 650-050-42

State Environmental Impact Report Form, Form No. 650-050-43

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-011*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

1.5 HISTORY

1/28/2003, 12/03/2012: Update combined two previous chapters (Part 2, Chapter 4, Project Description 12/6/2007 and Part 2, Chapter 5, Purpose of and Need for Action), 4/22/2014, 8/22/2016

PART 2, CHAPTER 2

TRAFFIC ANALYSIS

TABLE OF CONTENTS

2.1	OVERVIEW	2-1
2.1.1	Purpose	2-1
2.1.2	Definitions.....	2-2
2.2	PROCEDURE.....	2-3
2.2.1	Traffic Analysis Objectives.....	2-5
2.2.2	Level of Traffic Analysis Assessment	2-5
2.2.2.1	Traffic Analysis Scope	2-5
2.2.2.2	Adopting Planning Phase Traffic Analyses.....	2-6
2.2.3	Performance Measures of Effectiveness	2-7
2.2.4	Traffic Analysis Tools.....	2-8
2.2.5	Data Collection	2-9
2.2.5.1	Types of Data Collection	2-11
2.2.5.2	Duration of Data Collection.....	2-13
2.2.6	Project Traffic Forecasting.....	2-15
2.2.6.1	Forecasting using a Travel Demand Model.....	2-15
2.2.6.2	Forecasting without Travel Demand Models	2-17
2.2.6.3	Calculating AADT and DDHV	2-17
2.2.6.4	Re-evaluating Traffic Analysis	2-19
2.2.7	Traffic Analysis	2-20
2.2.7.1	Capacity Exceeds Traffic Demand	2-20
2.2.7.2	Traffic Demand Exceeds Capacity	2-21

2.2.8	Safety Analysis	2-21
2.2.8.1	Historical Crash Analysis.....	2-21
2.2.8.2	Quantitative Safety Analysis.....	2-22
2.2.9	Environmental Analyses	2-23
2.2.10	Project Traffic Analysis Report	2-23
2.2.10.1	Traffic Analysis Assumptions.....	2-24
2.2.10.2	Project Traffic Analysis Report Outline	2-25
2.3	REFERENCES	2-26
2.4	FORMS	2-27
2.5	HISTORY	2-27

LIST OF FIGURES

Figure 2.1	Sample Project Traffic Analysis Report Cover Page	2-28
Figure 2.2	Project Traffic Assumption Summary	2-29

PART 2, CHAPTER 2

TRAFFIC ANALYSIS

2.1 OVERVIEW

2.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance for preparing the traffic analysis for Project Development and Environment (PD&E) Studies. Specifically, the chapter covers scoping the traffic analysis effort, traffic data requirements, analysis methodology and documentation.

Traffic analysis is an evaluation of the interaction between demand and supply of a transportation facility to determine how efficient the facility is serving the demand. This analysis forms the basis for evaluating the performance of project alternatives and design concepts based on demand, capacity, operational performance, environmental impacts, and safety concerns. Traffic analysis is one of the methods used to evaluate transportation needs during the Planning phase and PD&E Study. Additionally, traffic analysis produces data needed to support project-level environmental analyses such as noise and air quality impacts.

Traffic analysis is one of the critical activities for a PD&E Study and can impact the project schedule. It is important that the Project Manager understand the effort associated with traffic data collection, forecasting and analysis. Each transportation project is unique and the approach for individual projects might differ. As such, when developing the project traffic data and performing the corresponding analysis, there must always be a balance between the project's goals and objectives, available schedule and budget, and the complexity of the analysis to be performed. The Project Manager should always reach an early agreement with project reviewers and the lead agency on the traffic analysis approach and parameters for the analysis. Such agreement is vital to project success as it helps to avoid misunderstanding between traffic analysts and reviewers of traffic analysis reports that may negatively impact the project development schedule.

This chapter references guidance from other FDOT procedures, manuals and handbooks, along with national guidance such as the *Highway Capacity Manual (HCM)* and FHWA's *Traffic Analysis Toolbox*. The chapter is intended for transportation practitioners who perform traffic analyses for FDOT projects and possess sufficient knowledge of traffic flow theory and traffic engineering including guidance documented in FDOT and national publications.

2.1.2 Definitions

The following definitions apply to terminology used in this chapter:

Annual Average Daily Traffic (AADT) - The total volume of traffic on a highway segment for one year, divided by the number of days in the year. This volume is usually estimated by adjusting a short-term traffic count with weekly and monthly factors.

Average Daily Traffic (ADT) - The total traffic volume during a given time period (more than a day and less than a year) divided by the number of days in that time period.

Axle Correction Factor - The factor developed to adjust vehicle axle sensor-based data for the incidence of vehicles with more than two axles, or the estimate of total axles based on automatic vehicle classification data divided by the total number of vehicles counted.

Crash Modification Factor (CMF) – A multiplicative factor used to compute the expected number of crashes after implementing a given countermeasure at a specific site.

Design Hour - An hour with a traffic volume that represents a reasonable value for designing the geometric and control elements of a facility.

Design Year - The year for which the project is designed; usually 20 years from the Opening Year, but may be any time within a range of years from the present (for restoration type projects) to 20 years in the future (for new construction type projects).

Directional Design Hour Volume (DDHV) - The traffic volume expected to use a highway segment during the design hour of the design year in the peak direction.

Directional Distribution (D Factor) - The percentage of the total two-way peak hour traffic that occurs in the peak direction.

Level of Service (LOS) - A quantitative stratification of a performance measure that represents quality of service of a transportation facility measured on an A-F scale, with LOS A representing the best operating conditions from the traveler's perspective and LOS F the worst.

Model Output Conversion Factor (MOCF) - A factor used to convert the traffic volumes generated by a travel demand forecasting model in Peak Season Weekday Average Daily Traffic (PSWADT) to AADT. The MOCF is the average of the 13 consecutive weeks during which the highest weekday volumes occur and when the sum of Seasonal Factors (SF) for those 13 weeks are the lowest. MOCF is used during model validation to convert

AADT to PSWADT for the base year model network should also be used for adjusting future year model volume.

Peak Season Weekday Average Daily Traffic (PSWADT) - The average weekday traffic during the peak season. Florida Standard Urban Transportation Model Structure (FSUTMS) traffic assignment volume represents PSWADT projections for the roadways represented in the model highway network. For *Project Traffic Forecasting Reports*, the PSWADT should be converted to AADT using a MOCF. Although not all FSUTMS models report traffic assignment volume in PSWADT, there are currently several model outputs throughout the State that require conversion from PSWADT to AADT using MOCF.

Peak Spreading – The expansion of peak period of traffic, from the traditional one-hour peak to multi-hour peak period, as the demand to use the facility surpasses capacity.

R-Squared Value - A statistical measure of how well the fitted regression line approximates the real data points.

Regression Analysis – A statistical process for estimating the relationship between a dependent variable and an independent variable.

Seasonal Factor (SF) - Parameters used to adjust base counts which consider travel behavior fluctuations by day of the week and month of the year.

Standard K (K Factor) - A factor used to convert AADT to a peak hour volume. Standard K values are statewide fixed parameters that depend on the general area types (location) and facility types (roadway characteristics). Values less than 9% typically represent a multi-hour peak period rather than a peak hour. Standard K does not apply to emergency evacuation routes and managed lanes.

Statewide Acceleration Transformation (SWAT) – FDOT project management approach which streamlines project delivery by following a structured process to develop project scopes and schedules; reduce duplicative work, perform initial data collection and analysis ahead of PD&E, or concurrently perform design activities with PD&E when possible.

Truck Factor (T₂₄) – The percentage of truck traffic during a 24-hour period.

Traffic Saturation – Refers to traffic operating conditions in which the traffic demand is equal to or exceeds the capacity of a facility.

2.2 PROCEDURE

Traffic analysis for a PD&E Study includes developing objectives of analysis, identifying key performance measures to evaluate the project alternatives, determining analysis approach and tools to be used, determining data needs, collecting and analyzing data and documenting the results. Procedures for traffic analysis are found in the following publications:

- **HCM** – Published by the Transportation Research Board, the **HCM** contains concepts, guidelines and methods for computing LOS for freeways, highways (two-lane and multilane), urban streets and intersections (signalized and unsignalized).
- **[FDOT Traffic Analysis Handbook](#)** – The **FDOT Traffic Analysis Handbook** provides guidance and general requirements for the uniform application of traffic analysis tools for roadway corridor, interchange and intersection projects.
- **[FDOT Project Traffic Forecasting Procedure, Topic No. 525-030-120](#)** – The **Project Traffic Forecasting Procedure** offers guidelines and techniques for forecasting traffic (with and without a travel demand model), calculating Annual Average Daily Traffic (AADT) from short term counts, calculating Directional Design Hourly Volumes (DDHVs), estimating intersection turning movements and calculating Equivalent Single Axle Load (ESAL) forecasts.
- **FHWA Traffic Analysis Toolbox** – The **FHWA Traffic Analysis Toolbox** includes a Primer that presents a high-level overview of the different types of traffic analysis tools. The Toolbox also provides guidance on the selection of and application of traffic analysis tools, interpretation of performance measures and other pertinent information.
- **[FDOT Traffic Engineering Manual \(TEM\), Topic No. 750-000-005](#)** – The **TEM** provides traffic engineering standards and guidelines to be used for SHS by FDOT. It provides guidance for signs, signals, markings and specialized traffic operational topics.
- **[FDOT Manual of Uniform Traffic Studies \(MUTS\), Topic No. 750-020-007](#)** – The purpose of the **MUTS** is to establish minimum standards for conducting traffic engineering studies for roads under the jurisdiction of FDOT. In addition, local government traffic engineering agencies are recommended and encouraged to use the **MUTS** as a guideline for conducting studies within their area of responsibility.
- **American Association of State Highway and Transportation Officials (AASHTO) Highway Safety Manual (HSM)** – The **HSM** provides a variety of methods for quantitatively estimating crash frequency or severity at a variety of locations.
- **Transit Capacity and Quality of Service Manual (TCQSM), Transit Cooperative Highway Research Program Report 165** – The **TCQSM** provides quantitative techniques for calculating the capacity and other operational characteristics of bus, rail, demand-responsive, and ferry transit services, as well as transit stops, stations, and terminals.

2.2.1 Traffic Analysis Objectives

Given the importance of traffic forecasting and analysis in the PD&E Study schedule, the Project Manager should meet with the project team at the beginning of the project to establish the traffic analysis objectives. The composition of the project team will vary depending on the type of project, but will generally include FDOT planning and PD&E staff and consultant traffic staff. The objectives of the traffic analysis must reflect the purpose and need for the project and be measurable. Measurable objectives are essential for a comparable evaluation of project alternatives.

Before establishing traffic analysis objectives, the Project Manager and project team must review the purpose and need for the project, previously completed planning studies and the Efficient Transportation Decision Making (ETDM) **Programming Screen Summary Report**. These documents are essential to determining the scope of work.

2.2.2 Level of Traffic Analysis Assessment

2.2.2.1 Traffic Analysis Scope

PD&E Studies vary in size and type, resulting in project traffic forecasting and analysis with varying levels of detail. FDOT's Project Manager should develop the scope of the traffic analysis effort based on the need for the project and the analysis objectives. The items that inform the traffic analysis scope are traffic study limits, design years, air quality and noise analysis requirements, and special components for traffic analysis, such as freight, transit, origin-destination data.

Traffic forecasts and analysis may be prepared as part of a planning study or advanced prior to the PD&E Study. Therefore, FDOT's Project Manager must review and consider previously completed traffic analysis activities when determining the level of analysis needed during the PD&E phase.

The scope or level of traffic analysis includes the methodology, tools and documentation. This decision should be made after reviewing any previously completed planning and traffic operational studies in the project area. Additionally, the following items must be reviewed when determining the level of effort needed to conduct traffic analysis:

- Elements that relate to the transportation problem being analyzed and the project need.
- Traffic analyses conducted prior to the PD&E phase to determine their adequacy for inclusion in the PD&E Study as per **23 Code of Federal Regulations (CFR) Part 450** and **23 U.S.C § 168**. See [Part 1, Chapter 4 Project Development Process](#) for more guidance.
- Existing operating conditions to determine the degree of traffic saturation.

- Facility type and geographic context. This includes review of current or future major traffic generators in the vicinity of the project.
- Presence of Intelligent Transportation Systems (ITS) technology.
- Proposed improvements for the project.
- Need for tolling.

Therefore, the Project Manager should begin with an understanding of what level of analysis is needed and use that information to develop the data collection effort. For instance, with regard to future traffic projections, a PD&E Study for a rural corridor may only require the forecast of daily traffic demand in order to evaluate alternatives. An express lanes PD&E Study would require the forecast of peak period traffic volumes for both general use lanes (non-tolled lanes) and for the express lanes (variable tolled lanes). Additionally, a PD&E Study for an over-saturated intersection or corridor may require extending both geographic area of analysis and analysis time period to accommodate actual traffic demand and bottlenecks.

It is advisable for the Project Manager to work with various stakeholders and decision makers to understand the expected outcome of the study. This will help to reach agreement on analysis methods and assumptions early in the process which is vital to the success of the project. Additionally, the Project Manager must consider other analyses (economic, air and noise) which are dependent on the output of the traffic analysis and incorporate them into the scope. The Project Manager should prepare the traffic analysis schedule and estimate the staff hours based on the agreed upon traffic analysis scope.

2.2.2.2 Adopting Planning Phase Traffic Analyses

Project traffic analysis may be prepared prior to the PD&E phase as part of a corridor, feasibility, or Interchange Access Request (IAR). In addition, traffic analysis are conducted to determine transportation problems as part of a system-wide transportation needs plan. These planning studies may also be used to support the purpose and need for projects, see [Part 1, Chapter 4, Project Development Process](#). Some of the traffic operational studies performed during the Planning phase have the same level of detail as those conducted during a PD&E Study. For instance, an IAR traffic analysis for the interstate system follows a process that is agreed upon by FHWA, FDOT and the interchange access applicant. During the project scope development stage, the Project Manager should explore opportunities to reuse or incorporate by reference detailed planning analyses (such as those prepared in support of IAR studies) in the PD&E Study.

Title 23 U.S.C. § 168 and **23 CFR Part 450** allow for decisions and analyses conducted during transportation planning to be used for the **NEPA** study. More information on how to adopt planning products is found in [Part 1, Chapter 4, Project Development Process](#). It is essential for FDOT's Project Manager to review the traffic analysis conducted during the Planning phase and determine its applicability in the PD&E Study early in the scope

development stage. The Project Manager should also coordinate with planning staff when determining applicability of the planning products.

2.2.3 Performance Measures of Effectiveness

Assessment and comparison of project alternatives require the selection of performance Measures of Effectiveness (MOEs) that fit the goals and objectives of the analysis. The traffic analysis computes MOEs that are used to quantify the existing and future operating conditions of the project. The appropriate MOEs help to compare and contrast the performance of various alternatives in achieving a project's traffic operational objectives.

One of the primary MOEs is Level of Service (LOS). However, LOS is not effective when the facility is characterized with oversaturated conditions where the demand to use the facility exceeds capacity. Typically in urban areas, traffic analysis may result in LOS F for all alternatives, which will not help in differentiating between alternatives. Under such conditions, the Project Manager must select the appropriate MOEs based on the needs and context of the individual project. It is important that all stakeholders associated with the project agree to the MOEs selected before the project team begins the analysis, since data requirements and traffic analysis tools are closely related to MOEs.

A highway traffic analysis can also use the following MOEs:

- Throughput
- Vehicle Miles of Travel
- Volume/capacity ratio
- Travel time
- Travel speed
- Total delay at intersections
- Queue length
- Number of stops
- Density
- Travel time variance
- Travel time reliability
- Hours of congestion

Typical MOEs for safety analysis include:

- Actual crash rate
- Number of fatalities
- Crash severity level
- Economic loss

Typical MOEs for transit analysis include:

- Passenger trips
- Average headway
- % of population served
- Total fare box revenue
- Passenger wait time
- Travel reliability
- Vehicle loads
- Span of service

Typical MOEs for environmental/economic analyses include:

- Vehicle Miles of Travel
- Vehicle Hours of Delay
- Vehicles Hours of Travel
- Travel speed
- Mobile Source Emissions
- Number of crashes
- Travel time saving

2.2.4 Traffic Analysis Tools

Traffic analysis can vary from looking up service volume tables for LOS to detailed microsimulation analysis. The tools selected for conducting the traffic analysis must correlate the complexity of the project and the magnitude of the traffic problem. Sophisticated tools and methods such as microsimulation must be used only for very

complex problems such as those that require interactions of road users or involve oversaturated, congested conditions. The default tool for the analysis should be **HCM**-based tools, as they are least complex and require less data. The traffic analyst must also consider limitations of the tools when selecting proper analysis methods that meet the project needs. The Project Manager and project team should refrain from selecting a simple tool that does not fit the analysis objectives.

The most common tools available to FDOT include:

- Generalized Service Volume Tables, found in the [Quality / Level of Service Handbook](#) and Florida's LOS Planning Software (LOSPLAN) may be used for general planning level analyses and high-level concepts screening. These tools should not be used for operational analyses.
- Highway Capacity Software (HCS) based on the most recent **HCM**, Synchro and SIDRA are primary tools for analysis of locations that are isolated, not congested or do not require an understanding of interactions between various users.
- CORSIM and VISSIM, are primarily tools for analyzing areas that require an understanding of interactions between various users or transportation systems and/or experience oversaturated, congested conditions. These tools can also analyze unconventional project concepts or the performance of the entire network/system.
- **HSM** tools such as spreadsheets, Crash Modification Factors (CMF), and Safety Analyst which can be used to conduct quantitative safety analyses.

The [Traffic Analysis Handbook](#) contains guidance for selecting the proper traffic analysis tools. Depending on project conditions or needs, the analysis may use tools other than those listed in this section or discussed in the [Traffic Analysis Handbook](#). Prior to using alternative tools not listed in the [Traffic Analysis Handbook](#), the traffic analyst must submit a request and provide justification to FDOT's Project Manager.

2.2.5 Data Collection

Data required for traffic analysis depends on various factors such as project context, project limits, analysis methods, and performance MOEs. At the outset of the project, FDOT's Project Manager and project team must gather all existing available traffic information from FDOT databases, past studies, prior projects, and other analysis performed within the project area. This information is essential to understanding general knowledge of the project area and identifying any gaps in data that must be included in a data collection plan. Even when review of existing data indicates the data is sufficient, the project team must conduct field reviews. Field observations are necessary to confirm data and review driving characteristics and operational conditions. Aerial and satellite imagery can provide useful information about physical characteristics of the analysis area but they should not replace field reviews.

The data collection effort should consider all modes of transportation that exist or are planned within the project limits. [FDOT's Complete Streets Policy, Topic No. 000-625-017](#) requires that roadways accommodate all modes and users of all ages and abilities. Therefore, depending on project context, data collection should include information about transit stops, boarding and alighting, headways, pedestrian counts and bicycle counts, as appropriate. Data related to pedestrian generators and attractors should be considered in urban contexts.

The data collection plan must include the traffic analysis area, which may exceed the project limits. Examples of traffic studies where the data collection plan must extend beyond the PD&E Study limits are:

- **Interchange Access Request Studies** - Interchange access requests may require analysis of the interchanges upstream and downstream of the project location and the crossroad up to one half-mile in either direction of the proposed access change. The geographic breadth of the analysis should be coordinated with the District's Interchange Review Coordinator (IRC), FHWA, and OEM (for projects on the interstate system). See *Interchange Access Request Users Guide* for more guidance.
- **New Corridor Studies** - New corridor studies require a general understanding of the total demand, operations, and safety for the corridor traffic analysis area, which includes roadways parallel to or intersecting with the proposed roadway.
- **Bottlenecked and Oversaturated Roadway Facilities** - The analysis area must include operational constraint points or sections (limited physical capacity) that restrict the roadway from processing the traffic demand, thus causing recurring congestion. The constraints may require extension of the analysis area beyond the predefined area of influence. Downstream bottlenecks cause queue spillbacks, while upstream bottlenecks may meter the flow and cause demand starvation within the project area.
- **Coordinated Freeways and Arterials** – Project sections or points that are part of a coordinated arterial and/or Coordinated Freeways and Arterials (CFA) network may require extension of the traffic analysis area to include coordinated signals.
- **Lane Repurposing** – Project converting (repurposing) existing lanes to dedicated bus lanes, parking lanes, or bicycle lanes may require a system wide analysis to evaluate the impact of traffic diverting to adjacent major roadways.
- **Projects with Transit Routes** – Transit ridership on a project is based on several factors including accessibility (a measure of how an individual can pursue a desired mode at a desired location at a desired time). Accessibility can include park and ride lots and transfer between modes, which may be located outside the PD&E Study limits. Additionally, terminal stations where transfers take place may be located outside the PD&E Study limits.

Once the data collection study area has been defined, the next step is to decide what type of information is to be collected. The tools used to develop and analyze alternatives also affect the data collection effort. Microsimulation analyses require more detailed data than analytical methods or *HCM*-based tools. The data collection plan for a microsimulation analysis must contemplate and include data needed for the proper calibration and validation of the model to be used in the analysis.

2.2.5.1 Types of Data Collection

The data collection effort can be divided into three categories - roadway characteristics, multimodal travel characteristics, and operations and safety characteristics. The type of traffic analysis will determine the requirement and level of detail in which elements in each category are to be collected. The following are the data elements for each category.

Roadway Characteristics

- Number of lanes
- Lane widths
- Presence of auxiliary lanes
- Length of auxiliary lanes
- Intersection types (signalized, stop controlled, roundabout, grade separated)
- Predominant land use types (existing and future) adjacent to corridor
- Roadway geometrics (curvature, intersection configuration, grades)
- Number of turn lanes
- Turn lane storage lengths
- Presence of on-street parking
- Presence of transit lanes
- Presence of transit stops
- Type of transit stops (bus bays or bus stops)
- Presence of bicycle lanes
- Bicycle lane width
- Presence of sidewalks

- Sidewalk distances from travel lanes
- Shoulder widths
- Lateral and vertical clearances
- Presence of railroad crossings
- Type and location of toll plazas—electronic vs. cash toll collection

Multimodal Travel Characteristics

- AADT
- Vehicle classification and vehicle mix
- Truck Percentages
- Turning Movements Counts
- Pedestrian Counts
- Bicycle Counts
- Boarding and alighting at transit stops or stations
- Transit Hours of Operation
- Transit Headways
- Route Ridership
- Running time information
- Utilization of special facilities (e.g., bus on freeways, transit centers, transit stops)
- Frequency of train service at railroad crossings
- Peak Hour Factors (PHF)
- Origin-Destination (OD) survey data for general vehicles and/or trucks

Operations & Safety Characteristics

- Posted Speed Limits
- Average Travel Speeds (highway and transit)

- Signal Timings
- Locations of detectors and traffic signal heads
- Queue locations and queue lengths
- Number of crashes and location of crashes
- Severity of crashes (fatal, injury or property damage) and their contributing causes

FDOT and other agencies have developed the following databases containing several roadway, traffic, safety and operations characteristics, which can be used to supplement the data collection effort:

- FDOT Florida Transportation Information (FTI) DVD and Florida Traffic Online (FTO) <http://fto.dot.state.fl.us/website/FloridaTrafficOnline/viewer.html>
- FDOT Traffic Characteristic Inventory (TCI) Database
- FDOT Roadway Characteristic Inventory (RCI) Database
- Regional Integrated Transportation Information System (RITIS) at University of Maryland
- FDOT Crash Analysis Reporting (CAR) System Database
- FDOT District Databases and Sources
- Metropolitan planning organization (MPO) travel demand models
- Motor and Equipment Manufacturers Association (MEMA) vehicle fleet data

2.2.5.2 Duration of Data Collection

The Project Manager should work with the project team to determine the appropriate duration of the data collection effort. Data collected over multiple days provides a higher degree of confidence and is more robust if random events like traffic crashes or equipment failure occur during part of the data collection period. Data collection cost increases with duration, therefore, the Project Manager must balance these competing considerations with the goals of the study. The project team must first review existing data sources, such as the ones from FTI DVD and/or FTO, to determine 24-hour demand profiles. Demand profiles are a useful tool to estimate the duration of the data collection. In the absence of existing data, use Chapter 3 of the *HCM* for examples of monthly, weekly, and hourly variation in traffic volumes for rural and urban routes to determine the length of the data collection period. Chapter 2 of the FDOT [*Project Traffic Forecasting Handbook*](#) describes traffic adjustment factors and the variability of traffic counts.

The data collection effort should be guided by the following:

- The FDOT [**Project Traffic Forecasting Handbook**](#) recommends that traffic counts be collected on Tuesday, Wednesday, or Thursday. To ensure the data is representative of average (typical) traffic conditions, traffic counts should not be collected during the summer or on holidays since travel patterns during these times cannot be assumed to be representative of typical weekdays.
- A 72-hour period is recommended for traffic counts. Collection of data over a 72-hour period is preferred over single-day to avoid poor and faulty information (data) due to equipment failures, human errors, traffic incidents, among other reasons. However, if the roadway is a typical commuter traffic route and there is adequate history (5 to 10 years) of traffic counts, a 24-hour to 48-hour count may be sufficient. A 24-hour to 48-hour traffic count must be validated against historical counts.
- Classification counts from a Telemetered Traffic Monitoring Site (TTMS) or Portable Traffic Monitoring Site (PTMS) can be used as long as such site exists within the vicinity of the project. In absence of a permanent count station, 72 consecutive hours of vehicle classification counts should be collected. Counts for less than 72 hours are not recommended because of random variations that may be brought about by equipment failures, human errors, traffic incidents, among other reasons.
- Intersection turning movements should generally be collected during the AM and PM peak periods for 72-hour period. For urban arterials serving predominantly commuter traffic, turning movement counts over a 24-hour to 48-hour period may be sufficient provided there is historical validation data. If heavy truck traffic is anticipated in the study area, truck counts should also be collected as part of the intersection turning movement count.

Roadways serving commercial uses, shopping centers, and schools may peak during the midday period or during the weekends. The Project Manager should review the traffic count synopsis report from the FTI DVD and/or FTO to determine if midday turning movement counts are required.

If there is no history of traffic counts, conduct a 72-hour approach and departure counts at the intersection to allow extrapolation of the peak hour turning movements from the daily turning movements.

- Intersection turning movement counts must include bicycle and pedestrian movements. Bicycle and Pedestrian usage varies considerably with location. Peak period counts may be adequate in areas with light pedestrian/bicycle usage. Downtown areas, university campuses, and areas with heavy pedestrian and/or bicycle usage should be counted for an 8-hour period.
- Crash data should be obtained for the most recent five years. If five years of crash data are not available, use a minimum of three years with a corresponding explanation. Due to changes to the **Florida Traffic Crash Report** implemented by

the Department of Highway Safety and Motor Vehicles in 2011, it may not be possible to compare certain fields like crash type across five years.

- Transit projects can vary from new fixed guideway systems to Bus Rapid Transit (BRT) projects. The data collection for such projects depends on the type of project. For areas with existing transit service, the traffic analyst should consult with the local transit agency before beginning any data collection. Transit agencies and providers are required to develop a 10-year Transit Development Plan (TDP). These TDPs usually contain a significant amount of data that can be used for transit studies, such as socio-economic data, transportation system characteristics, market research and system surveys, public transportation service performance and trends, among other useful information. The data collection effort may vary among routes depending on the ridership. For example, low ridership routes may only require a 7 to 10-day period of data collection to capture a sufficiently robust sample of responses. Additional details about data collection activities for environmental analysis can be found in [Part 1, Chapter 14, Transit Project Delivery](#).

2.2.6 Project Traffic Forecasting

Project traffic forecasting is the process of estimating the future year traffic demand for a given project. It includes estimating daily volumes and peak hour demand volumes. Daily volumes are represented by AADT while peak hour demand is represented as Design Hour Volume (DHV). Transportation practitioners use AADT and DHV to not only determine geometric features of the roadway, but also assess operational performance of the facility.

There are two options for forecasting traffic volumes:

- With a Travel Demand Model
- Without a Travel Demand Model

The [Project Traffic Forecasting Handbook](#) details FDOT's traffic forecasting process for both options. Documentation of traffic forecasts and analysis must detail the selection of the preferred forecasting method, as well as the application of said method in the analysis.

2.2.6.1 Forecasting using a Travel Demand Model

Traffic forecasting for a project must begin with the most recently adopted version of a travel demand model. This model should have been used to develop the most recent Long Range Transportation Plan (LRTP). This model represents the latest planning assumptions regarding population, employment, land use, transportation plans, and revenue, and is referred to as the "adopted model".

Before using any travel demand model, the traffic analyst must determine if the model meets the area wide validation standards established by FDOT's Systems Traffic Modeling Office and published in the [**FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards Report**](#).

With the development of the Florida Statewide Model, all 67 counties within the State of Florida are now covered by at least one travel demand model. The determination of the preferred model for each study is dependent on a number of factors, such as project location, analysis years, available data, transportation mode (e.g., freight, transit, automobile). District Planning Office concurrence on the preferred travel demand model is required prior to commencing the traffic forecasting process.

Finally, most of the travel demand models are validated to Peak Season Weekday Average Daily Traffic (PSWADT). The PSWADT traffic volumes generated by the model must be converted to AADT using the Model Output Conversion Factor (MOCF). In such cases, the following formula shall be applied:

$$\text{AADT} = \text{PSWADT} * \text{MOCF}$$

Subarea or Corridor Validation

Some travel demand models may require subarea or corridor validation to improve the forecast within the project limits. Subarea validation is needed when the model meet area-wide validation standards but fail on specific area or corridor under study. In a subarea or corridor validation, a smaller area or corridor is extracted from the regional model and the validation process is restarted with the goal of improving statistics such as demand/count ratios, Root Mean Square Error (RMSE), estimated-over-absorbed transit trips. The subarea or corridor validation effort is not as intensive as a regional, MPO or county model validation, because it uses a smaller roadway network. Further information about the Subarea/Corridor Validation standards can be found in the [**FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards**](#).

Additional details regarding forecasting using a travel demand model can be found in Chapter 3 of the [**Project Traffic Forecasting Handbook**](#).

Time of Day Model

Travel demand models were originally designed to produce future travel demand at the daily level. Most of the analysis done to determine geometric requirements of roadways and intersections is done for the design hour. Until recently, the process of converting AADT to peak hour assumed that 10% of the AADT occurred during the peak hour. While this process produces reasonable results in smaller urbanized areas where the peak period is limited to one hour, it fails in highly congested urban areas where the peak period spreads beyond the typical one hour.

The broadening of traffic flow profiles to multiple-hour peak periods is referred to as peak spreading. As the traffic congestion worsens during the peak hour, many drivers either leave early or delay the trip to avoid the peak hour. In some cases, they seek an

alternative route or switch modes. As a result, the traffic generally traveling during the peak hour shifts to the adjacent shoulder hours.

To address multi-hour congestion problems, many urban areas have developed a Time of Day (TOD) model that forecasts traffic for the AM peak period, midday period, PM peak period and night/rest of the day period. Most TOD models add trip assignments for all time periods together to approximate daily traffic. TOD models require traffic count data by time of day to ensure accurate validation by each time period. This adds to the level of complexity for validation checks and the Project Manager should consult with District Planning Office or MPO traffic modeling staff before using the TOD model.

2.2.6.2 Forecasting without Travel Demand Models

Projects located in areas without an MPO travel demand model or in areas where the Florida Statewide Model or the MPO travel demand model is not performing well may have to rely on a combination of historic traffic trends or population growth for traffic forecasting.

Historic Trend Projections

The historic trends analysis should be based on a minimum of 10 years of data. A regression analysis is performed on the most recent 10 years of traffic counts in order to obtain a trend equation. Any obvious outliers should be removed from the data set and an explanation provided. Only trend equations with an R-square value of at least 75% should be used to estimate the future year traffic volumes. Trend analysis is not sensitive to capacity constraints or new capacity and care should be exercised when projected traffic demand exceeds capacity.

Growth Rates

Historic trends analysis works well for areas with stable land use, transportation network and growth patterns. In areas that are experiencing substantial growth, construction of parallel facilities and changes in land use should consider growth rates based on population and employment growth.

Once the growth rate has been determined and checked for reasonableness, it can then be applied to a given base year count and projected forward to the future analysis years.

For additional details, see Chapter 4 of the [*Project Traffic Forecasting Handbook*](#).

2.2.6.3 Calculating AADT and DDHV

AADT

Traffic counts are usually collected over a 24-to 72-hour period through the placement of portable traffic counters. These counters are usually rubber hoses placed across the roadway that record the number of axles.

The short-term traffic count collected over 24 to 72 hours is called the Average Daily Traffic (ADT) or “raw count”. Due to the seasonal variations in traffic, the count must be adjusted by the Seasonal Factor (SF). In addition, the traffic counter only counts the number of axles and not vehicles. The raw traffic count of ADT must be adjusted using the Axle Correction Factor (ACF).

$$\text{AADT} = \text{ADT} * \text{Seasonal Factor} * \text{Axle Correction Factor}$$

Standard K Factor

The K Factor is critical in traffic forecasts because it defines the volume of traffic for which the road is being designed. K factors are developed based on field-collected data over long periods of time. Standard K factors are established statewide for specific areas and facility types, using the data measured at permanent traffic monitoring sites, and should be applied to AADT to determine the DHV. Standard K factors less than 9.0% essentially represent multi-hour peak period (or peak- spreading) rather than peak hour conditions. See Chapter 2 of the [Project Traffic Forecasting Handbook](#) for the latest FDOT Standard K factors.

D Factor

The **Directional Distribution (D Factor)** is the percentage of the total, two-way design hour traffic traveling in the peak direction. The D Factor is an essential parameter used to determine the DDHV. The D Factor is obtained from traffic counts and checked against the value listed in the FDOT FTI DVD and on the FTO Website.

To determine if a D value is acceptable for project traffic forecasting, the value should be cross-referenced against the acceptable range of demand D factors listed in Chapter 2 of the [Project Traffic Forecasting Handbook](#).

Design Hour Volume (DHV) and Directional Design Hour Volume (DDHV)

The DHV is the traffic volume expected to use the roadway segment during the design hour of the design year. The DHV is calculated using the following formula:

$$\text{DHV} = \text{AADT} * \text{K Factor}$$

The DDHV is the traffic volume expected to use the roadway segment during the design hours of the design year in the peak direction. The DDHV is calculated using the following formula:

$$\text{DDHV} = \text{AADT} * \text{K Factor} * \text{D Factor}$$

T Factor (Percent Trucks)

The T Factor measures the percentage of trucks on a daily basis and is the most critical factor in pavement design. The structural design of a roadway is primarily dependent

upon on the heavy axle loads generated by commercial traffic and the T Factor measures the percentage of trucks on a daily basis.

For traffic analysis, the Design Hour Truck (DHT) Factor is used to convert trucks to passenger car equivalents. The DHT is calculated by dividing the T Factor by 2 because the percentage of trucks in the traffic is not evenly distributed throughout the day.

2.2.6.4 Re-evaluating Traffic Analysis

The majority of traffic forecasting and analysis should be completed during the PD&E phase. Once the traffic forecast and analysis is completed, the subsequent phases (Design and Construction) should use the same traffic data for design and operational purposes such as designing turn lanes, signal timing, or traffic control plans.

As transportation projects advances, they may require a re-evaluation as described in [Part 1, Chapter 13, Re-evaluations](#). During re-evaluation, the Project Manager and the project team must decide if the traffic forecast and analysis prepared for the project needs to be updated.

The validity of traffic forecasts and analysis depends on changed conditions brought on by:

- Substantial “macro-level” changes in the economy and driving habits since the project traffic forecast was prepared. Examples include the effects of economic recession, a substantial change in gas prices potentially affecting travel demand or implementation of an alternative travel mode.
- Substantial change in land uses or growth within the study area. For example, large scale developments, such as sector plans, approved near the study area which have the potential to change traffic generation and/or travel patterns.
- Substantial changes in the scope of work. For example, the addition of a new alternative that was not previously considered when the traffic model was developed. Model adjustment may be necessary to incorporate changes in trip patterns anticipated within the study area.
- Substantial changes in the transportation network near the study area. For example, the construction of major beltways or by-pass routes. Traffic reports prepared before and after the network was changed may contain substantial differences in trip distribution patterns.
- Adoption of a new LRTP and regional travel demand model when the project traffic forecast is more than five years old. An update of the LRTP represents the latest planning assumptions regarding population, employment and land use, and coordinates transportation planning activities within and outside of the MPO area. If the traffic forecast is more than five years old and the MPO has adopted a new LRTP, the Project Manager and the traffic analyst should perform a sensitivity

analysis of revised input and model assumptions to determine the magnitude of differences from prior analyses and their effects on past project decisions.

The Project Manager should use conditions discussed above as a guide to determine the validity of previously completed traffic analysis. The project team may conduct sensitivity tests to assess the magnitude of differences from prior analyses resulting from use of new data and their effects on past decisions. The Project Manager and project team must consider any difference in the results to deliver the project decision. The focus should be on consistent conclusions from the analysis, rather than on any minor numerical differences between two different travel demand models outputs. If there is no substantial change in the traffic forecast, the study team would simply document the change and the sensitivity analysis results in the project file and proceed with the next phase of the project.

If there is a substantial change in the traffic forecast, the Project Manager must coordinate with OEM to address the need for re-evaluating the traffic analysis for the project. The re-evaluation of traffic analysis may require changes to the analysis methodology, data inputs and assumptions in order to update the traffic analysis to be consistent with the latest LRTP. The Project Manager should document decisions reached with OEM and other project stakeholders.

2.2.7 Traffic Analysis

Traffic analysis includes capacity and operational analysis to determine how well the project alternatives are meeting the project purpose and need. Detailed evaluation of project alternatives should only proceed on viable or feasible project alternatives (see [Part 2, Chapter 3, Engineering Analysis](#)). Also, the same assumptions and a similar set of tools should be consistently applied to perform traffic analysis for different alternatives in a project.

Depending on the project, the analysis may use the methodologies in the *HCM* or a more sophisticated tool such as microsimulation to analyze the interactions between different users on an entire network.

The decision on selecting the appropriate tool for the project depends on the analysis objectives and the available resources/data. Chapter 4 of the [FDOT Traffic Analysis Handbook](#) describes the various tools available and provides guidance on selecting the proper analysis tools.

2.2.7.1 Capacity Exceeds Traffic Demand

In scenarios where the roadway capacity exceeds traffic demand, all the traffic is accommodated during the time interval under study. There is no spillback of any queues or congestion from one segment affecting adjacent segments.

In such situation, analytical tools like the HCS that can quickly compute LOS and other operational MOEs for individual segments or isolated points should be used. HCS can compute LOS for uninterrupted flow facilities, interrupted flow facilities and multimodal

transportation facilities (e.g., pedestrian, bicycle, and transit). HCS guidance on how to conduct analytical analysis is available in the *HCM* and its accompanied software HCS.

2.2.7.2 Traffic Demand Exceeds Capacity

In scenarios where the traffic demand exceeds roadway capacity, the traffic demand is not accommodated during the time interval under study. As a result, congestion and queues spillback to adjacent segments and time intervals. The analysis should analyze the entire time period where traffic demand exceeds capacity and until all the congestion has dissipated.

In such scenarios, a microsimulation traffic analysis that simulates the effect of spillback queues and congestion on adjacent segments should be used. Microsimulation tools use computer models to simulate the interaction of individual users, such as cars, based on specified driver behavior factors. Microsimulation tools must be calibrated to local traffic conditions before being applied in alternatives analysis. Chapter 7 of the [FDOT Traffic Analysis Handbook](#) and *FHWA Traffic Analysis Toolbox Volumes III and IV* provide guidance on the development, calibration and application of microsimulation tools.

2.2.8 Safety Analysis

Safety analysis includes analyzing crash history (usually five years) within the project limits to assess the existing safety performance and evaluating the potential safety implications of a project. Depending on project context, safety assessment of the project may use *HSM* methodologies and tools according to the [Highway Safety Manual Implementation Policy, Topic Number 000-500-001](#). The *HSM* is a collection of analytical procedures and techniques for identifying the causes of crashes and developing solutions for certain types of roadways. Certain data which is compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data, **23 U.S.C § 409**.

2.2.8.1 Historical Crash Analysis

An historical crash analysis approach involves descriptive analysis of five years of crash data with respect to crash characteristics such as severity, types, frequency, rates, density, patterns, clusters, and their relationships with crash contributing causes. The results of the historical crash analysis are used to identify or confirm safety problems in the project study area. Understanding of crash characteristics along with crash contributing factors helps to determine and evaluate corrective actions or countermeasures that can be applied to the project alternatives. Crash countermeasures

must be selected based on their appropriateness and effectiveness to address specific safety issues and project goals.

The future conditions analysis should examine the safety performance of the alternatives based on project context which includes future traffic volumes, proposed geometrics, modal needs, and traffic control conditions as appropriate. Future conditions analysis must include a discussion of the proposed design context, traffic operational performance and users of the facility. Additionally, safety assessment for future conditions must examine how the proposed alternatives improve upon any existing or potential safety problems. This will include comparison of existing conditions safety performance to that of future no-build and future build conditions.

2.2.8.2 Quantitative Safety Analysis

Quantitative safety analysis involves using **HSM**-based methods that incorporate site specific characteristics and mathematical functions such as Safety Performance Functions (SPFs) and Crash Modification Factors (CMFs) to objectively estimate safety performance measures. A SPF is an equation used to predict the average number of crashes per year at a location as a function of traffic exposure (e.g., volumes of vehicles, bicyclists, pedestrians). It allows an estimation of future safety conditions. A CMF is a multiplicative factor used to compute the expected number of crashes after implementing a given countermeasure at a specific site. It allows estimation of the effectiveness of safety improvements.

The **HSM** based methods are detailed and require a thorough knowledge and experience in their applications and limitations. The advantage of these methods is their ability to make relative comparisons between various project alternatives based on the change in the number of crashes or combinations of crash severities for different contexts. The **HSM** continues to evolve and does not offer the ability to evaluate change on safety performance for every project scenario or context. In some cases, the SPF may require adjustments to Florida conditions because they were developed using national data and may not reflect average Florida conditions. Users of the **HSM** should refer to the State Safety Office for publication of the current Florida specific SPF calibration factors.

HSM can be used to support the following project development activities:

- Evaluate purpose and need for the project
- Develop and refine the project alternatives
- Analyze and evaluate project alternatives

The **HSM Part C** predicted methods can calculate historic and anticipated future safety performance of the project. **HSM Part C** is applicable to rural two-lane highways, rural multilane highways, suburban and urban arterials, freeways, and interchanges. **HSM** has specific guidance regarding how to estimate future crashes with and without safety improvements. Additionally, the human factors fundamentals published in the **HSM** can

help traffic analysts identify safety-specific needs for the projects and estimate the potential for safety improvements.

Development and screening of alternatives can use **HSM** predictive methods to quantify the anticipated change in crash frequency and/or severity as the result of changes in geometric features or traffic conditions. If an assessment for a safety-specific project shows that some alternatives would have a negligible or adverse effect on safety performance, those alternatives can be eliminated. The documentation needed to support the elimination of alternatives could therefore include the information derived from the **HSM** methods.

Another method for quantifying safety impacts of project alternatives is a relative comparison of CMFs. This method estimates the relative magnitude of potential safety impacts based on the anticipated percent change in crash frequency based on applicable CMFs. CMFs are published in the **HSM Part D** and **FHWA's Crash Modification Factors Clearinghouse website** which include a star rating to indicate their quality. CMFs are also used to compare relative safety benefits of potential mitigation measures when selecting a strategy to address an identified safety issue. This method is relatively simple to apply, and when used appropriately can objectively support proposed improvements. CMFs are applicable to roadway segments, intersections, interchanges, special facilities, and various geometric situations.

2.2.9 Environmental Analyses

Environmental impact analyses such as land use, air quality, and noise depend on the outputs of traffic forecasting and analysis. The most common traffic data required for environmental analyses are AADT, peak hour volumes, peak truck hour volumes and traffic classification. Typical MOEs from the traffic analysis that are used for environmental analyses are listed in [Section 2.2.3](#). The Project Manager should work with the District Environmental Manager and other environmental subject matter experts to determine the scale of traffic data needed for various environmental analyses.

2.2.10 Project Traffic Analysis Report

The **Project Traffic Analysis Report** documents the assumptions, methods, traffic forecasts, design traffic, and results of the traffic analysis for the project in plain language and in an easily understood format. It summarizes the data collection effort, input parameters, traffic analysis tools, existing conditions, development of future traffic forecasts, and traffic operational and safety analyses of project alternatives. The report must use the **Technical Report Cover Page, Form No. 650-050-38** as the cover sheet of the report. A sample **Project Traffic Analysis Report** cover page is provided in [Figure 2-1](#)). Traffic analysis reports support decisions regarding project actions. Therefore, the report should concisely present the results of the traffic analysis in a manner that can be readily understood by a variety of audiences. Discussion of the analysis results should be focused and avoid unnecessary information. Additionally, the report should include text that discusses information presented in tables and figures (charts, maps, and diagrams). MOEs presented in tables and figures should be clear, concise, and simple. The report

should include other supporting technical data and output from analysis tools in the appendices. Additionally, highly detailed information such as data used to prepare figures and tabular summaries should be placed in the appendices.

The scope of the report depends on the size and complexity of the project, and whether traffic analyses conducted prior to the PD&E phase are going to be incorporated. Regardless of the complexity, the traffic analysis report should summarize the items presented in [Section 2.2.10.2](#). The **Project Traffic Analysis Report** must be signed and sealed by a professional engineer in accordance with **Chapter 471, Florida Statutes (F.S.)**.

Traffic analysis reports for projects that are not complex can include the results of traffic forecasting. The approach to documentation (i.e., one **Project Traffic Analysis Report** or multiple technical memoranda) should be included in the scope and agreed upon by the FDOT Project Manager and project team. For complex projects, traffic forecasting and traffic analysis may be prepared under different project tasks and teams. For such projects, it is recommended that traffic forecasting results and traffic analysis be documented in different technical memoranda or reports. See the [Project Traffic Forecasting Handbook](#) on how to prepare a **Project Traffic Forecasting Memorandum**.

Quality control review for **Project Traffic Analysis Reports** should include reviewing methods and assumptions used to develop the analysis, inputs, reasonableness of results, and completeness of the results. The review of reasonableness of traffic projections should include examining and comparing observed traffic and historical trends, proposed roadway and transit network improvements, and land use projections. Refer to the [FDOT Traffic Analysis Handbook](#) for checklists that may aid the review process.

2.2.10.1 Traffic Analysis Assumptions

The assumptions used to prepare the traffic analysis including traffic projections should be documented so that a reviewer can easily understand the methodology, input values, and analysis results. It is essential for the Project Manager to reach consensus with the project team and lead agency regarding the assumptions during the scope development stage of the project. The **Project Traffic Assumption Form, Form No. 650-050-39** in [Figure 2-2](#), can be used to summarize the assumptions.

The following should be included in the traffic analysis assumptions summary as appropriate.

1. Traffic Forecasting Assumptions Summary
 - a. Traffic forecast method - Travel demand model, historic trend or growth rates
 - b. For the travel demand model:

- i. Date of adoption of LRTP
 - ii. Model base year
 - iii. Horizon year of the travel demand model
 - iv. MPO website which includes documentation of the LRTP
 - c. Changes in land use, economy, population, and employment since the travel demand model was built.
 - d. Data Collection Year
 - e. Analysis years – opening year, design year and interim year (for phased projects)
 - f. MOCF
 - g. K Factor
 - h. D Factor
 - i. T Factor
2. Traffic (operational and safety) analysis assumptions summary should include:
 - a. Study Area (i.e., Project limits, traffic study area, influence area)
 - b. Key input parameters
 - c. Calibration and validation parameters
 - d. Analysis method and/or tools
 - e. Analysis periods
 - f. Performance MOE

2.2.10.2 Project Traffic Analysis Report Outline

The following is an outline for the ***Project Traffic Analysis Report***. The report should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis.

1. Executive Summary – Summary of analysis results.
2. Traffic Analysis Assumptions – Summary of assumptions for input parameters, analysis years, analysis methodology.

3. Introduction – Brief description of the project with a project location map, traffic analysis objectives, including a project location map.
4. Traffic Analysis Method – Discussion of assumptions and analysis methodology including analysis years, traffic study area, data required, analysis tools including version, and MOE.
5. Existing Conditions Analysis – Summary of balanced turning movement counts for the study intersections/interchanges under existing conditions. Summary of operational and safety analyses for the existing conditions. Microsimulation analysis should also include base model development and calibration documentation. Calibration may be submitted as a standalone document.
6. Development of future year traffic forecast – Depending on the scale of the project, this may be developed and submitted as a standalone document, in which case it should be referenced within the **Project Traffic Analysis Report**.
7. Alternatives Analysis – Description of project alternatives, assigning of project traffic volumes to alternatives. Summary of operational and safety analyses for each project alternative.
8. Summary of Analysis Results – Discussion of advantages and disadvantages of alternatives with respect to the traffic analysis objectives and goals.
9. Appendix – Raw data used to prepare input and analysis summaries. Other supporting data/information.

2.3 REFERENCES

American Association of State Highway and Transportation Officials (AASHTO), 2010 Highway Safety Manual

FDOT, 2008, FSUTMS-Cube Framework Phase II – Model Calibration and Validation Standards.
http://www.fsutmsonline.net/images/uploads/reports/FR2_FDOT_Model_CalVal_Standards_Final_Report_10.2.08.pdf

FDOT, Highway Safety Manual Implementation Policy, Topic Number 000-500-001.

FDOT, Manual on Uniform Traffic Studies, Topic No. 750-020-007.
<http://www.fdot.gov/traffic/TrafficServices/Studies/MUTS/MUTS%20Final%2001.2016.pdf>

FDOT, 2014. Project Traffic Forecasting Handbook.
<http://www.dot.state.fl.us/planning/statistics/trafficdata/ptf.pdf>

FDOT, 2014. Traffic Analysis Handbook.
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FDOT, Traffic Engineering Manual, Topic No. 750-000-005.

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

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FHWA, 2013. Traffic Monitoring Guide.

https://www.fhwa.dot.gov/policyinformation/tmguidetmg_2013/

FHWA, 2004. Traffic Analysis Toolbox Series.

<http://ops.fhwa.dot.gov/trafficanalysistools/>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Regional Integrated Transportation Information at University of Maryland.

<http://www.ritis.org>

Title 23, CFR § 450, Appendix A. Linking the Transportation Planning and NEPA Processes.

<http://www.ecfr.gov/cgi-bin/text-idx?SID=ffd5a70592b8f07eb3d383a5e441e880&mc=true&node=pt23.1.450&rqn=div5>

Transportation Research Board (TRB), 2010. Highway Capacity Manual

Washington State Transportation Center, 1998, Peak Spreading Analysis, Review of Relevant Issues and Synthesis of Current Practice

2.4 FORMS

Project Traffic Assumption Form, Form No. 650-050-39

Technical Report Cover Page, Form No. 650-050-38

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

2.5 HISTORY

7/24/2016

PROJECT TRAFFIC ANALYSIS REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

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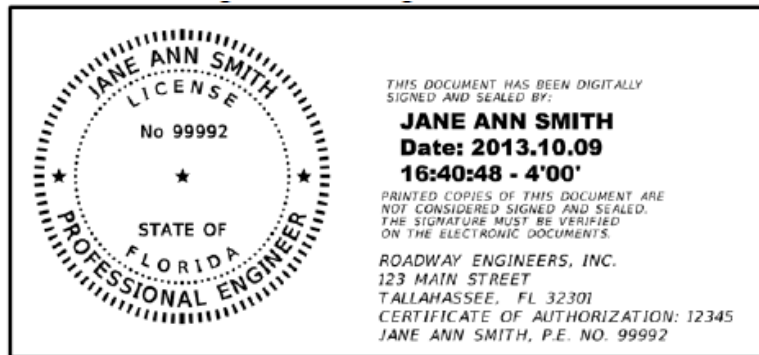


Figure Error! No text of specified style in document..1 Sample Project Traffic Analysis Report Cover Page

Traffic forecast for the project was developed using:	
<input type="checkbox"/> Travel Demand Model	<input type="checkbox"/> Growth Rates
Type of Travel Demand Model Used: <input type="checkbox"/> Metropolitan Planning Model <input type="checkbox"/> Other Model _____	<i>Refer to appropriate section of Project Traffic Analysis Report that discusses growth rates</i>
Is the travel demand model based on the latest adopted Long Range Transportation Plan?	
<input type="checkbox"/> YES	<input type="checkbox"/> NO
_____ Date when MPO adopted the latest Long Range Transportation Plan	Explain why?
_____ Base Year of Travel Demand Model	
_____ Horizon Year of Travel Demand Model	
Long Range Transportation Plan documentation is available at (provide web address): _____	
Traffic Data and Factors	
Standard K = _____ D Factor = _____ T _{Daily} = _____	Data Collection Year = _____ Opening Year = _____ Interim Year = _____ Design Year = _____
Discuss any changes in land use, economics, population and employment data since the model was built	
Traffic Analysis Assumptions	
Discuss study area, data calibration/validation parameters, analysis tools, analysis periods and MOEs	

Figure Error! No text of specified style in document..2 Project Traffic Assumption Summary

PART 2, CHAPTER 3

ENGINEERING ANALYSIS

TABLE OF CONTENTS

3.1	OVERVIEW	3-1
3.1.1	Purpose.....	3-1
3.1.2	Definitions	3-2
3.2	PROCEDURE.....	3-3
3.2.1	Level of Detail of Analysis	3-4
3.2.2	Project Coordination.....	3-4
3.2.3	Preliminary Engineering Analysis.....	3-7
3.2.3.1	Project Purpose and Need.....	3-8
3.2.3.2	Data Collection	3-8
3.2.3.3	Design Controls and Criteria.....	3-8
3.2.3.4	Existing Conditions Analysis.....	3-9
3.2.3.4.1	Existing Roadway Conditions.....	3-9
3.2.3.4.2	Existing Bridge Conditions	3-11
3.2.3.4.3	Existing Environmental Features	3-12
3.2.3.4.4	Existing Intelligent Transportation Systems	3-12
3.2.4	Alternatives Analysis	3-12
3.2.4.1	No-Action Alternative	3-13
3.2.4.2	Transportation System Management and Operations Alternative	3-13
3.2.4.3	Multimodal Alternatives.....	3-14
3.2.4.4	Build Alternatives	3-14

3.2.4.4.1	Development of Build Alternatives	3-15
3.2.4.4.2	Alternatives Considered but Eliminated	3-16
3.2.5	Engineering Considerations for Build Alternatives	3-16
3.2.5.1	Complete Streets	3-16
3.2.5.2	Pedestrians and Bicycle Accommodation	3-17
3.2.5.3	Traffic Operations and Safety	3-19
3.2.5.4	Express Lanes	3-19
3.2.5.5	Access Management	3-20
3.2.5.6	Roundabouts	3-21
3.2.5.7	Interchanges on Interstate Highways.....	3-21
3.2.5.8	Intelligent Transportation Systems.....	3-22
3.2.5.9	Stormwater Management	3-22
3.2.5.9.1	Drainage and Landscaping	3-23
3.2.5.9.2	Water Quality Impact Evaluation.....	3-23
3.2.5.9.3	Hydrology and Hydraulic Evaluation	3-24
3.2.5.10	Utilities and Railroads	3-24
3.2.5.11	Survey and Mapping.....	3-24
3.2.5.12	Geotechnical Investigation.....	3-25
3.2.5.13	Structures and Bridges	3-25
3.2.5.13.1	Development of Bridge Alternatives.....	3-26
3.2.5.13.2	Braided Underpass Structures	3-26
3.2.5.13.3	Bridge Hydraulic Analysis	3-27
3.2.5.13.4	Perimeter Walls.....	3-27
3.2.5.14	Transportation Management Plan.....	3-28
3.2.5.15	Constructability	3-29

3.2.5.16	Construction Impacts	3-29
3.2.6	Environmental Considerations for Build Alternatives.....	3-30
3.2.7	Comparative Alternatives Evaluation	3-30
3.2.8	Value Engineering.....	3-32
3.2.9	Recommended Alternative	3-33
3.2.10	Documentation	3-35
3.2.10.1	Environmental Document	3-35
3.2.10.2	Preliminary Engineering Report	3-38
3.3	REFERENCES	3-39
3.4	FORMS	3-40
3.5	HISTORY	3-41

LIST OF FIGURES

Figure 3-1	Manuals, Design Standards, and Procedures to Establish Project Development Design Controls and Criteria	3-42
Figure 3-2	Preliminary Engineering Report Sample Cover Page	3-44

PART 2, CHAPTER 3

ENGINEERING ANALYSIS

3.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

3.1.1 Purpose

Engineering analysis builds upon the information developed and documented by FDOT during the Planning phase of a project. This chapter contains FDOT's procedure for engineering analyses to support development of general project location and design concepts during Project Development and Environment (PD&E) Studies. The engineering analysis defines project features essential to the assessment of project impacts on the social, cultural, natural, and physical environment while also seeking to balance the extent to which project needs are addressed to ensure project costs and environmental impacts are minimized. Further, the analysis establishes necessary design considerations to support progression of the project from concept to preliminary design and eventually to final design.

This chapter provides guidance on engineering analysis and considerations concerning evaluation of existing conditions, selection of design parameters, development of project alternatives, analysis of alternatives, selection of the recommended alternative(s), and documentation of engineering analyses.

During the identification and evaluation of the project alternatives, the Project Manager should continuously coordinate with the various offices within the District to promote collaboration between engineers and environmental specialists throughout the project development process. Continual coordination is critical to the success of the project because it helps resolve and address project issues that may affect development of project alternatives. The Project Manager also has the responsibility of engaging project stakeholders and the public throughout the project development process.

3.1.2 Definitions

Air Operations Area - Any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft and includes such paved areas or unpaved areas that are used, or intended to be used, for the unobstructed movement of aircraft in addition to its associated runway, taxiways, or apron.

Alignment - Refers to both horizontal and vertical placement of a transportation facility. Horizontal alignment refers to the location of the transportation facility as described by curves and tangents. Vertical alignment refers to the vertical profile of the facility (i.e., below grade, at grade, or above grade).

Alternative - A potential transportation corridor, alignment, design feature, mode, or improvement under consideration that addresses the project's Purpose and Need.

Alternative Corridor Evaluation (ACE) - A continuously coordinated and documented process to identify reasonable alternative(s) for Project Development and Environment (PD&E) or **National Environmental Policy Act (NEPA)** analysis which includes public involvement.

Bicycle Lane - A portion of a roadway (either with curb and gutter or a flush shoulder) which has been designated by striping and special pavement markings for preferential use by bicyclists.

Corridor - Any land area designated by the state, a county, or a municipality which is between two geographic points and which is used or suitable for the movement of people and goods by one or more modes of transportation, including areas necessary for management of access and securing applicable approvals and permits.

Design Exception - The process that is followed when a proposed design element is below both the Florida Department of Transportation's (FDOT's) governing criteria and the American Association of the State Highway and Transportation Officials' (AASHTO's) new construction criteria for Controlling Design Elements.

Design Report - A folder prepared during the Design phase to document design notes, data, and calculations supporting the design conclusions reached during the development of the contract plans. It is also called Design Documentation.

Design Variation - The process that is followed when a proposed design element is below FDOT's criteria and where a Design Exception is not required.

Final Design - Any design activities following preliminary design, expressly including the preparation of final construction plans and detailed specifications for the performance of construction work, final plans, final quantities, and final engineer's estimate for construction, also referred to as Plans Specifications & Estimates (PS&E).

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 environmental impacts of the build alternatives.

Preferred Alternative - The preferred alternative for a federal aid project is the alternative that has been approved by the Lead Federal Agency. If a preferred alternative is identified prior to the public hearing, it must be presented as such at the public hearing and in the Environmental Document available to the public during the period of public availability.

Preliminary Design - Defines the general project location and design concept. It includes, but is 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 engineering, 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.

Preliminary Engineering Report (PER) - The engineering report that documents engineering analyses and decisions made during the PD&E Study. The **PER** contains preliminary design plans and design parameters that support advancing the project into the final Design phase.

Reasonable Alternatives [Term used in the Environmental Impact Statement (EIS) only] - Alternatives meeting the purpose and need which are practical or feasible from a technical and economic standpoint.

Recommended Alternative - The alternative submitted to the Lead Federal Agency for approval as the preferred alternative. In a Draft Environmental Impact Statement (DEIS), this alternative would become the preferred alternative if no substantial controversy or issues arise through the public and agency comment period.

Transportation Management Area (TMA) - All Urbanized Areas (UZAs) with population greater than 200,000 as determined by the most recent census.

Viable Alternatives [Term used in Type 2 Categorical Exclusion (CE), Environmental Assessment (EA), and State Environmental Impact Report (SEIR) only] - Alternatives that address the purpose and need that can be designed and constructed from an engineering standpoint, if there is more than one alternative proposed.

3.2 PROCEDURE

This section describes the procedure for conducting an engineering analysis during the PD&E phase. FDOT conducts engineering analyses consistent with the design standards, criteria and controls published in its manuals and procedures. See [Figure 3-1](#). Engineering considerations for a project begin during the Planning phase where the project's purpose and need is defined, and continue throughout the PD&E process when conceptual and preliminary designs are prepared. Engineering analysis and considerations include coordination with other offices within the Districts, Central Office,

Native American tribes, agencies, the public, and/or the Lead Federal Agency as appropriate.

3.2.1 Level of Detail of Analysis

The level of detail for engineering analyses for a PD&E Study depends on the overall size and complexity of the project. It also depends on the Class of Action (COA) for the project. Type 1 Categorical Exclusion (CE) and Non-Major State Action (NMSA) projects require a lesser level of analysis and do not require a PD&E Study. Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), and State Environmental Impact Report (SEIR) projects require a more detailed level of analysis and documentation. Regardless of COA, the engineering analyses must be performed to a level of detail that is sufficient to assess the effects of the alternative(s) on the social, economic, natural, cultural, and physical environment. In order to analyze multiple alternatives the Project Manager must ensure that the alternatives are developed to the same level of detail.

A **Preliminary Engineering Report (PER)** is prepared to document the results of engineering analysis for a Type 2 CE, EA, or EIS. See [Section 3.2.10.2](#) for an outline of the **PER**. An **Engineering Analysis Technical Memorandum** is prepared to document the results of engineering analysis for SEIRs. If the Design phase occurs concurrently with the PD&E phase, a **PER** will not be prepared, rather the results supporting alternatives evaluation are documented in the Design Report or Design Documentation for the project. See [Part 1, Chapter 4, Project Development Process](#) for guidance on overlapping PD&E and Design phases.

3.2.2 Project Coordination

The PD&E Project Manager is responsible for timely coordination with other offices within the District to ensure proper development and evaluation of project alternatives. A successful PD&E Study requires orderly and continuous coordination between planning, engineering, environmental, public involvement and other staff from various offices.

If the project has federal involvement, the Project Manager must coordinate the project development efforts with the Lead Federal Agency. Coordination with FDOT's Structures Design Office is required for special bridge structures such as moveable bridges, historic bridges, and signature bridges. Coordination with the US Coast Guard (USCG) and US Army Corps of Engineers (USACE) is also required for permitting purposes.

Prior to making commitments, the Project Manager must coordinate with appropriate staff to ensure commitments are viable and are approved by the appropriate offices. See [Part 2, Chapter 22, Commitments](#).

The following is a list of the various coordination efforts the Project Manager undertakes early in the PD&E Study.

Planning

It is the responsibility of the Project Manager to request the existing and future traffic projections, turning movements, and traffic factors from the District Traffic Coordinator. See [Part 1, Chapter 4, Project Development Process](#) for guidance on re-using data from planning studies.

Projects involving Express Lanes require coordination with the Planning Office, the Systems Planning Office in Central Office, and the Florida Turnpike Enterprise (FTE).

Traffic Operations

Projects involving Intelligent Transportation System (ITS) require coordination with the Traffic Operations Office. The Project Manager is responsible for requesting crash data from the Safety Engineer within the Traffic Operations Office.

Roadway Design

Project alternatives must be reviewed for proper application of geometric design elements including design speed, typical section details, superelevation, horizontal and vertical alignment, constructability, and maintainability. Unconventional design alternatives and innovative design concepts should be coordinated with the District Design Engineer and the District Structures Design Engineer.

During the development and evaluation of alternatives, the viable or reasonable alternatives must be reviewed for situations that would require a Design Variation or Design Exception. If a variation or exception is needed, the Project Manager must coordinate with the District Design Engineer to receive District or Central Office approval, as required.

During the development of alternatives, the Project Manager must coordinate the typical sections with the District Design Engineer. After the Public Hearing is completed and the project alternative approved, a **Typical Section Package** will be finalized in accordance with the [Plans Preparation Manual \(PPM\), Volume 1, Chapter 16, Topic No. 625-000-007](#).

Structures

The Project Manager must request approval from the District Structures Design Engineer for conceptual location and design recommendations for each bridge alternative including cost and any benefit-cost analyses used for selecting or recommending structure alternatives. In addition, the Project Manager must consult the District Structures Design Engineer if non-standard signs, lighting, signals, or other miscellaneous structures are under consideration.

For coastal bridge replacement projects, consideration may be given to using clean demolition materials as an artificial reef under **Title 33 U.S.C. Chapter 35**. This consideration must be part of the coordination and consultation process with the

regulatory and resource agencies as well as with other stakeholders. Considerations will include, but not be limited to, management, testing, storage, and transport of the material as well as permitting and agreements that may be required.

Drainage

The District Drainage Engineer should review tidal projects to determine if coastal hydraulics will affect project design. If so, a coastal engineer should review the project in accordance with the [Drainage Manual, Topic No. 625-040-002](#).

The Project Manager should also meet with the District Drainage Engineer to explore watershed stormwater needs, stormwater pond sites, and alternative permitting approaches during the development of alternatives.

Freight/Port

The Project Manager must coordinate with the District Seaport Coordinator and/or District Freight Coordinator whenever the project is part of landside port transportation or access improvements, such as highways connecting Florida's ports to their markets.

Aviation

The Project Manager must coordinate with the District Aviation Coordinator when a project or a portion of a project meets at least one of the following:

1. Located within five (5) miles of the air operations area of a public-use or military airport.
2. If utilization of the Notice Criteria Tool of the Federal Aviation Administration (FAA) indicates that an aeronautical study will be requested by the FAA. See [Section 3.3](#) for a link to the Notice Criteria Tool website.

FDOT's Airspace and Land Use Manager in the Aviation and Spaceport Office will assist the Project Manager and the District, if an aeronautical study is required.

FAA discourages placing stormwater treatment facilities within the airport's air operation area because of their potential for being hazardous wildlife attractants. The Project Manager must coordinate with the District Aviation Coordinator when stormwater treatment facilities are proposed within the vicinity of an airport. Such coordination is essential to ensure the stormwater treatment facilities incorporate the FAA design criteria of no above-ground standing water.

Scenic Highways

The Project Manager must coordinate with the District Scenic Highway Coordinator for projects affecting designated scenic highways. If the project impacts a scenic highway

and qualifies for screening, it will be identified in the Environmental Screening Tool (EST) as part of the Efficient Transportation Decision Making (ETDM) process.

Right of Way

The Project Manager should discuss Right of Way (ROW) requirements associated with the project alternatives and coordinate ROW cost estimates with the District ROW office.

Landscape

The Project Manager should discuss landscaping needs for the preferred alternative with the District Landscape Architect.

Permits

The determination of permits required for the project starts during the ETDM Programming Screen. Representatives from each of the environmental permit agencies comment on the general project (including potential permits from their agency). Early coordination with the regulatory agencies is necessary to determine the level of detail required to acquire permits concurrent with PD&E. For more information regarding the environmental permit process, see [Part 1, Chapter 12, Environmental Permits](#).

Local Governments Corridor Vision

The Project Manager should begin early coordination with the local governments and/or Metropolitan Planning Organizations (MPOs) to discuss the vision for the corridor. The project should be designed in a context sensitive manner, considering the existing and proposed land uses adjacent to the corridor.

Utilities

The Project Manager should begin early coordination with District Utility Offices (DUO) to identify and document potential utility conflicts see [Part 2, Chapter 21, Utilities and Railroads](#).

3.2.3 Preliminary Engineering Analysis

The key elements in performing engineering analysis during PD&E are:

1. Project purpose and need
2. Data collection
3. Design controls and criteria
4. Existing conditions analysis
5. Alternatives analysis

6. Documentation

3.2.3.1 Project Purpose and Need

Purpose and need identification occurs during the Planning phase of the project. It is important for the Project Manager to review and understand the project's purpose and need, which drives the development of alternatives considered and evaluated during the PD&E process and documented in the Environmental Document.

The Project Manager must review the *Programming Screen Summary Report* for projects that were screened through the ETDM Process and understand the COA for projects, if a determination has been made. The Project Manager should also review planning documents such as the Long Range Transportation Plan (LRTP).

3.2.3.2 Data Collection

The data collection process should consider the purpose and need for the project and the goals and objectives of the PD&E Study. Specifically, data collection should start by obtaining the data to assess and support the purpose and need for the project. When existing data is available, efforts should be made to determine any gaps in the data and approaches to fill the gaps. Data can be grouped into four categories: roadway characteristics, traffic characteristics, operations and safety characteristics, and environmental characteristics.

3.2.3.3 Design Controls and Criteria

Design controls are established parameters or physical characteristics that affect the selection of criteria and standards for geometric design of project alternatives. Design controls are also established for roadway elements such as lighting, noise abatement, drainage consideration, access management and multi-modal facilities.

Design controls include:

1. Functional classification and system classification
2. Access management class and standards
3. Design speed
4. Capacity and Level of Service (LOS)
5. Project traffic
6. Design vehicle
7. Pedestrian and bicycle requirements

8. Physical constraints (e.g., existing ROW, approach roads, intersecting roads, railroads, major utilities)
9. Environmental constraints (e.g., public parks, historic and cultural features, wetlands, flood plains)
10. Type of stormwater management facilities (e.g., closed or open drainage systems)
11. Navigational requirements
12. Design high water
13. Design wave heights for coastal bridges

[**PPM, Volume 1, Topic No. 625-000-007**](#) is the principal source of values for design criteria for projects on the SHS. The values for design criteria contained in the **PPM** have been accepted by FHWA. The [**Florida Greenbook, Topic No. 625-000-015**](#) must be used only on projects not on the SHS or federal aid systems. Design criteria for transit facilities can be found in the [**Assessing Transit Design Handbook**](#).

When the design elements of the recommended alternative do not meet the designated design criteria, Design Exceptions or Design Variations must be prepared and approved per [**PPM, Volume 1, Chapter 23, Topic No. 625-000-007**](#).

3.2.3.4 Existing Conditions Analysis

The purpose of the existing conditions analysis is to document available information regarding the existing facility or corridor. Existing conditions analysis documents the inventory of roadway elements, structure elements, and environmental features of the project. It also includes review of planning issues contained in previous planning documents such as corridor feasibility studies or interchange access requests. The existing conditions analysis helps to identify or confirm design and operational deficiencies associated with the project study area, as well as to verify, refine, and support the purpose and need for the project.

Comparison of the existing conditions against the current design controls or criteria identifies roadway and structure elements that do not meet current standards. Such project deficiencies must be discussed, analyzed, and documented in the **PER** or SEIR. Analysis of project deficiencies is used to support the project purpose and need (see [**Part 2, Chapter 1, Project Description and Purpose and Need**](#)).

The sections below are examples of elements of existing conditions analysis. For new corridors, analysis of existing conditions requires a description of the adjacent facilities to explain how the existing transportation system is currently handling the travel demand.

3.2.3.4.1 Existing Roadway Conditions

Existing roadway conditions should be documented to reflect the following:

1. Functional classification and other classifications
2. Access classification and access management standards
3. Typical sections – description and dimensions of each cross-sectional element
4. ROW including extent and type of limited access and easements
5. Property lines and land use types adjacent to the roadway
6. Pavement type, structural and operational conditions
7. Design speed and posted speed
8. Horizontal and vertical alignments
9. Multi-modal facilities:
 - a. Pedestrian accommodations - Walkways, crosswalks, Americans with Disabilities Act (ADA) accessibility, and school routes
 - b. Bicycle facilities - Location, type, width, and designation
 - c. Mass transit facilities including bus and rail services – Type, locations and number of stops, transfer centers, park-and-ride facilities, bus bays
 - d. Freight and intermodal logistics centers
10. Intersections - Lane configuration, type, control type, technology, and operational conditions
11. Physical or operational restrictions such as special use lanes, parking, evacuation routes, fixed objects, barriers, and clear zones
12. Traffic data - Annual Average Daily Traffic (AADT), peak hour volume, truck percentage, pedestrian and bicycle counts, and transit data
13. Roadway operational conditions - LOS or relevant performance measures such as delay, travel time, and density
14. Crash data - Crash rates, severity, number (frequency), types, locations, contributing causes and patterns
15. Railroad crossings - Number of tracks, number of train crossings, speed, type of train (passenger or freight), type of warning devices, operating characteristics, railroad ROW, and Rail Master Plan
16. Drainage system - Drainage areas and flow patterns, floodplains and stormwater management systems including regional facilities

17. Lighting - Location, type, condition, spacing, and maintaining agency
18. Utilities - Location, Utility Agency/Owner (UAO), and contact persons
19. Soils classifications
20. Aesthetic features (e.g., lighting, landscaping, vegetation, pavers)
21. Traffic signs

3.2.3.4.2 Existing Bridge Conditions

FDOT's Bridge Maintenance Office maintains **Bridge Inspection Reports** for every public bridge in the State of Florida. The Project Manager must obtain the **Bridge Inspection Report** for each bridge on the existing corridor. Additionally, geotechnical and scour reports, environmental permits, and previous studies for existing bridges can be requested from the structures and environmental permits offices. If hydraulic analysis is anticipated, bridge information for each bridge upstream and downstream of the existing crossing can also be obtained.

Evaluation of existing bridge conditions should include identification of wildlife crossing features. These features include bridges, bridges with shelves, specially identified culverts, enlarged culverts or drainage culverts, and/or exclusionary devices such as fencing, walls or other barriers, or some combination of these features. The Project Manager should confirm the location of a wildlife crossing feature based on coordination with the District Environmental Manager, District Permit Coordinator, and District Structures Design Engineer.

Bridge Inspection Reports typically contain the following information:

1. Bridge number
2. Bridge Type
3. Typical Section
4. Facility crossed (waterway, roadway, or railroad)
5. Year structure was built and/or modified
6. Type of structure - Timber, concrete, or steel
7. Condition - Structural rating and suitability for widening or retrofitting
8. Load posting information
9. Horizontal and vertical clearances
10. Ship impact data

11. Span arrangement - Number and length of spans
12. Historical significance - i.e., **National Register of Historic Places (NRHP)** eligible or may be a potentially significant historic bridge (of 50 years of age or older). If a bridge is on the **NHRP**, determine if the bridge is a critical landmark or a signature structure.
13. Geotechnical information from existing bridge borings, pile driving records, scour reports, and maintenance history where available
14. Channel data - Alignment, width, depth, and clearance requirements
15. On bridges with moveable spans - The average number of times the bridge opens per day, results of boat traffic and mast height surveys, include any special navigation (shipping/boating) requirements that will require accommodation during construction
16. Normal High Water and Mean High Water (for coastal bridges) in accordance with [PPM, Volume 1, Section 2.10, Topic No. 625-000-007](#) and [Section 4.6, Drainage Manual, Topic No. 625-040-002.](#)
17. Bridge security issues

For bridges maintained by other agencies, all relevant information regarding the existing bridge should be requested from the owner of the bridge.

3.2.3.4.3 Existing Environmental Features

Existing conditions analysis must include a review of potential environmental issues in the project area that would affect development of project alternatives. This analysis requires input from environmental specialists. As such, field observations of existing environmental features must be conducted concurrently with the review of existing roadway and bridge features. Close coordination between environmental and engineering staff is essential to developing alternatives that reduce environmental impacts.

3.2.3.4.4 Existing Intelligent Transportation Systems

Projects that involve ITS must include review of existing ITS documents and plans to determine operational needs and infrastructure requirements.

3.2.4 Alternatives Analysis

Alternatives analysis is the process of developing, evaluating, and eliminating potential project alternatives based on the purpose and need for the project. Alternatives analysis involves evaluation of both engineering and environmental aspects of a project. Therefore, the Project Manager must engage both District engineering and environmental staff from the scope development stage through the alternative analysis process.

The process to develop and evaluate potential alternatives must also seek public and stakeholder input. See [Part 1, Chapter 11, Public Involvement](#) for guidance regarding public involvement for a project.

The alternatives analysis of a PD&E Study must consider the following alternatives:

1. No-Action Alternative, or No-Build Alternative
2. Transportation Systems Management and Operations (TSM&O) Alternative
3. Multimodal alternative
4. Build Alternative(s)

Some of the project alternatives developed, analyzed, and eliminated during the Planning phase of a project can be eliminated from further analysis consistent with the conditions in **Title 23 U.S.C. § 168**. During the PD&E Study, it is the responsibility of the Project Manager to review planning studies previously completed for the project, and document the alternatives that have already been considered, screened, and eliminated through a planning process. The Project Manager must coordinate with the OEM in advance to verify any planning decision that can be adopted or incorporated by reference into the Environmental Document pursuant to **23 U.S.C. § 168** and **23 Code of Federal Regulations (CFR) Part 450, Appendix A**. This coordination must occur during the scope development stage of the PD&E project. See [Part 1, Chapter 4, Project Development Process](#) for more guidance.

3.2.4.1 No-Action Alternative

The No-Action Alternative (or No-Build Alternative) serves as the baseline, or benchmark against which the Build Alternatives are evaluated. The No-Action Alternative is defined as the alternative in which the proposed project activity would not take place

The engineering analysis must analyze the effects of the No-Action Alternative on the surrounding human, natural, and physical environment to the same level of detail as the build alternatives. The No-Action Alternative remains under consideration throughout the PD&E Study, including the Public Hearing. Both the **PER** and Environmental Document must include and discuss the No-Action Alternative. Discussion about impacts of the No-Action Alternative must include the impacts to surrounding areas, such as increased travel demand on the existing facility and parallel routes, impacts to multi-modal facilities, and impacts to emergency response times, amongst others.

Documentation of the alternatives analysis must include advantages and disadvantages of the No-Action Alternative.

3.2.4.2 Transportation System Management and Operations Alternative

The TSM&O Alternative generally provides short-term improvements that extend the service life of the facility. The TSM&O Alternatives include activities and strategies

designed to optimize the performance and utilization of the existing infrastructure through implementation of systems, services, and projects to preserve the capacity and improve the security, safety, and reliability of the transportation system. The TSM&O Alternative may include upgrades or additions to the existing facility, such as ramp signals, arterial traffic management systems, traffic incident management, work zone traffic management, road weather management, traveler information services, congestion pricing, parking management, traffic control, commercial vehicle operations, transit priority signals systems, and freight management.

The TSM&O Alternative may also include conversion of facilities with existing non-tolled managed lanes such as High Occupancy Vehicle (HOV) lanes to Express Lanes (as long as the total number of existing non-tolled general purpose lanes remains the same and other considerations are met).

Prior to evaluating build alternatives, engineering analysis must demonstrate that maximization of the existing system through various TSM&O strategies will not meet the purpose and need for the project. Documentation of the TSM&O Alternative evaluation must include a description of the strategies considered.

While TSM&O primarily relates to projects in urbanized areas, the concept of achieving maximum utilization is also important in rural areas. The TSM&O Alternative shall be discussed in the alternatives section of the **PER** and Environmental Document. If the TSM&O Alternative does not meet the purpose and need for the project, the **PER** and Environmental Document must briefly explain why.

3.2.4.3 Multimodal Alternatives

When consistent with the purpose and need, the alternatives analysis should consider multimodal alternatives. The Project Manager should review the MPO LRTP for any multimodal projects that are planned along the corridor for possible inclusion into the project. Multimodal alternatives can include non-motorized facilities (for pedestrians and bicyclists) to meet the purpose and need for the project. These alternatives must include the types of facilities that are planned in the Local Government Comprehensive Plans (LGCP). Discussion of multimodal alternatives should include cost factors (monetary and environmental) required to meet the local needs as stated in LRTP and/or LGCP.

3.2.4.4 Build Alternatives

The Build Alternatives are proposed to address the project's purpose and need. Build alternatives should seek to avoid or minimize impacts to the environment by considering issues, concerns, and opportunities identified during the Planning phase of the project.

In order to ensure meaningful evaluation of alternatives, **each** build alternative **must** have:

1. Logical termini and should be of sufficient length to address environmental matters and the purpose and need on a broad scope.

2. Independent utility, i.e., be able to function as designed and be a reasonable expenditure even if no additional transportation improvements in the area are made.

The Project Manager and project team may consider opportunities for developing hybrid alternatives that could incorporate TSM&O strategies and/or multimodal options with the build alternative to meet the purpose and need for the project. Considerations of TSM&O strategies in the build alternative requires the Project Manager to obtain input from the District TSM&O Program Engineer early on during the alternative development process.

Design detail of the Build Alternatives should be commensurate with the information needed to define and evaluate environmental impacts or define ROW. Each alternative must be explored at a sufficient level of detail to support a reasoned choice. All alternatives under consideration must be developed to a comparable level of detail so that their comparative merits may be evaluated.

3.2.4.4.1 Development of Build Alternatives

The number of Build Alternatives to be analyzed during the PD&E Study affects the project schedule and budget. The initial number of Build Alternatives to be analyzed in detail during the PD&E Study must be relative to the size and complexity of the project. As such, only viable or reasonable Build Alternatives should be evaluated in detail.

For complex projects, an evaluation of alternatives may start by high-level screening (fatal flaw analysis) of a broad number of improvements or concepts to eliminate unreasonable or nonviable alternatives from further detailed analysis.

A Type 2 CE or SEIR must evaluate at least one Build Alternative and a No-Action Alternative. The actual number of alternatives evaluated depends on factors such as complexity of the project, environmental issues/resources, results of planning/corridor studies, and input from stakeholders and the public.

An EA must evaluate at least one Build Alternative and a No-Action Alternative. The ***FHWA Technical Advisory T 6640.8A*** notes the purpose of the EA is to determine whether or not an EIS is required. The EA does not need to evaluate in detail all reasonable alternatives for the project, and may be prepared for one or more viable build alternatives. The EA should also include a discussion of any alternative considered but eliminated prior to preparation of the EA that documents the reasons for eliminating the alternative.

An EIS must evaluate reasonable alternatives or a reasonable range of alternatives in addition to a No-Action Alternative. The ***Forty Most Asked Questions Concerning CEQ's NEPA Regulations*** has defined reasonable to mean those technically and economically feasible alternatives that would satisfy the primary objectives of the project defined in the purpose and need.

Because some projects have a large number of alternatives, FDOT developed the Alternative Corridor Evaluation (ACE) process to help refine the scope and number of

alternatives in the Planning phase of the project development process. The ACE process is discussed in detail in [Part 1, Chapter 4, Project Development Process](#).

3.2.4.4.2 Alternatives Considered but Eliminated

The primary reason for eliminating an alternative from consideration is that it does not meet the project's purpose and need. Although the No-Action Alternative does not typically meet the purpose and need, it must be considered as a viable alternative throughout the study.

Project Managers are encouraged to use fatal flaw analysis early in the alternative development stage to eliminate unreasonable or unviable alternatives. Fatal flaw analysis determines if an individual alternative or a concept has one or more deficiencies that prevent it from being successfully implemented. Fatal flaw analysis is a high-level screening of alternatives based on project purpose and need, established goals and objectives, or environmental controversy based on impacts on natural, social, physical or cultural environment.

The *PER* and *Engineering Analysis Technical Memorandum* must include a section that discusses alternatives including TSM&O, which were considered for the project but eliminated from detailed study (during the Planning or PD&E phase). The section should discuss descriptions of each alternative considered in the evaluation process; the methodology used for eliminating alternatives including screening criteria used; data used in evaluation; agency and public input into the evaluation process; and at what point in the process (Planning or PD&E phase) the alternatives were eliminated. The Environmental Document must briefly summarize development of alternatives and decisions made (including the reasons for eliminating alternatives from detailed analysis) during alternatives evaluation process.

3.2.5 Engineering Considerations for Build Alternatives

The following section discusses important engineering considerations during the development of build alternatives.

3.2.5.1 Complete Streets

Development of Build Alternatives must consider the [FDOT Complete Streets Policy, Topic No. 000-625-017](#) and [Context Sensitive Solutions, Topic No. 000-650-002](#) early in the alternatives development process. The *Complete Streets Policy* requires a context-sensitive approach to project development by accommodating all transportation users and their relationship to safety, economy, mobility, and the environment. Consideration and integration of complete streets during the PD&E Study promotes the efficient development of a multimodal transportation system.

Complete streets must serve the transportation needs of users of all ages and abilities, including cyclists, pedestrians, motorists, transit riders, emergency responders, and freight handlers. Incorporation of complete streets into the project development process

requires coordination with local governments, MPOs, transportation agencies, and the public.

Understanding of community context (transportation network, land use, and local priority), potential users and needs are key inputs for developing build alternatives that are complete streets oriented. The Project Manager must evaluate these key inputs during data collection, existing conditions analysis, and the alternatives development steps of the engineering analysis.

There is no single design solution for complete streets because each street and its context and travel demand are unique. For example, a complete street in an urban setting is quite different from a complete street in a rural setting; however, both streets must be designed to meet the users' needs and the transportation objectives of safety, mobility and the environment. Incorporation of complete streets may necessitate modification of design standards to allow typical sections to accommodate non-motorized traffic or allow raised medians, adequate shoulders, narrow lanes, and traffic calming features. Such modifications must follow FDOT's Design Exceptions and Design Variations process.

3.2.5.2 Pedestrians and Bicycle Accommodation

In 2010, the U.S. Department of Transportation (USDOT) issued a policy on ***Bicycle and Pedestrian Accommodation Regulation and Recommendations*** to support the development of fully integrated active transportation networks. It states:

The DOT policy is to incorporate safe and convenient walking and bicycling facilities into transportation projects. Every transportation agency, including DOT, has the responsibility to improve conditions and opportunities for walking and bicycling and to integrate walking and bicycling into their transportation systems. Because of the numerous individual and community benefits that walking and bicycling provide — including health, safety, environmental, transportation, and quality of life — transportation agencies are encouraged to go beyond minimum standards to provide safe and convenient facilities for these modes.

The USDOT policy encouraged the State, local government, and public transportation agencies to:

1. Consider walking and cycling as equals with other transportation modes
2. Ensure that there are transportation choices for people of all ages and abilities
3. Go beyond minimum design standards

FDOT's ***Complete Streets Policy*** is consistent with the 2010 USDOT ***Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations*** and further specifies that facilities be context-appropriate, based on existing or planned land use. Additionally, ***Section 335.065, Florida Statutes (F.S.)***, requires full consideration of bicycle and pedestrian ways along state roads and transportation

facilities during planning and project development unless contrary to public safety, disproportionate cost or absence of need. Therefore, all Build Alternatives must consider pedestrian and bicycle accommodation.

Guidance on the design of pedestrian and bicycle facilities can be found in:

1. Chapter 2 - Design Geometrics and Criteria and Chapter 8 - Pedestrian, Bicycle, and Public Transit Facilities of [PPM, Volume 1, Topic No. 625-000-007](#)
2. ***American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities***
3. ***AASHTO Guide for the Development of Pedestrian Facilities***
4. [Florida Greenbook](#) (for off-system projects)

[PPM, Volume 1, Chapter 8, Topic No. 625-000-007](#) requires design of buffered bicycle lanes within one mile of an urban area and on curb and gutter facilities beyond one mile of an urban area for all new construction or reconstruction projects. Other bicycle facilities or accommodations include paved shoulders, wide outside lanes, and shared lane markings.

Pedestrian sidewalks in highly-developed urban areas and in the vicinity of schools may require additional width based on anticipated pedestrian volumes and context. When designing pedestrian facilities, the safe crossing needs of the pedestrian must be considered, such as providing median refuge, placing crosswalks perpendicular to the roadway or to match the intersection lines at skewed intersections, and minimizing pedestrian crossing length.

For interchange design, pedestrians and bicyclists accommodation on the arterial must be considered at the beginning of the planning process and during the PD&E phase. Ramp configurations, speeds, and overall complexity can create impractical and unsafe conditions for bicyclists and pedestrians if not carefully considered throughout the design process.

Where current pedestrian or bicycle facilities or indications of use are identified, the Bicycles and Pedestrians section of the Environmental Document should discuss the current and anticipated use of the facilities, the potential impacts of the affected alternatives, and proposed measures, if any, to avoid or reduce adverse impacts to the facility(ies) and its users. Where new facilities are proposed as a part of the proposed highway project, the Environmental Document should include sufficient information to explain the basis for providing the facilities (e.g., proposed bicycle facility is a link in the local plan or sidewalks will reduce project access impact to the community). Where the preferred alternative would sever an existing major route for non-motorized transportation traffic, the proposed project needs to provide a reasonable, alternative route or demonstrate that such a route exists. To the fullest extent possible, this needs to be described in the final Environmental Document according to the ***FHWA Technical Advisory T6640.8A***

3.2.5.3 Traffic Operations and Safety

Build alternatives should be evaluated to carry projected travel demand from a traffic operations perspective. Traffic analysis for build alternatives include both travel demand forecasting and capacity analysis to determine the number of through lanes, intersection control type, intersection configurations, need for auxiliary lanes, or access management. One of the primary objectives of traffic analysis is to determine if the Build Alternative will operate acceptably through the design year. Projects in urban areas require extensive traffic operational evaluations as compared to projects in rural areas because of recurring congestion and ROW constraints.

Safety analysis for build conditions should occur after evaluation of crash data to determine any existing safety deficiencies and appropriate corrective measures. Evaluation of existing safety can also include a Road Safety Audit (RSA), which is an examination of safety conditions of a road by an independent audit team. Safety analysis for build conditions should analyze potential hazardous elements on the proposed project conditions and draw inferences based on interactions of these elements and users. Development of Build Alternatives must correct existing safety deficiencies.

3.2.5.4 Express Lanes

Express Lanes can be implemented by converting existing non-tolled managed lanes, such as HOV lanes to tolled Express Lanes or by constructing new Express Lanes separated from general use lanes. Constructing new Express Lanes adds roadway capacity and therefore, should be analyzed as a Build Alternative.

Express Lanes are generally considered in congested urban areas with limited ROW and where the previous widening projects have not met travel demand. For this reason, the Express Lanes alternative must be evaluated for its ability to provide long-term mobility, managed capacity, travel time reliability, and travel options.

Statewide Express Lanes directive, [*Tolling for New and Existing Facilities on the State Highway System, Topic No. 525-030-020*](#), outlines FDOT's policy for capacity projects located on limited access facilities on the SHS. It requires Express Lanes as a TSM&O strategy for capacity improvements on existing limited access facilities on the SHS and does not apply to Florida's Turnpike facilities.

Implementation of the Express Lanes directive for PD&E projects on SHS facilities is as follows:

Interstate highway - All PD&E Studies evaluating additional capacity on the Interstate System must include a dynamically tolled alternative in the form of Express Lanes. PD&E Studies can evaluate the Express Lanes alternatives against the No-Action (No-Build) Alternative if the project is included in the MPO LRTP as an Express Lanes project, a managed lanes project, special use lanes, or if previously completed planning or corridor studies had recommended Express Lanes per ***Title 23 U.S.C. § 129, Title 23 U.S.C. § 166, and Title 23 U.S.C. § 301.***

Non-interstate limited access facilities - When adding capacity to an existing limited access facility on the SHS, a dynamically tolled alternative in the form of Express Lanes must be evaluated where deemed appropriate through a transportation planning process. Dynamic tolls are to be applied to the additional lanes only. The number of non-tolled lanes must remain the same as before the construction. PD&E Studies can evaluate the Express Lanes alternative as a Build Alternative, against the No-Action (No-Build) Alternative if the project is included in the MPO LRTP as an Express Lanes project or if previous planning/corridor studies had recommended Express Lanes.

Controlled access facilities - New capacity projects on non-limited access SHS facilities must at least consider managed lanes. These lanes may be priced or non-priced and combined with other TSM&O strategies such as Advanced Traffic Management Systems (ATMS), Emergency/Incident Management, Arterial Management and Work Zone Traffic Management. The PD&E Build Alternative can include TSM&O alternatives in the development of Build Alternatives.

Major bridges and tunnels - Projects on the SHS with new or replacement major bridges over waterways must consider tolling to pay fully or partially for the cost of the project. The PD&E alternatives analysis should document consideration of a tolling option for new or major bridge replacement projects over waterways. Typically, development of initial tolling concepts and the decision to consider tolling is made during the Planning phase. The initial tolling concepts may be refined during the PD&E phase as more data related to engineering, finance, and public factors are collected. Therefore, the Project Manager should coordinate with the Planning Office about the tolling decision and the scope of tolling analysis, if required during the PD&E phase.

Each Express Lanes project must develop a Concept of Operations (ConOps). ConOps describes the operation of the system being developed from the various stakeholder viewpoints. Development of ConOps requires input from the traffic operations engineer and the various stakeholders (e.g., users, maintenance, and management) on how the facility will operate. See *Express Lanes Handbook, Chapter 4* for more details about ConOps.

3.2.5.5 Access Management

Access management is a comprehensive approach to the management and regulation of driveways, medians, median openings, intersections, and freeway interchanges. The purpose of access management is to provide access from the SHS to abutting lands while limiting and separating traffic conflict points in order to increase safety and efficiency of the transportation system. It also ensures balance between accessibility and mobility while increasing the capacity of a roadway system. Access management analysis in the PD&E Study should evaluate and recommend appropriate locations for median openings and driveways, as applicable. The concept plans developed in the PD&E Study should show appropriate access management features. Changes in access management should be consistent with [Median Openings and Access Management Procedure, Topic Number 625-010-021](#). The Project Manager should coordinate with the District Access

Management Review Committee for any proposed deviations from the access management and median opening standards.

3.2.5.6 Roundabouts

Roundabout alternative(s) must be evaluated on new construction and reconstruction projects if a roundabout meets the criteria for an intersection design. Roundabout evaluation is also required for all projects that propose new signalization or require a change in an un-signalized intersection control. An evaluation is not required for minor operational improvements such as changes to signal phasing or for signal replacement projects where the primary purpose is to upgrade deficient equipment and installations. Roundabout designs must be consistent with the [Florida Intersection Design Guide](#) and approved by the State Roadway Design Engineer.

While roundabouts may provide a community enhancement, they are not to be constructed on state roads solely for this purpose. To construct a roundabout on the SHS, one of the following criteria must be met:

1. **Manual on Uniform Traffic Control Devices (MUTCD)** traffic signal warrants 1 or 2
2. Documented high frequency of severe crashes
3. Context Sensitive Solutions for the implementation of Complete Streets on a low speed facility

The 20-year design traffic shall be used for roundabout evaluation and design. Roundabouts are not warranted at intersections where the design year total traffic entering volume exceeds 25,000 AADT for a single-lane roundabout, or 45,000 AADT for a two-lane roundabout. Roundabouts are also not required for corridors with at least six travel lanes. See [PPM, Volume 1, Chapter 2, Topic No. 625-000-027](#) and the [Florida Intersection Design Guide](#) for roundabout evaluation and design requirements.

3.2.5.7 Interchanges on Interstate Highways

The approval of an Interchange Access Request (IAR) on Interstate highways may precede or occur concurrently with the PD&E Study. The IAR approval is a two-step process. The first step is the determination of engineering and operational acceptability of the request by satisfying and documenting the requirements of the **FHWA's Policy on Access to the Interstate System** and **FDOT's Procedure for New or Modified Interchanges**. The second step is the final approval by FHWA that occurs upon completion of the PD&E Study and verification that the design of the preferred **NEPA** alternative matches the design of the accepted IAR proposal.

If the project includes a new interchange or a modification to an existing interchange, the Project Manager must coordinate closely with the District's Interchange Review Coordinator (DIRC) to ensure that the alternative approved in the **Interchange**

Justification Report (IJR), Interchange Modification Report (IMR) or Interchange Operational Analysis Report (IOAR) is included as one of the PD&E Study alternatives.

If the recommended PD&E Study alternative is different from the approved interchange concept, the ***IJR, IMR, or IOAR*** must be re-evaluated to demonstrate that the recommended alternative meets the requirements of the IAR analysis procedure. The need and scope for the re-evaluation must be determined through consultation with the DIRC, Statewide Interchange Review Coordinator (SIRC), and FHWA. See the [Interchange Access Request User's Guide](#) for IAR re-evaluation guidance.

3.2.5.8 Intelligent Transportation Systems

If a project uses federal funds and involves ITS technologies or a system of technologies, the requirements specified in the [FDOT Guidelines for the Implementation of Part 940 in Florida, Topic No. 750-040-003](#) must be followed. The guidelines ensure an ITS project's compliance with **23 CFR § 940.11** and FDOT's requirements. Authorization of federal funds for construction or implementation of the project cannot proceed until compliance with **23 CFR § 940.11** is demonstrated.

23 CFR § 940.11 requires that all ITS projects funded with highway trust funds be based on systems engineering analysis and have a project level ITS architecture that is coordinated with the development of the regional ITS architecture before advancing to final design. The Project Manager must prepare a high-level project ConOps and a ***Preliminary System Engineering Management Plan (PSEMP)*** to document the results of the system engineering analysis. The ***PSEMP*** is a technical document that defines the project's system engineering process for ITS deployments from concept to system operations in Florida consistent with **23 CFR Part 940**. ***PSEMP*** specifies systems engineering activities and what must be built to satisfy stakeholder needs. The Project Manager should coordinate with the District TSM&O Engineer or program manager and the County Engineer when developing the SEMP. Example of project alternatives that may require a ***PSEMP*** are Express Lanes alternatives, transit alternatives, and the majority of TSM&O alternatives, because they involve ITS technologies and may be funded by federal funds.

3.2.5.9 Stormwater Management

A PD&E Study must consider how management of stormwater from the project area will meet quality, rate, and quantity requirements of FDOT, Water Management Districts (WMDs) and the Florida Department of Environmental Protection (FDEP).

The [Drainage Manual, Topic No. 625-040-002](#) contains the drainage design standards for FDOT projects.

After the project's stormwater management requirements are determined and before stormwater management design decisions are planned, the Project Manager should as appropriate convene an Environmental Look Around (ELA) meeting with regional

stakeholders to explore watershed-wide stormwater needs and alternative permitting approaches. The ELA should explore the following types of opportunities:

1. WMD / FDEP issues: wetland rehydration, water supply needs, minimum flows and levels, flooding, Total Maximum Daily Load (TMDL), acquisition of fill from FDEP/WMD lands
2. City / County issues: stormwater re-use, flooding, discharge to golf courses or parks, National Pollutant Discharge Elimination System (NPDES) needs, and water supply needs
3. FDOT project permitting: regional treatment, stormwater re-use, and joint use facilities

Potential participants from FDOT include the Design Engineer, Project Manager, Drainage Engineer, Permit Coordinator, and NPDES Coordinator. Potential representatives from the City/County include the Public Works Director, City/County Engineer, and Stormwater Engineer. Other participants would include WMD / FDEP staff.

Areas of potential cooperation shall be documented as appropriate in the **PER** and **Pond Siting Report** or **Conceptual Drainage Design Report** for future follow up as the project development process moves forward. Any stormwater management commitments made during ELA meeting must be documented in the Environmental Document and follow the process outlined in [Part 2, Chapter 22, Commitments](#).

3.2.5.9.1 Drainage and Landscaping

The Project Manager should meet with the District Drainage Engineer and Landscape Architect to explore opportunities for integrating pond features with existing and proposed landscaping.

3.2.5.9.2 Water Quality Impact Evaluation

A **Water Quality Impact Evaluation (WQIE) Checklist, Form No. 650-050-37** must be prepared for each Type 2 CE, EA, EIS or SEIR project. The WQIE focuses on surface water and ground water. The surface water evaluation should identify and document water quality issues to produce designs that are in compliance with the goals of the **Clean Water Act (CWA)**, as amended. The objective of the **CWA** is to provide guidance for developing comprehensive solutions to prevent, reduce, and eliminate pollution of waters of the United States. The ground water evaluation, in coordination with the Environmental Protection Agency (EPA) and other regulatory agencies, should be consistent with the **Safe Drinking Water Act (SDWA)**, as amended. The **SDWA** requires ground water quality to be maintained to protect human health, the environment, and ground water resources. WQIE requirements are discussed in detail in [Part 2, Chapter 11, Water Quality and Water Quantity](#).

3.2.5.9.3 Hydrology and Hydraulic Evaluation

Analysis of project alternatives includes hydrology and hydraulic evaluation to determine preliminary location, type, and size of major drainage crossings that may impact floodplains and floodways. Protection of floodplains and floodways is required by ***Executive Order (EO) 11988, Floodplain Management. USDOT Order 5650.2, Floodplain Management and Protection*** and ***23 CFR Part 650A***. The intent of these directives is to avoid or minimize highway encroachments within the 100-year (base) floodplains, where practicable, and to avoid supporting land use development which is incompatible with floodplain values.

Hydraulics evaluation involves field observations to determine or confirm needed improvements, analysis of existing and proposed drainage basins, design of cross drains and culverts, design of outfall structures, determination of special erosion control and flood control features, among other things. Hydraulics evaluation also determines and corrects roadway design profile issues that may cause roadway flooding or overtopping.

The results of hydrology and hydraulic evaluation are summarized in the ***PER*** and the Environmental Document and detailed in the ***Location Hydraulics Report (LHR)***. See [Part 2, Chapter 13, Floodplains](#) for guidance on how to prepare a ***LHR***.

3.2.5.10 Utilities and Railroads

The Project Manager should coordinate with the District Utility Engineer and District Railroad Coordinator whenever a project involves utilities and/or rail systems on the project. The goal is to identify potential existing or future conflicts with the project. Coordination requirements for potential utilities and railroad conflicts are outlined in [Part 2, Chapter 21, Utilities and Railroads](#).

3.2.5.11 Survey and Mapping

Development of the horizontal and vertical alignment of the build alternative requires topographic survey data. The Project Manager should obtain existing information on survey control points, benchmarks, and control data (e.g., vertical and horizontal datum, coordinate system). The scale of surveying and mapping required for a PD&E Study depends on the project context, project complexity, and adjacent land use intensity. The scale of surveying and mapping also depends on the scope of the preliminary engineering. Engineering analysis for build alternatives may require the following:

1. Existing aerial photographs and imagery
2. Previous topographic surveys and reports
3. Previous roadway corridor mapping
4. U.S. Geological Survey (USGS) topographic maps
5. ROW maps, including supporting survey and title work

6. County maps showing adjacent parcels, plats, and side streets
7. Utility locates
8. Additional topographic surveys, Digital Terrain Models (DTM) and reports

Refer to the [Surveying and Mapping Procedure, Topic No. 550-030-101](#), [Surveying and Mapping Handbook](#), and [Right-of-Way Mapping Handbook](#) for standards and guidance for conducting surveying and mapping.

3.2.5.12 Geotechnical Investigation

Soil exploration during the PD&E phase is part of the analysis that supports location and design of project alternatives. A subsurface investigation is required at the site of new structures, roadway construction, widening, trails, and rehabilitation locations as directed by the District Geotechnical Engineer or project scope. The scale of geotechnical investigation depends on the level of design analysis for the PD&E project and the type of soils involved. Geotechnical and subsurface investigation during PD&E involves:

1. Reviewing project requirements such as project location, alignment, structure location, structure loads, pier locations, and cut/fill area locations
2. Performing field reconnaissance of the site and existing structures to determine conditions that may affect development and construction of the project
3. Reviewing or obtaining ground survey data, aerial photography, geological information, U.S. Department of Agriculture (USDA) soil data, USGS topo maps, U.S Coast and Geodetic Survey (USCGS) maps
4. Planning and conducting field investigation and laboratory testing
5. Preparing a preliminary geotechnical report summarizing available data and providing recommendation
6. Identifying potential needs for the design investigation to address construction requirements and anticipate problems

Geotechnical and subsurface investigations must be conducted by a geotechnical engineer in accordance with geotechnical standards, policies, and procedures (refer to the [Soil and Foundation Handbook](#)).

Geotechnical and subsurface investigations may reveal evidence of contamination or solid waste/land-filling activities. This information is useful to the environmental analyst tasked to perform contamination assessment work on the same project. When these investigations reveal contamination issues, the project geotechnical engineer should inform the Project Manager and the District Contamination Impacts Coordinator (DCIC).

3.2.5.13 Structures and Bridges

The Project Manager should include structures engineers when developing project alternatives that may require bridges, retaining walls, tunnels, culverts, or other structural elements.

3.2.5.13.1 Development of Bridge Alternatives

When the project involves a bridge or box culvert, several important factors guide the development of bridge alternatives. For existing bridges, the age, sufficiency rating, typical section, repair costs, vertical and horizontal clearance, historic significance, maintenance of traffic plan, and availability of a detour route determine if the bridge needs to be repaired or replaced.

For new bridges, the proposed typical section, navigation requirements, vertical and horizontal clearance requirements, location hydraulic evaluation and scour analysis, geotechnical data, ship/barge traffic, security requirements, aesthetics requirements and bridge deck drainage considerations will guide the selection of the superstructure, substructure, and foundations.

For projects involving replacement of a bridge that is considered historic, or has substantial community value, the study must include a rehabilitation or repair alternative. If the bridge has an existing wildlife crossing feature, coordination with the District Environmental Manager and the resource agencies is required to ensure appropriate bridge design alternatives are considered.

The purpose of the bridge analysis is to determine the general attributes for the bridge alternative(s). The bridge analysis must provide conceptual guidance for the bridge designer who will develop specific attributes of the bridge (such as bridge design and structure type) in the **Bridge Development Report (BDR)**. The scope of services for the PD&E Study must specify the level of structural analysis and development for each anticipated bridge structure in the study. The District Structures Design Engineer must concur with the findings of the bridge analysis. See [PPM, Volume 1 Chapter 26, Bridge Project Development, Topic No. 625-000-007](#) for the contents of the bridge analysis.

3.2.5.13.2 Braided Underpass Structures

Design of interchange concepts and ramp configurations must consider the three-dimensional relationship of roadway and bridge components. Such components can include the mainline, auxiliary lanes, ramps, Collector-Distributor (C-D) roads, braided (grade-separated) ramps, ramp terminal intersections, and ramp junctions. When an interchange concept involves braided underpass structures, the Project Manager must coordinate with the District Structures Design Engineer to ensure vertical and horizontal geometry of the bridges can be structurally designed. Braided underpass structures usually carry primary roadway traffic (e.g. mainline or C-D road traffic) over secondary roadway traffic (e.g. ramp traffic). They typically consist of single-span bridges where the beams or flat slab superstructure component is not oriented parallel to traffic of the overlying roadway and a portion of the superstructure and substructure extends beyond

the limits of the traffic barriers (Refer to the [Structures Manual, Topic No. 625-020-018](#) for details).

3.2.5.13.3 Bridge Hydraulic Analysis

The drainage engineer must prepare a *LHR* for bridges over water in accordance with the procedures outlined in the [Drainage Manual, Topic No. 625-040-002](#). Depending on the level of engineering analysis during the PD&E phase, a *Bridge Hydraulic Report (BHR)* may be prepared to determine the hydraulic length of the bridge.

The District Drainage Engineer should review tidal projects to determine if coastal hydraulics is a meaningful consideration in a roadway or bridge project's design. When coastal hydraulics is essential to the project, a coastal engineer must assist in determining the level of bridge analysis effort during scoping of the PD&E phase. Conditions that typically require attention by a coastal engineer during the final Design phase are as follows:

1. Hydraulic analysis of interconnected inlet systems
2. Analysis of inlet or channel instability, either vertically or horizontally
3. Determination of design wave parameters
4. Prediction of over wash and channel cutting
5. Design of countermeasures for inlet instability, wave attack or channel cutting
6. Prediction of sediment transport or design of countermeasures to control sediment transport
7. Assessment of wave loading on bridges and other structures

3.2.5.13.4 Perimeter Walls

The request for consideration of a perimeter wall must come from the local municipality in which the project is located or from a group of directly affected residences/property owners adjacent to the project. These requests should be documented in the project file as early in the project's life as possible (i.e., during the PD&E phase of the project). If a request for perimeter wall consideration has been made, it is the responsibility of the Environmental Office Project Manager to forward the request to the appropriate design staff/project manager to ensure complete follow through on the request.

Perimeter walls are not intended to provide any noise reduction, nor are they intended to serve as a substitute for noise barriers at locations where a noise analysis has determined that the construction of noise barriers is not feasible and cost reasonable. Perimeter walls are also not intended to be used as mitigation for environmental impacts. Perimeter walls will not be considered as a retrofit for existing conditions, and shall only be given consideration when a minimum of one of the following conditions are met:

1. Expanding the capacity of an existing highway by adding lanes to the outside of the existing travel lanes;
2. The significant alteration of the vertical or horizontal alignment of an existing highway;
3. A new highway on a new alignment;
4. The removal of existing extensive vegetation or other visual barrier within the FDOT ROW;
5. Exceptions to any of the items listed above will be considered on a case by case basis by the Assistant Secretary of Engineering and Operations.

If at least one of the above conditions is met, further consideration for the construction of a perimeter wall can proceed. The following requirements must also be met:

1. Building permits for the structures on the adjacent land that would realize a benefit from the perimeter wall must be issued prior to the approval of the project's environmental documentation.
2. Traffic on the project roadway must be visible from the adjacent property.
3. All structures for which the perimeter wall is being considered must be immediately adjacent to the FDOT's ROW and within 150 feet of the edge of the nearest travel lane. Additionally, the perimeter wall must be constructible within the FDOT's ROW or an easement must be granted to facilitate construction, if necessary.
4. The perimeter wall must be continuous, with no openings to accommodate driveways or other access requirements.
5. The cost of the perimeter wall shall not exceed \$25,000 per adjacent land owner. A unit cost equal to 2/3 that of a noise wall (currently \$30/ft²) shall be used for estimating and programming purposes.
6. The height of a perimeter wall is limited to eight feet.
7. A simple majority of the adjacent property owners must support the construction of the perimeter wall.

[PPM Volume 1, Chapter 32 Noise Walls and Perimeter Walls](#) provides additional details on the requirements for consideration of perimeter walls.

3.2.5.14 Transportation Management Plan

Conceptual Transportation Management Plan (TMP) should be prepared during PD&E and will evolve as the project progresses toward final design and construction. Conceptual TMP must include traffic control strategies, and may also include additional work zone management strategies based upon the expected work zone impacts of a project. For additional guidance related to the TMP development process, see the [PPM, Volume 1, Chapter 10](#).

3.2.5.15 Constructability

The evaluation of build alternatives requires review of constructability and ability to maintain traffic during construction to uncover issues that may prevent implementation. The Project Manager should include Roadway Design Office, Structures Office and Construction Office in the reviews of concept plans prepared for the Build Alternatives.

3.2.5.16 Construction Impacts

Impacts resulting from the actual construction of the proposed project should be discussed. A listing of general areas that may be discussed is provided below. This list is not intended to be all inclusive, as some impacts may be unknown and other activities are governed by specifications and law.

1. Air quality impacts related to open burning and dust control, see [Part 2, Chapter 19, Air Quality](#)
2. Noise and vibration impacts related to construction activities, see [Part 2, Chapter 18, Highway Traffic Noise](#)
3. Water quality protection related to erosion control, sedimentation, and turbidity reduction, see [Part 2, Chapter 11, Water Quality and Water Quantity](#)
4. Species and habitat protection related to construction activities, see [Part 2, Chapter 16, Protected Species and Habitat](#)
5. Maintenance of traffic and detour routing
6. Maintenance of access to businesses and residences
7. Safety considerations
8. Public involvement and community interaction to ease disruptive effects
9. Disposal of construction materials
10. Stockpiling of construction materials and fill
11. Use of borrow areas
12. Mitigation measures proposed to reduce dredge and fill-related impacts

The **PER** and Environmental Document must contain a section that discusses construction impacts of the project. The discussion must include impacts which may occur, whether they are disruptive or beneficial, and measures, where feasible, to reduce the amount disruption which could result. Generally, FDOT has standard construction practices which take into consideration many of the direct impacts of construction, and provides for measures to reduce or eliminate their effects. Many of these measures are found in the [**Standard Specifications for Road and Bridge Construction**](#).

There are occasions where FDOT may commit to implement specific measures, features, or activities. Such measures will become commitments by FDOT and, as such, must be incorporated in the Commitments section of the **PER** and Environmental Document consistent with [**Part 2, Chapter 22, Commitments**](#).

3.2.6 Environmental Considerations for Build Alternatives

Development of Build Alternatives must consider the environment within which the project will be built and reflect the environmental constraints identified in the project area. Therefore, the development of the Build Alternatives should begin with overlaying environmental data collected during field review on the base map. Additional information is contained in the **Programming Screen Summary Report** that is completed for projects qualified for EDTM screening. For environmental considerations refer to **Part 2** of this [**PD&E Manual**](#).

3.2.7 Comparative Alternatives Evaluation

Each project presents a unique set of challenges and the Project Manager must carefully provide a balance between the environmental impacts, the engineering analysis and the project costs, along with public input when selecting a recommended alternative. Analysis requires a comparative evaluation to objectively assess project alternatives at the same level of detail in a matrix format. The objective of an alternatives evaluation matrix is to compare and contrast the performance of each alternative in meeting the evaluation criteria, and to quantify its impacts to the natural, social, cultural and physical environment. The comparative alternative evaluation must include the No-Action Alternative (No-Build Alternative).

A number of metrics should be used that help the general public, elected officials and agencies understand the advantages and disadvantages associated with each alternative.

The following is a list of suggested items to be compared in a matrix format. The list is not meant to be comprehensive, and it should be tailored to each project.

Project Cost - The project cost should include costs associated with:

1. Design Phase
2. ROW Acquisition (cost of acquiring ROW, relocation cost and business damages, if any)

3. Construction (roadway and bridge) - including TMP
4. Construction Engineering and Inspection (CEI)
5. Wetland, Habitat and Species Mitigation
6. Utility Relocation Cost
7. Operations and Maintenance Cost (for transit projects)

Social and Economic Environment

1. Number of parcels (business and residential)
2. Number of relocations (business and residential)
3. Churches, Synagogues, Mosques, Worship centers
4. Cemeteries
5. Schools
6. Hospitals, Medical Centers

Cultural Environment

1. Section 4(f)
2. Historic Sites and Districts
3. Archaeological Sites
4. Recreational Areas

Natural Environment

1. Wetlands
2. Protected Species and Habitat
3. Farmland
4. Floodplains

Physical Environment

1. Contamination/Hazardous Waste Sites
2. Noise Receptors

3. Water Quality and Water Quantity
4. Air Quality
5. Utilities
6. Bicycles and Pedestrians

Traffic Operations and Safety

1. LOS
2. Throughput
3. Delay
4. Travel Time
5. Safety
6. Vehicles Hours Traveled/Vehicle Miles Traveled (VMT)
7. Travel Time Reliability

An evaluation matrix for multimodal projects should include multimodal measures such as increased ridership, connectivity and accessibility, reduction of modal conflicts, and change in VMT.

For freight-focused projects, the comparative evaluation matrix should include freight-related performance measures. Such measures can include diversion estimates from through town, estimated travel-time savings between port and warehouse locations, travel time improvements for port access, travel-time differentials, and reduction in the number of truck trips.

3.2.8 Value Engineering

In accordance with the [Value Engineering Program, Topic No. 625-030-002](#), all projects with an estimated cost of \$25,000,000 or more (including all phases of the project), shall have a minimum of one **Value Engineering (VE) Study**, performed during the development of the project prior to the completion of final design. Projects that have a potential for value improvements and do not meet the \$25,000,000 criteria may also be studied.

The Director of Transportation Development may waive the requirement for VE Studies, See [Value Engineering Program, Topic No. 625-030-002](#). Projects delivered with the Design Build (DB) method of construction are not required by federal regulation to have a VE Study; therefore, the requirement may be waived regardless of the dollar amount.

A VE Study can be conducted either during PD&E or during Preliminary Engineering (PE) Design. If the VE Study is conducted during the PD&E phase, it must occur after alternatives analysis is complete and before the Public Hearing. In addition, all VE issues/recommendations should be resolved before scheduling a Public Hearing. The Project Manager should coordinate scheduling of the VE study with the District Value Engineer and make sure that the draft Environmental Document, **PER**, Summary of Public Involvement, and other technical documents are available for review by the VE team. Recommendations from the VE Study must be incorporated in the comparative alternatives evaluation and documented in the **PER** and the Environmental Document.

3.2.9 Recommended Alternative

The identification of the recommended alternative is based on the results of the comparative alternatives evaluation. The District recommended alternative becomes the preferred alternative subsequent to public availability and a Public Hearing, if applicable, and if no substantial controversy or issues arise through the public and agency comment period. Once approved by OEM, the District must identify the preferred alternative in the Environmental Document and **PER**, and discuss the basis for its selection. This should be documented in the Preferred Alternative section of the Environmental Document.

OEM will not accept the identification of a preferred alternative until completion of sufficient scoping and analysis to support the identification. The preferred alternative must be identified in the final Environmental Document and must be approved by OEM.

Coordination to determine the preferred alternative may occur through various mechanisms, including verbal communication, a letter, or identification in the Environmental Document. The coordination must be documented in the **PER** and Environmental Document and maintained in the project file.

Once an alternative is recommended for approval, the **PER** must be updated to describe design details associated with the recommended alternative. The description of the recommended alternative should be of sufficient detail to enable the project to be designed and constructed. The design details for the recommended alternative must include horizontal and vertical alignments, typical sections, conceptual ROW limits, and intersection/interchange concepts. Final design of these features occurs during the Design phase, in accordance with the **PPM**.

The following are elements of the recommended alternative that require detailed discussion, if applicable.

Typical Section(s)

Discuss the proposed typical sections and include a **Typical Section Package** finalized in accordance with [PPM, Volume 1, Chapter 16, Topic No. 625-000-007](#) (pavement design will not be included at this stage). A copy of the approved **Typical Section Package** should be included in the **PER** for Type 2 CEs, EAs with Finding of No Significant Impact (FONSI), EISs, and SEIRs.

Project Traffic Volumes

Reference the ***Project Traffic Analysis Report***, if a separate report was produced. Otherwise, summarize the traffic projections for analysis years, traffic factors and any level of service or other relevant traffic performance measures developed from the analysis.

Horizontal and Vertical Geometry

Include preliminary concept plans showing the horizontal and vertical geometry of the project.

Intersection/Interchange Concepts and Signal Analysis

Include concepts plans showing proposed intersections and/or interchange configurations. Refer to either the ***Project Traffic Analysis Report*** for signal timing analysis or include signal analysis in the Appendix.

Bridge Analysis

Include a proposed typical section for all bridges on the project. Include the proposed superstructure and substructure for each bridge and the breakdown of cost.

Access Management

Discuss the existing access management classification(s) and any change(s) to that classification proposed by the recommended alternative. Discuss other access point changes such as medians and driveways and show the proposed changes on the concept plans. Prepare a conceptual access management plan to document access management issues and preliminary design decisions and actions reached during the PD&E phase.

Variations and Exceptions

Discuss any design controls and criteria that will need a design variation or design exception. Include any approved variations or exceptions, if received.

Right of Way

Discuss the number of parcels, the number of relocations and the total cost estimate for the acquisition of those parcels. If a ***Conceptual Stage Relocation Plan (CSRP)*** has been developed for the project, include a reference to the plan and its conclusions. Details regarding costs for individual parcels must not be included in this discussion or elsewhere in the report.

Utilities

Include a list of all the UAOs together with the contact information for each within the recommended alternative. Include a cost estimate for utility relocations.

Transportation Management Plan

Discuss or detail preliminary TMP that will handle all phases of construction for the recommended alternative.

Bicycle and Pedestrian Accommodations

Discuss multimodal accommodation (bicycles, pedestrians, transit), Complete Streets and Context Sensitive design solutions applied to the alternative.

Preliminary Drainage Analysis

Discuss the type of drainage system(s) to be used for the recommended alternative. A discussion of the number and type of stormwater management systems should also be included.

Floodplain Analysis

Discuss impacts that occur to floodplains. This discussion should include whether the impacts will be parallel or perpendicular to the floodplain.

Special Features

Discuss any features that are not commonly associated with a transportation project. Examples could include any features included to protect or minimize impacts to the environment.

Cost Estimates

Include a table summarizing project costs consistent with the Long Range Estimate (LRE). Use FDOT's LRE System for construction costs, and ROW estimates for ROW costs. Design and CEI costs may be developed based on a fixed percentage of construction cost. For a project with wetland impacts, include the cost of wetland mitigation. For a project with utility impacts, include the costs of utility relocation both directly and indirectly to FDOT.

Construction Impacts

Discuss all direct impacts resulting from the actual construction of the proposed project.

3.2.10 Documentation

This section provides guidance on documenting alternatives analysis in the Environmental Document and *PER*. A Florida registered professional engineer must sign and seal the engineering analysis performed to support PD&E Studies in accordance with *Chapter 471, Florida Statutes*.

3.2.10.1 Environmental Document

The Environmental Document must discuss impacts on the environment from the recommended/preferred alternative and other alternatives in a comparative form. The comparative alternative evaluation must provide a clear basis for the decision to select the preferred alternative. The alternatives section of the Environmental Document must address the following in accordance with **40 CFR § 1502.14**:

1. Rigorously explore and objectively evaluate all reasonable alternatives (for EISs), and, for alternatives which are being eliminated from detailed study, briefly discuss the reasons for their elimination.
2. Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
3. For EISs only, include reasonable alternatives not within the jurisdiction of the Lead Agency.
4. Include the No-Action Alternative.
5. Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft document and identify such alternative in the final document unless another law prohibits the expression of such a preference.
6. Include appropriate mitigation opportunities and measures not already included as a part of the proposed action or the alternatives proposed.

The location of alternatives documentation differs depending on the type of Environmental Document:

1. **Type 2 CE** - If more than one alternative is analyzed, alternatives information is included in Section 1.b. (Proposed Improvements) of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**.
2. **EA** - Alternatives information is included in the section titled Alternatives.
3. **EIS** - Alternatives information is included in the section titled Alternatives.
4. **SEIR** - Alternatives information is included in the Engineering Analysis section of the SEIR.

The alternatives section for EAs and EISs should be divided into the following subsections, as applicable:

1. Alternatives Development
2. Alternatives Considered but Eliminated
3. Alternatives Considered for Additional Study
4. Comparative Alternatives Evaluation

5. Recommended/Preferred Alternative

Alternatives Development - Summarize any Planning phase alternative corridor reports, screening reports, and results of the ACE process as applicable. Provide a brief description of the original alternatives that were considered and the methodology used for evaluation, while referencing technical documents such as the *PER* and *Project Traffic Analysis Report, Alternative Corridor Evaluation Report (ACER)*, for detailed information. Discuss public involvement activity as related to alternatives development.

Alternatives Considered but Eliminated - Discuss alternatives considered but eliminated from detailed analysis (include alternatives considered and eliminated during planning). Clarify why the alternatives were eliminated, what criteria were used to eliminate them, at what point in the process the alternatives were removed, and who was involved in establishing the criteria.

Alternatives Considered for Additional Study - Identify the alternatives studied in detail during the PD&E Study and include a concise discussion of how and why they were selected. Describe each alternative in sufficient detail to support decision-making. Provide a clear understanding of each alternative's termini, location, costs, and major design features (i.e., number of lanes, ROW requirements, median widths, access control). See [Section 3.2.5](#) for information to consider for each Build Alternative. Present a summary of the environmental impacts of each alternative based on the information and analysis presented in the Environmental Analysis section of the Environmental Document. The information should provide a clear basis for decision-making.

Comparative Alternative Evaluation - Describe the alternatives evaluation methodology used to objectively compare all alternatives. Present comparative evaluation results (qualitative and quantitative) in a matrix form. Information in the matrix must be consistent with the Environmental Document and applicable technical reports. Describe the rationale and the factors used in the ranking of the alternatives.

Recommended/Preferred Alternative - Describe the alternative which the District is recommending to OEM for Location and Design Concept Approval (LDCA). The preferred alternative should be described in sufficient detail so the reader can understand the decision.

Below is an example of the discussion generally found in this section.

As a result of scoping, environmental analysis, the public hearing, and interagency coordination, the alternative identified for LDCA is (alternative name), which is (alternative description) (cite location of alternative specific details and typical sections).

For an EA or DEIS, this should be titled Recommended Alternative when the District has selected the recommended alternative. Once approved by OEM, the District must retitle the Recommended Alternative section as Preferred Alternative in the final Environmental Document [Final Environmental Impact Statement (FEIS) or FONSI].

The FEIS must identify the preferred alternative and should discuss the basis for its selection [See **23 CFR § 771.125(a)(1)**].

3.2.10.2 Preliminary Engineering Report

Documentation of engineering analysis of a PD&E Study should include at the following elements at a minimum:

1. Cover Page
 - a. The **PER** must use the **Technical Report Cover Page, Form No. 650-050-38** as the cover sheet of the report. A sample **PER** cover page is provided in [Figure 3-2](#). The cover page of the **PER** prepared under the authority granted by the **NEPA** Assignment Memorandum of Understanding (MOU) and transmittal letters associated with information packages should include the following statement.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

2. Project Summary
 - a. Project Description - Include a brief description of the project including location, length of project, number of interchanges and bridges and/or major features.
 - b. Purpose and Need - Include the purpose and need for the project. Must be consistent with purpose and need described in the Environmental Document.
 - c. Commitments - Include a list of all engineering related commitments that will be included in the Environmental Document.
 - d. Description of Recommended Alternative - Include a brief description of the recommended alternative(s).
3. Existing Conditions - Briefly discuss existing roadway conditions, structure conditions and the environmental characteristics. Include discussion of typical section, ROW, roadway classification, vertical and horizontal alignment, pedestrian and bicycle facilities, transit facilities, drainage, crash data, utilities, design, posted speed and traffic characteristics.
4. Design Controls and Criteria - List design controls and criteria used to develop alternatives.

5. Alternatives Analysis - Discuss development of alternatives. Discuss evaluation and elimination of alternatives. Include the No-Action (No-Build) Alternative, TSM&O Alternative and Build Alternative(s). Include a comparative alternatives evaluation with assumptions made during the development of the evaluation matrix. Incorporate by reference the results of the environmental technical analyses to reduce repetition.
6. Public Involvement/Project Coordination - Document all public meetings and hearing(s) held for the project. Include coordination with Elected/ Appointed officials, MPO/County/City and citizens as well as resource agencies.
7. Recommended Alternative(s) - Discuss major design features such as typical sections, horizontal and vertical geometry, access management, variation and exceptions, utilities, preliminary drainage, structures, intersection and interchange concepts, drainage and stormwater treatment and facilities.

3.3 REFERENCES

AASHTO, August, 2007. Practitioner's Handbook. Defining the Purpose and Need and Determining the Range of Alternatives for Transportation Projects

CEQ, 1981. Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations. <https://energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>

FAA, Notice Criteria Tool.

<https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm>

FAA, 2005. Wildlife Hazard Management at Airports

FHWA, 1987. FHWA Technical Advisory. T6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <https://www.environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA, 2010. FHWA Order 6640.1A. FHWA Policy on Permissible Project Related Activities during the NEPA Process. <https://www.fhwa.dot.gov/legsregs/directives/orders/66401a.cfm>

FHWA, 2010. Integrating Freight into NEPA Analysis. <http://www.ops.fhwa.dot.gov/publications/fhwahop10033/sec4.htm>

FHWA, 2011. Guidance on Using Corridor and Subarea Planning to Inform NEPA. https://www.environment.fhwa.dot.gov/integ/corridor_nepa_guidance.pdf

FHWA, 2012. Guidance on Section 129 General Tolling Program, Federal Tolling Programs under the Moving Ahead for Progress in the 21st Century. <https://www.fhwa.dot.gov/map21/guidance/guidetoll.cfm>

FHWA, NEPA and Transportation Decision Making, Development and Evaluation of Alternatives. <https://www.environment.fhwa.dot.gov/projdev/tdmalts.asp>

FHWA, 2017. Policy on Access to the Interstate System. <https://www.fhwa.dot.gov/design/interstate/170522.cfm>

Memorandum of Agreement 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, December 14, 2016. <http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Moving Ahead for Progress in the 21st Century (MAP-21), Section 1310

Title 23 CFR Part 450. Planning Assistance and Standards. <https://www.ecfr.gov/cgi-bin/text-idx?SID=41629bc4699d654b4164d357da2329e0&mc=true&node=pt23.1.450&rgn=div5>

Title 23 CFR Part 771. Environmental Impact and Related Procedures. <https://www.ecfr.gov/cgi-bin/text-idx?SID=41629bc4699d654b4164d357da2329e0&mc=true&node=pt23.1.771&rgn=div5>

Title 40 CFR Part 230. Guidelines for Specification of Disposal Sites for Dredged or Fill Material. <https://www.ecfr.gov/cgi-bin/text-idx?SID=41629bc4699d654b4164d357da2329e0&mc=true&node=pt40.27.230&rgn=div5>

Title 40 CFR §§1500-1508. Council on Environmental Quality, Executive Office of the President. Regulations For Implementing The Procedural Provisions Of The National Environmental Policy Act. <https://www.ecfr.gov/cgi-bin/text-idx?SID=41629bc4699d654b4164d357da2329e0&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

Title 23 U.S.C § 166 (b). HOV Facilities, Exemption. <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title23/pdf/USCODE-2010-title23-chap1-sec166.pdf>

3.4 FORMS

Technical Report Cover Page, Form No. 650-050-38

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

Water Quality Impact Evaluation Checklist, Form No. 650-050-37

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

3.5 HISTORY

1/12/2000, 10/16/2013, 8/25/2016

Engineering analyses, design concepts, and accompanying reports must be prepared consistently with the latest edition of the following documents:

1. [*Plans Preparation Manual \(PPM\), Volume 1, Topic No. 625-000-007*](#)
2. [*Plans Preparation Manual \(PPM\), Volume 2, Topic No. 625-000-008*](#)
3. [*Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways \(Florida Greenbook\), Topic No. 625-000-015*](#)
4. [*Structures Manual, Topic No. 625-020-018*](#)
5. [*Median Opening and Access Management Decision Process, Topic No. 625-010-021*](#)
6. [*Manual on Uniform Traffic Studies \(MUTS\), Topic No. 750-020-007*](#)
7. [*Drainage Manual, Topic No. 625-040-002*](#)
8. [*Structures Manual, Topic No. 625-020-018*](#)
9. [*Utility Accommodation Manual, Topic No. 710-020-001*](#)
10. [*CADD Manual, Topic No. 625-050-001*](#)
11. [*Design Standards, Topic No. 625-010-003*](#)
12. [*Context Sensitive Solutions, Topic No. 000-650-002*](#)
13. [*Complete Streets, Topic No. 000-625-017*](#)
14. [*Americans with Disabilities \(ADA\) Requirements for Access to Department Facilities, Topic No. 625-020-15*](#)
15. [*Transit Corridor Program, Topic No. 725-030-003*](#)
16. [*FDOT Right of Way Manual, Topic No. 575-000-000*](#)
17. [*FDOT Standard Specifications for Road and Bridge Construction*](#)
18. [*Project Traffic Forecasting, Procedure No. 525-030-120*](#)
19. [*FDOT Quality/Level of Service Handbook*](#)

Figure 3-1 Manuals, Design Standards, and Procedures to Establish Project Development Design Controls and Criteria

20. [Highway Beautification Policy Topic 000-650-011](#)
21. [FDOT Traffic Engineering Manual \(TEM\), Topic No. 750-000-005](#)
22. [FDOT Florida Intersection Design Guide](#)
23. [FDOT Express Lanes Handbook](#)
24. [FDOT Accessing Transit Design Handbook](#)

The engineering analysis may also use national publications such as:

1. **Highway Capacity Manual (HCM)**
2. **American Association of the State Highway and Transportation Officials (AASHTO) A Policy on Highway Geometric Design (AASHTO Green book)**
3. **AASHTO Highway Safety Manual (HSM)**
4. **NCHRP Report 672, Roundabouts: an Informational Guide**
5. **AASHTO Guide for the Development of Bicycle Facilities**
6. **AASHTO Guide for the Development of Pedestrian Facilities**
7. **Manual on Uniform Traffic Control Devices (MUTCD)**

Figure 3-1 Manuals, Design Standards, and Procedures to Establish Project Development Design Controls and Criteria

PRELIMINARY ENGINEERING REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

(Signature Block as Needed)

Figure 3-2 Preliminary Engineering Report Sample Cover Page

PART 2, CHAPTER 4

SOCIOCULTURAL EFFECTS EVALUATION

TABLE OF CONTENTS

4.1 OVERVIEW	4-1
4.1.1 Purpose	4-1
4.1.2 Sociocultural Effect Issues.....	4-2
4.1.3 Application	4-3
4.1.3.1 Planning Phase	4-3
4.1.3.2 PD&E Phase	4-3
4.1.3.3 Updating SCE Evaluations in Subsequent Phases	4-4
4.2 PROCEDURE	4-4
4.2.1 Step 1: Review Project Information.....	4-9
4.2.1.1 Collect and Review Project Information.....	4-9
4.2.1.2 Gather Community Information	4-11
4.2.1.3 Support the PD&E Public Involvement Plan.....	4-12
4.2.1.4 Conduct Field Review	4-13
4.2.2 Step 2: Define the Study Area	4-13
4.2.2.1 Review Field Notes and Project Information	4-14
4.2.2.2 Define SCE Study Area.....	4-14
4.2.3 Step 3: Prepare Community Information.....	4-15
4.2.3.1 Supplement the Community Data	4-15
4.2.3.2 Summarize Community Information	4-17

4.2.4 Step 4: Evaluate Sociocultural Effects	4-18
4.2.4.1 Identify Community Resources and Level of Importance	4-18
4.2.4.2 Perform Community Outreach.....	4-18
4.2.4.3 Assess Potential Direct Effects	4-19
4.2.4.4 Assess Potential Indirect Effects	4-22
4.2.4.5 Assess Potential Cumulative Effects	4-22
4.2.4.6 Describe Degree of Project Effects	4-22
4.2.4.7 Identify Adverse Effects on Minority and Low-income Populations	4-23
4.2.5 Step 5: Identify Solutions to Project Impacts	4-24
4.2.5.1 Review Previous Recommendations.....	4-24
4.2.5.2 Work with Communities to Evaluate/Devise Solutions	4-24
4.2.5.3 Focus Outreach on Affected Populations and Neighborhoods	4-25
4.2.5.4 Document Solutions to Project Impacts.....	4-25
4.2.6 Step 6: Document Results	4-25
4.2.7 Identify Disproportionately High and Adverse Effects	4-25
4.2.8 Updating SCE in Subsequent Phases	4-26
4.3 DOCUMENTATION.....	4-27
4.3.1 Update Project File	4-27
4.3.2 Prepare Environmental Document.....	4-27
4.3.2.1 Type 1 Categorical Exclusions or Non-Major State Actions	4-28
4.3.2.2 Type 2 Categorical Exclusions	4-28
4.3.2.3 Environmental Assessments	4-29
4.3.2.4 Environmental Impact Statements	4-30

4.3.2.5 State Environmental Impact Reports.....	4-31
4.3.2.6 Documentation for Nondiscrimination Considerations.....	4-31
4.3.3 Develop Conceptual Stage Relocation Plan	4-34
4.3.4 Considerations for Evaluating Relocation Effects	4-35
4.3.4.1 Last Resort Housing.....	4-35
4.3.4.2 Information Required When a Relocatee is Involved	4-36
4.3.4.3 Information Required When There are No Relocations.....	4-37
4.4 REFERENCES.....	4-38
4.5 FORMS	4-41
4.6 HISTORY	4-42

LIST OF TABLES

Table 4-1 Examples of Potentially Underrepresented Populations	4-2
Table 4-2 Sociocultural Effects Evaluation Issues.....	4-2
Table 4-3 Comparison of the SCEs in ETDM Process and PD&E Phase	4-6
Table 4-4 SCEs Vary Based on Impact Potential.....	4-8
Table 4-5 SCE Considerations.....	4-43

LIST OF FIGURES

Figure 4-1 SCE Evaluation Process Diagram	4-46
Figure 4-2 Recommended SCE Technical Memorandum Outline.....	4-47

PART 2, CHAPTER 4

SOCIOCULTURAL EFFECTS EVALUATION

4.1 OVERVIEW

4.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter contains the FDOT's procedures for evaluating sociocultural effects (SCE) throughout the transportation project delivery process. The SCE evaluation process, illustrated at the end of this chapter in [Figure 4-1](#), identifies and addresses potential effects of transportation projects on communities and community resources. The SCE evaluation process is collaborative, involving government agencies, the public, and other stakeholders, to ensure that community values and concerns receive consideration during project delivery and that no population groups are disproportionately affected. Note, in some state and federal policies, SCE evaluation is called "Community Impact Assessment."

FDOT proactively engages with communities in delivering transportation projects. The SCE evaluation process supports legal requirements during project development to consider and account for sociocultural resources that may be affected by project activities.

The SCE evaluation process assesses social, economic, land use changes, mobility, aesthetics effects and relocations, including potential issues associated with Environmental Justice, Civil Rights, and other nondiscrimination laws. Project benefits and effects on communities are assessed in the SCE evaluation with special consideration for minority, low-income, and other potentially underrepresented populations (see examples in [Table 4-1](#)). The SCE evaluation process analyzes the potential effects of a transportation action on a community. Information gathered through

the SCE evaluation process is carried forward and used as a basis for decision making throughout project delivery.

Table 4-1 Examples of Potentially Underrepresented Populations

Demographic Characteristics	Legal Authority for Protection from Discrimination
Race, color, or national origin	Title VI of the Civil Rights Act
Disability	Americans with Disabilities Act and Rehabilitation Act
Age	Age Discrimination Act
Gender	23 United States Code (USC) 324
Limited English Proficiency	Executive Order (EO) 13166
Minority and low income	EO 12898 (Environmental Justice)
Handicap, age, race, color, sex, or national origin	23 Code of Federal Regulations (CFR) 771

4.1.2 Sociocultural Effect Issues

The SCE evaluation focuses on the six sociocultural issues listed below in [Table 4-2](#). The table also includes examples of topics evaluated for each of the six issues. The issues are described in [Section 4.2.4](#). For additional information, see the [SCE Issue Sheets](#) located on the [SCE Reading Materials](#) page of the [SCE Evaluation Process](#) website. See [Section 4.4](#) for the internet address to all web sites and links used in this chapter.

Table 4-2 Sociocultural Effects Evaluation Issues

<p>Social</p> <ul style="list-style-type: none"> • Demographics • Community Cohesion • Safety/Emergency Response • Community Goals • Quality of Life • Special Community Designations <p>Economic</p> <ul style="list-style-type: none"> • Business & Employment • Tax Base • Traffic Patterns • Business Access • Special Needs Patrons 	<p>Land Use Changes</p> <ul style="list-style-type: none"> • Land Use – Urban Form • Local Plan Consistency • Open Space • Sprawl • Focal Points <p>Mobility</p> <ul style="list-style-type: none"> • Modal Choices <ul style="list-style-type: none"> ○ Pedestrian ○ Bicyclists ○ Transit • Transportation Disadvantaged • Connectivity • Traffic Circulation • Public Parking 	<p>Aesthetic Effects</p> <ul style="list-style-type: none"> • Noise/Vibration • Viewshed • Compatibility <p>Relocation Potential</p> <ul style="list-style-type: none"> • Residential • Non-Residential • Public Facilities
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4.1.3 Application

The SCE evaluation process starts at the earliest planning stages of a project and continues throughout the project delivery process. Each successive phase builds on the data, analysis, and results of previous SCE evaluations to achieve the particular objectives of the project phase. The level of analysis required to determine potential project effects varies according to project phase, project nature and scope, level of potential controversy, and potential for project effects. Projects qualifying for screening through the Efficient Transportation Decision Making (ETDM) process receive early consideration of sociocultural effects during the Planning phase. For other projects, SCE consideration begins during the Project Development and Environment (PD&E) phase. Project types qualifying for ETDM screening are identified in **Chapter 2** of the [ETDM Manual, Topic No. 650-000-002](#).

4.1.3.1 Planning Phase

In the Planning phase, ETDM projects are evaluated for sociocultural effects in the Planning Screen and Programming Screen.

The objectives of the Planning Screen are to consider project feasibility; focus the issues to be addressed during the Programming Screen; and allow for early identification of potential avoidance, minimization, and mitigation opportunities. The Planning Screen is performed for projects being considered for adoption in the Metropolitan Planning Organization (MPO)/Transportation Planning Organization (TPO) Long Range Transportation Plan (LRTP). It is also performed for some projects that have not been previously screened, but are already cited in these plans. See **Chapter 3** of the [ETDM Manual, Topic No. 650-000-002](#) for more information about the Planning Screen.

The Programming Screen builds upon the Planning Screen evaluation (if conducted) to further identify, refine, and understand potential project issues while supporting the development of a scope of service to complete the detailed analysis during the PD&E Study. Not all Programming Screen projects are preceded by a Planning Screen review. See **Chapter 4** of the [ETDM Manual, Topic No. 650-000-002](#) for more information about the Programming Screen.

4.1.3.2 PD&E Phase

The SCE evaluation process is an important part of the PD&E Study to comply with Council on Environmental Quality (CEQ) regulations **40 Code of Federal Regulations (CFR) §§ 1500-1508**, which requires federal agencies to use all practicable means, consistent with the requirements of the **NEPA**, to avoid or minimize any possible adverse effects of their actions upon the quality of the human environment. The SCE evaluation

process also applies to non-federal projects. The level of assessment during PD&E depends on the potential for significant impacts, as defined by **40 CFR §§ 1500-1508**.

4.1.3.3 Updating SCE Evaluations in Subsequent Phases

Communities may change over time. Therefore, potential sociocultural effects are updated at each phase of project delivery. Typically, in the design phase, community information and concerns are gathered through public involvement activities identified in the Community Awareness Plan (CAP). These activities vary depending on the community context, the nature and scope of the project, and the potential for adverse project effects. If commitments have been made, they are carried out according to FDOT [Procedure No. 700-011-035, Project Commitment Tracking](#) and documented in the Environmental Document (see [Part 2, Chapter 22, Commitments](#) for more information).

4.2 PROCEDURE

The major steps in the SCE evaluation process, shown in [Figure 4-1](#), include:

Step 1 - Review Project Information

Step 2 - Define the Study Area

Step 3 - Prepare Community Information

Step 4 - Evaluate Sociocultural Effects

Step 5 - Identify Solutions to Project Impacts

Step 6 - Document Results

An important consideration throughout the SCE evaluation process is the potential for project effects on potentially underrepresented population groups protected under **Title VI of the Civil Rights Act of 1964 (Title VI)**, the President's Executive Order (EO) on Environmental Justice (**EO 12898**), and related nondiscrimination statutes and regulations. The following definitions apply to these nondiscrimination protections:

- **Disabled/Handicapped Person** - Any person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.
- **Minority** - Black or African American, Hispanic, Asian American, American Indian/Alaskan Native, and Native Hawaiian or Pacific Islander.
- **Limited English Proficient (LEP) persons** - Persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they

speaking English “less than very well” (i.e., speak English well, not well, or not at all). It also refers to people of low basic literacy.

- **Low-Income** - A person whose median household income is at or below the U.S. Department of Health and Human Services (HHS) poverty guidelines. These guidelines are updated annually and are available at the HHS website (see [Section 4.4](#) for the website address).

Thorough demographics for these populations, potential effects on them, and possible solutions to adverse effects must be adequately assessed. The SCE evaluation process incorporates the goals of Environmental Justice throughout the transportation planning and project development process. These goals, as articulated in the US Department of Transportation’s (USDOT) *Environmental Justice Strategy (USDOT, 2016)*, include:

1. Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
2. Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Considerations and guidance to address these concerns are included in the discussion of each of the SCE evaluation process steps in the following sections of this Chapter. More information about addressing these issues is available on the [SCE Evaluation Process website](#).

All six steps of the SCE evaluation process apply whether the evaluation occurs during the Planning Screen, Programming Screen, or PD&E phase. However, the activities within each step may vary. Generally, as a project transitions from the ETDM process to the PD&E phase, the SCE issues receive more detailed consideration. The level of effort in each step is tailored to the project phase, nature and scope, and study area characteristics, including conditions that may have changed between project phases. [Table 4-3](#) compares the activities that typically occur to support SCE evaluations in Planning Screens, Programming Screens, and PD&E Studies. SCE updates occur in subsequent phases. Activities during those phases will vary depending on the community context, the nature and scope of the project, and potential for adverse project effects.

Table 4-3 Comparison of SCE Evaluations in ETDM Process and PD&E Phase

STEP 1 REVIEW PROJECT INFORMATION		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
<ul style="list-style-type: none"> Review current data [e.g., Environmental Screening Tool (EST) data] Perform community outreach Review prior public input Conduct field review 	<ul style="list-style-type: none"> Review Planning Screen Summary Report/Issues and Recommendations (if conducted) Review current data (e.g., EST data) Identify/fill data gaps Perform community outreach with local planners and community leaders Review prior public input Conduct field review 	<ul style="list-style-type: none"> Review Final Programming Screen Summary Report or other project information, if available Identify/fill data gaps Identify affected populations for Public Involvement Plan outreach Conduct field review
STEP 2 DEFINE THE STUDY AREA		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
<ul style="list-style-type: none"> Review field review notes Review EST buffers Review additional data Select appropriate study areas (EST buffers) to evaluate SCE issues 	<ul style="list-style-type: none"> Review field review notes Review EST buffers focusing on project alternative(s) Review updated data Select appropriate study areas (EST buffers) to evaluate SCE issues 	<ul style="list-style-type: none"> Review/update field review notes Review available project information Review ETDM screening study areas Refine study area to account for project alternative(s) moving forward
STEP 3 - PREPARE COMMUNITY INFORMATION		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
<ul style="list-style-type: none"> Review compiled material Acquire additional community data Create Sociocultural Data Reports (SDR) 	<ul style="list-style-type: none"> Review data from previous SCE evaluation, if completed Acquire additional data Create or update SDRs 	<ul style="list-style-type: none"> Review data from previous SCE evaluation Verify community boundaries, community desired features and demographic data Create or update SDR
STEP 4 - EVALUATE SOCIOCULTURAL EFFECTS		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
<ul style="list-style-type: none"> Identify resources and level of importance Assess potential effects: <ul style="list-style-type: none"> Direct effects Indirect effects 	<ul style="list-style-type: none"> Identify resources and level of importance Assess potential effects: <ul style="list-style-type: none"> Direct effects Indirect effects 	<ul style="list-style-type: none"> Identify resources and level of importance Evaluate feasible alternatives and no-build Review ETDM screening issues and public input

<ul style="list-style-type: none"> ○ Cumulative effects (optional) ● Assign Degrees of Effect ● Review ETAT comments ● Assign Summary Degree of Effect 	<ul style="list-style-type: none"> ○ Cumulative effects (optional) ● Assign Degrees of Effect ● Review ETAT comments ● Assign Summary Degree of Effect ● Determine PD&E Study scope 	<ul style="list-style-type: none"> ● Review PD&E phase public input ● Assess effects: <ul style="list-style-type: none"> ○ Direct effects ○ Indirect effects ○ Cumulative effects ● Assess severity of impacts
STEP 5 - IDENTIFY SOLUTIONS TO PROJECT IMPACTS		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
<ul style="list-style-type: none"> ● Identify potential solutions to project effects or project enhancements ● Identify potential recommendations to address potential effects 	<ul style="list-style-type: none"> ● Review potential solutions/enhancements identified in Planning Screen ● Identify potential solutions to project effects or project enhancements ● Document recommendations to address potential effects 	<ul style="list-style-type: none"> ● Review potential solutions/enhancements from previous screenings ● Work with affected communities to identify viable solutions ● Focus outreach on most affected populations and neighborhoods ● Recommend methods to avoid, minimize, or mitigate project effects or enhance the project
STEP 6 - DOCUMENT RESULTS		
<i>Planning Screen</i>	<i>Programming Screen</i>	<i>PD&E Study</i>
Record potential effects in EST: <ul style="list-style-type: none"> ● Direct effects ● Indirect effects ● Cumulative effects Create Summary Report	Record/update potential effects in EST: <ul style="list-style-type: none"> ● Direct effects ● Indirect effects ● Cumulative effects Create Summary Report	Document: <ul style="list-style-type: none"> ● Project File ● Environmental Document ● Conceptual Stage Relocation Plan (CSRP)

The remainder of [Section 4.2](#) focuses on SCE evaluations conducted during PD&E and subsequent phases. For more information about SCE evaluations in the ETDM process, see the [Practical Application Guides for SCE Evaluations: ETDM Process](#).

In the PD&E phase, project detail is developed to the level necessary to accurately assess and address potential project effects on the natural, cultural, physical, and social environments and support project decisions. The PD&E Study takes into account the potential environmental impacts of a project and the community’s need for safe and efficient transportation. The SCE evaluation is the portion of the study that considers potential effects, both positive and negative, on the sociocultural (or human) environment. It also addresses Environmental Justice, Civil Rights, and related issues.

The SCE evaluation supports the development of an Environmental Document. Information on the various types of Environmental Documents is provided in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), and [Part 1, Chapter](#)

10, State, Local, or Privately Funded Project Delivery. The level of assessment and documentation varies by project depending on the:

- Scale and complexity of the project
- Level of controversy involved
- Potential for significant impacts
- Degree and quality of information available from previous activities

SCE evaluations are prepared for projects with minimal to no impact potential and those with greater impact potential. While SCE issues are considered, they are not usually evaluated in detail for projects with minimal or no impact. [Table 4-4](#) compares the difference between SCE evaluations for these different types of projects.

Table 4-4 SCE Evaluations Vary Based on Impact Potential

Projects with Minimal or No Impact Potential	Projects with Greater Impact Potential
<ul style="list-style-type: none"> • These projects might include: <ul style="list-style-type: none"> ○ Type 1 Categorical Exclusion (CE) ○ Non-Major State Action (NMSA) • Typically, do not qualify for ETDM screenings • SCE evaluations typically focus on: <ul style="list-style-type: none"> ○ Local traffic patterns ○ Property access ○ Community cohesiveness ○ Planned community growth or land use patterns • SCE evaluations include sufficient detail to rule out any significant community impacts 	<ul style="list-style-type: none"> • These projects might include: <ul style="list-style-type: none"> ○ Type 2 CE ○ Environmental Assessment (EA) ○ Environmental Impact Statement (EIS) ○ State Environmental Impact Report (SEIR) • SCE evaluations include detailed evaluation of issues of concern and methods to avoid, minimize, or mitigate potential project impacts • Level of analysis and documentation will vary based on the project context and intensity of effects • If previously screened as an ETDM project, the project SCE evaluation builds upon the previous evaluation to fill information gaps as needed to evaluate issues of concern and complete the appropriate environmental documentation

In the PD&E phase, further evaluation of sociocultural effects may be unnecessary if:

- SCE evaluation process steps for each SCE issue (identified in [Section 4.1.2](#)) were adequately completed and potential sociocultural effects were adequately considered and documented during a previous phase;
- Conditions in the project area have not changed appreciably since the prior SCE evaluation, and
- A community concern is not identified during PD&E.

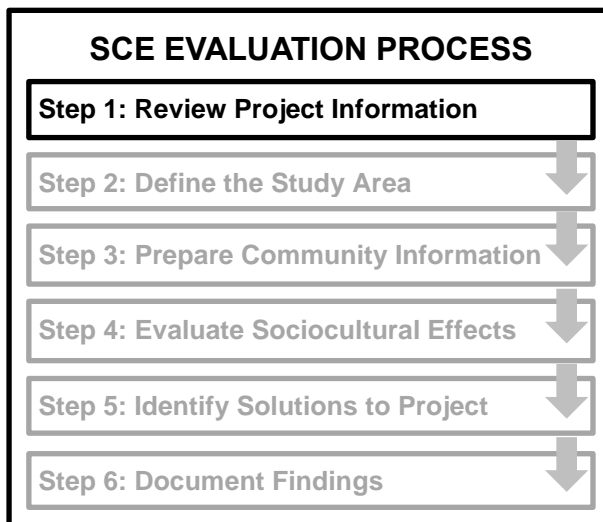
Any SCE issue that was not adequately evaluated and documented during Planning must be evaluated in the PD&E phase. Each of the six SCE issues ([Table 4-2](#)) must be discussed in the Environmental Document to show when and how they were considered in project decision making. If no involvement for a particular issue is indicated, then a statement to that effect is included in the Environmental Document.

Each step of the SCE evaluation process is described in the following subsections. Refer to the [ETDM Manual, Topic No. 650-000-002](#), the [Practical Application Guides for SCE Evaluations](#), the [SCE Evaluation Process](#) website and the [Public Involvement Handbook](#) for additional information regarding techniques and methodologies to support the SCE evaluation.

4.2.1 Step 1: Review Project Information

Information from an earlier project phase or acquired in preparation for the PD&E Study can help determine the level of analysis for the SCE evaluation. For some projects, this information may indicate previously identified community concerns or topics requiring additional consideration such as potentially underrepresented populations in the project vicinity.

During this step, existing project information is supplemented and verified through community outreach, field review of the project area, and data obtained from other sources, as necessary.



4.2.1.1 Collect and Review Project Information

Establish a preliminary understanding of the project by reviewing current project information and information from previous phases (if applicable). Current information will include the project description and purpose and need, Preliminary Environmental

Discussion (PED), personal knowledge of the project area, and, in some cases, contextual information including Geographic Information System (GIS) data analyses and maps from sources such as the Environmental Screening Tool (EST) or other GIS-based analysis tools. Information from previous project phases may also include agency and public commentary. Use available project information to:

- Understand the purpose and need of the project to identify anticipated benefits for the affected community.
- Define a preliminary study area for the SCE evaluation.
- Identify any changes in the project area since the prior project phase.
- Identify need for additional/updated information and targeted community outreach to enhance understanding of the project area and potential sociocultural effects.
- Determine the appropriate level of analysis for the SCE evaluation.
- Recognize community issues/preferences identified in prior project phases so adequate attention can be devoted to these results during the PD&E phase.
- Forward recommendations identified in prior project phases to support subsequent project phases.

In determining the appropriate level of analysis and need for additional information for the SCE evaluation process, consider if the project would:

- Require large amounts of Right of Way (ROW).
- Displace a large number of people.
- Disproportionately affect a potentially underrepresented population group.
- Cause a substantial increase or decrease in traffic through an area.
- Conflict with local government comprehensive plans.
- Impact community facilities, such as schools, parks, or churches.
- Impact historic districts or community landmarks.
- Adversely affect aesthetic features, such as a canopy road or scenic vista.
- Disrupt or divide a cohesive neighborhood.

ETDM Projects

Projects may have received consideration of sociocultural effects during the ETDM process. The results of the Programming Screen are documented in a **Programming Screen Summary Report**, available in the EST. For more details about using the EST, refer to the [EST Handbook](#). In addition, the following guidance documents are available on the [SCE Evaluation Process](#) website to help you find information on the EST:

- [Environmental Screening Tool Project Information](#) includes instructions on locating general project information.
- [Defining Context - Useful Environmental Screening Tool Information](#) identifies material which may help you establish a contextual overview of the project area.

Following the ETDM screening, additional project information may be obtained from the PD&E Project Manager.

Non-ETDM Projects

For non-ETDM projects, a planning phase feasibility study may be a source of project information. Some Districts upload these projects to the EST to enable a preliminary review of existing information through the standard GIS analyses. Other information may be available from the Project Manager or District Planning Office.

4.2.1.2 Gather Community Information

Begin gathering community information describing the sociocultural context of the project area including community facilities/services; presence of certain population groups; and indications of community values, concerns, and preferences. Sources for this information may include:

- Most recent U.S. Census Bureau data (e.g., American Community Survey)
- EST (e.g., the **Sociocultural Data Report** or **Area of Interest Tool**)
- City/county/regional planners within government planning, transit, economic development, housing, and other departments
- Community plans or studies and related public involvement (e.g., neighborhood plan, redevelopment plan, public infrastructure/service plan, and corridor study)
- County property appraiser (e.g., parcel data)
- State licensing agencies (e.g., social service agency and business data)
- Bureau of Economic and Business Research (BEBR)

- Commercially available data sources (e.g., employment data)
- Local historical society (if the project is in a historic district or historically significant area)
- PD&E Project Manager/team

Review the demographic data to help identify where potentially underrepresented populations are located. In order to support the Environmental Justice assessment of disproportional effects, make reasonable efforts to identify the presence of distinct minority and/or low-income communities residing both within and in proximity to the proposed project. Identify those minority and/or low-income groups who use or are dependent on the natural and community resources within the project area.

4.2.1.3 Support the PD&E Public Involvement Plan

Share information about population groups and potential meeting venues in the project area with the PD&E public involvement coordinator to support the development of the PD&E **Public Involvement Plan (PIP)**. To fulfill the **PIP's** purpose in verifying community concerns and preferences for alternatives, inform the public involvement coordinator of any special community outreach needs to support the SCE evaluation. If a project was evaluated during a previous phase, the project information may indicate a population group or neighborhood that should be a focus of the **PIP**. Close coordination between the PD&E team's SCE analyst and public involvement coordinator throughout the SCE evaluation process will help maximize effectiveness and minimize duplication of efforts in obtaining public input.

Identify community contact sources to assist in identifying whether potentially underrepresented populations live, work, or receive services in the project area. If any of these populations have been identified, contact the local government and area leadership organizations for input about the best ways to involve them in the SCE evaluation process. Examples of best practices for reaching potentially underrepresented populations include:

- Identifying community leaders who are willing to help identify common meeting places for people in their communities.
- Conducting a variety of activities to reach people at different times of day and during non-work hours. Also, consider methods for increasing participation of people who may work non-traditional hours.
- Ensuring workshops and hearings are located within safe walking distances from public transit stops.
- Providing information in appropriate languages for those with limited English proficiency.

For more information about the development of the *PIP* and public involvement techniques, see [Part 1, Chapter 11, Public Involvement](#) and the [FDOT Public Involvement Handbook](#).

4.2.1.4 Conduct Field Review

Visit the project area to get a first-hand look. The field review allows you to observe the physical conditions in the project area and how people use the project corridor or site. Pay particular attention to indications of low-income areas or communities of minority populations. In preparation for the field review, coordinate with the MPO/TPO, local government planners, and neighborhood groups to identify community/neighborhood boundaries (e.g., local government jurisdiction, delineated neighborhood, and residential subdivision); special districts (e.g., school, legislative, historic, redevelopment, and employment); and community focal points, history, and goals. When possible, include PD&E team members representing other disciplines and MPO/TPO/local government staff knowledgeable about the project area to participate in the field review.

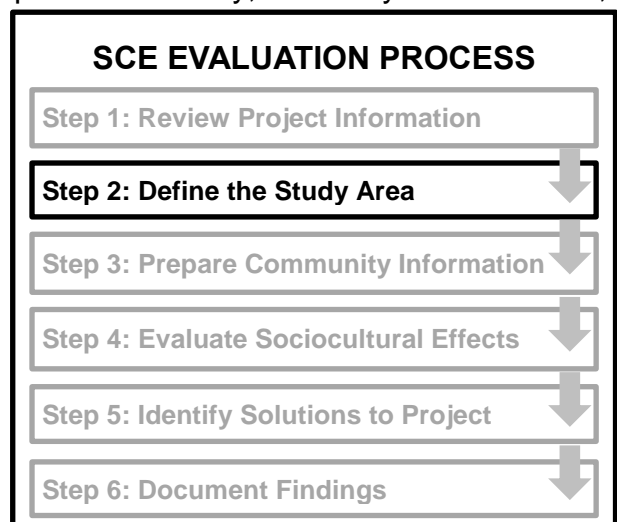
During the field review, check the currency and accuracy of the information you already have identified:

- Inconsistencies between the information and field conditions
- Additional community features or characteristics
- Additional information needed to support the SCE evaluation

View aerial maps to detect community resources, physical features, land use, and other features in the project area. Photograph features in the project area that could be affected by the project, including the existing transportation facility, roadway intersections, community resources, and human activity. Create a photo log as a supplement to the field review notes to enhance the information for the SCE evaluation and PD&E Study documentation. Additional resources are available on [Reading Materials](#) page of the [SCE Evaluation Process](#) website.

4.2.2 Step 2: Define the Study Area

The study area for the SCE evaluation defines the geographic area encompassing the project alternatives and communities/community resources that may be affected by the project. If developed in a previous phase, the study area is further refined in the PD&E phase to encompass only



those project alternatives moving forward and potentially affected communities/community resources.

4.2.2.1 Review Field Notes and Project Information

Review field notes, if available, and project information to become familiar with the area encompassing the project alternatives and potentially affected communities/community resources. During the PD&E phase, the study area boundary will reflect the community context and potential sociocultural effects. Make refinements to the study area as needed to delineate a preliminary study area for the SCE evaluation.

4.2.2.2 Define SCE Evaluation Study Area

The study area for the SCE evaluation may differ from the PD&E project area. The study area may extend beyond the immediate project area depending on the nature of the project, affected communities, and SCE issue. The evaluation of relocation potential, for example, will likely require a finer level of analysis than the evaluation of land use effects. Consider that community cohesion could span a single neighborhood, multiple neighborhoods, or even a small town. An understanding of the characteristics of the community will assist in determining the extent of the study area.

When establishing the study area boundaries, the area should be large enough to include the area likely to experience effects and neither artificially dilute or inflate an affected minority population and/or low-income population. The study area should initially include the potentially underrepresented populations adjacent to the project and should not be adjusted to exclude these communities.

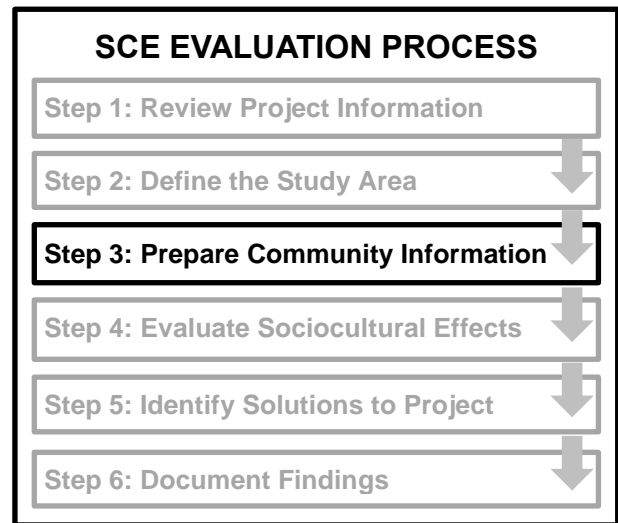
Using maps depicting the conceptual layout of the project alternatives and information collected during Step 1, delineate the area encompassing the communities/community resources having potential for effects. Describe existing conditions, including physical barriers (e.g., highways, waterways, and open spaces), activity centers, special districts and designations, average home values, neighborhood or block boundaries, selected demographic characteristics, and community input. Other sources of information include:

- Newspaper and business journal archives
- Community organization websites
- FDOT staff (e.g., District government liaisons)

Document the methodology used in defining the study area relative to Environmental Justice, Civil Rights and other related issues.

4.2.3 Step 3: Prepare Community Information

Community information for the SCE evaluation describes the history, present physical and sociocultural characteristics, and future trends in the study area for use in identifying and assessing sociocultural effects. The compiled information is organized, verified, and summarized for each SCE issue as it relates to specific communities and population segments in preparation for Steps 3-6, including community outreach activities. At this point, identify any population groups in the study area that require additional consideration under the Environmental Justice, Civil Rights, or other nondiscrimination regulations.



4.2.3.1 Supplement the Community Data

In Steps 1 and 2, you reviewed existing project information and existing conditions, collected a portion of the community information needed for the SCE evaluation, and defined the study area. In this step, supplement the community information as needed to enable you to identify:

- Community/neighborhood boundaries
- Demographic characteristics of communities within the study area, including minority, low-income, limited English proficiency, elderly, or other population subgroups
- Community focal points including service areas and user groups
- Community value placed on community focal points and resources

The type and extent of community information needed for the SCE evaluation depends on the potential for sociocultural effects. If the project was evaluated in a previous phase, focus on updating previously collected data and collecting more detailed data, as appropriate. If a community narrative was prepared, it may provide insights on community values, concerns, and preferences. Building on previous evaluations to deepen your understanding of potential sociocultural effects in the PD&E phase is particularly important.

If community data from a previous phase is unavailable, substantial time has elapsed or change has occurred within the project area, acquire or update the information needed to identify and evaluate potential sociocultural effects.

Community Information for SCE Evaluation - Again, the type and extent of community information collected will depend on the potential for project effects. Refer to [Data Sources for Sociocultural Effects Evaluations](#) for guidance on where to locate community data (found on [Reading Materials](#) page of the [SCE Evaluation Process website](#)).

Demographic Information - Analyze the most recent data available from the U.S. Census Bureau to identify:

- Demographic characteristics of the county where the project is located and communities within the study area (Note: Initially look at a 1-mile buffer area for rural areas and a ¼-mile buffer area for urban areas).
- Percentage of each population group relative to the total population of the study area and the county/counties and municipality/municipalities where the project is located, as appropriate.
- Population groups that may be underrepresented in the project development process based on race, color, national origin, age, gender, religion, economic status, and disability present within the study area.
- Number of census blocks adjacent to the project with proportionately large potentially underrepresented populations.
- Any of the potentially underrepresented population groups representing a small proportion of the census block group population but having a concentrated presence in a smaller geographical unit (i.e., census block).

Community Focal Points - The community information should include an inventory of the places that are important to the community, such as:

- Schools
- Religious facilities
- Community centers
- Parks
- Fire stations
- Law enforcement facilities
- Government buildings
- Healthcare facilities
- Cultural facilities
- Civic centers
- Social service facilities
- Intermodal facilities
- Business districts
- Theme parks
- Major attractors/multi-use facilities
- Bridges
- Cemeteries
- Historic places
- Other significant quality-of-life features

Community/Neighborhood Boundaries - Community/neighborhood boundaries are geographic areas with similar characteristics (e.g., land use, property values, or demographic character) or divided from other areas by natural or constructed boundaries (e.g., water bodies or major roads). Areas of interest that are not official community boundaries, but delineated specifically for the SCE evaluation, should be verified through community outreach.

4.2.3.2 Summarize Community Information

When the community information for the evaluation is collected, it should be summarized in a spreadsheet or other informal report. Indicate whether minority, low-income, or other potentially underrepresented populations are located in the study area. List any readily identifiable groups or clusters of minority or low-income persons in the study area.

The CEQ's *Environmental Justice Guidance under NEPA* states: "Minority populations should be identified where either: (a) the minority population of the affected area exceeds 50 percent or (b) the minority population percentage of the affected area is meaningfully greater than the minority percentage in the general population or other appropriate unit of geographic analysis" (CEQ, 1997). However, it is important to understand that Environmental Justice determinations are based on effects, not population size. It is essential to consider the comparative impact of an action among different population groups. A very small minority or low-income population in the project study area does not eliminate the possibility of a disproportionately high and adverse effect on these populations.

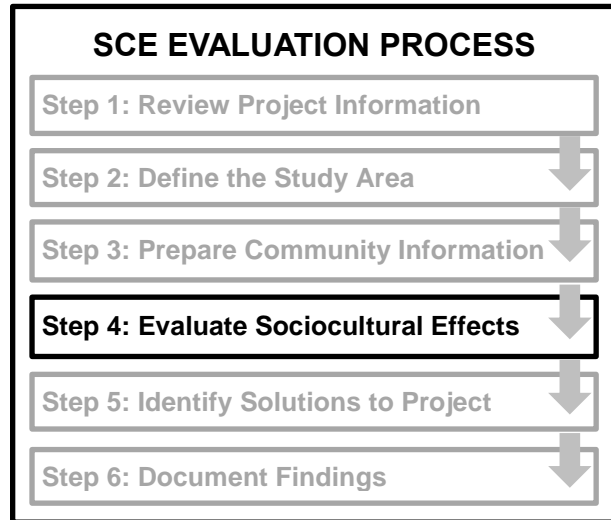
Depending on the complexity of the project and potential for adverse impacts, the summary format may vary. For example, more complex projects such as Environmental Assessments (EAs) or Environmental Impact Statements (EISs) will usually include the following:

- Narrative describing community characteristics, such as population demographics, socioeconomic history and community values, valued resources, and plans for the future
- Visual map or map series depicting physical characteristics, such as neighborhood boundaries, land uses, public facilities, and commercial/employment centers
- Tables, charts, and graphs summarizing important results, such as the presence of population groups, employment, and trends

4.2.4 Step 4: Evaluate Sociocultural Effects

The inventory of community data and public commentary are examined relative to each SCE issue to evaluate potential project effects. Three general types of effects are evaluated as defined by CEQ regulations **40 CFR §§ 1500-1508**:

- **Direct effects** are caused by the action and occur at the same time and place.
- **Indirect (or secondary) effects** are caused by the action and are later in time or farther removed in distance but still reasonably foreseeable.
- **Cumulative effects** result from the incremental effects of an action when added to other past, present, and reasonably foreseeable actions regardless of which agency or person undertakes the action.



The SCE evaluation also analyzes interrelationships among the SCE issues and how various considerations contribute to the avoidance, minimization, or mitigation of project impacts. This analysis becomes a part of the section of the Environmental Document that discusses potential effects of the project. Details about the analysis may also be provided in a **SCE Technical Memorandum**. See [Section 4.3](#) for guidance about documenting the SCE evaluation results.

Project issues identified during previous project phases and review of current data and local knowledge are assessed relative to the project alternative(s), including the no-build alternative (refer to [Part 2, Chapter 3, Engineering Analysis](#) for further guidance on procedures relative to project alternatives). The SCE evaluation is documented in the appropriate Environmental Document in accordance with Part 1 of the PD&E Manual.

4.2.4.1 Identify Community Resources and Level of Importance

Identify potentially affected community resources and the level of importance placed on those resources by the community. The SCE Considerations included in [Table 4-5](#) provide guidance on identifying community resources relative to the six SCE issues ([Table 4-2](#)).

4.2.4.2 Perform Community Outreach

In coordination with the PD&E public involvement coordinator, perform community outreach throughout the SCE evaluation process to provide opportunity for input on the

project, verify community data, and identify community concerns and preferences for project alternatives/features. The focus of PD&E phase community outreach is specific to community groups and neighborhoods with potential for project effects. The methods and level of community outreach should be tailored to the specific community, the nature of the project, and the potential for project effects. Special considerations may be necessary to effectively involve potentially underrepresented populations.

Coordinate with the PD&E public involvement coordinator to identify any special community outreach needs for the SCE evaluation that could be accommodated during *PIP* activities (e.g., outreach materials tailored to a limited English proficient population). Suggest refinements to the *PIP* to ensure adequate participation and consultation of affected community groups and neighborhoods.

More information on community outreach for PD&E projects is provided in [Part 1, Chapter 11, Public Involvement](#) and in the [FDOT Public Involvement Handbook](#).

4.2.4.3 Assess Potential Direct Effects

Assess the potential for both positive and negative direct effects from the project on the community and area of effect. An example of a direct effect is increased customer exposure to a grocery store due to a higher level of vehicle traffic on a widened road. The widened road might also make it more difficult for a local transportation-disadvantaged population to walk across the road to access the grocery store.

Use information from any previous project phases, community data, community commentary, and the SCE considerations listed in [Table 4-5](#) to assist in identifying direct effects for each SCE issue. Also refer to the [Practical Application Guides for SCE Evaluation: PD&E](#), and [SCE Evaluation Aids](#) available on the [SCE Evaluation Process](#) website.

If an evaluation of direct effects was performed in a previous phase, verify those results and update as needed. If considerable time has passed since the prior evaluation, conditions have changed appreciably in the project area, or additional impacts are identified, additional study may be required in the PD&E phase.

Social

Determine the potential for effects on community groups and community resources. Analyze the demographics of the study area and the potential for disproportionate impacts on populations addressed in Title VI and related nondiscrimination statutes. Consider whether the project could influence a significant influx or departure of residents. Look for signs of community cohesion. Assess the quantity and quality of human interaction and potential for the project to create/eliminate barriers to interaction. Be alert to potential changes in the environment affecting the safety of pedestrians, bicyclists, and motorists, and delivery of emergency services. Consider whether the project complements or detracts from the community's goals or special designations (e.g., community

redevelopment area). Investigate the community's history, community goals, community focal points, unique attributes, and quality of life features to help identify potential project effects. The team members preparing the Cultural Resources Assessment Survey for the PD&E Study may be able to provide information about the community's history.

Useful information for this evaluation includes census data, public commentary, field review notes, local planner interviews, established community/neighborhood boundaries, community plans, special designations, and datasets for emergency services, transportation facilities, and community focal points.

Economic

Identify potential project effects on economic activity in the study area, local area, and region. Note potential project effects on business and employment activity in the study area, including industries with special needs (e.g., freight distributor) or significance (e.g., regional employer). Identify economic-oriented land uses/designations, economic development plans/goals, special designations (e.g., truck routes), and community development priorities in the study area. Consider potential impacts on property values and the local government tax base. Identify changes to routes, access, parking, or visibility that could benefit or impair businesses, employment centers, or community facilities. Note transportation modes serving special needs populations and identify potential effects on these populations, including any disproportionate economic effects.

Useful information for this assessment includes public commentary, field review notes, local planner interviews, community plans (e.g., local strategic economic development plan), datasets for existing/future land uses, special designations (e.g., community redevelopment area, enterprise zone, or brownfield), major employers, and freight-related features.

Land Use Changes

Evaluate the project's consistency with the physical character of the area and applicable community plans. Consider the project's compatibility with the community's land use vision and existing/planned land use patterns and urban form. Review the local government comprehensive plan(s) and any special area plans to assess the project's consistency with community goals. Evaluate the potential for changes in the acreage devoted to recreational/open space and rural lands. Assess the project's potential to facilitate or deter urban sprawl. Explore the potential for effects on unique community features (e.g., historic landmarks/structures, water features, parks, landscaping, and natural vegetation).

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, community plans (e.g., local government comprehensive plan), planned and approved development information, datasets for existing/future land uses and special designations (e.g., overlays, brownfields, and historic districts).

Mobility

Identify potential project effects on mobility and accessibility in the study area with emphasis on non-driving population groups (i.e., elderly, young, disabled, and low-income individuals). Identify existing and planned transportation modes (e.g., pedestrian, bicycle, transit, and vehicle) and services (e.g., public bus routes, school bus routes, and transportation disadvantaged services), and examine the project's relationship to those modes and potential for effects. If a transportation-disadvantaged population is present in the study area, consider potential effects on the transportation system serving this population. Examine the travel behavior of residents, workers, shoppers, and others in the study area; and, evaluate how the project could impede or enhance mobility and access. If changes to existing traffic patterns, circulation, or access are envisioned, consider who might benefit or be impacted as a result. Identify if tolling is being considered and potential effects on low-income communities [*Environmental Justice and Tolling: A Review of Tolling and Potential Impacts to Environmental Justice Populations (USDOT, 2016)*]. Identify potential effects on public parking. Verify that the project is consistent with local and regional transportation plans.

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, census data, transportation plans, community plans, and datasets for mobility features and community focal points.

Aesthetic Effects

Assess the project's compatibility with the community's aesthetic values such as noise, vibration, and physical appearance. Examine the type and intensity of project impacts on noise sensitive sites (e.g., residential areas, hotels, nursing homes, and parks); vibration sensitive sites (e.g., residential uses, eye clinics, dentist offices, and hospitals); special viewsheds and vistas; community focal points; historic structures, districts, and landmarks; and community character (e.g., existing and planned streetscaping, highway beautification, canopy roads, and development patterns). See [Part 2, Chapter 5, Aesthetic Effects](#) for further guidance on evaluating aesthetic effects.

Useful information for this evaluation includes public commentary, field review notes, local planner interviews, community plans, special designations, and datasets for historical/archeological sites, healthcare facilities, and points of interest.

Relocation Potential

Identify residences, businesses, and institutional or community facilities that may require relocation to accommodate the project. Some facilities such as hospitals, sports arenas, and those involving industrial activities can be difficult to relocate. Estimate the number of parcels located in the project right of way that are occupied by residential, non-residential, institutional, and other community facility uses.

Useful information for this evaluation includes public commentary; field review notes; right of way maps; property appraiser parcel information; **Conceptual Stage Relocation Plan (CSRP)**; and datasets for existing land use, points of interest, and historical structures/archaeological sites. See [Section 4.3.4](#) for more information about the **CSRP** and how to include the information it contains into the Environmental Document.

4.2.4.4 Assess Potential Indirect Effects

Assess the potential for both positive and negative project-related indirect effects on the community, greater local area, and region. Indirect effects are caused by other actions that have an established relationship or connection to the project. These related actions would not or could not occur without the original project. For example, the displacement of an anchor tenant in a business complex as a result of a new road alignment could cause other tenants in unaffected buildings to relocate.

Use information from any previous project phases, community data, community commentary, and the SCE considerations listed in [Table 4-5](#) to assist in identifying indirect effects. Methods for analyzing indirect effects include quantitative methods, such as travel demand models and integrated land use and transportation models, and qualitative methods, such as scenario writing, focus groups, and expert panels. Additional guidance for evaluating indirect effects is available on the **American Association of State Highway and Transportation Officials (AASHTO) Center for Environmental Excellence** website (See [Section 4.4](#) for website).

4.2.4.5 Assess Potential Cumulative Effects

Consider whether project effects, when combined with the effects of other actions, will contribute to cumulative effects on a community. Cumulative effects can result from individually minor but collectively significant actions taking place over time. If a Cumulative Effects Evaluation (CEE) is indicated, it is important to document the consideration of cumulative effects and the rationale for determining the level of analysis. Refer to the [FDOT Cumulative Effects Evaluation Handbook](#) for considerations and guidance.

4.2.4.6 Describe Degree of Project Effects

Information from the previous steps helps to identify the potential for project effects on the community/community resources, the community's values/desires, and the public's reaction to the proposed project. The next step in the process is to use this information, along with public input, to describe the project effects for each of the six SCE issues. Consider both positive effects (benefits) and adverse effects (burdens). When potentially underrepresented populations are located in the affected area, describe the effects relative to these populations. Describe project effects in terms of the following factors:

- Magnitude - size or amount of effect
- Geographic extent - how widespread the effect may be
- Duration and frequency - whether the effect is a one-time event, intermittent, or chronic

When characterizing effects, consider the project context. Effects may vary depending on the setting, or context, of the project. Community input will help with this assessment.

4.2.4.7 Identify Adverse Effects on Minority and Low-income Populations

If minority or low-income populations are located in the affected area, the next step of the process identifies adverse effects to those populations. This sub-step is not necessary if minorities or low-income populations are not affected by the project.

For the purposes of Environmental Justice, consider all effects, not just the six SCE issues. Coordinate with other members of the PD&E project team to obtain information about other potential effects. The ***USDOT Order 5610.2(a)***, defines adverse effects as: “the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities” (***USDOT, 2012***).

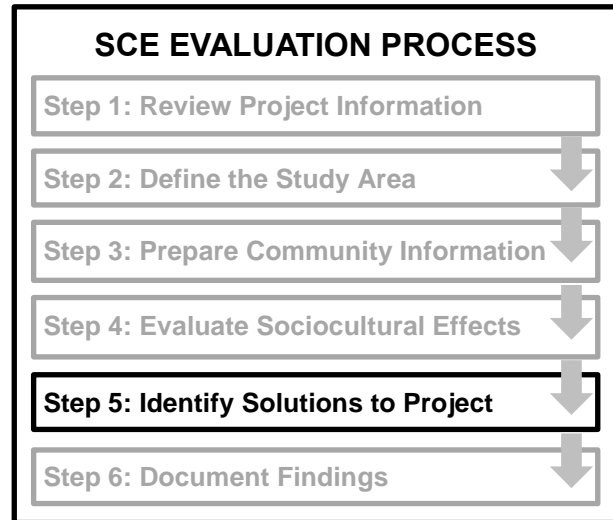
When evaluating whether a potential effect is “adverse,” consider input from the affected community. What one group perceives as an adverse effect may be considered a benefit by another group. It is also possible for different individuals within a community to perceive the effect differently. Some may see it as a benefit, others as a burden. A robust public involvement plan will assist with this part of the assessment. See [**Part 1, Chapter 11, Public Involvement**](#) for more information about public involvement.

4.2.5 Step 5: Identify Solutions to Project Impacts

One of the functions of the PD&E phase SCE evaluation is to recommend methods to avoid, minimize, or mitigate potential project impacts or enhance the project's fit in the community. Recommendations to address potential project impacts may be carried forward from previous project phases or may originate during the PD&E phase. Refer to the [Resolving SCE Issues Guidance Sheet](#).

4.2.5.1 Review Previous Recommendations

Review any recommendations made during a previous project phase to address project impacts or enhance the project. Evaluate whether the recommendations are still acceptable in light of any changes the community may have experienced since the previous project phase. This information will be the starting point for further discussion with the community about the project.



4.2.5.2 Work with Communities to Evaluate/Devise Solutions

Work with project stakeholders to solicit input from affected communities on transportation solutions and design features to address project impacts. This can happen through targeted group meetings with project stakeholders, homeowners' associations, affected businesses. The range of solutions to address adverse project impacts fall into the following four categories:

1. **Avoidance** - Alterations to the project so that an adverse effect does not occur (e.g., minor alignment shifts or reduced cross-sections to avoid a community resource)
2. **Minimization** - Modifications to the project to reduce the severity of the effect (e.g., timing construction to coincide with the tourism off-season)
3. **Mitigation** - Actions to alleviate or offset an effect or replace a protected resource (e.g., replacement of impacted property or facilities)
4. **Enhancement** - Additional desirable or attractive features added to the project to make it fit more harmoniously into the community (e.g., landscaping to complement the existing or planned community aesthetics, placement of crosswalks, refuge areas, and transit stops to improve pedestrian mobility and accessibility)

Consider avoidance solutions first, moving sequentially to other approaches if initial solutions appear unviable (e.g., creates other impacts or is inconsistent with the project purpose and need, community preferences, or FDOT standards and requirements). Regardless of approach, coordination with appropriate FDOT offices (e.g., Design, Construction, ROW) must take place and any commitments must be documented consistent with [Procedure No. 700-011-035, FDOT Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).

4.2.5.3 Focus Outreach on Affected Populations and Neighborhoods

Obtain public input on potential project solutions through community outreach. Focus outreach on populations and neighborhoods that may be potentially affected by the project. Refer to [Part 1, Chapter 11, Public Involvement](#) and the [FDOT Public Involvement Handbook](#) for additional guidance.

4.2.5.4 Document Solutions to Project Impacts

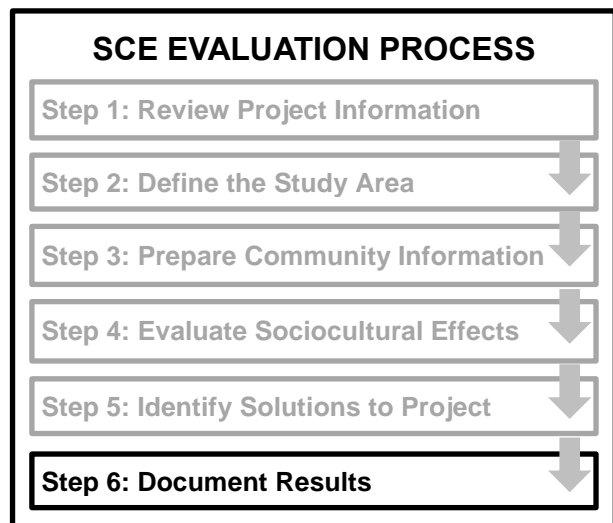
Work with the PD&E Project Manager and team to identify solutions to project impacts, incorporating community values and preferences as appropriate and feasible. When considering project commitments to address sociocultural effects, refer to FDOT [Procedure No. 700-011-035, Project Commitment Tracking](#), for requirements. The Project Manager is responsible for the coordination, documentation, and transmission of project commitments.

4.2.6 Step 6: Document Results

Refer to [Section 4.3](#) for instructions about documenting the SCE evaluation results.

4.2.7 Identify Disproportionately High and Adverse Effects

If the effects remain adverse after mitigation is considered, then a determination must be made whether those effects are disproportionately high and adverse with respect to minority and/or low-income populations. This sub-step is not necessary if minority or low-income populations are not affected by the project.



Per **USDOT Order 5610.2(a)**, a disproportionately high and adverse effect on a minority or low-income population means the adverse effect is predominantly borne by such population or is appreciably more severe or greater in magnitude on the minority or low-income population than the adverse effect suffered by the non-minority or non-low-income population. Compare the impacts on the minority and/or low-income populations with

respect to the impacts on the overall population within the project area. Consider the results of the SCE evaluation as well as other topics such as air, noise, water pollution, hazardous waste, and construction.

If there are no disproportionately high and adverse effects on minority and/or low-income populations once mitigation and benefits are considered, that determination should be stated in the document. This completes the Environmental Justice evaluation.

If there is a disproportionately high and adverse effect on minority or low-income populations, after taking benefits and mitigation into account, evaluate whether there are practicable mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects [**USDOT Order 5610.2(a)**]. When determining whether these options are possible, take into account the social, economic, and environmental effects as well as the cost of the options. Use appropriate outreach techniques to seek input from the affected communities. Consistent with **USDOT Order 5610.2(a)**, federal projects with disproportionately high and adverse effects will only be approved if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable.

In addition, **Title VI** prohibits discrimination on the basis of race, color, and national origin. Accordingly, a project that results in a disparate impact to one of these groups may be carried out only if: 1) there is a substantial legitimate justification for the project; and 2) there are no reasonable alternatives that would be less adverse on protected population. See FHWA's **Guidance on Environmental Justice and NEPA** and **FTA circular 4702.1B** for specific guidance regarding these factors.

4.2.8 Updating SCE Evaluations in Subsequent Phases

At each production phase, projects are re-evaluated in accordance with **23 CFR Part 771** to assure that there has not been a significant change in the project design, project limits, scope, or environmental impacts since approval of the Environmental Document. Communities may change over time and potential effects and the community's perception of those effects may also change. Therefore, the SCE evaluation is reviewed during Re-evaluation. [Part 1, Chapter 13, Re-evaluations](#) provides more information on Re-evaluations.

If there are changes in the affected community, they are described in the Re-evaluation. Typical activities include:

- **Desktop data analysis** - Compare the previous SCE evaluation results with current information.
- **Windshield survey** - Review aerial photographs and drive through the project area to identify new community features or changes in the community characteristics.

- **Public Involvement** - Identify any new community concerns and potential solutions during any public involvement activities conducted after approval of the Environmental Document and through the **Community Awareness Plan (CAP)**. If potentially underrepresented populations will be affected by the project due to project changes, special considerations may be necessary to fully engage the community. See [Part 1, Chapter 11, Public Involvement](#) for more information about public involvement.

4.3 DOCUMENTATION

In the PD&E phase, the SCE evaluation results, recommendations, and supporting information are used to update the project file and prepare appropriate sections of the Environmental Document. Information from the **CSRP** (See the [Right of Way Procedures Manual, Topic No. 575-000-000](#)), which supports the evaluation of potential relocation effects, is also used to prepare the Environmental Document.

4.3.1 Update Project File

Appropriate information for the project file includes:

- All information compiled and assessments performed for the SCE evaluation (e.g., demographic data, maps, analyses—including the **CSRP**—and public comments)
- Community outreach materials (e.g., contact lists, description of activities, project information handouts, and correspondence)

Documents in the project file provide justification for project recommendations, demonstrate that public input was solicited and considered in project decisions, and provide guidance for subsequent project phases and future projects.

4.3.2 Prepare Environmental Document

Maintain a written record of all results, beginning with the potential sociocultural effects suggested by the compiled community information and proceeding to more detailed analysis as alternatives are refined and evaluated. Prepare an executive summary of key results, including public concerns, conclusions of various analyses, strategies for addressing impacts, and any commitments made to the public.

Summarize the results and recommendations of the SCE evaluation in the appropriate sections of the project's Environmental Document or a separate **SCE Technical Memorandum** (see [Figure 4-2](#) for a sample outline). If a separate **SCE Technical Memorandum** is prepared, summarize the results in the Environmental Document. These memorandums may be used at any time, and are recommended when there are substantial concerns about community effects.

When preparing a separate **SCE Technical Memorandum** for federal highway projects, include the following 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 FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Documentation of the SCE evaluation in the Environmental Document varies by Class of Action (COA) and complexity of the project.

Results of the SCE evaluation are documented in the Environmental Document as described below.

4.3.2.1 Type 1 Categorical Exclusions or Non-Major State Actions

Minimal documentation on sociocultural effects is required for Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSA). For Type 1 CEs, the SCE evaluation results are recorded on the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** found in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). For NMSAs, the SCE evaluation results are recorded on the **Non-Major State Actions Checklist, Form No. 650-050-30** found in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

4.3.2.2 Type 2 Categorical Exclusions

The Environmental Document for a Type 2 CE (also referred to as Type 2 CE documentation) includes the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11, Preliminary Engineering Report (PER)** and, if applicable, the public hearing transcript. For additional information on the components of a Type 2 CE, see [Part 1, Chapter 5, Type 2 Categorical Exclusion](#).

Environmental Analysis - To document sociocultural effects on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, place an "X" in the appropriate column indicating the level of impact in the Environmental Analysis section. The six SCE issues are documented in **Section 3.A, Social and Economic**, of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. If an SCE issue is not in any way involved with the project, mark the column indicating "NoInv." If the project is expected to result in an enhancement to the resource, mark the column "Enhance" and provide documentation. If a perceived impact is not significant, mark the column "No" and provide documentation. If a perceived impact is significant, mark the column "Yes" and provide documentation.

Attach documentation to substantiate the impact determination and reference the attachment(s) the Supporting Information column. Summarize any required minimization

and mitigation actions or features that were developed in response to community impacts. Include summaries and analyses of community outreach and public involvement activities that supported the SCE evaluation. Describe any ideas implemented in the preferred alternative that addressed community concerns.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement is included above the reviewers' signatures in **Section 6** on the **Type 2 Categorical Exclusion Determination Form**:

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

Commitments - List commitments to address sociocultural effects or controversies for the selected alternative during design and/or construction in the Commitments section of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** per [Part 2, Chapter 22, Commitments](#). These commitments should be the same as those on the **Project Commitment Record, Form No. 700-011-35**.

For additional guidance on documenting Type 2 CEs, refer to [Part 1, Chapter 5, Type 2 Categorical Exclusion](#).

4.3.2.3 Environmental Assessments

Environmental Analysis - Summarize the results of the SCE evaluation in the Social and Economic sub-section. The summary should be commensurate in scope with the impact analysis result and should provide sufficient information to briefly describe the communities and community resources that have the likelihood to be impacted by the project; descriptions of foreseeable impacts to the six SCE issues; and recommended avoidance, mitigation, minimization, or enhancement actions.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement must be included in this section of the document:

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

Comments and Coordination - Include a summary of community outreach activities used in the SCE evaluation. Documentation of this section will be in accordance with the public involvement requirements found in [Part 1, Chapter 11, Public Involvement](#).

Commitments - Provide any commitments to address sociocultural effects or controversies for the selected alternative during design and/or construction in the Commitments section per [Part 2, Chapter 22, Commitments](#). These commitments

should be the same as those on the ***Project Commitment Record, Form No. 700-011-35***.

The processing of an EA and a Finding of No Significant Impact (FONSI) are discussed in [Part 1, Chapter 6, Environmental Assessment](#) and [Part 1, Chapter 7, Finding of No Significant Impact](#).

4.3.2.4 Environmental Impact Statements

Executive Summary - To record that the project has fully considered effects to minorities and other groups under the ***Civil Rights Acts of 1964***, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement must be included in this section of the document:

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

Environmental Analysis - Provide a concise summary of the existing sociocultural environment for each of the six SCE issues in the Social and Economic sub-section of the Environmental Analysis section of the EIS by using the compiled community information for the project. Include information demonstrating that special populations have received full consideration. Summarize the potential adverse community impacts for each alternative and strategies for resolving adverse impacts in this sub-section. A separate section addressing Environmental Justice is recommended for projects where this may be an issue. If any of the SCE issues has a significant impact, it should be clearly described in this section.

Comments and Coordination - Indicate project features developed in conjunction with community outreach and coordination with government agencies, private groups, and the public and provide documentation of coordination efforts.

Commitments - List commitments to address sociocultural effects or controversies for the selected alternative during design and/or construction per [Part 2, Chapter 22, Commitments](#). These commitments should be the same as those on the ***Project Commitment Record, Form No. 700-011-35***.

EISs addressing a significant SCE issue typically include a separate ***SCE Technical Memorandum***. See [Figure 4-2](#) for a recommended outline.

See [Part 1, Chapter 11, Public Involvement](#) for additional information related to ***Title VI*** and ***Americans with Disabilities Act (ADA)*** compliance. Refer to [Part 1, Chapter 8, Draft Environmental Impact Statement](#), and [Part 1, Chapter 9, Final Environmental Impact Statement](#) for more information about preparing EISs.

4.3.2.5 State Environmental Impact Reports

Environmental Analysis - Include the SCE evaluation results in **Section 2** of the **State Environmental Impact Report Form, Form No. 650-050-43** (found in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). Place an "X" in the appropriate column indicating the level of impact in the Environmental Analysis section. The SCE evaluation issues are documented in section A "Social Impacts." If an SCE issue is not in any way involved with the project, mark the column indicating "NoInv." If an issue exists but there is minimal impact, mark the column indicating "No" and provide documentation. If a perceived impact is significant, mark the column "Yes" and provide documentation. Provide documentation in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination.

To record that the project has fully considered effects to minorities and other groups under the **Civil Rights Acts of 1964**, Environmental Justice, and other nondiscrimination laws and regulations, the following standard statement is included in **Section 9.** of the **State Environmental Impact Report Form, Form No. 650-050-43**:

This project has been developed without regard to race, color, national origin, age, sex, religion, disability, or family status.

Commitments - Discuss all project commitments made in coordination with the community in this section of the State Environmental Impact Report (SEIR) per [Part 2, Chapter 22, Commitments](#). See [Procedure No. 700-011-035, FDOT Commitment Tracking](#).

For more information about developing SEIRs, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

4.3.2.6 Documentation for Nondiscrimination Considerations

When minority or low income population groups will be adversely affected by the project, it is often addressed in a separate section of the Social and Economic sub-section titled Social of the Environmental Document. Otherwise, it may be incorporated into the discussion of the six SCE issues as appropriate. In either case, the documentation should include the following:

1. Briefly describe **EO 12898**. See the example below.

EXAMPLE

Describing Executive Order 12898 in the Environmental Document

“Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations, signed by the President on February 11, 1994, directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.”

2. **Provide Demographic Information** - The characteristics of the population in the study area, including those identified in [Table 4-1](#), should be listed in a table and compared to a larger reference community such as the county, census tract, or traffic analysis zone. The discussion should also describe the method used to identify minority and low income populations (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).

When minority or low-income populations will not be adversely affected by the proposed project, the Environmental Document should reflect that determination (see example text below).

EXAMPLE

Determination of No Adverse Effects

“No minority or low-income populations have been identified that would be adversely impacted by the proposed project, as determined above. Therefore, in accordance with the provisions of ***Executive Order 12898*** and ***FHWA Order 6640.23a***, no further Environmental Justice analysis is required.”

3. **Explain Coordination, Access to Information, and Participation** - In the appropriate section of the Environmental Document, discuss the major proactive efforts used in the project to ensure meaningful opportunities for public participation, including activities to increase participation of low-income and minority populations. Include in the document the views of the affected populations about the project and any proposed mitigation, and describe what steps are being taken to resolve any controversies that exist. Document the degree to which the affected groups of minority and/or low-income populations have been involved in the decision-making process related to the alternative selection, impact analysis, and mitigation.

- 4. Describe Project Effects** - Summarize the direct, indirect, and cumulative effects of the project on the community. References to other sections in the Environmental Document can be cited, as appropriate. The beneficial and adverse effects on the overall population and on minority and low-income populations, in particular, need to be addressed under the applicable social & economic, cultural, natural, or physical topics.

Discuss what measures are being considered for alternatives to avoid or mitigate the adverse effects. Any activity that demonstrates sensitivity to special needs should be highlighted, such as accommodations for transit dependency and/or addressing the need for translators. For projects that travel through predominantly minority and low-income and predominantly non-minority and non-low-income areas, compare mitigation and environmental enhancement actions that affect each group.

If the effects remain adverse after mitigation is considered, then a determination must be made whether those effects are disproportionately high and adverse with respect to minority and/or low-income populations.

In selecting the preferred alternative, the Environmental Document should include a discussion of the magnitude and distribution of disproportionately high and adverse human health or environmental effects on minority and low income populations for all alternatives. If there are no disproportionately high and adverse effects on minority and/or low-income populations once mitigation and benefits are considered, that determination should be stated in the document (see example below).

EXAMPLE

Statement of a Determination of No Disproportionately High and Adverse Effects

“Based on the above discussion and analysis, the XYZ alternative(s) will not cause disproportionately high and adverse effects on any minority or low-income populations in accordance with the provisions of **Executive Order 12898** and **FHWA Order 6640.23a**. No further Environmental Justice analysis is required.”

- 5. Document Decision to Proceed when Disproportionately High and Adverse Effects Exist, if applicable** - When there is a disproportionately high and adverse effect on minority or low-income populations, the Environmental Document should describe how the impacted populations/communities were involved in the decision-making process. The document also needs to identify what practicable mitigation commitments have been made. In addition, if the affected population is a minority population protected under **Title VI (42 U.S.C. §§ 2000d – 2000d-7)**, the document must include the following determinations, as appropriate:

- There is a substantial need for the project, based on the overall public interest; and
- Alternatives that would have less adverse effects on protected populations have either:
 - Adverse social, economic, environmental, or human health impacts that are more severe; or
 - Would involve increased costs of an extraordinary magnitude

For Environmental Documents prepared for the Federal Transit Administration (FTA), refer to [Part 1, Chapter 14, Transit Project Delivery](#) and *FTA's Circular 4703.1, Environmental Justice Policy Guidance for FTA Recipients (FTA, 2012)*.

4.3.3 Develop Conceptual Stage Relocation Plan

Whenever relocations are anticipated for a project, a **Conceptual Stage Relocation Plan (CSRP)** is prepared by District ROW Office at the same time that the Environmental Document is being prepared by the District environmental staff. The plan should include detailed data about the demographics of the households and businesses being relocated, replacement property, and relocation assistance. [Chapter 9](#) of the [Right of Way Procedures Manual, Topic No. 575-000-000](#) contains a wide range of methods for addressing potential impacts, including financial, design, replacement/restoration, planning/programmatic assistance, and regulatory strategies. If there are no relocatees, or if relocation assistance is not going to be provided on the project, then a **CSRP** is not required.

It is the responsibility of District environmental staff to coordinate with the District ROW Office to ensure that the preparation of the **CSRP** coincides with project scheduling and that delays are avoided. Close coordination will also ensure that all alignment alternatives have been properly assessed.

The data from the plan must be incorporated into the Environmental Document (Type 2 CE, EA, EIS, or SEIR). Upon receipt of the plan from the District ROW Office, District environmental staff summarize the data contained in the **CSRP** in the appropriate sections of the Environmental Document to address anticipated relocation effects. It must accompany the Type 2 CE, EA, or Draft Environmental Impact Statement (DEIS) Environmental Documents when provided to OEM. Acceptance of the **CSRP** as adequate supporting documentation occurs when the Type 2 CE is approved or the EA or DEIS is approved for public availability. The **CSRP** is then placed in the project file for the administrative record.

Information about relocations is updated during a re-evaluation as the project progresses, consistent with [Part 1, Chapter 13, Re-evaluations](#).

4.3.4 Considerations for Evaluating Relocation Effects

Listed below are some important points to keep in mind in developing the information from the **CSRP** for inclusion in the Relocation Potential section of the Environmental Document:

- All relocation information must be quantifiable (i.e., a general statement such as “There are sufficient resources available for residential relocatees” is not acceptable as quantifiable data).
- The **CSRP** must document the sources of information used in developing the plan. Since most of the information provided in the **CSRP** is secondary source information, the data are estimates. Ensure that the information provided in the Environmental Document is accurate, timely, and adequate with respect to identifying and discussing relocation effects within the project area.
- All pertinent data in the **CSRP** must be summarized and discussed in the Environmental Document.
- A brief discussion of Last Resort Housing must be provided when comparable replacement housing is not available. [Section 4.3.4.1](#) of this chapter provides standard information to be incorporated into the Environmental Document.
- A brief summary of FDOT’s Relocation Assistance Program must also be provided. [Sections 4.3.4.2](#) and [4.3.4.3](#) provide standard information to be incorporated into the Environmental Document depending on whether there is involvement with relocatees.
- If “functional replacement” pursuant to **23 CFR § 710.509** may be provided, the results of discussions and decisions concerning “functional replacement” must be included in the Environmental Document. Any commitments must also be listed in the appropriate sections. See [Procedure No. 700-011-035, FDOT Commitment Tracking](#).

4.3.4.1 Last Resort Housing

When comparable replacement housing is not available, the following standard paragraph must be included in the Relocation Potential section of the Environmental Document (Type 2 CE, EA, EIS or SEIR):

Comparable replacement housing for sale and rent is available in (Any City). However, there may be some last resort rent supplements and last resort replacement housing payments necessary. Last resort housing payments would be used in order to place the relocatees in decent, safe, and sanitary housing, if necessary. Should last resort housing be constructed, the housing would be available before the relocatees are required to vacate

their dwellings. There are numerous residential lots available for new construction within the (Any City) area. Lot sizes range from ___ square feet to ___ square feet and are priced from \$___ to \$___.

4.3.4.2 Information Required When a Relocatee is Involved

The following standard information must be included in the Relocation Potential section of the Environmental Document when there is involvement of a relocatee:

In order to minimize the unavoidable effects of Right of Way acquisition and displacement of people, the Florida Department of Transportation will carry out a Right of Way and Relocation Program in accordance with Florida Statute 339.09 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646 as amended by Public Law 100-17).

The Florida Department of Transportation provides advance notification of impending Right of Way acquisition. Before acquiring Right of Way, all properties are appraised on the basis of comparable sales and land use values in the area. Owners of property to be acquired will be offered and paid fair market value for their property rights.

No person lawfully occupying real property will be required to move without at least 90 days written notice of the intended vacation date, and no occupant of a residential property will be required to move until decent, safe and sanitary replacement housing is made available. "Made available" means that the affected person has either by himself obtained and has the right of possession of replacement housing, or that the Florida Department of Transportation has offered the relocatee decent, safe and sanitary housing which is within his financial means and available for immediate occupancy.

At least one relocation specialist is assigned to each highway project to carry out the Relocation Assistance and Payments program. A relocation specialist will contact each person to be relocated to determine individual needs and desires, and to provide information, answer questions, and give help in finding replacement property. Relocation services and payments are provided without regard to race, color, religion, sex, or national origin.

All tenants and owner-occupant relocatees will receive an explanation regarding all options available to them, such as (1) varying methods of claiming reimbursement for moving expenses; (2) rental replacement housing, either private or publicly subsidized; (3) purchase of replacement housing; and (4) moving owner-occupied housing to another location.

Financial assistance is available to the eligible relocatee to:

- *Reimburse the relocatee for the actual reasonable costs of moving from homes, businesses, and farm operations acquired for a highway project.*
- *Make up the difference, if any, between the amount paid for the acquired dwelling and the cost of a comparable decent, safe and sanitary dwelling available on the private market, as determined by the department.*
- *Provide reimbursement of expenses, incidental to the purchase of a replacement dwelling.*
- *Make payment for eligible increased interest cost resulting from having to get another mortgage at a higher interest rate. Replacement housing payments, increased interest payments, and closing costs are limited to \$31,000 combined total.*

A displaced tenant may be eligible to receive a payment, not to exceed \$7,200, to rent a replacement dwelling or room, or to use as down payment, including closing costs, on the purchase of a replacement dwelling.

The brochures that describe in detail the Florida Department of Transportation's Relocation Assistance Program and Right of Way acquisition program are "Residential Relocation Under the Florida Relocation Assistance Program", "Relocation Assistance Business, Farms and Non-profit Organizations", "Sign Relocation Under the Florida Relocation Assistance Program", "Mobile Home Relocation Assistance", and "Relocation Assistance Program Personal Property Moves". All of these brochures are distributed at all public hearings and made available upon request to any interested persons.

Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601-3619) guarantees each person equal opportunity in housing.

4.3.4.3 Information Required When There are No Relocations

The following standard information must be included in the Relocation Potential section of the Environmental Document whenever the proposed action does not involve a residential or business relocation:

The proposed project, as presently conceived, will not displace any residences or businesses within the community. Should this change over the course of the project, the Florida Department of Transportation will carry out a Right of Way and Relocation Program in accordance with Florida Statute 339.09 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646 as amended by Public Law 100-17). The brochures that describe in detail the FDOT's Relocation

Assistance Program and Right of Way acquisition program are “Residential Relocation Under the Florida Relocation Assistance Program”, “Relocation Assistance Business, Farms and Non-profit Organizations”, “Sign Relocation Under the Florida Relocation Assistance Program”, “Mobile Home Relocation Assistance”, and “Relocation Assistance Program Personal Property Moves”. All of these brochures are distributed at all public hearings and made available upon request to any interested persons.

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4.5 FORMS

State Environmental Impact Report Form, Form No. 650-050-43

Non-Major State Actions Checklist, Form No. 650-050-30*

[Project Commitment Record, Form No. 700-011-35](#)

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

4.6 HISTORY

11/10/2003, 11/09/2009, 02/21/2014, 8/25/2016

SCE CONSIDERATIONS

Social

1. What are the demographics of the potentially affected population?
2. What displacements of population, if any, would be expected as a result of the project?
3. Would any increases or decreases in population be expected as a result of the project?
4. Would any displacement of minority populations be expected as a result of the project?
5. Are there any disproportionate effects on special populations?
6. Have minority populations previously been affected by other public projects in the area?
7. Would the project result in any barriers dividing an established neighborhood(s) or would it increase neighborhood interaction?
8. What changes, if any, in traffic patterns through an established neighborhood(s) would be expected as a result of the project?
9. Would any changes to social relationships and patterns be expected as a result of the project?
10. Would the project result in any loss, reduction or enhancement of connectivity to a community or neighborhood activity center(s)?
11. Would the project affect community cohesion?
12. Would the project result in the creation of isolated areas?
13. Would any increase or decrease in emergency services response time (fire, police, and EMS) be expected as a result of the project?
14. Does the project affect safe access to community facilities?
15. Would any changes in social value be expected as a result of the project?
16. Would the project be perceived as having a positive or negative effect on quality of life?
17. Have community leaders and residents had opportunities to provide input to the project decision-making process in the present and/or past?
18. Have previous projects in this area been compatible with or conflicted with the plans, goals and objectives of the community?
19. Is the proposed project consistent with the community vision?
20. Are transportation investments equitably serving all populations?

Economic

1. Would any changes to travel patterns be expected that would eliminate or enhance access to any businesses?
2. Would any increases or decreases in traffic through traffic-based business areas be expected?

Table 4-5 SCE Considerations

<ol style="list-style-type: none">3. Would any changes in travel patterns be expected that would result in a business or district being bypassed?4. Would access for special-needs patrons increase or decrease as a result of the project?5. Would any increase or decrease in business visibility for traffic-based businesses be expected as a result of the project?6. Would the loss of any businesses be expected as a result of the project?7. Would any increases or decreases in employment opportunities in the local economy be expected as a result of the project?8. Would regional employment opportunities be enhanced or diminished as a result of the project?9. What is the effect of the project on military installations?10. Would any real property be removed from the tax roles as a result of the project?11. Is it likely that taxable property values would increase or decline as a result of the project?12. Would changes in business activities increase or decrease the tax base?
<p><i>Land Use Changes</i></p> <ol style="list-style-type: none">1. Would the project result in a change in the character or aesthetics of the existing landscape?2. Would the amount of recreation/open space be expected to increase or decrease as a result of the project?3. Would the project be compatible with local growth management policies?4. Would the project be compatible with adopted land use plans?
<p><i>Mobility</i></p> <ol style="list-style-type: none">1. Would access to public transportation facilities be increased or reduced as a result of the project?2. Would pedestrian mobility be increased or decreased as a result of the project?3. Would non-motorist access to business and service facilities be increased or reduced as a result of the project?4. How does the project affect intermodal connectivity?5. Would any change in connectivity between residential and nonresidential areas be expected as a result of the project?6. What are the expected changes to existing traffic patterns as a result of the project?7. Would a change in any public parking areas be expected as a result of the project?8. Would access for transportation disadvantaged populations be affected?

Table 4-5 SCE Considerations (Page 2 of 3)

Aesthetic Effects

1. Are there noise or vibration sensitive sites near the project?
2. Is the project likely to affect a vista or viewshed?
3. Does the project blend visually with the area?
4. Is the project adjacent to any community focal point?
5. Is the project likely to be perceived as being compatible and in character with the community's aesthetic values?
6. What feature(s), if any, of the project might be perceived by the community as inconsistent with the character of that community?

Also see requirements in ***Part 2, Chapter 5, Aesthetic Effects***.

Relocation Potential

1. Would any displacement of residences and/or dwellings be expected as a result of the project?
2. Would any displacement of non-residential land uses be expected as a result of the project?
3. Do any potentially displaced non-residential uses have any unique or special characteristics that are not likely to be reestablished in the community?
4. Would any displacement of community or institutional facilities be expected as a result of the project?

See additional requirements in ***Section 4.3.4, Considerations for Evaluating Relocation Effects***.

Table 4-5 SCE Considerations (Page 3 of 3)

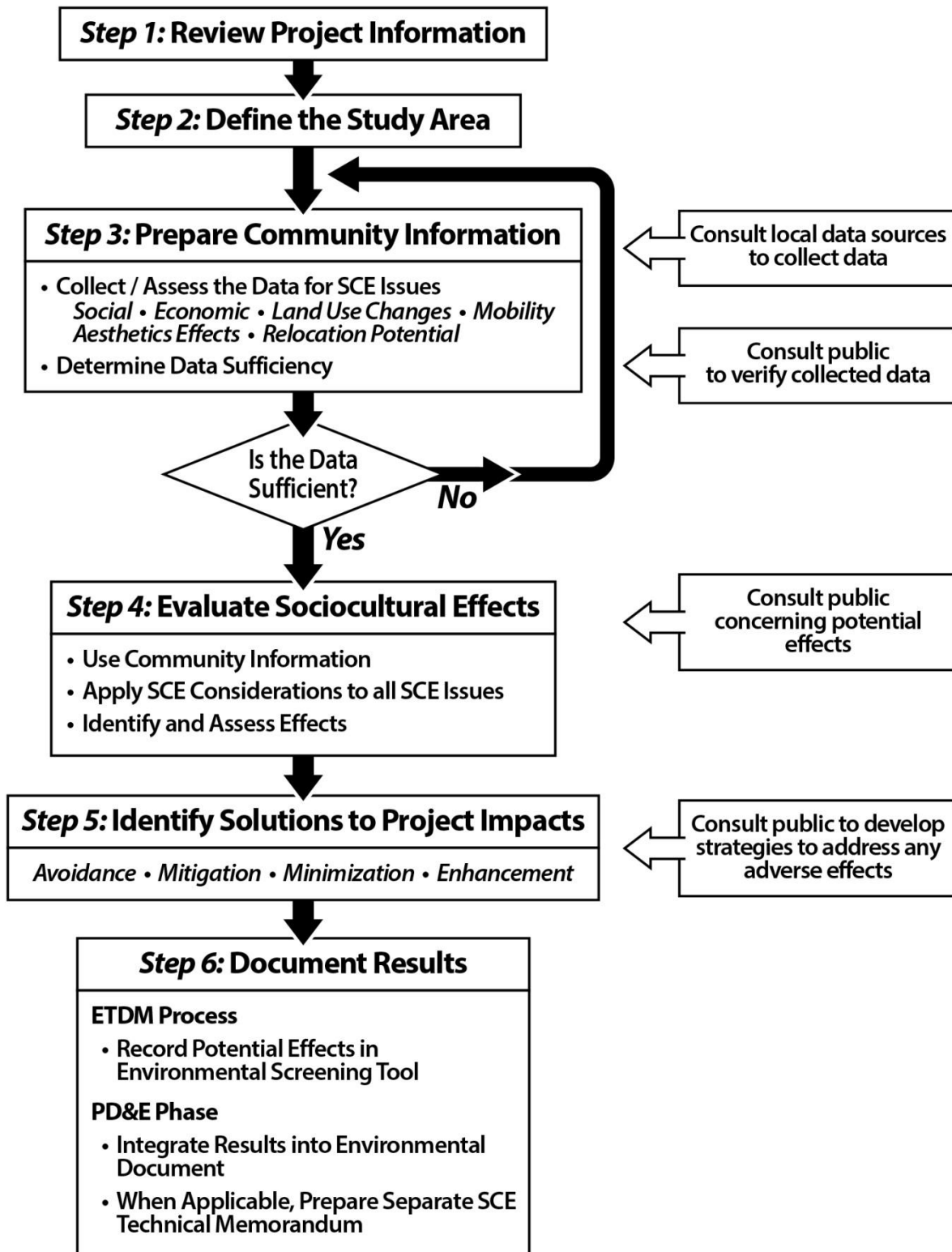


Figure 4-1 SCE Evaluation Process Diagram

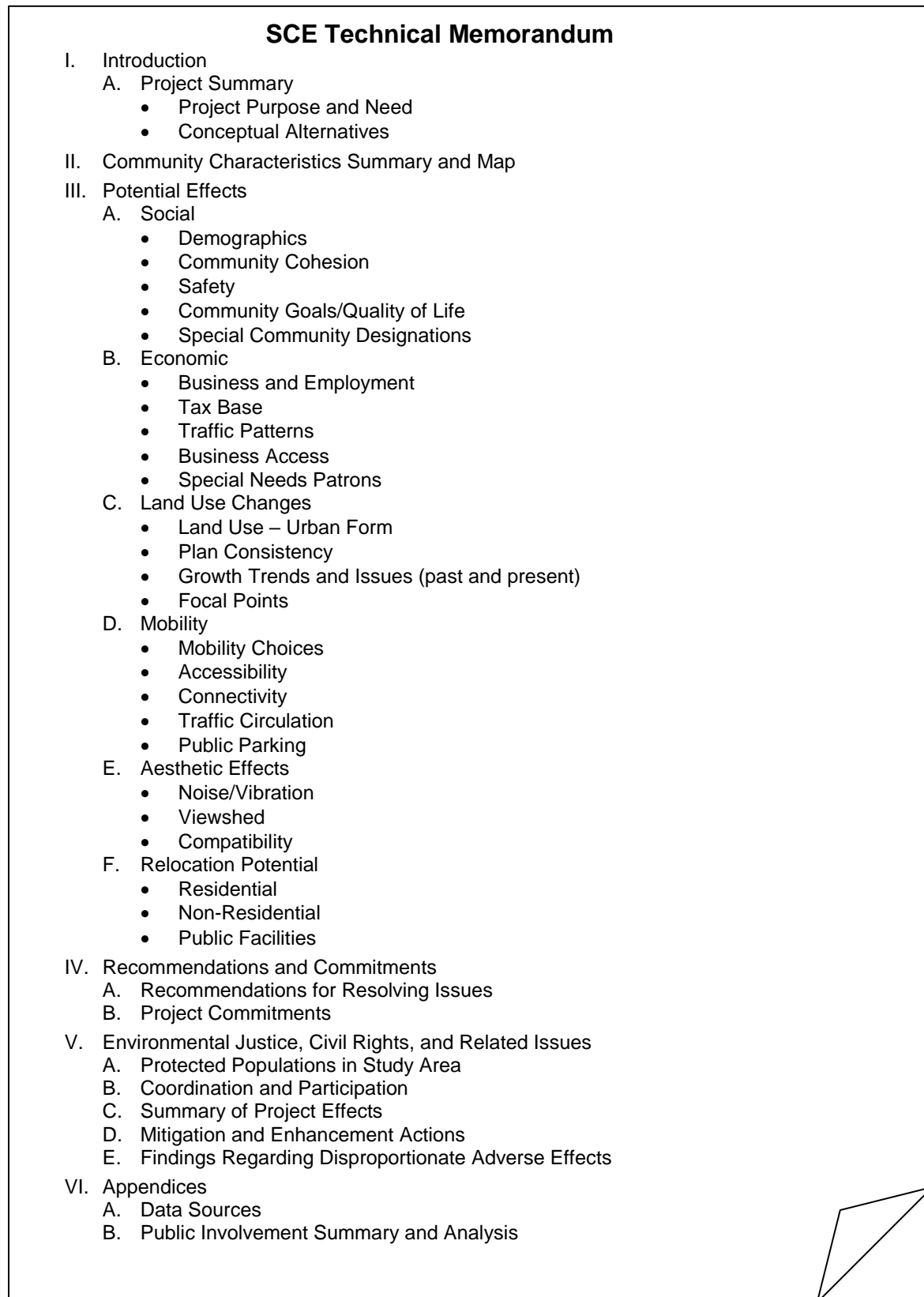


Figure 4-2 Recommended SCE Technical Memorandum Outline

PART 2, CHAPTER 5

AESTHETIC EFFECTS

TABLE OF CONTENTS

5.1	OVERVIEW	5-1
5.1.1	Purpose	5-1
5.2	PROCEDURE.....	5-2
5.2.1	Efficient Transportation Decision Making Screening Evaluations	5-3
5.2.2	Project Development & Environment.....	5-3
5.2.2.1	Aesthetics Effects Evaluation	5-3
5.2.2.2	Commitments.....	5-5
5.2.2.3	Re-evaluation	5-5
5.2.2.4	Documentation.....	5-5
5.2.3	Design	5-6
5.3	SPECIAL CONSIDERATIONS	5-6
5.3.1	Outdoor Advertising.....	5-6
5.3.2	Florida Scenic Highways and Other Specially Designated Highways...	5-7
5.4	REFERENCES.....	5-8
5.5	FORMS	5-9
5.6	HISTORY	5-9

LIST OF TABLES

Table 5-1	Typical Aesthetic Effects Considerations	5-2
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LIST OF FIGURES

Figure 5-1	Aesthetic Effects Process Flow Chart	5-10
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PART 2, CHAPTER 5

AESTHETIC EFFECTS

5.1 OVERVIEW

5.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Transportation actions can affect communities and influence aesthetic qualities. FDOT considers of Aesthetic Effects (AE) in project development because it influences community cohesion, community values, and can affect the travel experience. As such, FDOT identifies practical and feasible opportunities to improve project aesthetics on each project proposed. Often these improvements can be included at minimal or no cost, and add little or no time to the project schedule.

This chapter contains FDOT's procedures for evaluating AE during project delivery include special considerations for scenic highways and outdoor advertising. AE can be either positive or negative and should be evaluated based on the existing and proposed context of the project area. The aesthetic qualities of a community or area are defined by a combination of visual resources and other qualities that define the character of that community. The evaluation of AE should address the community's aesthetic ideals while producing an affordable, biddable, constructible, and maintainable design.

The AE process assesses the existing aesthetic context of the project area, evaluates a proposed project's aesthetic effects, and determines the most appropriate opportunities for enhancement within the project area while remaining consistent with federal and state aesthetic requirements by:

1. Developing transportation facilities that are compatible with the surrounding natural and/or man-made environment;
2. Balancing transportation design concepts with community vision;

3. Selecting appropriate design approaches and materials, forms, styles, scale, color, pattern and texture; and
4. Preserving existing plants or landscape, when feasible, and considering opportunities for new landscaping.

5.2 PROCEDURE

The evaluation of AE begins in the Planning phase with necessary data collected as part of the Efficient Transportation Decision Making (ETDM) process. The evaluation continues through the Project Development & Environment (PD&E) process and into the Design and Construction phases ([Figure 5-1](#)). The completed AE evaluation delineates the magnitude of project related aesthetic effects.

An AE evaluation for a proposed transportation project should meet the following objectives:

1. Identify current aesthetic resources (e.g., Florida Scenic Highways, other special roadway designations, existing forested areas, wildflower areas, trees, landscape, community features, ponds and drainage features, bridge structures and other architectural features);
2. Analyze/categorize the aesthetic resources that could be affected;
3. Assess the value of each of these aesthetic resources to the community or study area;
4. Assess potential impacts; and
5. Identify potential avoidance, minimization, mitigation and/or enhancement measures.

The typical considerations that should be weighed as part of an AE evaluation are summarized in [Table 5-1](#).

TABLE 5-1 Typical Aesthetic Effects Considerations

CHARACTER	Used to understand the aesthetic resources unique to the studied community and its environment(s). Each of the following may be identified and described before any value and/or impact assessments begin: adjoining architectural styles; adjoining land uses; available transportation modes; corridor width and alignment; density (urban, rural); level of (historical) maintenance; lighting; common materials; visual rhythms, patterns, forms, lines, colors and textures; vegetation; and vehicle speed; sounds; odors; and vibrations.
COMPATIBILITY	These base considerations may be evaluated in the context of 'fit for the transportation component' proposed: access; community cohesiveness; existing design characteristics; planned growth and land use patterns; sense of ownership /public boundaries; traffic patterns/congestion; design compatibility with community setting; and color and materials coordination (with evident patterns).

COMMUNITY VALUES	To utilize in understanding how the transportation project can contribute to public perceptions, and will inform the 'measurement' of the intensity of potential AE. May include the following: community goals; cultural significance; gateways and focal points; local plan consistency; open space; quality of life; safety; and special community designations.
SENSITIVE AREAS	Many of these contribute subtly to a community's identity and may need to be considered in the broader Community Values context (level of sensitivity to each): areas of recognized beauty; bicycle routes; commercial centers; historic or other culturally-important resources; parks and recreation areas; pedestrian facilities; public facilities (hospitals, colleges, universities); public parking areas (and access to them); residential areas; specific historic or cultural features; transit facilities; and 'name-sake' water bodies.
VISUAL FEATURES	These are usually rated as very important and highly valuable by communities. They should be considered in the context of potential for both short- and long-term impacts of the project. They may include: scenic spaces (views and vistas); tree cover; natural shade/shadow patterns; vegetation and screening; water bodies; light features and evident lighting levels; other natural green spaces; recognized safety features; visual clutter (if present); and, simplicity and attractiveness of signage.

5.2.1 Efficient Transportation Decision Making Screening Evaluations

Projects qualifying for screening through the ETDM process receive early consideration of AE during the evaluation of sociocultural effects (SCE) ([Part 2, Chapter 4, Sociocultural Effects Evaluation](#)).

Generally, evaluating AE during ETDM includes the following:

1. Planning Screen Evaluation – Identification of existing visual resources and features that could be affected or improved by the proposed transportation project, including forested area, wildflower areas, trees, landscaping and other aesthetic features and the identification of issues related to aesthetics that could prevent the project from moving forward or require significant adjustments to the project concept.
2. Programming Screen Evaluation - provide commentary about effects, summarize scoping recommendations, and identify public concerns to further understand the magnitude of potential aesthetic impacts and to determine methods for resolving each.

5.2.2 Project Development & Environment

The AE evaluation during the PD&E phase builds upon previous planning and ETDM evaluations by filling information gaps, analyzing issues of concern identified in ETDM and completing the appropriate level of analysis.

5.2.2.1 Aesthetics Effects Evaluation

The AE evaluation should be tailored to the context and scope of the project. The typical AE considerations presented in [Table 5-1](#) should be considered during each step of the AE evaluation. If the Project Manager determines the evaluation completed during ETDM

screening efforts is sufficient to address aesthetic issues, then findings should be summarized in the Environmental Document.

PD&E projects that require AE evaluation should follow the steps below.

Step 1: Describe Existing Conditions - The study area is determined by the Project Manager and will vary depending on the project context, resources involved and project impacts. Once the study area has been defined, the Project Manager will describe the existing aesthetic characteristics, such as existing forested areas, wildflower areas, trees, special highway designations and landscape.

This step may include using AE information available on the Environmental Screening Tool (EST) Area of Interest (AOI) tool, the SHS Videolog, aerial photography, Roadway Characteristics Inventory (RCI), and other online tools. The analysis should include field reviews to verify data collected during the desktop review.

Step 2: Evaluate Effects - This evaluation should identify the effects a project may have on the visual resources & qualitative physical characteristics of a study area. Using the Typical Aesthetic Effects Considerations in [Table 5-1](#), assess the positive and negative effects of the project on the study area's aesthetic resources. The interrelationship of effects varies with the type of transportation action and the affected community. The analyst should coordinate with appropriate program specialists (e.g., cultural resources, landscape architecture, scenic highways, water quality, noise, air quality) to determine how the project affects these areas from an aesthetic perspective. The Project Manager should describe the intensity of the effects providing sufficient information to determine their magnitude. If there are multiple alternatives, provide sufficient information to differentiate between them (including the no-build alternative).

Based on knowledge of the affected area and the impact analysis, the Project Manager must determine if the perceived AE is significant. Significance is a function of both context and intensity. Significance of the impact will vary with the setting of the proposed action and the surrounding area. To determine significance, the severity of the aesthetic impact must be examined in terms of the type, quality and sensitivity of the aesthetic resource involved; the location of the proposed project; the duration of the impact (short or long term); and the community's value of the aesthetic resource. The determination of each impact must be documented in the Environmental Document.

Step 3: Recommend Ways to Resolve Issues - As a project moves through the PD&E process and AE are identified, the Project Manager considers potential solutions to address adverse effects or enhance the aesthetic experience. In keeping with FDOT's [Context Sensitive Solutions, Policy No. 000-650-002](#) and [Complete Streets, Policy No. 000-625-017](#); consideration of solutions that would make the project "fit" the needs of the community may be warranted. The Project Manager should consider both standard and unique aesthetic enhancements for a specific project where deviations are possible in response to the community's input. The public can provide input as to identify ways to avoid, minimize or mitigate adverse AE or identify aesthetic enhancements through the public involvement process ([Part 1, Chapter 11, Public Involvement](#)).

Methods for resolving adverse AE associated with a transportation project can include: **avoidance, minimization, mitigation, and enhancement**, for example, the preservation of existing forested areas, wildflower areas, or relocation or preservation of trees, landscape and other aesthetic features. Solutions should consider short-term effects (during construction), and long-term effects as appropriate. The Project Manager considers the effects of these measures on the affected community and confirms that the approach supports the project's purpose and need.

5.2.2.2 Commitments

Prior to finalizing any aesthetic commitments, the Project Manager must coordinate with the District Design Office, and other FDOT offices as appropriate, to ensure that FDOT standards are considered and that proposed commitments are feasible. Some aesthetic enhancements may require a local agreement before such commitments can be made. AE commitments are documented on the **Project Commitment Record (PCR), Form No. 700-011-035** according to [Part 2, Chapter 22, Commitments](#).

5.2.2.3 Re-evaluation

For projects developed through a PD&E Study the Project Manager must, as part of the Design phase, ensure commitment compliance, identify any changes that have occurred since the approval of the Environmental Document, and document findings in the reevaluation per [Part 1, Chapter 13, Re-evaluations](#). If significant design changes have taken place since approval of the Environmental Document, the Project Manager will need to assess whether AE will change. Changed impacts to AE will need to be documented and may need to be coordinated with other internal offices and the community.

5.2.2.4 Documentation

The AE evaluation findings are documented in the appropriate Environmental Document as described below:

1. **Categorical Exclusions (CE)** - Documentation of the AE evaluation must demonstrate the proposed project has no significant AE. For Type 2 CEs, AE evaluation material should be briefly summarized and included in the Type 2 CE documentation. This documentation should include a summary of pertinent AE information on the selected alternative.
2. **Environmental Assessments (EA) and Environmental Impact Statements (EIS)** - The findings of the AE evaluation are summarized for direct inclusion in the Environmental Document. AE information and documentation is provided in the AE section of the EIS or EA, as well as the Comments and Coordination, and Commitments sections of the EA, EA with Finding of No Significant Impact (FONSI), Draft Environmental Impact Statement (DEIS), and Final Environmental Impact Statement /Record of Decision (FEIS/ROD) document. In the AE section

the AE summary should present the impact analysis findings and recommend avoidance, minimization, mitigation, and enhancement measures.

3. **State Environmental Impact Report (SEIR)** - The results of the AE evaluation are included in the Environmental Analysis section of the SEIR.

5.2.3 Design

Aesthetic commitments established as a result of the a PD&E Study must be transmitted to the Design Office. Transfer commitments to Design using the **Project Commitment Record (PCR), Form No. 700-011-035** according to [Part 2, Chapter 22, Commitments](#). The Project Manager will monitor plans development and document the final disposition of each commitment made. Changed impacts to project aesthetics and commitments made will need to be documented in a re-evaluation.

5.3 SPECIAL CONSIDERATIONS

When assessing AE there are several unique programs that require special attention from the Project Manager. Supplemental guidance to the AE procedures discussed above, is provided in [Section 5.3.1](#) and [Section 5.3.2](#).

5.3.1 Outdoor Advertising

When there are existing permitted outdoor advertising signs, on the project the PM must review their permit status, and their view zones, as early as possible during project delivery. Outdoor advertising regulations are found in **Chapter 479, Florida Statutes (F.S.)**, and in **Rule Chapter 14-10, Florida Administrative Code (F.A.C.)**. Coordinate with FDOT's Outdoor Advertising Office (OAO), as appropriate, as issues with the anticipated blocking of the view of or impacts to outdoor advertising signs are identified. Consideration of the view of or impacts to outdoor advertising signs being affected by the proposed project should be carried throughout project delivery as summarized below:

1. **ETDM Screenings** – During the screening process, current permitted sign locations can be identified utilizing the EST or the OAO website and confirmed by contacting the OAO as needed. The Project Manager should begin to consider how the view or disposition of the permitted sign could be affected by the proposed project. Consider for example, whether a sign is conforming or non-conforming (coordinate with OAO). Also note if any community preferences have been identified regarding the role of outdoor advertising in the proposed project.
2. **PD&E** – Identify or confirm the presence of existing signs and their permit status. Determine how each sign and/or its view zone is affected by the proposed project. Guidance on outdoor advertising sign impacts based on view zone is provided in [Part 2, Chapter 18, Highway Traffic Noise](#). Continue coordination with OAO, and the District Right of Way (ROW) Office as appropriate.

3. **Design** – The Project Manager should initiate or continue coordination with OAO to identify or confirm existing signs and their permit status along with the status of any plans for proposed signs. The Project Manager should also update any pertinent signage related commitments as appropriate and advise the PD&E staff of any changes. Review design plans and consider view zones (see [Volume 1, Chapter 9 of the Plans Preparation Manual \(PPM\), Topic No. 625-000-005](#)).
4. **Construction** – Ensure commitment compliance as appropriate, see [Section 5.2.3](#) of this chapter.

5.3.2 Florida Scenic Highways and Other Specially Designated Highways

There are four types of specially designated highways: local, state, national and legislative. Each designation may have different levels of protection, preservation, and public involvement.

The intent of the Florida Scenic Highways Program (FSHP), as administered by FDOT is to protect and to promote awareness of community resources that are valued by Florida's residents and tourists. These can include scenic, natural, historic, cultural, recreational and archaeological (*Florida Scenic Highways Program Manual; July 2016*).

The AE evaluation of potential project impacts to Florida Scenic Highways includes identification of intrinsic qualities or resources that are present on the project corridor and a determination of how a proposed project will potentially affect these resources. This evaluation also considers community preferred opportunities to conserve or enhance scenic highway qualities.

The Project Manager should, when practical and feasible, identify opportunities to avoid, minimize, or mitigate impacts to the documented resources on scenic highways. Accommodation of scenic resources on a designated highway within the limits of a project may require the application of flexibility in highway design through use of appropriate Design Exceptions and Design Variations. Each Florida Scenic Highway is associated with a Byway Organization and a Byway Management Plan (BMP). The concept of Context Sensitive Solutions (CSS) allows for collaboration with the Byway Organization and other corridor stakeholders to consider competing project goals.

Consideration of designated scenic highways affected by the proposed project should be carried throughout project delivery as summarized below:

1. **ETDM Screenings** – Contact the District Scenic Highways Coordinator (DSHC) for identification of designated Florida Scenic Highways. The Project Manager should also review the [FDOT Legislatively Designated Scenic & Historic Highways Report](#) (available from the District Environmental Manager) which identifies scenic and historic corridors designated in the State of Florida by special legislation. Use guidance in [Part 2, Chapter 8, Archaeological and Historical Resources](#) to evaluate historic corridors designated by special legislation. The

presence of locally designated scenic highways should be coordinated with the local authorities.

2. **PD&E Evaluation** – The Project Manager should confirm findings from the ETDM screenings to ensure no changes have taken place. Additionally, the Project Manager, in coordination with the DSHC should become familiar with the priorities and plans for a designated scenic highway. Based on a review of scenic highway documentation, the Project Manager will be able to coordinate with the District Environmental Manager to evaluate the impact of the project on the designated corridor.

Review the project setting to determine which scenic highway intrinsic qualities exist and analyze field data to determine potential impacts. The scenic highway evaluation should include an assessment of potential opportunities for FDOT to help fulfill goals identified in the BMP or partner on resource related issues. The evaluation should also recognize the relationship between existing intrinsic qualities on the scenic highway and community goals and objectives for the corridor as expressed in the BMP. The AE section of the Environmental Document should discuss whether the project has the potential to affect the scenic highway.

If the project impacts the resources of a scenic highway, the public can provide additional input to identify ways to avoid, minimize or mitigate adverse impacts or identify aesthetic enhancements through the public involvement process ([Part 1, Chapter 11, Public Involvement](#)). If impact(s) to a scenic highway is unavoidable, the Project Manager will identify mitigation strategies consistent with FDOT's [Policy No. 000-650-002, Context Sensitive Solutions](#). The Byway Organization's vision, goals and objectives as outlined in the BMP may be considered to collaboratively identify, preserve, maintain, or enhance the intrinsic qualities or resources while maintaining safety and mobility. Transfer commitments to Design using the **Project Commitment Record (PCR), Form No. 700-011-035** according to [Part 2, Chapter 22, Commitments](#).

3. **Design** – The Project Manager should work with the DSHC or District Environmental Manager to reconfirm/identify the presence of designated Florida Scenic Highways or other specially designated highways within the project boundaries. For Florida Scenic Highways, continue coordination with the Byway Organization through the DSHC providing updates on project status and AE commitments.
4. **Construction** – Ensure commitment compliance as appropriate, see [Section 5.2.3](#).

5.4 REFERENCES

American Association of State Highway and Transportation Officials (AASHTO) Highway Subcommittee on Design Task Force for Environmental Design. June 1991. A Guide for Transportation Landscape and Environmental Design

FDOT. April 1995. Florida Highway Landscape Guide

FDOT. Plans Preparation Manual, Volume 1, Topic No. 625-000-005

FDOT. Construction Project Administration Manual, Topic No. 700-000-000

FDOT. Project Commitment Tracking, Topic No. 700-011-035

FDOT. Complete Streets, Topic No. 000-625-017

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

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

FHWA. 1988. Visual Impact Assessment for Highway Projects, Washington D.C., Publication No. FHWA-HI-88-054

FHWA. June 1997. Flexibility in Highway Design, Publication No. FHWA-PD-97-062; HEP-30/7-97(10M)E

FHWA. May, 1999. Procedures for Considering Environmental Impacts, Order 5610.4, Docket No. EP-1, Notice 5

USDOT. November 1980. Aesthetics in Transportation, Contract No. DOT-OS-90040; Report No. DOT.OST.P-20.30, U.S. Government Printing Office, Washington D.C.

5.5 FORMS

[Project Commitment Record \(PCR\), Form No. 700-011-035](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

5.6 HISTORY

2/15/1999, 11/14/2012, 9/30/2014, 8/7/2015

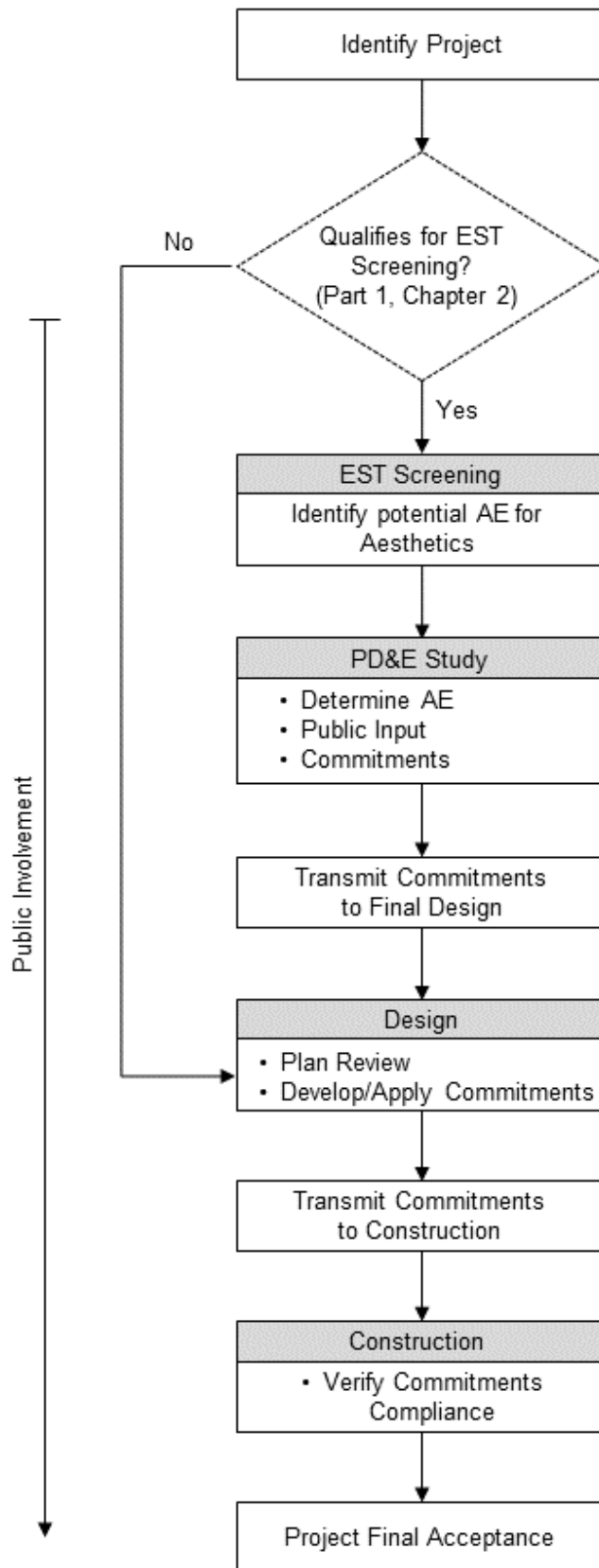


Figure 5-1 Aesthetic Effects Process Flow Chart

PART 2, CHAPTER 6

FARMLAND

TABLE OF CONTENTS

6.1	OVERVIEW	6-1
6.1.1	Purpose	6-1
6.2	PROCEDURE.....	6-2
6.2.1	Projects Excluded From Coordination with NRCS	6-3
6.2.2	Documentation of Projects Excluded From Coordination with NRCS	6-4
6.2.3	Projects Requiring Coordination with NRCS	6-5
6.2.4	Completion of the Farmland Conversion Impact Rating Form	6-6
6.2.4.1	Initial Evaluation - Completion of Parts I and III	6-6
6.2.4.2	Actions Taken After Completion of Parts I and III	6-7
6.2.4.3	Final Evaluation - Completion of Parts VI and VII	6-8
6.2.4.4	Actions Taken After Completion of Parts VI and VII.....	6-8
6.2.5	Documentation of Projects Requiring Coordination with NRCS.....	6-8
6.2.5.1	Projects With No Farmland Involvement.....	6-9
6.2.5.2	Projects With Farmland Involvement	6-9
6.3	REFERENCES	6-10
6.4	FORMS	6-11
6.5	HISTORY	6-11

LIST OF TABLES

Table 6-1	Urbanized Areas in Florida Alphabetically	6-4
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LIST OF FIGURES

Figure 6-1 Farmland Evaluation Process	6-12
Figure 6-2 Form NRCS-CPA-106.....	6-13
Figure 6-3 Form AD-1006	6-15
Figure 6-4 Additional Resource Information	6-17

PART 2, CHAPTER 6

FARMLAND

6.1 OVERVIEW

6.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter outlines the procedure for evaluating project impacts on farmland. See [Figure 6-1](#). The **Farmland Protection Policy Act (FPPA) of 1981, 7 CFR Part 658**, was established to minimize the conversion of farmland to nonagricultural uses by federal programs or by projects using federal assistance. The Natural Resources Conservation Service (NRCS), an agency under the United States Department of Agriculture (USDA), is responsible for ensuring that **FPPA** is implemented.

The term farmland as used in this chapter means prime or unique farmlands as defined in **7 CFR § 658.2(a)** or farmland that is determined by the appropriate state or unit of local government agency or agencies with concurrence of the USDA Secretary to be farmland of statewide or local importance. "Farmland" does not include land already in or committed to urban development or water storage.

FPPA requirements apply to farmlands even if not in active use as cropland. Qualifying farmlands can be forest land, pastureland, cropland or other land, but not water or urban built-up land.

Potential effects on farmlands may be identified in the Planning or Programming Screens during the Efficient Transportation Decision Making (ETDM) process (Chapters 3 and 4 of the [Efficient Transportation Decision Making Manual, Topic No. 650-000-002](#)). However, a farmland evaluation occurs later in the project development process after Right of Way (ROW) needs have been identified.

The **FPPA** applies only to projects which are completed by a federal agency or completed with financial or technical assistance from a federal agency. Non-Major State Actions (NMSA) and State Environmental Impact Reports (SEIR) are not subject to the provisions of the **FPPA** as there is no federal involvement.

6.2 PROCEDURE

The farmland evaluation starts by determining if the project is subject to the **FPPA**. For projects screened through the ETDM process, Environmental Technical Advisory Team (ETAT) comments for the “Farmlands” issue in the **Programming Screen Summary Report** should be reviewed. Comments by NRCS may state specifically that the project may affect farmland. While screening information is preliminary, it is useful in determining the scope of the Project Development and Environment (PD&E) Study. Farmland evaluation during PD&E requires coordination with the NRCS.

[Figure 6-1](#) shows the process that Districts must use to document a farmland evaluation for a project. Most FDOT projects will be linear or corridor type projects requiring use of **Form NRCS-CPA-106**; other projects, such as parking areas, buildings, rest areas, require use of **Form AD-1006**.

During the PD&E Study, the District must follow the steps listed below:

1. Determine whether the project is excluded from coordination with NRCS as discussed in [Section 6.2.1](#); No further evaluation is required if the project is not subject to provisions of **FPPA**. Documentation of projects excluded from coordination with NRCS is provided in [Section 6.2.2](#);
2. Complete the Farmland Conversion Impact Rating Form for projects requiring coordination with NRCS as discussed in [Section 6.2.4](#); and
3. Evaluate and document projects requiring coordination with NRCS to determine whether they have farmland involvement and are subject to the provisions of **FPPA** as discussed in [Section 6.2.5](#).

The **Farmland Conversion Impact Rating for Corridor Type Projects Form NRCS-CPA-106** is completed for linear or corridor type projects that convert farmland into nonagricultural use. It is anticipated that most projects will use this form. **Form AD 1006, Farmland Conversion Impact Rating**, is used for all other proposed projects (e.g., parking areas, buildings, rest areas) that may convert farmland to nonagricultural use. The District completes Parts I and III of **Form NRCS-CPA-106** or **Form AD 1006** and sends the form to the State Soil Scientist with the NRCS for farmland involvement determination. See [Section 6.3](#) for a link to these forms; copies are also provided in [Figure 6-2](#) and [Figure 6-3](#), respectively.

If NRCS determines the project does not involve farmlands, then the **Form NRCS-CPA-106** or **Form AD 1006** will be returned to the District. The District will include the Form in

the project file, and document the information in the project's Environmental Document. No further evaluation is required.

If NRCS determines the project involves farmlands, then NRCS will complete Parts II and IV of **Form NRCS-CPA-106** or **Form AD 1006** and compile a total point score on Part V of the Form, before it is returned to the District. The District will then complete Part VI of the Form and add the total points in Parts V and VI to determine the significance level of farmlands involved.

6.2.1 Projects Excluded From Coordination with NRCS

The following project categories do **not** require coordination with the NRCS:

1. Project activities not subject to provisions of **FPPA**:
 - a. Federal permitting and licensing;
 - b. Projects planned and completed without the assistance of a federal agency;
 - c. Projects beyond the planning stage or constructed prior to August 4, 1984 [**FPPA, 7 CFR § 658.2(c)(1)(ii)**];
 - d. Project construction is within an existing ROW acquired on or before August 4, 1984; and,
 - e. Small acreages (i.e., 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) projects where a statewide, local, or tribal land evaluation site assessment (LESA) system has been approved by the State Conservationist. Acreage includes both direct and indirect conversions. These exemptions are to encourage improvements to existing highways, instead of new construction.

For additional exemptions see, **NRCS FPPA Manual**.

2. Projects situated **entirely** within urbanized areas with approved comprehensive land use maps which have boundaries approved by FHWA **with no farmlands** located adjacent to a project corridor. Maps for urbanized areas are located in each District's planning section and include urbanized areas listed in [Table 6-1](#).

Table 6-1 Urbanized Areas in Florida Alphabetically

Brooksville - Spring Hill	Bonita Springs – Naples	Cape Coral (includes Ft. Myers)
Deltona	Ft. Walton Beach	Gainesville
Homosassa Springs – Beverly Hills – Citrus Springs	Jacksonville	Kissimmee
Lady Lake – The Villages	Lakeland	Leesburg – Eustis
Miami (includes Boca Raton, Delray Beach, Ft. Lauderdale, Hialeah, Hollywood, Pompano Beach, West Palm Beach)	North Port – Punta Gorda	Ocala
Orlando	Palm Bay – Melbourne	Palm Coast – Daytona Beach – Port Orange
Panama City	Pensacola	Port St. Lucie
St. Augustine	Sarasota – Bradenton	Sebastian – Vero Beach
Sebring – Avon Park	Tallahassee	Tampa – St. Petersburg (includes Clearwater)
Titusville	Winter Haven	Zephyrhills

U.S. Census Bureau 2010 Urbanized Areas

If the comprehensive land use maps show agricultural land use adjacent to the project corridor then coordination with NRCS is required, refer to [Section 6.2.4](#). Note that the land use designation on the maps takes precedence over actual land use (i.e., lands currently being used for agricultural purposes but shown on the map as non-agricultural are considered as non-agricultural).

6.2.2 Documentation of Projects Excluded From Coordination with NRCS

Projects are excluded from coordination with NRCS if they fall within the categories listed in [Section 6.2.1](#). However, documentation is still required in the applicable Environmental Document for:

1. Type 1 Categorical Exclusions

Provide and include in the project file a statement why the provisions of the **FPPA** do not apply to the project.

2. Type 2 Categorical Exclusions

For Type 2 Categorical Exclusions (CEs), a standard statement is not required. It is sufficient to mark the box "NoInv" for "no involvement" for category 3.A.7 on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**.

3. Environmental Assessments and Environmental Impact Statements

The following standard statements will be included in the Farmland section of an Environmental Assessment (EA) or Environmental Impact Statement (EIS):

a. Projects Not Subject to Provisions of **FPPA**

This project is not subject to the provisions of the Farmland Protection Policy Act of 1981 because (State the reason).

b. Urbanized areas approved by FHWA

Through coordination with the Natural Resources Conservation Service (NCRS), it has been determined that the project area which is located in the urbanized area of (Name of urban area) does not meet the definition of farmland as defined in 7 CFR § 658. Therefore, the provisions of the Farmland Protection Policy Act of 1981 do not apply to this project.

6.2.3 Projects Requiring Coordination with NRCS

The following projects require the completion of **Form NRCS-CPA-106** as specified in **Section 6.2.5**, and coordination with the NRCS.

1. Projects situated **entirely** within urbanized areas with maps which have boundaries approved by FHWA **with designated farmlands** adjacent to the project corridor. These maps are located in each District's planning section and include those urbanized areas listed in [Table 6-1](#).
2. All non-urbanized areas.

These areas may have been identified during the Programming Screen; however, it is recommended that the urbanized area maps be reviewed during the PD&E phase when ROW needs have been conceptually defined.

6.2.4 Completion of the Farmland Conversion Impact Rating Form

For projects which are not excluded from coordination with the NRCS per [Section 6.2.1](#), the District will complete Parts I, III, VI, and VII of **Form NRCS-CPA-106** or **Form AD-1006** after ROW needs have been conceptually defined during the project development.

6.2.4.1 Initial Evaluation - Completion of Parts I and III

The initial evaluation consists of the District completing Parts I and III of **Form NRCS-CPA 106** or **Form AD-1006**, as described below, and submitting the form to the NRCS, which completes Part II. Note, descriptions are specific to **Form NRCS-CPA-106** and similar to **Form AD 1006**.

PART I

Name of Project:

Provide the local name of the project and Financial Management number (e.g., SR-7, Volusia Avenue, 79060-1514).

Type of Project:

Provide type of the project such as new construction, widening, or intersection improvements.

Date of Land Evaluation Request:

Provide the month, day, and year when Parts I and III are completed.

Federal Agency Involved:

Enter FDOT per **23 U.S.C. §327** and the **FDOT/FHWA MOU**, or other Lead Federal Agency when the project is not a highway project whose source of federal funding comes from FHWA or which do not constitute a federal action through FHWA.

County and State:

Enter county and state (Florida) where project is located.

PART III

A. Total Acres to be Converted Directly:

Provide an estimate of the number of acres of additional ROW required for each project alternative.

B. Total Acres to be Converted Indirectly:

Provide the estimated number of acres for each alternative that would be unusable for farmland due to access restriction.

C. Total Acres in Corridor:

Provide an estimate of the total number of acres of existing plus additional ROW required for each alternative.

6.2.4.2 Actions Taken After Completion of Parts I and III

Upon completion of Parts I and III, the District must send **Form NRCS-CPA 106** or **Form AD-1006** and a project location map (preferably GIS shape files of project boundaries and alternatives) to:

State Soil Scientist
USDA - Natural Resources Conservation Service
2614 NW 43rd Street
P.O. Box 141510
Gainesville, FL 32614-1510
(352) 338-9535

The NRCS prefers to receive these forms by email. The Soil Scientist's email address may be obtained by calling the phone number above.

NRCS will either complete Parts II, IV, and V or mark a NO in Part II indicating that no farmlands are involved. NRCS will respond within 10 working days of receipt except unless a site visit or land evaluation system design is needed (30 working days are allowed if a land evaluation must be completed or a site visit must be made). If more than 10 days are required, NRCS will notify the agency of the need for additional time, up to 30 working days.

Where NRCS fails to provide its response within the required period and if further delay would interfere with construction activities, **FPPA, 7 CFR § 658.4(a)**, the proposed project can proceed as though the site were not farmland. The Environmental Document must contain a statement that NRCS failed to provide land evaluation information within the required period, allowing the agency to proceed as if the site were not farmland.

If no farmland involvement is indicated on the form then provide the appropriate documentation in the Environmental Document as shown in [Sections 6.2.5.1](#).

If farmland involvement is indicated on the form, then refer to [Section 6.2.4.3](#) for direction on completing Parts VI and VII of the form. Once **Form NRCS-CPA 106** or **Form AD-1006** has been updated, the District will send a copy of the completed form to the NRCS.

6.2.4.3 Final Evaluation - Completion of Parts VI and VII

PART VI

Part VI contains corridor assessment criteria to be completed by the District. These criteria assess the impact of each specific design alternative within a project corridor alignment for conversion of farmland. See **7 CFR § 658.5(c)** for an explanation of assessment and scoring criteria.

Upon assigning points to all criteria, add all the points and write the total in the row with the heading **TOTAL CORRIDOR ASSESSMENT POINTS**.

PART VII

Relative Value of Farmland (From Part V):

Enter the relative value of farmland to be converted indicated in Part V.

Total Corridor Assessment (From Part VI or a local site assessment):

Enter the total site assessment points from Part VI.

6.2.4.4 Actions Taken After Completion of Parts VI and VII

The total number of points indicated in Part VII is used to determine the level of significance given to farmland involvement as stated below:

1. Corridors receiving a total score of **less than 160** points need not be given further protection consideration and no additional corridors need to be evaluated.
2. Corridors receiving a total score of **160 points or more** require stronger consideration for protection of farmland and additional coordinations with NRCS. Return the form to NRCS which will make a determination of adverse impact for the project. The NRCS response will include a recommendation of ways to minimize the adverse impact.

The NRCS recommendation for minimizing the adverse effects to protected farmland should be considered during alternative evaluation. The alternative with the lowest number of points should be selected. In the event this alternative is not selected, the Environmental Document should discuss the reasons.

6.2.5 Documentation of Projects Requiring Coordination with NRCS

Documentation of the assessment of farmland in an EA or EIS will be in the form of standard statements, except where farmlands are involved. The following standard

statements or documentation are to be included in the Environmental Document, depending on involvement.

6.2.5.1 Projects With No Farmland Involvement

1. Type 2 Categorical Exclusion: For Type 2 CEs with no farmland involvement for either urbanized or non-urbanized areas, mark the box "NoInv" for "no involvement" for category 3.A.7 on the **Type 2 Categorical Exclusion Determination Form, No. 650-050-11**. Coordination documents with NRCS or **Form NRCS-CPA-106 or Form AD-1006**, indicating no involvement, should be referenced in the Type 2 CE documentation and included in the project file.
2. Environmental Assessment and Environmental Impact Statement:
 - a. In urbanized areas:

The following standard statement should be written in the Farmlands section of the EA or EIS as follows:

Through coordination with the Natural Resources Conservation Service, it has been determined that the project area which is located in the urbanized area of (Name of urban area) does not meet the definition of farmland as defined in 7 CFR § 658. Therefore, the provisions of the Farmland Protection Policy Act of 1981 do not apply to this project.

- b. In non-urbanized areas:

The following standard statement should be written in the Farmlands section of the EA or EIS as follows:

Through coordination with the Natural Resources Conservation Service, it has been determined that no farmlands as defined by 7 CFR § 658 are located in the project vicinity.

Coordination documents with NRCS or **Form NRCS-CPA-106 or Form AD-1006**, indicating no involvement, should be referenced in the Farmlands section and included in the Appendix.

The standard statements should also be included in the Final Environmental Impact Statement (FEIS) Executive Summary when applicable.

6.2.5.2 Projects With Farmland Involvement

The following information is to be discussed in the Farmland section of the Environmental Document, regardless of whether the project is a Type 2 CE, EA, or EIS:

1. Quantification of farmland involvement
2. Coordination with NRCS
3. Viable alternative corridors
4. Project impacts and mitigation

The Environmental Document must document the assessment and coordination processes and provide the rationale for decisions made during the farmland evaluation. In addition, the Environmental Document should address any farmland issues that may have been raised by the ETAT during the project's ETDM Screening and address any comments received through project development, the public involvement process, or public hearing, as applicable.

Coordination documents with NRCS or **Form NRCS-CPA-106** or **Form AD-1006**, should be referenced in the Farmlands section and included in the Appendix. Retain the completed NRCS form and supporting documentation in the project file within the Statewide Environmental Project Tracker (SWEPT).

When a FEIS is prepared separately from a Record of Decision (ROD), the FEIS Executive Summary should summarize the extent of farmland involvement, reference consultation documentation and coordination efforts with the NRCS, and discuss whether or not mitigation is proposed. Appropriate text references should be provided.

6.3 REFERENCES

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

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NRCS Farmland Conversion Impact Rating Form (AD-1006),

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf

NRCS Farmland Conversion Impact Rating Form for Corridor Type Projects (NRCS-CPA-106),

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf

NRCS, Farmland Protection Policy Act Manual

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1097009.pdf.
<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>

U.S. Census Bureau, Florida 2010, 2010 Census of Population and Housing, Pgs 29-33, issued September 2012

USDA, Farmland Protection Policy Act, 7 CFR § 658

6.4 FORMS

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

6.5 HISTORY

6/26/2000, 9/14/2005, 5/11/2010, 7/14/2016

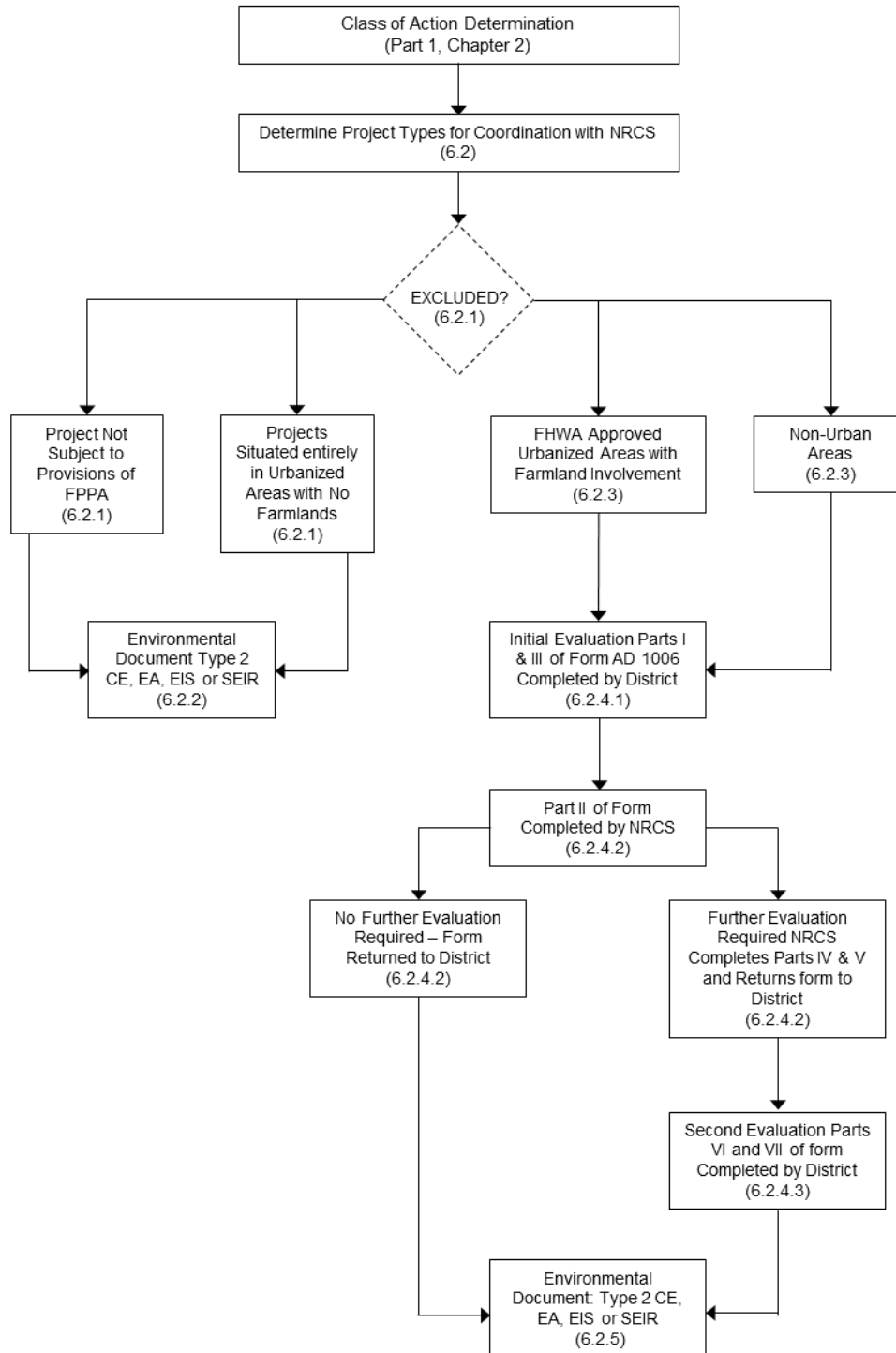


Figure 6-1 Farmland Evaluation Process

U.S. DEPARTMENT OF AGRICULTURE Natural Resources Conservation Service		NRCS-CPA-106 (Rev. 1-91)	
FARMLAND CONVERSION IMPACT RATING FOR CORRIDOR TYPE PROJECTS			
PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request	4. Sheet 1 of _____
1. Name of Project		5. Federal Agency Involved	
2. Type of Project		6. County and State	
PART II (To be completed by NRCS)		1. Date Request Received by NRCS	2. Person Completing Form
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>		4. Acres Irrigated Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: _____ %		7. Amount of Farmland As Defined in FPPA Acres: _____ %
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System		10. Date Land Evaluation Returned by NRCS
PART III (To be completed by Federal Agency)		Alternative Corridor For Segment _____	
		Corridor A	Corridor B
		Corridor C	Corridor D
A. Total Acres To Be Converted Directly			
B. Total Acres To Be Converted Indirectly, Or To Receive Services			
C. Total Acres In Corridor			
PART IV (To be completed by NRCS) Land Evaluation Information			
A. Total Acres Prime And Unique Farmland			
B. Total Acres Statewide And Local Important Farmland			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value			
PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative Value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)			
PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))		Maximum Points	
1. Area in Nonurban Use		15	
2. Perimeter in Nonurban Use		10	
3. Percent Of Corridor Being Farmed		20	
4. Protection Provided By State And Local Government		20	
5. Size of Present Farm Unit Compared To Average		10	
6. Creation Of Nonfarmable Farmland		25	
7. Availability Of Farm Support Services		5	
8. On-Farm Investments		20	
9. Effects Of Conversion On Farm Support Services		25	
10. Compatibility With Existing Agricultural Use		10	
TOTAL CORRIDOR ASSESSMENT POINTS		160	0
		0	0
		0	0
PART VII (To be completed by Federal Agency)			
Relative Value Of Farmland (From Part V)		100	0
Total Corridor Assessment (From Part VI above or a local site assessment)		160	0
TOTAL POINTS (Total of above 2 lines)		260	0
		0	0
		0	0
1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
5. Reason For Selection:			
Signature of Person Completing this Part:			DATE
NOTE: Complete a form for each segment with more than one Alternate Corridor			

[Clear Form](#)

Figure 6-2 Form NRCS-CPA-106 (Page 1 of 2)

NRCS-CPA-106 (Reverse)

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?
More than 90 percent - 15 points
90 to 20 percent - 14 to 1 point(s)
Less than 20 percent - 0 points
 - (2) How much of the perimeter of the site borders on land in nonurban use?
More than 90 percent - 10 points
90 to 20 percent - 9 to 1 point(s)
Less than 20 percent - 0 points
 - (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?
More than 90 percent - 20 points
90 to 20 percent - 19 to 1 point(s)
Less than 20 percent - 0 points
 - (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?
Site is protected - 20 points
Site is not protected - 0 points
 - (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?
(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)
As large or larger - 10 points
Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points
 - (6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?
Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points
 - (7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?
All required services are available - 5 points
Some required services are available - 4 to 1 point(s)
No required services are available - 0 points
 - (8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?
High amount of on-farm investment - 20 points
Moderate amount of on-farm investment - 19 to 1 point(s)
No on-farm investment - 0 points
 - (9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?
Substantial reduction in demand for support services if the site is converted - 25 points
Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
No significant reduction in demand for support services if the site is converted - 0 points
 - (10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?
Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points
-

Figure 6-2 Form NRCS-CPA-106 (Page 2 of 2)

U.S. Department of Agriculture								
FARMLAND CONVERSION IMPACT RATING								
PART I (To be completed by Federal Agency)				Date Of Land Evaluation Request				
Name of Project				Federal Agency Involved				
Proposed Land Use				County and State county and state				
PART II (To be completed by NRCS)				Date Request Received By NRCS		Person Completing Form:		
Does the site contain Prime, Unique, Statewide or Local Important Farmland? (If no, the FPPA does not apply - do not complete additional parts of this form)				YES <input type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated	Average Farm Size	
Major Crop(s)	Farmable Land In Govt. Jurisdiction Acres: %			Amount of Farmland As Defined in FPPA Acres: %				
Name of Land Evaluation System Used	Name of State or Local Site Assessment System			Date Land Evaluation Returned by NRCS				
PART III (To be completed by Federal Agency)				Alternative Site Rating				
A. Total Acres To Be Converted Directly				Site A	Site B	Site C	Site D	
B. Total Acres To Be Converted Indirectly								
C. Total Acres In Site								
PART IV (To be completed by NRCS) Land Evaluation Information								
A. Total Acres Prime And Unique Farmland								
B. Total Acres Statewide Important or Local Important Farmland								
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted								
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value								
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)								
PART VI (To be completed by Federal Agency) Site Assessment Criteria (Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)				Maximum Points	Site A	Site B	Site C	Site D
1. Area In Non-urban Use				(15)				
2. Perimeter In Non-urban Use				(10)				
3. Percent Of Site Being Farmed				(20)				
4. Protection Provided By State and Local Government				(20)				
5. Distance From Urban Built-up Area				(15)				
6. Distance To Urban Support Services				(15)				
7. Size Of Present Farm Unit Compared To Average				(10)				
8. Creation Of Non-farmable Farmland				(10)				
9. Availability Of Farm Support Services				(5)				
10. On-Farm Investments				(20)				
11. Effects Of Conversion On Farm Support Services				(10)				
12. Compatibility With Existing Agricultural Use				(10)				
TOTAL SITE ASSESSMENT POINTS				160	0	0	0	0
PART VII (To be completed by Federal Agency)								
Relative Value Of Farmland (From Part V)				100	0	0	0	0
Total Site Assessment (From Part VI above or local site assessment)				160	0	0	0	0
TOTAL POINTS (Total of above 2 lines)				260	0	0	0	0
Site Selected:	Date Of Selection			Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>				
Reason For Selection:								
Name of Federal agency representative completing this form:						Date:		
(See Instructions on reverse side)						Form AD-1006 (03-02)		

Figure 6-3 Form AD-1006 (Page 1 of 2)

STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM

- Step 1 - Federal agencies (or Federally funded projects) involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form. For Corridor type projects, the Federal agency shall use form NRCS-CPA-106 in place of form AD-1006. The Land Evaluation and Site Assessment (LESA) process may also be accessed by visiting the FPPA website, <http://fppa.nrcs.usda.gov/lesa/>.
- Step 2 - Originator (Federal Agency) will send one original copy of the form together with appropriate scaled maps indicating location(s) of project site(s), to the Natural Resources Conservation Service (NRCS) local Field Office or USDA Service Center and retain a copy for their files. (NRCS has offices in most counties in the U.S. The USDA Office Information Locator may be found at http://offices.usda.gov/scripts/ndISAPI.dll/oip_public/USA_map, or the offices can usually be found in the Phone Book under U.S. Government, Department of Agriculture. A list of field offices is available from the NRCS State Conservationist and State Office in each State.)
- Step 3 - NRCS will, within 10 working days after receipt of the completed form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland. (When a site visit or land evaluation system design is needed, NRCS will respond within 30 working days.
- Step 4 - For sites where farmland covered by the FPPA will be converted by the proposed project, NRCS will complete Parts II, IV and V of the form.
- Step 5 - NRCS will return the original copy of the form to the Federal agency involved in the project, and retain a file copy for NRCS records.
- Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form and return the form with the final selected site to the servicing NRCS office.
- Step 7 - The Federal agency providing financial or technical assistance to the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

(For Federal Agency)

Part I: When completing the "County and State" questions, list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

Part III: When completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them or other major change in the ability to use the land for agriculture.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities planned build out capacity) that will cause a direct conversion.

Part VI: Do not complete Part VI using the standard format if a State or Local site assessment is used. With local and NRCS assistance, use the local Land Evaluation and Site Assessment (LESA).

1. Assign the maximum points for each site assessment criterion as shown in § 658.5(b) of CFR. In cases of corridor-type project such as transportation, power line and flood control, criteria #5 and #6 will not apply and will, be weighted zero, however, criterion #8 will be weighed a maximum of 25 points and criterion #11 a maximum of 25 points.
2. Federal agencies may assign relative weights among the 12 site assessment criteria other than those shown on the FPPA rule after submitting individual agency FPPA policy for review and comment to NRCS. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total points at 160. For project sites where the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g. Alternative Sites, Modifications or Mitigation).

Part VII: In computing the "Total Site Assessment Points" where a State or local site assessment is used and the total maximum number of points is other than 160, convert the site assessment points to a base of 160.

Example: if the Site Assessment maximum is 200 points, and the alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site A}$$

For assistance in completing this form or FPPA process, contact the local NRCS Field Office or USDA Service Center.

NRCS employees, consult the FPPA Manual and/or policy for additional instructions to complete the AD-1006 form.

Figure 6-3 Form AD-1006 (Page 2 of 2)

Federal Highway Administration, Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents.

Natural Resources Conservation Service (NRCS) Web Soil Survey, <http://websoilsurvey.nrcs.usda.gov/app/>

US Census Bureau Mapper, <http://tigerweb.geo.census.gov/tigerweb/>

U.S. Department of Agriculture (USDA), 1993. Agricultural Handbook 18, Soil Survey Manual, http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/planners/?cid=nrcs142p2_054261

USDA NRCS National Soil Survey Handbook, http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/survey/?cid=nrcs142p2_054242

Figure 6-4 Additional Resource Information

PART 2, CHAPTER 7

SECTION 4(f) RESOURCES

TABLE OF CONTENTS

7.1	OVERVIEW	7-5
7.1.1	Background and Guidance	7-5
7.1.2	Definitions	7-6
7.2	Section 4(f) Properties and Evaluations	7-8
7.2.1	Substantive Requirements of Section 4(f).....	7-8
7.2.2	Applicable Projects	7-8
7.2.3	Section 4(f) Protected Resources	7-8
7.2.3.1	Additional Considerations when Identifying Section 4(f) Properties	7-10
7.2.3.2	Leases and Easements	7-11
7.2.3.3	Tribal Properties and Section 4(f).....	7-12
7.2.4	Overview of Section 4(f) Analysis	7-12
7.2.5	Coordination with the Officials with Jurisdiction	7-13
7.2.6	Standard Statement and Section 4(f) Documentation.....	7-14
7.3	Procedure	7-14
7.3.1	Determination for a No Section 4(f) Involvement	7-14
7.3.2	Determination of Applicability Process and Documentation.....	7-14
7.3.2.1	Initial Section 4(f) Review	7-14
7.3.2.2	ETDM Screening and Section 4(f) Determination of Applicability...	7-15
7.3.2.3	Section 4(f) Resource Mapping for DOA	7-15
7.3.3	No Section 4(f) Use Determination	7-16
7.3.4	Exceptions and Exemptions to Section 4(f) Approval	7-16

7.3.4.1	Documentation and Coordination	7-21
7.3.5	“Use” under Section 4(f).....	7-21
7.3.5.1	The following are “uses” within the meaning of Section 4(f): Permanent Incorporation	7-22
7.3.5.2	Temporary Occupancy	7-22
7.3.5.3	Constructive Use	7-22
7.3.6	Section 4(f) Approvals.....	7-22
7.3.6.1	The de minimis Section 4(f) Analysis	7-23
7.3.6.1.1	De minimis Consultation	7-24
7.3.6.1.2	Public Involvement Requirements.....	7-24
7.3.6.1.3	Documenting the de minimis determination	7-24
7.3.6.1.4	Approval and Documentation Process.....	7-25
7.3.6.2	Programmatic Section 4(f) Evaluations	7-25
7.3.6.2.1	Programmatic Evaluation Criteria	7-26
7.3.6.2.2	DOA for Section 4(f) Programmatic Evaluations.....	7-31
7.3.6.2.3	OWJ Consultation and Public Involvement	7-31
7.3.6.2.4	Documentation of Programmatic Section 4(f) Evaluations.....	7-31
7.3.6.2.5	Programmatic Section 4(f) Evaluations Submittals and Coordination	7-32
7.3.6.3	Individual Section 4(f) Evaluations	7-32
7.3.6.3.1	Outline for Preparing Draft Individual Section 4(f) Evaluations	7-33
7.3.6.3.2	Feasible and Prudent Alternatives Analysis for Individual Section 4(f) Evaluations.....	7-34
7.3.6.3.2.1	Identifying a Range of Alternatives	7-34
7.3.6.3.2.2	Feasible and Prudent Avoidance Analysis	7-34
7.3.6.3.2.3	All Possible Planning to Minimize Harm	7-35
7.3.6.3.2.4	Least Overall Harm Analysis	7-36

7.3.6.3.3	Submission and Coordination of Draft Individual Section 4(f) Evaluations	7-37
7.3.6.3.4	Public Involvement Requirements for Draft Individual Section 4(f) Evaluations	7-37
7.3.6.3.5	Final Section 4(f) Individual Evaluation Outline.....	7-37
7.3.6.3.5.1	Submission of Final Individual Section 4(f) Evaluation and Legal Sufficiency Review [23 CFR § 774.7 (d)]	7-38
7.3.6.3.5.2	Project File Documentation	7-39
7.3.6.3.6	Constructive Use.....	7-39
7.3.7	Late Designations & Discoveries	7-40
7.3.8	Commitment Compliance.....	7-41
7.3.9	Re-evaluations.....	7-41
7.4	CONCURRENT REQUIREMENTS	7-41
7.4.1	Section 6(f) Concurrent Requirements.....	7-41
7.4.2	Acquisition and Restoration Council- Concurrent Requirement.....	7-43
7.5	REFERENCES.....	7-43
7.6	FORMS	7-45
7.7	HISTORY	7-45

LIST OF FIGURES

Figure 7-1	Flow Chart.....	7-46
Figure 7-2	Section 4(f) Determination of Applicability	7-47
Figure 7-3	Section 4(f) No Use Determination	7-52
Figure 7-4	Section 4(f) Exceptions/Exemptions Determination	7-54
Figure 7-5	Section 4(f) de minimis Determination for Historic Sites	7-60
Figure 7-6	Section 4(f) de minimis Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges.....	7-63
Figure 7-7	Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects	7-66

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT
Projects that Necessitate the Use of Historic Bridges 7-69

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for
Federally-Aided Highway Projects with Minor Involvements
with Historic Sites..... 7-75

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for
Federally-Aided Highway Projects with Minor Involvements
with Public Parks, Recreation Lands, and Wildlife and
Waterfowl Refuges..... 7-80

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites..... 7-86

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks,
Recreation Lands and, Wildlife and Waterfowl Refuge 7-92

LIST OF TABLES

Table 7-1 Programmatic Acreage Table..... 7-29

PART 2, CHAPTER 7

SECTION 4(f) RESOURCES

7.1 OVERVIEW

7.1.1 Background and Guidance

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Section 4(f) of the **Department of Transportation Act of 1966 (Pub. L. 89-670, 80 Stat. 931)**, now codified at **23 U.S.C. § 138** and **49 U.S.C. § 303**, governs the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites for U.S. Department of Transportation (USDOT) transportation projects. These resources are referred to as **Section 4(f)** protected properties. **Section 4(f)** regulations only apply to the USDOT and its agencies, i.e., FHWA, Federal Aviation Administration (FAA), Federal Transit Administration (FTA), and Federal Railroad Administration (FRA). FHWA and FTA adopted rules under **23 Code of Federal Regulations (CFR) Part 774** to implement the requirements of the federal statutes.

Section 4(f) requires an agency to perform a substantive review as part of the decision-making process which results in a specific finding of whether there is a transportation project-related impact to a **Section 4(f)** protected property which is referred to as a "use." During the planning and development of transportation facilities, FDOT can only approve transportation uses of land from publicly owned public parks, recreation areas, or wildlife and waterfowl refuges of national, state, or local significance, or land of an historic or archeological site of national, state, or local significance when the following conditions are met:

- There are no feasible and prudent avoidance alternatives to the use of land; and
- The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the proposed use.

OR

The use of the property will have a *de minimis* impact. This chapter focuses on the processes associated with the development of highway projects and potential impacts to **Section 4(f)** property which were developed by USDOT and FTA, and are now implemented by FDOT (See [Figure 7-1](#)). Also, this chapter addresses the conversion of park and recreational properties funded wholly or in part under **Section 6(f)** of the **Land and Water Conservation Fund Act (LWCF)**.

FDOT is the Lead Agency for environmental review of FHWA funded highway projects in Florida. For transportation projects funded by FTA, FRA, or FAA, these agencies will act as the Lead Agency for **Section 4(f)** analysis. In these situations, the District will contact the OEM Project Delivery Coordinator (PDC) for the District and work with the officials of the lead transportation agency. Regardless of which USDOT agency is the Lead Agency, the basic requirements for **Section 4(f)** are the same.

7.1.2 Definitions

Constructive Use Determinations (23 CFR § 774.15) - A constructive use occurs when a transportation project does not incorporate land from a **Section 4(f)** resource, but when the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a property for protection under **Section 4(f)** are substantially impaired.

***de minimis* Impact (23 CFR § 774.17)** - For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that is minimal, and the use of the protected property is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under **Section 4(f)**. For historic sites, *de minimis* impact means that no historic property is affected by the project or that the project will have "no adverse effect" on the historic property being used within the meaning of **Section 4(f)** in accordance with **36 CFR Part 800**.

Feasible and prudent avoidance alternative (23 CFR § 774.17) - An alternative that avoids using the **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property. It is appropriate to consider the relative value of the resource to the preservation purpose of the statute.

Officials with Jurisdiction (OWJ) (23 CFR § 774.17) - The entities and individuals who own and/or administer the property are considered the OWJ.

- In the case of historic sites, the OWJ are the State Historic Preservation Officer (SHPO), or, if the property is located on tribal land, the Tribal Historic Preservation Officer (THPO).
 - If the property is located on tribal land but the relevant Indian tribe has not assumed the responsibilities of the SHPO, then a representative designated by the tribe shall be recognized as an OWJ in addition to the SHPO.

- When the Advisory Council on Historic Preservation (ACHP) is involved in consultation concerning a property under **Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470)**, the ACHP is also an OWJ over that resource for the purposes of **Section 4(f)**.
- When the historic property is located on public lands, the public land holder is also an OWJ.
- When the **Section 4(f)** property is a National Historic Landmark (NHL), the designated official of the National Park Service (NPS) is also an OWJ over that resource for the purposes of **Section 4(f)**.
- In the case of public parks, recreation areas, and wildlife and waterfowl refuges, the OWJs are the officials of the agency or agencies that own or administer the property in question and who are empowered to represent the agency on matters related to the property.

Proximity Impacts - Proximity impacts are those impacts which result from the proposed project that affect the functions of a **Section 4(f)** protected property without any direct use of the protected property. Proximity impacts must be evaluated for each project alternative.

Significance - Section 4(f) applies only to those properties determined to be a significant public park, recreation area, or wildlife and waterfowl refuge. Significance means that in comparing the availability and function of the resource, it meets the objectives of the agency, community or authority, the property in question plays an important role in meeting those objectives. Except for certain multiple use land holdings, significance determinations apply to the property as a whole not just to the specific locations required for transportation acquisition. Significance determinations of these types of publicly owned land are made by the OWJ(s) with jurisdiction over the property. In the absence of a determination by the OWJ, the **Section 4(f)** property will be presumed to be significant (see **23 CFR § 774.11** and **FHWA 2012 Policy Paper**, Question 1A).

For historic properties, significance normally means that the historic resource is either listed in or eligible for listing in the National Register of Historic Places (NRHP) in accordance with **36 CFR § 800.4** (regulations implementing **Section 106 of the NHPA** or NRHP) or is otherwise determined significant by the lead federal agency during consultation process required under **36 CFR Part 800** (see **23 CFR § 774.17** and **FHWA Policy Paper**, Question 2A).

Use (23 CFR § 774.17) - The “use” of a **Section 4(f)** resource occurs when the **Section 4(f)** resource is converted to a transportation “use”. A “use” can result when a project permanently incorporates land from a **Section 4(f)** property; when a project requires a temporary occupancy of land within a **Section 4(f)** property; or when a project’s proximity to a **Section 4(f)** property has the potential to substantially impair the protected features of that property without any acquisition of land (i.e., constructive use).

7.2 SECTION 4(F) PROPERTIES AND EVALUATIONS

7.2.1 Substantive Requirements of Section 4(f)

Section 4(f) requires an agency to perform a substantive review as part of the decision making process which includes an obligation to make specific findings or determinations. The intent of **Section 4(f)** is to avoid the use of protected properties. Alternatively, if the **Section 4(f)** resources cannot be avoided, the goal is to reduce the project impacts to a level where the impacts are *de minimis*. If the impacts cannot be reduced to the level of *de minimis* **Section 4(f)** requires an evaluation of prudent and feasible avoidance alternatives and inclusion of all possible measures to minimize harm.

In situations where there are no feasible and prudent avoidance alternatives and there are two or more alternatives requiring the use of **Section 4(f)** property, OEM may select only the alternative which results in the least overall harm.

7.2.2 Applicable Projects

Section 4(f) applies to all FDOT transportation projects that utilize federal aid funds or require the approval of a USDOT agency, and involve the “use” of a **Section 4(f)** property or resource. For the **Section 4(f)** statute to apply, the project must meet the following criteria:

1. Must require an approval from USDOT in order to proceed;
2. Must be a transportation project;
3. Require the use of land from property protected under **Section 4(f)** [see **23 U.S.C. § 138(a)** and **49 U.S.C. § 303(a)**]; and
4. None of the regulatory applicability rules or exceptions applies (see **23 CFR § 774.11 and 13** and [Section 7.4.2](#)).

7.2.3 Section 4(f) Protected Resources

Section 4(f) resources can be divided into two categories: (1) publicly owned parks, recreation areas, and wildlife or waterfowl refuges, and (2) historic and archaeological sites of national, state, or local significance in public or private ownership. **Section 4(f)** only applies to publicly owned parks, recreation areas, and wildlife and waterfowl refuges that have been determined to be significant by the OWJ. **Section 4(f)** does not apply to privately owned parks, recreation areas, and wildlife or waterfowl refuges even if such areas are open to the general public. **Section 4(f)** applies to historic and archeological sites regardless of whether it is publicly or privately owned.

In order to be considered a **Section 4(f)** protected resource, a property must meet the following criteria:

- **Public Parks and Recreation Areas**

- Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements
- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area.
 - Applies to the entire park or recreation area not just a specific feature
- **Wildlife and Waterfowl Refuge**
 - Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements
 - Must be open to the public but **refuges are able to restrict access for the protection of refuge habitat and species**
 - The major purpose must be for wildlife and waterfowl refuges
 - Must be designated or function as a significant as a wildlife and waterfowl refuges
 - Applies to the entire wildlife and waterfowl refuges not just a specific feature
- **Historic Sites** - Includes historic buildings, historic transportation facilities, archeological sites, traditional cultural places, historic & archeological districts and historic trails.
 - Must be of national, state or local significance and it must be eligible for listing or is listed on the NRHP; or
 - If a site is determined not to be eligible OEM may determine that the application of **Section 4(f)** is otherwise appropriate when an official (such as the Mayor, president of a local historic society) provides information to support that the historic site is of local importance.

7.2.3.1 Additional Considerations when Identifying Section 4(f) Properties

The **2012 FHWA Section 4(f) Policy Paper** provides guidance regarding the applicability of **Section 4(f)** to a variety of property types. This is not an all-inclusive list. If the practitioner believes there is a property that is also protected under **Section 4(f)** not listed here, please refer to the **FHWA Policy Paper** or contact the OEM PDC.

- **Historic Districts** - When a project uses land from an individually eligible property within a historic district, or a property that is a contributing element to the historic district, **Section 4(f)** is applicable. Consultation with the SHPO/THPO on the historic attributes of the district and potential impacts, should occur to establish whether the property or its elements are contributing or non-contributing to the district and whether its 'use' would substantially impair the historic attributes of the historic district. When a project requires land from a non-historic or non-contributing property lying within a historic district and does not use other land within the historic district that is considered contributing to its historic significance, there is no direct 'use' of the historic district for purposes of **Section 4(f)**.
- **Wild and Scenic Rivers** - Wild and Scenic Rivers and Study Rivers may be protected under **Section 4(f)**. Contact the OEM PDC to discuss **Section 4(f)** applicability. See [Part 2 Chapter 12, Wild and Scenic Rivers](#).
- **School Playgrounds** - Publicly owned school playgrounds, running tracks, ball fields that provide recreational opportunities for the surrounding community during non-school hours may qualify as **Section 4(f)** properties.
- **Trails and Shared Use Paths** - **Section 4(f)** applies to publicly owned, shared use paths or trails (or portions thereof) designated or functioning primarily for recreation, unless the OWJ determines that it is not significant for such purpose (**FHWA 2012 Policy Paper**, Question 15).
- **Golf Courses** - **Section 4(f)** applies to golf courses that are owned, operated or managed by a public agency for the primary purpose of public recreation and determined to be significant by the OWJ. Golf courses that are owned by a public agency but are managed and operated by a private entity may still be subject to **Section 4(f)** requirements depending in the operating agreement. Golf courses listed on the NRHP are treated as other historic sites as described above.
- **Museums, Aquariums, and Zoos** - Publicly owned museums, aquariums and zoos are not subject to **Section 4(f)** unless they are significant historic sites. These facilities will need to be evaluated on a case by case basis to determine if they provide additional park and recreational opportunities and if that is their primary purpose, which would make them subject to **Section 4(f)**.
- **Fairgrounds** - When fairgrounds are open to the public and function primarily for public recreation rather than an annual fair, **Section 4(f)** applies to those portions of the land determined significant for park or recreational purposes (see Multiple

Land Holdings discussion below). A fairground may also qualify as a historic site which would require consideration under **Section 4(f)**.

- **Bodies of Water - Section 4(f)** would also apply to lakes and rivers, or portions thereof, which are contained within the boundaries of a park, recreation area, refuge, historic site or adjacent to publically owned lands to which **Section 4(f)** otherwise applies.
- **Public Multiple Land Holdings** - It is not uncommon for lands such as state and national forests, Bureau of Land Management lands, and the US Army Corps of Engineers (USACE) water impoundment projects to have multiple designated uses, including municipal reservoirs, timber management, mining, or grazing, as well as recreation or historic preservation. When evaluating such properties, only those portions designated as a recreation area, refuge or historic site are eligible for protection under **Section 4(f)**. An examination of the management plan, if one exists, and coordination with the OWJ will be necessary to determine the portion of resource eligible for **Section 4(f)** protection. When a management plan doesn't exist, or is out-of-date, the property's function will be examined to determine **Section 4(f)** applicability.
- **Planned Facilities - Section 4(f)** applies to a planned facility when a public entity owns the property and has formally designated and determined it to be significant for park, recreation area or wildlife and waterfowl refuge purposes. Evidence of formal designation is required and is determined to be the inclusion of the publicly owned land, and its function as a **Section 4(f)** property into a city or county Master Plan.

7.2.3.2 Leases and Easements

A property may be considered 'publicly owned' for **Section 4(f)** purposes if the land is being managed for a significant recreational purpose under a long term lease or easement. The following should be considered when examining the applicability of **Section 4(f)** to a property subject to lease or easement: the purpose, terms, property management, parties involved, termination clauses, and other restrictions.

Additionally, FDOT has easements, such as Right of Way (ROW) easements, for transportation facilities that cross property protected under **Section 4(f)**. If there is an existing ROW easement, the **Section 4(f)** property is already part of the transportation facility due to the easement encumbrance, and is not subject to **Section 4(f)** protection. If a project is proposing a new easement across an existing **Section 4(f)** property, then it could constitute a "use" within the meaning of **Section 4(f)** and require a **Section 4(f)** determination.

Any questions on **Section 4(f)** applicability to a lease or easement should be referred to OEM and the Office of General Counsel (OGC).

7.2.3.3 Tribal Properties and Section 4(f)

Federally recognized Indian Tribes are sovereign nations and the lands owned by them are not considered publicly owned within the meaning of **Section 4(f)**. If a potential **Section 4(f)** resource is identified on tribal lands that serves a public function, the property will need to be evaluated for **Section 4(f)** applicability. In cases involving tribal trust lands, the Bureau of Indian Affairs (BIA) should be contacted to determine if they should participate in any required consultations.

Also, Traditional Cultural Places (TCPs) may be subject to the provisions of **Section 4(f)** if the TCP is eligible for **Section 106** (see [Part 2 Chapter 8, Archaeological and Historical Resources](#)) which requires the TCP to be eligible or listed under the NRHP because of its association with cultural practices or beliefs of a living community (**FHWA 2012 Policy Paper**, Question 6). SHPO will comment on TCP involvement.

Questions regarding whether tribally owned property is protected under **Section 4(f)** and how to proceed should be referred to OEM and the OGC.

7.2.4 Overview of Section 4(f) Analysis

Section 4(f) analysis includes the following:

1. Identification of potential **Section 4(f)** resources
2. Identification of the “use” of **Section 4(f)** resources
3. Documentation of the appropriate level of **Section 4(f)** analysis

FDOT recognizes the following types of documentation for **Section 4(f)** (see [Section 7.3](#)):

- No **Section 4(f)** Involvement - No existing or formally planned **Section 4(f)** property is within or adjacent to the project area.
- No Use - No impacts or use of a **Section 4(f)** property within or adjacent to the project area including Constructive Use or minor proximity impacts.
- Exception/Exemptions - Exceptions and Exemptions to the requirements of **Section 4(f)** are discussed in [Section 7.3.4](#).
- *de minimis* - Minor ‘Use’ of a **Section 4(f)** property that will not have an adverse effect on the attributes, features, or activities of the **Section 4(f)** property.
- Programmatic Evaluation - Allow transportation and resource agency officials in the field to make key determinations on projects having minor impacts on areas protected by **Section 4(f)**. Certain minor ‘Use’ of a **Section 4(f)** property that meets criteria established as defined by FHWA in **23 CFR Part 774**.

- Individual Evaluation - Is a “Use” of a **Section 4(f)** property that does not meet the Programmatic Evaluation criteria and exceeds the definition of a *de minimis* impact.
- Constructive Use - Occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the project’s proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under **Section 4(f)** are substantially impaired. Pursuant to the **NEPA Assignment MOU**, if a determination of Constructive Use is anticipated on the project then the District will notify OEM to initiate consultation with FHWA. For more detail on Constructive Use, see [Section 7.3.6.4](#).

7.2.5 Coordination with the Officials with Jurisdiction

The **Federal-Aid Highway Act of 1968** requires the recognized OWJ over the **Section 4(f)** property be consulted when project impacts are anticipated and/or more information is needed regarding the purpose and function of a property. The OWJ is the federal, state, or local agency official that owns or administers a **Section 4(f)** property or represents an agency on matters related to the property.

When coordinating with the OWJ(s) regarding a project and its impacts, the department must have a clear understanding of the property, its designated purpose, and its management plan. Coordination with the OWJ(s) will confirm the purpose of the property and its significance to the community, and whether the property is protected under **Section 4(f)**. Coordination with OWJ(s) is done electronically. If the property is determined to meet the criteria for protection under **Section 4(f)**, additional coordination with the OWJ will follow as appropriate.

The coordination letter to the OWJ for Parks, Recreation Areas, Wildlife and Waterfowl Refuges, must include following statement of significance must be included:

Significance means that in comparing the availability and function of the recreation area, park or wildlife and waterfowl refuge area with the recreational, park and refuge objectives of that community, the land in question plays an important role in meeting those objectives.

If no response is received from the OWJ after 30 days then the property will be presumed a significant resource and the District will continue the process. However, the OWJ should still be notified as the project continues through development, if any impacts will be added or changed to the **Section 4(f)** property.

Coordination with the OWJ for historic sites takes place through the Section 106 process. In Florida, the OWJ for historic sites is the SHPO/THPO. No OWJ coordination with SHPO/THPO is required for **Section 4(f)** outside of the **Section 106** process (see [Part 2 Chapter 8, Archaeological and Historical Resources](#)). If no response is received from the SHPO/THPO after the initial 30 day comment, FDOT can presume concurrence on the FDOT eligibility determination for NRHP listing (**36 CFR Part 800**).

Once the “use” of the proposed project is known, the District can work with the OWJ to identify measures to minimize harm. The District will prepare and send a letter (on FDOT letterhead) to the OWJ which includes a description of the property and its recreational significance, anticipated impacts as a result of the project, the **Section 4(f)** determination, and measures to minimize harm to the protected resource. This letter is sent to the OWJ for concurrence. The agreed upon minimization/mitigation measures will be incorporated as environmental commitments in the **NEPA** document (see **Section 7.3.8** and [Part 2, Chapter 22, Commitments](#)). After the OWJ has been notified of the “use”, the District must continue coordination to identify measures to minimize/mitigate harm to the property. OEM is available to review draft OWJ correspondence prepared by the District or LAP agencies. Drafts may be sent to the District’s PDC for review.

7.2.6 Standard Statement and Section 4(f) Documentation

Technical memorandums, reports or other documents prepared for a project in which OEM serves as the Lead Agency under the **NEPA** Assignment Program must include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

7.3 PROCEDURE

The procedural and documentation requirements outlined below are to be used for **Section 4(f)** analysis and file documentation.

7.3.1 Determination for a No Section 4(f) Involvement

When there are no **Section 4(f)** properties present, within, or adjacent to the project area resulting in a determination of “No **Section 4(f)** Involvement”, the basis for how this determination was made should be noted in the project file and included in the Environmental Document. Prior to making this determination, the evaluation of other issues that could impact the **Section 4(f)** resources should be completed. .

7.3.2 Determination of Applicability Process and Documentation

7.3.2.1 Initial Section 4(f) Review

District environmental staff should gather preliminary information to answer the following questions:

- Will the transportation project require funds or permits from a USDOT agency (FHWA, FRA, FTA or FAA)?

- Are there any **Section 4(f)** properties as defined in **23 CFR § 774.11** within or adjacent to the project area that have been determined to be significant?
- Is it anticipated that the project will require any temporary occupancy or permanent incorporation of a **Section 4(f)** property during the project?
- Is it anticipated that the project's proximity impacts, including Constructive Use impacts as defined in **23 CFR § 774.15**, will substantially impair a **Section 4(f)** property during and/or after construction?

7.3.2.2 ETDM Screening and Section 4(f) Determination of Applicability

Within FDOT's Efficient Transportation Decision Making (ETDM) process, certain projects qualify for screening through the Environmental Screening Tool (EST). For more information on ETDM and qualifying projects for screening, see FDOT's [ETDM Manual, Topic No. 650-000-002](#). For projects not qualifying for screening through EST, FDOT environmental staff has the option to review the project against the geographic information contained in the Area of Interest (AOI) Tool in order to determine if the proposed project may impact potential **Section 4(f)** protected properties.

A **Section 4(f)** Determination of Applicability (DOA) is based on a project's proposed "use" of a property that has been identified as a **Section 4(f)** resource. When determining the **Section 4(f)** applicability, FDOT will complete a **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** (See [Figure 7-2](#)) for every level of **Section 4(f)** evaluation except for a No **Section 4(f)** Involvement. The **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and the required attachments, including coordination with the OWJ, will serve as the formal DOA. The form directs the District to provide information about the relationship of the project to the protected resource, including a description of the property, the characteristics and functions of the property and potential "uses" of the protected resource. The form is signed by the form preparer and the Environmental Manager prior to submission to OEM. OEM will then concur with the finding or request additional information.

7.3.2.3 Resource Mapping for DOA

Separate from the ETDM Screening, the boundaries and attributes particular to a **Section 4(f)** property will be mapped. This is to be completed as part of the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)). When preparing a resource map the following items should be shown and clearly labeled.

- Boundaries of any potential **Section 4(f)** properties in or adjacent to the project area (When identifying the historic boundaries, the **Section 4(f)** resource's boundaries, the current ownership boundaries can differ);
- Location of elements contributing to the significance of each potential **Section 4(f)** property; and

- Locations, types of use and the area of the potential **Section 4(f)** property that will be impacted [i.e., proposed ROW lines, removal of **Section 4(f)** protected features], measured and depicted in acres if known.

7.3.3 No Section 4(f) Use Determination

A “No **Section 4(f)** Use” determination is one where a project has no permanent acquisition of land from a **Section 4(f)** property; no temporary occupancies of land that are adverse in terms of the statute’s preservation purpose; and no proximity impacts which significantly impair the protected functions of the property.

The determination required for this level of “use” is documented by:

1. Completing the “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) and providing the required documentation listed below:
 - a. **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and supporting documentation
 - b. All related communication with the OWJ

The “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) and supporting documentation will be sent to OEM for concurrence. Once complete the “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) must be saved in the StateWide Environmental Project Tracker (SWEPT) project file. When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** check the “No Use” option for **Section 4(f)** and follow the instructions provided in the form. On the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For Environmental Assessments (EAs) and Environmental Impact Statements (EISs) the determination is also included in the **Section 4(f)** section of the Environmental Document.

7.3.4 Exceptions and Exemptions to Section 4(f) Approval

There are multiple exceptions and exemptions to the requirement for **Section 4(f)** approval.

In order for a project and/or resource to be eligible for a **Section 4(f)** Exception, the project and/or resource must meet the criteria defined within the regulation. **Title 23 CFR § 774.13** provides:

1. The Administration [FDOT] has identified various exceptions to the requirement for **Section 4(f)** approval. These exceptions include, but are not limited to:
 - a. Restoration, rehabilitation or maintenance of transportation facilities that are on or eligible for the NRHP when:
 - i. The Administration [FDOT] concludes, as a result of the consultation under **36 CFR § 800.5**, that such work will not adversely affect the

- historic qualities of the facility that caused it to be on or eligible for the NRHP, and
- ii. The SHPO/THPO over the **Section 4(f)** resource have not objected to the Administration's [FDOT] conclusion in paragraph (a)(1) of this section.
- b. Archeological sites that are on or eligible for the NRHP when:
- i. The Administration [FDOT] concludes that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration [FDOT] decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and
 - ii. The SHPO/THPO or appropriate Tribes over the **Section 4(f)** resource have been consulted and have not objected to the Administration [FDOT] finding in paragraph (b)(1) of this section.
- c. Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archeological resources in **23 CFR § 774.9(e)**, the Administration [FDOT] may permit a project to proceed without consideration under **Section 4(f)** if the property interest in the **Section 4(f)** land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by **Section 4(f)** prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the NRHP prior to the start of construction, then the property should be treated as a historic site and does not qualify for the **Section 4(f)** exception.
- d. Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of **Section 4(f)**. The following conditions must be satisfied:
- i. Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
 - ii. Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the **Section 4(f)** property are minimal;
 - iii. There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;

- iv. The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
 - v. There must be documented agreement of the OWJ over the **Section 4(f)** resource regarding the above conditions.
- e. Park road or parkway projects under **23 U.S.C. § 204** which is the Federal Lands Access Program, providing access to transportation facilities located on or adjacent to, or provide access to Federal Lands.
- f. Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
- i. Trail-related projects funded under the Recreational Trails Program, **23 U.S.C. § 206(h)(2)**;
 - ii. National Historic Trails and the Continental Divide National Scenic Trail, designated under the **National Trails System Act, 16 U.S.C. §§ 1241-1251**, with the exception of those trail segments that are historic sites any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NRHP. The term includes properties of traditional religious and cultural importance to an Indian tribe that are included in, or are eligible for inclusion in the NRHP (**23 CFR § 774.17**).
 - iii. Trails, paths, bikeways, and sidewalks that occupy a transportation facility ROW without limitation to any specific location within that ROW, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and
 - iv. Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation.
- g. Transportation enhancement projects and mitigation activities, where:
- i. The use of the **Section 4(f)** property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for **Section 4(f)** protection; and
 - ii. The OWJ over the **Section 4(f)** resource agrees in writing to paragraph (g)(1) of this section.

Exemptions from **Section 4(f)** approval are identified within **23 CFR § 774.11** and in **Sections 1303 and 11502 of the Fixing America's Surface Transportation (FAST) Act of 2015**.

Exemptions under the regulation and the Florida significant historic interstate highway-related facilities excluded from the exemption are identified below:

1. **23 CFR § 774.11(e)(2)** - The interstate highway system is exempt from being treated as a historic resource under **Section 4(f)**, unless the U.S. Secretary of Transportation determines individual elements possess national or exceptional historic significance and should receive protection.
 - a. Interstate highway-related facilities in Florida determined historically significant by the Secretary of Transportation and therefore not exempt under **Section 4(f)** are:
 - i. I-275 Bob Graham/Sunshine Skyway Bridge
 - ii. I-75 Alligator Alley- Milepost range 19.6-49.3
 - iii. I-75 Snake Wall
 - iv. I-95 Myrtle Avenue Overpass
2. **23 CFR § 774.11(h)** - When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to **Section 4(f)**.
3. **23 CFR § 774.11 (i)** - When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established and concurrent or joint planning or development of the transportation facility and the **Section 4(f)** resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in **§774.17**. Examples of such concurrent or joint planning or development include, but are not limited to:
 - a. Designation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation facility and the **Section 4(f)** property; or
 - b. Designation, donation, planning, or development of property by two or more governmental agencies with jurisdiction for the potential transportation facility and the **Section 4(f)** property, in consultation with each other.

Exemptions under the **FAST Act** are identified below:

- **Section 1303 of the FAST Act** incorporates the ACHP Program Comment exemption for common post-1945 concrete and steel bridges and culverts into **Section 4(f)**, eliminating review requirements for these structures under **Section 4(f)**. This exemption applies to specific types of bridges and culverts built after

1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (See Section V Program Comment).

The reviewer needs to be aware of the following exclusions to the exemption:

- The Program Comment does NOT apply to bridges that are already listed in or eligible for the NRHP, or to those located within or adjacent to a historic district (Section IV.A Program Comment).
- The Program Comment does NOT apply to bridges listed by FHWA in the “Bridge Program Comment Excepted Bridges List” (See [Part 2 Chapter 8, Archaeological and Historical Resources](#))
- The Program Comment does NOT apply to arch bridges, truss bridges, movable span bridges, suspension bridges, cable-stayed bridges, or covered bridges (Section IV.B Program Comment).
- The Program Comment does NOT apply to bridges identified as having exceptional significance for association with a person or event, being a very early or particularly important example of its type in a state or the nation, having distinctive engineering or architectural features that depart from standard designs, or displaying other elements that were engineered to respond to a unique environmental context and included in a list to be developed by each state Division of FHWA (Section IV.C Program Comment).

Section 11502 of the FAST Act exempts a “use” of railroad lines, rail transit lines, or elements thereof, that are in use or that were historically used for the transportation of goods or passengers from **Section 4(f)** review. The exemption to **Section 4(f)** applies regardless of whether the railroad or rail transit line, or element thereof, is listed on or is eligible for listing on the NRHP.

The exemption applies to the following resource types which might otherwise be considered abandoned or not in use:

- Railroad and transit lines over which service has been discontinued under the process described in **49 U.S.C. § 10903**;
- Railroad and transit lines that have been railbanked (a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service as described in **16 U.S.C. § 1247(d)**); and
- Railroad and transit lines that have been otherwise reserved for the future transportation of goods or passengers.

There are three exceptions to the exemption:

- The exemption does NOT apply to rail stations or transit stations;
- The exemption does NOT apply to bridges or tunnels located on a rail line that has been abandoned under the process described in **49 U.S.C. § 10903** or a transit line that is not in use; and
- The exemption does NOT apply to any project for which federal funding was approved under **Title 49 U.S.C. § 24201(e)** prior to December 4, 2015 [**FAST Act § 11503(a)**, **49 U.S.C. § 24201(e)**].

7.3.4.1 Documentation and Coordination

An Exception/Exemption determination by the District requires OWJ concurrence or no objection, as appropriate. The District must provide all Exception/Exemption determinations to OEM for concurrence.

If a project is eligible for a **Section 4(f)** Exception/Exemption, the District completes the "**Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and must include the following documentation:

1. The **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation completed for the resource; and
2. A concurrence letter from the OWJ.

The complete **Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and documentation will be sent to OEM for concurrence. Once complete the **Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and documentation must be saved in the SWEPT project file. When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** check the Exception/Exemption option for **Section 4(f)** and follow the instructions provided in the form. **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For EAs and EISs the determination is also included in the **Section 4(f)** section of the Environmental Document.

7.3.5 "Use" under Section 4(f)

Once the District has determined the resource is protected under **Section 4(f)**, the District in consultation with OEM must determine whether the project will require a transportation "use" of the protected resource.

The following sections describe "uses" within the meaning of Section 4(f).

7.3.5.1 Permanent Incorporation

The most common type of use occurs when land from a **Section 4(f)** protected resource is permanently incorporated into a transportation facility, e.g. fee simple purchase. It can include the acquisition of an easement for the maintenance or operation of a transportation facility or a transportation-related facility.

7.3.5.2 Temporary Occupancy

Temporary occupancy is when there is a temporary occupancy for the purpose of project construction-related activities that is adverse in terms of the statute's preservation purpose. When temporary occupancies meet the conditions listed in **23 CFR § 774.13(d)** the "use" of the resource does not constitute a "use" within the meaning of **Section 4(f)**. If the temporary occupancy does not meet the conditions, there is a **Section 4(f)** use and the appropriate **Section 4(f)** approval process must be followed.

7.3.5.3 Constructive Use

Constructive use occurs when a transportation project does not incorporate land from **Section 4(f)** property but when the project's proximity impacts are so severe that the protected activities, features, attributes that qualify the protected resource are substantially impaired (**23 CFR § 774.15**).

7.3.6 Section 4(f) Approvals

Once the District has completed the DOA and determined **Section 4(f)** applies to a project, the District must prepare a *de minimis* finding or a **Section 4(f)** evaluation for submittal to OEM. When coordinating with the OWJ, external agencies or the public, the Districts should copy their PDCs on outgoing correspondence.

As set forth in **23 CFR § 774.3**, FDOT may not approve the "use" of land from a significant publicly owned public park, recreation area, wildlife or waterfowl refuge, or any significant historic site unless it determines that:

1. There is no feasible and prudent alternative to the use of land from the property; and
2. The action includes all possible planning to minimize harm (as defined in **23 CFR § 774.17**) to the property resulting from such use; or
3. The use of the property, including any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement), will have a *de minimis* impact on the property.

To receive approval, the District needs to submit the following documentation to OEM:

1. A *de minimis* impact determination;
2. A programmatic **Section 4(f)** evaluation; or

3. An individual **Section 4(f)** evaluation.

Analyses of the “no prudent and feasible alternative” and the “all possible planning to minimize harm” standards are only required for approval of the individual and programmatic evaluations; it is not required for a *de minimis*.

7.3.6.1 The *de minimis* Section 4(f) Analysis

A *de minimis* impact is one that, after taking into account any measures to minimize harm (such as avoidance, minimization, mitigation, or enhancement measures), results in either:

1. A determination that the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under **Section 4(f)**; or
2. A finding under **36 CFR § 800**, that no historic property is affected by the project or that the project will have “no adverse effect” on the historic property in question.

The impacts of a transportation project on a park, recreation area, or wildlife or waterfowl refuge that qualifies for **Section 4(f)** protection may be determined to be *de minimis* if:

1. The transportation use of the **Section 4(f)** property, together with any measures to minimize harm, such as impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, do not adversely affect the activities, features, or attributes that qualify the resource for protection under **Section 4(f)**;
2. The OWJ has been notified of the intent to pursue a *de minimis* and consulted on measures to minimize harm;
3. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, or attributes of the **Section 4(f)** property (for most projects, this will be completed through the **NEPA** public involvement process); and
4. The OWJ after being informed of the public comments and FDOT's intent to make a *de minimis* impact finding, concurs in writing that the project (including all measures to mitigate and minimize harm) will not adversely affect the activities, features, or attributes that qualify the property for protection under **Section 4(f)** [**23 CFR § 774.5(b)(2)** and **23 CFR § 774.17**].

Note: When completing a *de minimis* evaluation for parks, recreation areas, wildlife and waterfowl refuges, remember that the sequence of activities in **23 CFR § 774.5(b)(2)** must be followed order.

7.3.6.1.1 *de minimis* Consultation

For parks, recreation areas, and wildlife and waterfowl refuges, the District must notify the OWJ that the activities, features, and attributes qualifying the property for **Section 4(f)** protection will be the basis for a *de minimis* impact determination [**23 CFR § 774.5(b)**]. The OWJ must concur that the project meets the criteria of a *de minimis* impact prior to the District seeking OEM concurrence with the *de minimis* finding.

The OWJ concurrence **must be in writing** [**23 CFR § 774.5(b)(2)(ii)**]. This concurrence can be in the form of a signed letter on agency letterhead, signatures in concurrence blocks on transportation agency documents or agreements provided via e-mail, or by other methods deemed acceptable by OEM.

For historic sites, the consulting parties identified in **36 CFR Part 800** must be afforded the opportunity to comment on the effects of the proposed project on historic resources. The OWJ over the historic property (usually the SHPO or THPO) must be informed of the intent to make a *de minimis* impact determination and must concur with a finding of “no adverse effect” or “no historic properties affected” in accordance with **36 CFR Part 800**.

7.3.6.1.2 Public Involvement Requirements

For parks, recreation areas, or wildlife and waterfowl refuges, an opportunity for public review and comment must be provided [**23 CFR § 774.5(b)(2)(i), (ii)**]. For a *de minimis* determination no additional public involvement outside the regular **NEPA** process is required ([Part 1 Chapter 11, Public Involvement](#)). If a proposed action does not normally require public involvement, such as for certain minor projects covered by a Type 1 CE, an opportunity for the public to review and comment on the proposed *de minimis* impact determination must be provided as appropriate to the resource.

Compliance with **36 CFR Part 800** satisfies the public involvement and agency coordination requirements for *de minimis* impact findings for historic and archeological properties. In order to document the public involvement activities for **36 CFR Part 800** the *de minimis* determination will not usually occur until after the public hearing and comment period for Type 2 CEs, EAs and EISs. For lower level Type 1 CEs that involve historic properties contact OEM for further guidance on how to meet the **36 CFR Part 800** requirements and the documentation for **Section 4(f)**.

7.3.6.1.3 Documenting the *de minimis* determination

Once the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation has been completed and it has been determined that the project is eligible for a **Section 4(f)** *de minimis* finding, the District completes the **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or the **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and submits it to OEM for concurrence.

If a project has more than one **Section 4(f)** property, then a **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and documentation needs to be prepared for each protected resource, as applicable.

7.3.6.1.4 Approval and Documentation Process

The District submits the *de minimis* Determination form and documentation to OEM for concurrence. Once OEM concurs and signs the determination, the final **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and its attachments must be uploaded to the SWEPT project file.

When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12**, check the *de minimis* option for **Section 4(f)** and follow the instructions provided in the form. When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For EAs and EISs, the determination is also included in the **Section 4(f)** portion of the Environmental Document. In addition, any mitigation measures that were relied upon to reach a *de minimis* determination will be documented as commitments in the Environmental Document.

7.3.6.2 Programmatic Section 4(f) Evaluations

Programmatic **Section 4(f)** evaluations are administrative alternatives to completing an Individual **Section 4(f)** evaluation but which still require supporting studies and consultation. Programmatic evaluations are prepared for certain minor uses of **Section 4(f)** property that meet specific criteria and have already received federal legal sufficiency review.

The benefit of using a Programmatic **Section 4(f)** is they do not require coordination with the DOI, Department of Agriculture, or the Department of Housing and Urban Development (HUD), unless a federal agency has a specific action to take, such as DOI approval of a conversion of land as required by **Section 6(f) of the LWCFR**. The conditions vary among the programmatic types, and generally relate to:

1. the type of project or **Section 4(f)** property,
2. the degree of use and impact to the **Section 4(f)** property,
3. the evaluation of avoidance alternatives,
4. the establishment of a procedure for minimizing harm to the **Section 4(f)** property, and
5. coordination with OWJ.

The Districts should coordinate their preparation of any programmatic evaluation with their PDCs.

The five Nationwide Programmatic **Section 4(f)** Evaluations provided under **23 CFR § 774.3(d)** are only applicable to FHWA-funded projects. The Programmatic **Section 4(f)** Evaluations are:

1. Bikeway or Walkway for Construction Projects; **Section 4(f) Statement of Determination for Independent Walkways or Bikeway Construction Projects; Form No. 650-050-55** (See [Figure 7-7](#))
2. **Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50** (See [Figure 7-8](#))
3. **Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects Minor Involvements with Historic Sites, Form No. 650-050-51** (See [Figure 7-9](#))
4. **Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Parks, Recreation Areas, and Waterfowl and Wildlife Refuges, Form No. 650-050-52** (See [Figure 7-10](#))
5. Nationwide Programmatic **Section 4(f)** Evaluation and Approval for Transportation Projects That Have a Net Benefit to a **Section 4(f)** Property; **Section 4(f) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53** (See [Figure 7-11](#)) and **Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Land and, Wildlife & Waterfowl Refuges, Form No. 650-050-54** (See [Figure 7-12](#))

7.3.6.2.1 Programmatic Evaluation Criteria

Prior to completing the applicable Programmatic Evaluation form, the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation must be completed. The details regarding each of these programmatic evaluations can be reviewed by accessing the document via the **Federal Register** in the link provided in the references below. Additional information can be found in the **FHWA Environmental Toolkit**.

Section 4(f) Statement and Determination for Independent Bikeway or Walkway Construction Projects

This programmatic evaluation is only applicable for the development of independent bikeway or walkway projects which require the use of recreation and park areas established and maintained primarily for active recreation and similar purposes. It does not apply to a transportation project which has the primary purpose of serving motor vehicle traffic and which includes a pedestrian or bicycle facility as an incidental part of the construction.

The application of this programmatic evaluation is not appropriate for projects which:

- Use land from a significant historic site.
- Impact endangered species critical habitat.
- Use land from publicly owned wildlife or waterfowl refuge.
- Have significant environmental impacts.
- Have public controversy.
- Create adverse social or economic impacts
- Include displacement of homes or businesses, but may include land acquisition in certain circumstances.

The application of this programmatic evaluation is only appropriate for projects which:

- Include all possible planning to minimize harm.
- Have OWJ concurrence.
- Public agency must be responsible for maintenance.

This programmatic evaluation **does not** require an avoidance alternatives analysis. This evaluation may be used on Type 2 CEs, EAs, or EISs.

Programmatic *Section 4(f)* Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges

Historic bridges covered by this programmatic evaluation must be on or eligible for inclusion on the NRHP and also be a functional part of the highway system.

For the purpose of this programmatic evaluation, a proposed action will "use" a bridge that is on or eligible for listing on the NRHP when the action will impair the historic integrity of the bridge either by rehabilitation or demolition which results in an "adverse effect" determination under ***Section 106 of the NHPA***. A finding of "no adverse effect" or "no historic properties affected" would qualify as an exception to ***Section 4(f)*** approval. See ***Section 4(f)*** Exceptions at ***23 CFR § 774.13(a)***.

Application of this programmatic evaluation requires consideration of the following:

- Whether the bridge rehabilitation or replacement project uses federal funds.
- Whether the historic bridge is on or eligible for the NRHP.
- Whether the bridge is a National Historic Landmark.

- Whether alternatives, findings, & measures to minimize harm in accordance with the programmatic evaluation were conducted.
- Whether analysis of three alternative approaches that avoid any use of the historic bridge were conducted.
- Whether **Section 106** concurrence has been reached, with written concurrence from SHPO/THPO and the ACHP (if participating).
- Whether a **Section 106** “adverse effect” determination has been made.

The alternatives analysis to avoid the use of historic bridges is slightly different from other highway type projects. This analysis must address the alternatives outlined in the **Federal Register** Requirements.

This evaluation may be used on Type 2 CEs, EAs, or EISs.

Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

This programmatic evaluation may be used for projects which improve existing highways and use minor amounts of publicly owned parks, recreation lands or wildlife and waterfowl refuges that are **adjacent to existing highways**. Consult with OEM prior to using this programmatic.

Considerations for application of this programmatic evaluation include the following:

- Project must be designed to improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- May not be used for construction projects on new location.
- May involve only public parks, recreation areas, and wildlife and waterfowl refuges.
- The use of the protected resource including proximity impacts may not impair use of remaining **Section 4(f)** property in whole or in part for its intended purpose (see [Table 7-1](#))
- Must obtain written concurrence from OWJ(s) for the impacts and the mitigation measures for the **Section 4(f)** lands.
- Requires avoidance alternatives analysis, all possible planning to minimize harm.

This programmatic evaluation can only be used if the total amount of land to be acquired from any **Section 4(f)** property doesn't exceed the values in [Table 7-1](#).

Table 7-1 Programmatic Acreage Table

Programmatic Acreage Limit Size of <i>Section 4(f)</i> Property	Limit of Acreage Used
< 10 acres	10 percent of site
10-100 acres	1 acre
> 100 acres	1 percent of site

The project file must clearly demonstrate that each of the alternatives was fully evaluated before a conclusion is made that the programmatic ***Section 4(f)*** evaluation applied to the project. If an alternative is identified that is ‘feasible and prudent’ without the use of a ***Section 4(f)*** property, it must be selected as the preferred alternative.

This programmatic evaluation may be used on a Type 2 CE or EA but **NOT** on an EIS.

Final Nationwide *Section 4(f)* Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

This programmatic evaluation may be used when a project has minor impacts to historic sites that are adjacent to existing highways.

Considerations for application of this programmatic evaluation include the following:

- The project must be for operational improvements, essentially on existing location. It cannot involve construction on a new location.
- May only involve historic sites adjacent to the roadway.
- May not involve removal or alteration of historic buildings, structures, or objects on the historic site.
- May not involve disturbance or removal of archeological resources determined to be important for preservation in place as determined by the ***Section 106*** process.
- ***Section 106*** concurrence has been reached, with written concurrence from SHPO/THPO and the ACHP (if participating).
- The ***Section 106*** effect finding must be either a determination of “no effect” or “no adverse effect.”
- Requires avoidance alternatives analysis.

The Programmatic Evaluation must clearly demonstrate that each of the alternatives was fully evaluated and concurred with by OEM and the OWJ before a conclusion is made that the programmatic **Section 4(f)** evaluation applies to the project. If an alternative is identified that is 'feasible and prudent' without the use of a **Section 4(f)** property, it must be selected as the preferred alternative.

This evaluation may be used on a Type 2 CE or EA, but **NOT** an EIS.

Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property

A "net benefit" is achieved when the transportation use, the measures to minimize harm, and the mitigation incorporated into the project result in an overall enhancement of the **Section 4(f)** property. This is achieved when the results of these analyses are compared to both the no build or avoidance alternatives and the present condition of the **Section 4(f)** property. The activities, features, and attributes that qualify the property for **Section 4(f)** protection must also be considered.

This Programmatic Evaluation satisfies the requirements of **Section 4(f)** for projects meeting the applicability criteria listed below:

- The proposed transportation project uses a **Section 4(f)** protected park, recreation area, wildlife or waterfowl refuge, or historic site.
- The project includes all appropriate measures to minimize harm and subsequent mitigation to preserve and enhance the features and values of the property that qualify it for **Section 4(f)** protection.
- For historic sites, the project does not require the major alteration of the characteristics that qualify the property for listing on the NRHP such that the property would no longer retain sufficient integrity to be considered eligible for listing. For archeological properties, the project does not require the disturbance or removal of the archeological resources that have been determined important for preservation in-place rather than for the information that can be obtained through data recovery. The determination of a major alteration or the importance to preserve in-place will be based on consultation consistent with **36 CFR Part 800**.
- For historic sites consistent with the **Section 106** regulations at **36 CFR Part 800**, there must be agreement between SHPO/THPO and FDOT (and ACHP, if participating) on measures to minimize harm when there is a use of **Section 4(f)** property. Such measures must be incorporated into the project.
- The OWJ must concur in writing that the result of the project will be a net benefit on the property based on the assessment of impacts, measures to minimize harm, and mitigation measures necessary to preserve, rehabilitate, and enhance the features and values of the property.

- The agency determines that the project facts match those set forth in the Applicability, Alternatives, Findings, Mitigation and Measures to Minimize Harm, Coordination, and Public Involvement sections of this programmatic evaluation.

The project file must clearly demonstrate that each of the alternatives was fully evaluated before a finding is made that the programmatic **Section 4(f)** evaluation applies to the project.

For this Programmatic Evaluation to be used on a project there must be a finding that given the present condition of the **Section 4(f)** property, the no build and avoidance alternatives are not feasible and prudent. If an alternative is identified that is 'feasible and prudent' without the use of a **Section 4(f)** property, it must be selected as the preferred alternative.

This programmatic evaluation may be used on a Type 2 CE, EA or EIS.

7.3.6.2.2 DOA for Section 4(f) Programmatic Evaluations

Prior to completing the Programmatic Evaluation, the **Section 4(f) Determination of Applicability, Form No. 650-050-45** (See [Figure 7-2](#)) and documentation must be completed.

7.3.6.2.3 OWJ Consultation and Public Involvement

In early stages of project development, each project requires direct coordination with the federal, state, and/or local agency OWJ over the **Section 4(f)** property. For non-federal **Section 4(f)** properties, the District must determine, or request the OWJ to identify, any federal encumbrances that may apply to the protected property. When encumbrances exist, the District is required to coordinate with the federal agency responsible for the encumbrance. Compliance and coordination related to any concurrent requirements should be noted and discussed in the appropriate sections of the **NEPA** document for the project and in the **Section 4(f)** Programmatic Evaluation.

Projects with **Section 4(f)** use must include appropriate public involvement activities that are consistent with the specific requirements of [Part 1, Chapter 11, Public Involvement](#). For a project where public meetings or hearings are held, information on the proposed use of the **Section 4(f)** property must be communicated at the public meeting(s) or hearing(s). In the case of the Net Benefit Programmatic Evaluation, a public involvement opportunity is specifically required for the approval of the document. Therefore, in circumstances where the net benefit use of the **Section 4(f)** property was not addressed during the public involvement process, a separate public involvement opportunity addressing the **Section 4(f)** use of the property must be provided.

7.3.6.2.4 Documentation for Programmatic Section 4(f) Evaluations

When completing the appropriate Programmatic **Section 4(f)** Evaluation form, the following information must be included in the project file. Much of this material will be contained in the programmatic evaluation form and documentation or the DOA. If any of

this material is in separate correspondence or contained in the **NEPA** document, that material should be referenced and cited appropriately.

1. Applicability or No **Section 4(f)** Involvement to the park, recreation, refuge or historic property proposed to be used by the project;
2. Whether there is a transportation “use” or impact of **Section 4(f)** property and the degree of that “use” or impact (including a description);
3. Records of public involvement, if any;
4. Results of coordination with the OWJ; and
5. Documentation of the specific requirements of the programmatic evaluation that are being applied.

7.3.6.2.5 Programmatic Section 4(f) Evaluations Submittals and Coordination

The Programmatic Evaluation Form and documentation are submitted to OEM by the District via the Electronic Review and Comment System (ERC) for concurrence. OEM must review and concur with all **Section 4(f)** Programmatic Evaluations. Once the document has been finalized, the District uploads the evaluation into SWEPT.

The approval of the Programmatic Evaluations are concurrent with the signing and approval of the **NEPA** Environmental Document. Upon approval, the District will send a signed copy of the Programmatic to the OWJ.

When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** document the Programmatic **Section 4(f)** Evaluation check “No” for significant impacts on the Environmental Analysis checklist for **Section 4(f)** (B.1.), summarize the results of the evaluation in the **Type 2 CE Determination Form**, and attach the Programmatic Evaluation. For EAs and EISs, results of the Programmatic Evaluation is summarized in the **Section 4(f)** section of the document and the Programmatic Evaluation is attached to the Finding of No Significant Impact (FONSI) or Final EIS (FEIS) via SWEPT. In addition, any mitigation measures or commitments are documented in the Environmental Document.

7.3.6.3 Individual Section 4(f) Evaluations

An Individual **Section 4(f)** Evaluation must be completed when a project requires a “use” of **Section 4(f)** property resulting in a greater than a *de minimis* impact and does not meet the conditions of a Programmatic **Section 4(f)** Evaluation (**23 CFR § 774.3**). The Individual **Section 4(f)** Evaluation documents the proposed use of **Section 4(f)** property for all alternatives within a project area.

Based on sufficient analysis, the Individual **Section 4(f)** Evaluation must find:

1. There is no feasible and prudent alternative that completely avoids the use of **Section 4(f)** property; and
2. The project includes all possible planning as defined in **§774.17**, to minimize harm to the **Section 4(f)** property resulting from the transportation use [see **23 CFR § 774.3(a)**].

In order to complete a **Section 4(f)** Individual Evaluation a DOA form and documentation must be completed.

7.3.6.3.1 Outline for Preparing Draft Individual Section 4(f) Evaluations

The **Draft Individual Section 4(f) Evaluation** provides the preliminary analysis of project alternatives and must include identification of avoidance, minimization, and mitigation opportunities. Additionally, the evaluation for the **Section 4(f)** property must include a least overall harm analysis, when there are two or more alternatives that “use” a **Section 4(f)** property.

Draft evaluations provide comparative analysis of the various alternatives under consideration and not include any preferences or recommendations. The draft is used by decision makers to select the preferred alternative.

When completing the draft evaluation document, some of the information can be found in the **Section 4(f) Determination of Applicability, Form No. 650-050-45** (See [Figure 7-2](#)) and documentation prepared at the beginning of the process. The evaluation must include an analysis for each project alternative at each **Section 4(f)** property location.

Formatting for the Individual **Section 4(f)** Evaluation is based on FHWA guidance:

1. Applicability or Non-applicability of **Section 4(f)** to the resource.
2. Whether there is a use of the **Section 4(f)** property
3. Activities, features and attributes of the **Section 4(f)** property
4. Analysis of impacts to the **Section 4(f)** property
5. Records of public involvement activities
6. Results of coordination with the OWJ
7. Alternatives considered to avoid using the **Section 4(f)** property, including the analysis of the impacts caused by avoiding the **Section 4(f)** resource
8. A least overall harm analysis, if appropriate;
9. All measures taken to minimize harm to the resource including mitigation measures;

10. Comments submitted during the coordination procedures as required by **23 CFR § 774.5** and responses to those comments.

7.3.6.3.2 Feasible and Prudent Alternatives Analysis for Individual Section 4(f) Evaluations

The intent of the **Section 4(f)** statute is to avoid and, where avoidance is not feasible and prudent, minimize the harm caused by the use of protected resource by transportation projects. When assessing the importance of protecting a **Section 4(f)** property, it is important to consider the relative value of its resources to the preservation purpose of the statute (**23 CFR § 774.17**). An avoidance “alternative analysis” [**23 CFR § 774.3(a) and (c)**] must be performed to determine if there is a feasible and prudent avoidance alternative.

7.3.6.3.2.1 Identifying a Range of Alternatives

A project alternative that avoids one **Section 4(f)** property by using another is not an avoidance alternative. A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property.

The alternative analysis identifies a reasonable range of project alternatives, including those that avoid using **Section 4(f)** property [**2012 FHWA Section 4(f) Policy Paper**]. Depending on the project context, the potential alternatives may include the following:

- Location Alternatives - A location alternative refers to the re-routing of the entire project along a different alignment
- Alternative Actions - An alternative action could be a different mode of transportation, such as rail transit or bus service, or some other action that does not involve construction such as the implementation of transportation management systems or similar measures.
- Alignment Shifts - An alignment shift is the re-routing of a portion of the project to a different alignment to avoid a specific resource.
- Design Changes - a design change is a modification of the proposed design in a manner that would avoid impacts, such as reducing the planned median width, building a retaining wall, or incorporating design exceptions.

For more information on developing and analyzing alternatives see [Part 2 Chapter 3, Engineering Analysis](#).

7.3.6.3.2.2 Feasible and Prudent Avoidance Analysis

The next step is to determine if each of the identified alternatives are feasible and prudent. “A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the

importance of protecting the **Section 4(f)** property” (**23 CFR § 774.17**). If it is determined an avoidance alternative is feasible and prudent and meets the purpose and need of the project, this alternative must be selected by FDOT, and the **Section 4(f)** evaluation process is complete.

Under **23 CFR § 771.17** an avoidance alternative is not considered feasible if it cannot be built as a matter of sound engineering judgement.

Under **23 CFR 771.17** an avoidance alternative is not considered prudent if it results in one of the following situations:

- It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- It results in unacceptable safety or operational problems;
- After reasonable mitigation, it still causes:
 - Severe social, economic, or environmental impacts;
 - Severe disruption to established communities;
 - Severe disproportionate impacts to minority or low income populations or
 - Severe impacts to environmental resources protected under other Federal statutes;
- It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- It causes other unique problems or unusual factors; or
- It involves, multiple factors in the above paragraphs, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

If there is more than one alternative that uses **Section 4(f)** property then a Least Overall Harm Analysis of those alternatives is required (see [Section 7.3.6.3.2.4](#)).

7.3.6.3.2.3 All Possible Planning to Minimize Harm

“All possible planning”, means all reasonable measures identified in the **Section 4(f)** analysis to minimize harm or mitigate adverse effects to the resource resulting from the “use,” were considered and documented. Impacts to the **Section 4(f)** property should be reduced or eliminated by including mitigation in the analysis. In addition, the mitigation measures are relied upon as part of the comparison of alternatives.

For public parks, recreation areas, and wildlife and waterfowl refuges, the measures to minimize harm may include, but are not limited to: design modifications or design goals; replacement of land or facilities of comparable value and function; or monetary

compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways. For historic sites, the measures to minimize harm normally serve to preserve the historic activities, features, or attributes of the site as agreed upon by FDOT and the OWJ for the resource, in accordance with the consultation process under **Section 106 (36 CFR Part 800)**.

In evaluating the reasonableness of measures to minimize harm under **23 CFR § 774.3(a)(2)**, FDOT will consider the preservation purpose of the statute and the following:

- The views of the OWJ
- Whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the **Section 4(f)** property and the benefits of the measure to the property, in accordance with **23 CFR § 771.105(d)**
- Any impacts or benefits of the measures to communities or environmental resources outside of the **Section 4(f)** property

7.3.6.3.2.4 Least Overall Harm Analysis

Least overall harm analysis is conducted to determine which of the potential feasible and prudent alternatives that “use” a **Section 4(f)** property have the net impact that results in the “least overall harm” in accordance with **23 CFR § 774.3(c)(1)** and “includes all possible planning to minimize harm to **Section 4(f)** property” [**23 CFR § 774.3(c)(2)**]. Not all uses of **Section 4(f)** property have the same magnitude of impact, and not all **Section 4(f)** properties are of the same quality; therefore, the least overall harm analysis is a qualitative analysis. When preparing and examining the alternatives which impact **Section 4(f)** property it is important to ensure that comparable mitigation measures are taken into account for each alternative. The District is responsible for selecting the alternative that has the least overall harm to a **Section 4(f)** property. If the net harm to the **Section 4(f)** properties in all the feasible and prudent alternatives is equal, the District may select any one of them.

To determine which of the alternatives would cause the least overall harm, FDOT must compare the factors set forth in **23 CFR § 774.3(c)(1)** concerning the alternatives under consideration:

1. The ability to mitigate adverse impacts to each **Section 4(f)** property (including any measures that result in benefits to the property);
2. The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each **Section 4(f)** property for protection;
3. The relative significance of each **Section 4(f)** property;
4. The views of the OWJ over each **Section 4(f)** property;
5. The degree to which each alternative meets the purpose and need for the project;

6. After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by **Section 4(f)**; and
7. Substantial differences in costs among the alternatives.

7.3.6.3.3 Submission and Coordination of Draft Individual Section 4(f) Evaluations

The District must upload the **Draft Individual Section 4(f) Evaluation** in ERC, assigning their PDC for review and comment. The PDC must add OGC and may add any other relevant reviewers. For Type 2 CEs the Draft Individual Evaluation is uploaded into ERC as a separate document. For EAs and EISs, the Draft Individual Evaluation is incorporated into the EA or DEIS.

Once OEM has completed its review of the **Draft Individual Section 4(f) Evaluation** and the comments have been addressed by the District, OEM approves it for public availability and the District circulates the document to the OWJ and any other appropriate agency for review and comment, including DOI, U.S. HUD. FDOT will use electronic media to distribute the draft to agencies.

The District must wait a minimum of 45 days for receipt of comments. If comments are not received within 15 days after the comment deadline, the District may assume a lack of objection and proceed with the action (**23 CFR § 774.5**).

If any of these agencies raise issues during coordination, the District will work with OEM and the agency to resolve the issues.

7.3.6.3.4 Public Involvement Requirements for Draft Individual Section 4(f) Evaluations

A **Section 4(f)** Individual Evaluation must include the opportunity for public notice and an opportunity for public review and comment on the use of the protected property and the effects on the protected activities, features, or attributes of the resource. This requirement is satisfied in conjunction with the public comment period provided for the **NEPA** document.

For those actions that do not routinely require public review and comment under **NEPA**, such as certain Type 2 CEs and re-evaluations, a separate public notice and an opportunity for review and comment will be necessary for a **Section 4(f)** evaluation.

7.3.6.3.5 Final Section 4(f) Individual Evaluation Outline

When the preferred alternative uses **Section 4(f)** land, the Final Individual **Section 4(f)** Evaluation must contain:

1. Information developed in the draft evaluation.

2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the **Section 4(f)** land. The supporting information must demonstrate that "there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes" (**23 CFR § 774.3**). This language should appear in the document together with the supporting information.
3. A discussion of the basis for concluding that the proposed action includes all possible planning to minimize harm to the **Section 4(f)** property. The Final Individual **Section 4(f)** Evaluation must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm on the **Section 4(f)** resources after considering mitigation to the **Section 4(f)** resources.
4. When there is more than one alternative which uses **Section 4(f)** resources, a discussion of the reasons for concluding that the selected action is the alternative which results in the least overall harm must be included.
5. A summary of the formal coordination with the OWJs and the Headquarters Office of DOI and other agencies as appropriate. Copies of all formal coordination comments and a summary of other relevant **Section 4(f)** comments received, and an analysis and response to any questions raised should be included.
6. Where **Section 6(f)** land is involved, documentation of the results of the coordination with the NPS must be included.
7. Final approval **Section 4(f)** language must include the following statement: "Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [identify **Section 4(f)** property] and the proposed action includes all possible planning to minimize harm to the [**Section 4(f)** property] resulting from such use."

7.3.6.3.5.1 Submission of Final Individual Section 4(f) Evaluation and Legal Sufficiency Review [23 CFR § 774.7 (d)]

After completion of the circulation and public comment period, the District submits the Final Individual **Section 4(f)** Evaluation to OEM via SWEPT.

SWEPT also provides a copy of the **Final Section 4(f) Evaluation** to OGC for legal sufficiency review. OGC must certify that the evaluation is legally sufficient before the **Section 4(f)** Evaluation can be approved by the Director of OEM as part of the **NEPA** document.

For FDOT processing purposes, the standard approval statement will be included on the cover page of FEIS or FONSI. The name and description of the project and the name(s) of the **Section 4(f)** properties being used by the project must also be included. Where the **Section 4(f)** approval is documented in the FEIS, the basis for the **Section 4(f)** approval must be summarized in the Record of Decision (ROD).

For Type 2 CE documents, the approval of the separate Final Individual **Section 4(f)** Evaluation report should occur with and be referenced in the approval for the **NEPA** Document.

Once approved, the District will electronically distribute copies of the signed document to the agencies that received the **Draft Individual Section 4(f) Evaluation**.

7.3.6.3.5.2 Project File Documentation

When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** for the Individual **Section 4(f)** Evaluation check “Yes” on the Environmental Analysis for **Section 4(f)** (B.1.), summarize the results of the evaluation in the form, and upload the Final Individual Evaluation form in SWEPT. For EAs and EISs, results of the Final Individual Evaluation are summarized in the **Section 4(f)** section of the document and the Final Individual Evaluation is referenced and uploaded into SWEPT. In addition, any mitigation measures or commitments are documented in the Environmental Document.

7.3.6.4 Constructive Use

A “Constructive Use” occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the proximity impacts of the project are so severe that the protected activities, features, or attributes qualifying the property for protection under **Section 4(f)** are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished (**23 CFR § 774.15**).

If the District believes a project may involve a Constructive Use, the District contacts the PDC to verify the potential for a Constructive Use and to assess measures to minimize harm to the resource in order to avoid having a Constructive Use. When the District and OEM believe that a Constructive Use determination may be appropriate, OEM will initiate consultation with FHWA-HQ Office of Project Development and Environmental Review in accordance with the **NEPA Assignment MOU**.

Under **23 CFR § 774.15**, when a Constructive Use determination is made, it is based on the following:

1. Identification of the current activities, or attributes of the property which qualify for protection under **Section 4(f)** and which may be sensitive to proximity impacts. (This will be determined by the completed DOA);
2. Analysis of the proximity impacts of the proposed project on the **Section 4(f)** resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should be not attributed to the proposed project; and

3. Consultation, on the foregoing identification and analysis, with the OWJ over the **Section 4(f)** property.

Situations describing when a Constructive Use occurs can be found at **23 CFR § 774.15(e)** and situations describing when a Constructive Use does not occur can be found at **23 CFR § 774.15(f)**.

7.4 POST PD&E

7.4.1 Late Designations & Discoveries

After the CE, FONSI, or ROD has been processed, a separate **Section 4(f)** approval will be required, except as provided in **23 CFR § 774.13**, if:

1. A proposed modification of the alignment or design would require the use of **Section 4(f)** property; or
2. The District in consultation with OEM determines that **Section 4(f)** applies to the use of a property; or
3. A proposed modification of the alignment, design, or measures to minimize harm (after the original **Section 4(f)** approval) would result in a substantial increase in the amount of **Section 4(f)** property used, a substantial increase in the adverse impacts to **Section 4(f)** property, or a substantial reduction in the measures to minimize harm [**23 CFR § 774.9(d)**].

A separate **Section 4(f)** approval required for a CE, FONSI, or ROD will not necessarily require the preparation of a new or supplemental NEPA document. Coordinate with OEM when there are changes to a project that results in changes to impacts to a **Section 4(f)** property.

There are times when late discoveries, late designations, or determinations of significance of **Section 4(f)** resources are made after the completion of the Environmental Document. When this involves a **Section 4(f)** resource other than an archaeological site, FDOT may allow the project to proceed without consideration under **Section 4(f)** if the property interest in the lands from the site was acquired prior to the change in the designation or the determination of significance as long as an adequate effort was made to identify properties protected by **Section 4(f)** prior to the acquisition. In cases involving a historic site, if it was reasonably foreseeable that a resource would be determined eligible for the NRHP prior to the start of construction, the resource should be treated as a significant historic site as set forth in **23 CFR § 774.13(c)**.

In judging the adequacy of the effort made to identify properties protected by **Section 4(f)**, FDOT will consider the requirements and standards that existed at the time of the search.

When archeological discoveries occur, FDOT will consult with the appropriate parties in accordance with **Section 106 of the NHPA** to reach resolution regarding the treatment of the site within an expedited time frame. The decision to apply **Section 4(f)** to the site

will be based on the outcome of the **Section 106** process. If the archaeological site proves significant for more than the information it contains, this late discovery will also trigger a request for an expedited **Section 4(f)** evaluation. Because the DOI has a review responsibility for Individual **Section 4(f)** Evaluations but is not usually a party to the Section 106 consultation process, the DOI must be notified and requested to provide any comments within a shortened response period (less than the standard 30 days) in regard to the treatment of the archaeological site. [See **Section 4(f) Policy Paper Section II**, Questions 26(a) and (b) and **23 CFR § 774.9**]

7.4.2 Commitment Compliance

Commitments must be recorded in the Environmental Document and on the **Project Commitment Record, Form No. 700-011-35**. Project commitments are carried forward into design, ROW and construction phases of project delivery. The commitments and required coordination are updated per [Part 2 Chapter 22, Commitments](#) and documented in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29**.

Any changes to an existing commitment relating to **Section 4(f)** protected properties require coordination with the District Environment Office. The District Environmental Office will inform the appropriate consulting parties and re-initiate consultation as necessary. District staff must review the commitments made to avoid, minimize and mitigate effects to **Section 4(f)** protected properties and ensure compliance.

7.4.3 Re-evaluations

Prior to a project advancing to the next phase or if there are major design changes, the impacts to **Section 4(f)** resources are re-evaluated per [Part 1, Chapter 13, Re-evaluations](#). In addition, design changes could re-initiate consultation with the OWJ. Commitments and coordination should be contained in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29** and tracked through **Procedure No. 700-011-035, Project Commitment Tracking**. Any changes to the original commitments should be documented in both the re-evaluation and **PCR**.

7.5 CONCURRENT REQUIREMENTS

Due to the nature of the resources protected under **Section 4(f)** there are often concurrent laws requiring separate federal and/or state findings such as **Section 106 of the NHPA**, **Section 7 of the Wild and Scenic Rivers Act** and **Section 7 of the Endangered Species Act**, as well as certain federal encumbrances on lands. The majority of these concurrent requirements may/will overlap as part of the **NEPA** Process.

7.5.1 Section 6(f) Concurrent Requirements

State and local governments often obtain grants through the **LWCFA** to acquire or make improvements to parks and recreational areas. **Section 6(f)** of this **Act** prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the DOIs NPS. **Section 6(f)** directs DOI to assure that

replacement lands of equal value, location and usefulness are provided as conditions to such conversions. Consequently, where conversions of **Section 6(f)** lands are proposed for highway projects, replacements will be necessary. **Section 6(f) applies to all projects and not just those that are federally funded.** A project can have **Section 6(f)** impacts but **Section 4(f)** may not apply.

In order to determine whether **LWCFA** funding was involved in the acquisition or improvement of a **Section 4(f)** property, the OWJ should be interviewed. If **LWCFA** funds were used for acquisition or improvement, the following prerequisites must be met:

- All practical alternatives to the proposed conversion must be evaluated;
- The fair market value of the property to be converted must be established by an appraisal meeting the “Uniform Appraisal Standards for Federal Land Acquisitions”;
- The replacement property must be of at least equal value;
- The replacement property must be of reasonably equivalent usefulness and location to that being converted;
- The property proposed for substitution meets the eligibility requirements for **LWCFA** assisted acquisition;
- In the case of assisted sites that are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved the unconverted area must remain recreationally viable or be replaced as well;
- The Regional Office of the NPS is assured that all environmental review requirements related to the project have been met;
- The state procedures including those of the Florida Department of Environmental Protection (FDEP) have been adhered to if the project conversion and substitution constitute any changes to the **LWCFA** property;
- The proposed conversion and substitution are in accordance with the recreation plans of the state and the facility.

In order to convert **Section 6(f)** properties to non-recreation uses, the OWJ over the **Section 6(f)** property must agree to the conversion in a letter of transmittal recommending the proposal. The conversion must meet the prerequisites and be approved by the appropriate NPS Regional Director in writing. Through coordination with the FDEP who in turn seeks NPS approval of the conversion and proposed acquisition of replacement property. Regardless of the mitigation proposed, the **Section 4(f)** evaluation and Environmental Document should document the NPS position relative to **Section 6(f)** conversion and analyze how the converted park land and recreational usefulness will be replaced.

If any **Section 6(f)** properties are identified in the project area, the District should contact the OEM PDC for assistance.

7.5.2 Acquisition and Restoration Council- Concurrent Requirement

During the **Section 4(f)** DOA, the use of certain state-owned lands may be identified, that may require approval from Florida's Acquisition and Restoration Council (ARC). Easements from the Division of State Lands of the FDEP may be required to locate a portion of the project across state owned lands. Coordinate with your PDC at the earliest opportunity for further guidance.

7.6 REFERENCES

- American Association of State Highway and Transportation Officials (AASHTO), 2011. Green Book: A Policy on the Geometric Design of Highway and Streets. 6th edition
- FHWA, 1977. Negative Declaration / Section 4(f) Statement for Independent Bikeway or Walkway Construction Projects.
<https://www.environment.fhwa.dot.gov/4f/4fbikeways.asp>
- FHWA, 1986a. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges. December 23, 1986.
<https://www.environment.fhwa.dot.gov/4f/4fmparks.asp>
- FHWA, 1986b. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvement with Historic Sites. December 23, 1986. <https://www.environment.fhwa.dot.gov/4f/4fmhist.asp>
- FHWA, 1994. Interim Guidance on Applying Section 4(f) on Transportation Enhancement Projects and Recreation Trails Projects. September 21, 1994.
http://www.fhwa.dot.gov/environment/transportation_enhancements/guidance/gm_emo_interim.cfm
- FHWA, 2012. Section 4(f) Policy Paper. July 20, 2012.
<https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>
- FDOT. Section 4(f) References web page. [http://www.dot.state.fl.us/emo/pubs/Section4\(f\)/Section4f.shtm](http://www.dot.state.fl.us/emo/pubs/Section4(f)/Section4f.shtm)
- FDOT. Plans Preparation Manual, Topic 625-000-007
<http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm>
- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002,
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

- FDOT. Standard Specifications for Road and Bridge Construction,
<http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook.pdf>
- Land and Water Conservation Fund Act (LWCFA) of 1965.
http://www.nps.gov/parkhistory/online_books/anps/anps_6c.htm
- Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>
- National Parks Service- LWCF List. <http://waso-lwcf.ncrc.nps.gov/public/index.cfm>
- NEPA of 1969, 42 U.S.C. §§ 4321-4347. <https://www.gpo.gov/fdsys/pkg/USCODE-2014-title42/pdf/USCODE-2014-title42-chap55.pdf>
- NHPA of 1966, as amended, 54 U.S.C. § 300101 *et seq.*
<http://www.achp.gov/nhpa.html>
- National Industrial Recovery Act (NIRA) of June 16, 1933
- Pittman-Robertson Act of 1937 (Federal-Aid in Wildlife Restoration Act).
<https://www.gpo.gov/fdsys/pkg/USCODE-2014-title16/html/USCODE-2014-title16-chap5B.htm>
- Title 23 CFR § 774. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites [Section 4(f)]. <http://www.ecfr.gov/cgi-bin/text-idx?SID=4f91939fd3bdbfac5337b83a3b2bc4f4&mc=true&node=pt23.1.774&rgn=div5>
- Title 36 CFR § 59. Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities. http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr59_main_02.tpl
- Title 36 CFR § 800. Protection of Historic Properties. <http://www.ecfr.gov/cgi-bin/text-idx?SID=73f131392733d51d9fac5541174d6102&mc=true&node=pt36.3.800&rgn=div5>
- U.S. DOI, 2013. Environmental Review Memorandum No. ERM 13-2: Electronic Distribution of Environmental Review Assignments.
https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/ERM_13-2.pdf
- U.S. Supreme Court, 1971. Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402.
<https://supreme.justia.com/cases/federal/us/401/402/case.html>

7.7 FORMS

[Project Commitment Record, Form No. 700-011-35](#)

Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50

Re-evaluation Form, Form No. 650-050-29*

Section 4(f) *de minimis* Determination for Historic Sites, Form No.650-050-46

Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47

Section 4(f) Determination of Applicability, Form No. 650-050-45

Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48

Section 4(f) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53

Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge, Form No. 650-050-54

Section 4(f) No Use Determination, Form No. 650-050-49

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites, Form No. 650-050-51

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges, Form No. 650-505-52

Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects, Form No. 650-050-55

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

7.8 HISTORY

05/22/1998, 09/01/2016

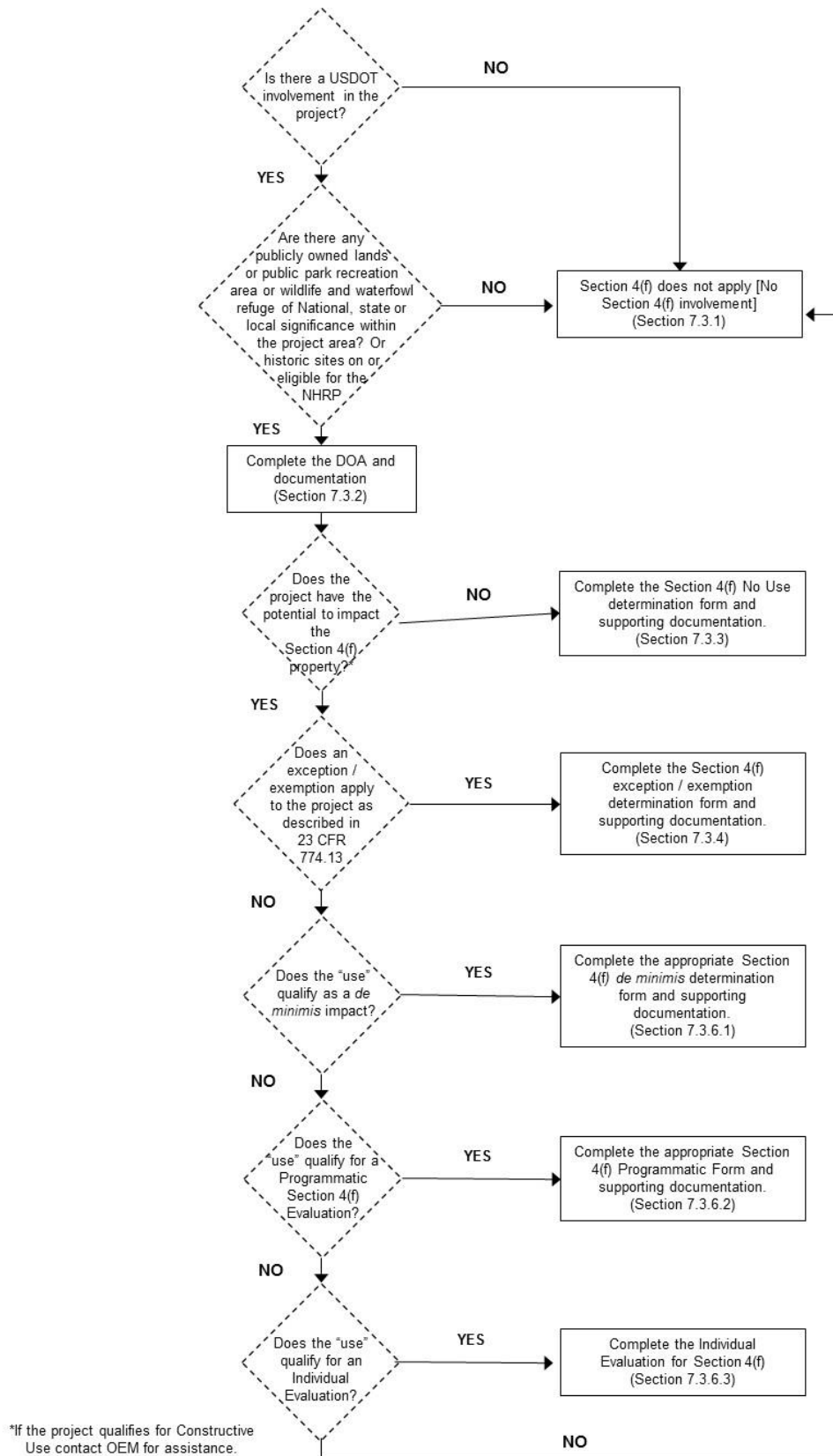


Figure 7-1 Flow Chart

Section 4(f) Determination of Applicability

Project Name: _____
ETDM#: _____ FAP# _____
FM#: _____ : _____
Project Review Date: _____
FDOT District: _____
County(ies): _____

A DOA IS REQUIRED FOR EACH SECTION 4(f) PROPERTY AND PROPOSED

Project Description including Section 4(f) Specific Information:

ALTERNATIVE.

Type of Property

Check all that apply:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Criteria of Selected Property Type(s):

Public Parks and Recreation Areas

- Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements

Figure 7-2 Section 4(f) Determination of Applicability

- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area.
 - Applies to the entire park or recreation area not just a specific feature

Wildlife and Waterfowl Refuge

- Must be publicly owned which refers to ownership by local, state or federal government;
 - Ownership can also include permanent easements and long-term lease agreements;
- Must be open to the public but **refuges are able to restrict access for the protection of refuge habitat and species;**
- The major purpose must be for wildlife and waterfowl refuges;
- Must be designated or function as a significant as a wildlife and waterfowl refuges; -
 - Applies to the entire wildlife and waterfowl refuges not just a specific feature

Historic Sites- includes historic buildings, historic transportation facilities, archeological sites, traditional cultural places, historic & archeological districts and historic trails.

- Must be of national, state or local significance and it must be eligible for listing or is listed on the National Register of Historic Places (NRHP); or
- If a site is determined not to be eligible OEM may determine that the application of Section 4(f) is otherwise appropriate when an official (such as the Mayor, president of a local historic society) provides information to support that the historic site is of local importance.

Does the identified resource meet all of the criteria for the selected property type?

Yes, continue to complete the form

No, STOP Section 4(f) does not apply

Figure 7-2 Section 4(f) Determination of Applicability (Page 2 of 5)

Identify the Official(s) with Jurisdiction (OWJ) contacted:

Date correspondence sent to the OWJ:

Has the Official(s) with Jurisdiction (OWJ) responded?

Yes No

**Has the 30 day response period passed since the initial OWJ
correspondence was sent?**

Yes No

Please answer the questions below about the resource:

Note: A potential source for this information can include the property management plan, resource website and/or communications with the OWJ (be sure to document these communications in writing).

What is the size and location of the property (include a map of the resource)?

Who/what organization owns/manages the property?

What is the primary function (activities, features and attributes) within the meaning of Section 4(f) of the facility or property?

Please describe the location of available appurtenances and facilities (e.g. tennis courts, pools, shelter houses, sports fields, beaches) on the property:

What is the function of/or the available activities on the property?

Figure 7-2 Section 4(f) Determination of Applicability (Page 3 of 5)

Access and Usage of the property by the Public:

Relationship to other similarly used lands/facilities in the vicinity:

Are there any unusual characteristics of the property that either limit or enhance the value of the resource? If so please explain:

Describe project activities that could potentially “use” the resource:

If applicable, give a general description of the history of the Historic Site, Archaeological Site or Historic District:

Based on the above information the recommended level of Section 4(f) evaluation for this property is:

Select the level of Section 4(f) evaluation:

Reason the selected level is appropriate:

Supporting Documentation

The following items **must** be attached to this form:

1. A map of the resource based on the guidelines in the PD&E Manual Part 2, Chapter 7, including the proposed alternative being evaluated.

Figure 7-2 Section 4(f) Determination of Applicability (Page 4 of 5)

2. Statement of Significance from OWJ or FDOT's presumption of significance.
3. Determination of Eligibility or Listing in the National Register of Historic Places, Archaeological Site (include criterion of eligibility) or a Historic District if applicable.

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM, or designee

Figure 7-2 Section 4(f) Determination of Applicability (Page 5 of 5)

Section 4(f) No Use Determination

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of 4(f) Property:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Establishing Section 4(f) Use of the Property

Will the property be “used” as defined in **Section 4(f)** Resources chapter of the FDOT PD&E Manual? Examples of a “use” include but are not limited to new right of way, new easements, and temporary occupancy?

- Yes
- No

An explanation of the relationship between the Section 4(f) property and the project:

Documentation

The following items **must** be attached to this form to ensure proper documentation of the No 4(f)

Figure 7-3 Section 4(f) No Use Determination

Use:

1. DOA form and documentation
2. All related communication with the OWJ

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature:

Date:

Preparer

Signature:

Date:

Environmental Manager, or designee

OEM Concurrence:

Signature:

Date:

Director of OEM or designee

Figure 7-3 Section 4(f) No Use Determination (Page 2 of 2)

Section 4(f) Exceptions/Exemptions Determination

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of 4(f) Property:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Establishing Section 4(f) Exception Eligibility (from 23 CFR 774.13):

The facts of the case must match the circumstances as described below:

- Restoration, rehabilitation or maintenance of transportation facilities that are on or eligible for the National Register when:
 - (1) The Administration [FDOT] concludes, as a result of the consultation under 36 CFR 800.5, that such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and
 - (2) The OWJ over the Section 4(f) resource have not objected to the FDOT conclusion.
- Archaeological sites that are on or eligible for the National Register when:
 - (1) The Administration [FDOT] concludes that the archaeological resource is important chiefly because of what can be learned by data recovery and has

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination

- minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration [FDOT] decides, with agreement of the OWJ, not to recover the resource; and
- (2) The OWJ over the Section 4(f) resource have been consulted and have not objected to the Administration [FDOT] finding.

Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archaeological resources in §774.9(e) discovered during construction, the Administration [FDOT] may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance, and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site and does not qualify for the Section 4(f) exception.

In applying this exception the analyst must consider whether:

- (1) The property acquisition was completed prior to the designation or the change in the determination of significance.
- (2) The Cultural Resources Assessment Survey (CRAS) report was considered complete and sufficient at the time of its submittal.
- (3) The CRAS report identified the property in question as a resource that would require re-examination or that would become significant prior to construction.
- (4) The property in question is an archaeological site important primarily for the information it contains.

Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of Section 4(f). The following conditions must be satisfied:

- (1) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
- (2) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) property are minimal;
- (3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
- (4) The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 2 of 6)

(5) There must be documented agreement of the OWJ over the Section 4(f) resource regarding the above conditions.

- Park road or parkway projects under 23 U.S.C. 204 which is the Federal Lands Access Program, providing access to transportation facilities located on or adjacent to, or provide access to Federal Lands.
- Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
 - (1) Trail-related projects funded under the Recreational Trails Program, 23 U.S.C. 206(h)(2);
 - (2) National Historic Trails and the Continental Divide National Scenic Trail, designated under the National Trails System Act, 16 U.S.C. 1241-1251, with the exception of those trail segments that are historic sites as defined in 23 CFR 774.17, such as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NR. The term includes properties of traditional religious and cultural importance to an Indian tribe that are included in, or are eligible for inclusion in the NR.
 - (3) Trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and
 - (4) Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation unless they are historic.
- Transportation enhancement projects and mitigation activities, where:
 - (1) The use of the Section 4(f) property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for Section 4(f) protection; and
 - (2) The OWJ over the Section 4(f) resource agrees in writing to the use described in (1) of this section.

Establishing Section 4(f) Exemption Eligibility (Refer to Chapter 7.3.4 for further information and criteria)

- Section 1303 of the FAST Act incorporates the ACHP Program Comment exemption for common post-1945 concrete and steel bridges and culverts into Section 4(f), eliminating review requirements for these structures under Section 4(f). This exemption applies to specific types of bridges and culverts built after 1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 3 of 6)

girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (See Section V Program Comment).

□ (Section 11502 (23 U.S.C. 138(f)/49 U.S.C. 303(h)) exempts from Section 4(f) review the use of rail. The exemption to **Section 4(f)** applies regardless of whether the railroad or rail transit line, or element thereof, is listed on or is eligible for listing on the National Register of Historic Places.

The exemption applies to the following resource types which might otherwise be considered abandoned or not in use:

- Railroad and transit lines over which service has been discontinued under the process described in 49 U.S.C. 10903;
- Railroad and transit lines that have been railbanked (a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service as described in 16 U.S.C. 1247(d)); and
- Railroad and transit lines that have been otherwise reserved for the future transportation of goods or passengers.

□ 23 CFR 774.11(e)(2). The interstate highway system is exempt from being treated as a historic resource under Section 4(f), unless the U.S. Secretary of Transportation determines individual elements possess national or exceptional historic significance and should receive protection.

Interstate highway-related facilities in Florida determined historically significant by the Secretary of Transportation and therefore not exempt under Section 4(f) are:

- I-275 Bob Graham/Sunshine Skyway Bridge
- I-75 Alligator Alley- Milepost range 19.6-49.3
- I-75 Snake Wall
- I-95 Myrtle Avenue Overpass

□ (23 CFR 774.11(h)) When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to Section 4(f).

□ 23 CFR 774.11 (i) When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established and concurrent or joint planning or development of the transportation facility and the Section 4(f) resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in §774.17. Examples of such concurrent or joint planning or development include, but are not limited to:

- Designation or donation of property for the specific purpose of such concurrent

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 4 of 6)

development by the entity with jurisdiction or ownership of the property for both the potential transportation facility and the Section 4(f) property; or

- Designation, donation, planning, or development of property by two or more governmental agencies with jurisdiction for the potential transportation facility and the Section 4(f) property, in consultation with each other.

Explanation supporting the Section 4(f) property meets all of the criteria of the Exception or Exemption

Documentation

The following items **must** be attached to this checklist to ensure proper documentation of the Section 4(f) Exception:

3. DOA package (Including the Form and Attachments)
4. Required communications with the OWJ (i.e. concurrence letters) for the Exception/Exemption, as applicable

Signatures:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

I have reviewed this evaluation and all attached documentation and confirm that the above property and proposed project meet the requirements of 23 CFR 774 for a Section 4(f) Exception or Exemption finding.

Signature: _____ Date: (_____
Preparer

I reviewed this checklist and all attached documentation and confirm that the above property and proposed project meet the requirements of 23 CFR 774 for a Section 4(f) Exception finding.

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 5 of 6)

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 6 of 6)

Section 4(f) *de minimis* Determination for Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Description of Historic Property:

Section 4(f) Use of the Property

Yes No Will the project involve the “use” of the Section 4(f) resource (e.g., new right of way, intrusions into the historic boundaries, temporary occupancy)?

Explanation of how the Section 4(f) property will be used, including any mitigation or enhancement measures related to activities, features or attributes of the property:

Evaluating Section 4(f) *de minimis* Eligibility

1. Yes No Was there coordination with the OWJ to identify an opportunity for a *de minimis* finding identified?

2. Yes No Was the OWJ informed by the District of FDOT’s intent to pursue a *de minimis* approval option? (Attach the letter to the file)

Yes No Was the Section 106 process, including opportunity for public review and comment, completed?

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites

3. Yes No Did the SHPO/THPO concur that the proposed project, including any enhancement, mitigation and minimization of harm measures, will result in no adverse effects to the activities features or attributes of the property?

4. Yes No Identify and describe the avoidance and minimization of harm measures (if any) incorporated into the project in order to obtain a *de minimis* finding:

5. Describe below the basis on which the *de minimis* determination was made for the Project (e.g. consideration on why there is no effects to historic properties or no adverse effects to the property in question under Section 106 of the National Historic Preservation Act).

Documentation

The following items **must** be attached to this form to ensure proper documentation of the Section 4(f) *de minimis*:

1. DOA package (Including the Form and Attachments)
2. SHPO Concurrence Letter on a finding of “no effects” to historic properties or “no adverse effect” to the historic property in question.
3. Any additional communications with the OWJ and Section 106 Consulting Parties (e.g. concurrence letters, and project commitments)

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites (Page 2 of 3)

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites (Page 3 of 3)

Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of Property

Type of Property:

Description of Property:

Section 4(f) Use of the Property

Yes No Will the project involve the use of the Section 4(f) resource (e.g., new right of way, new easements, temporary occupancy)?

Explanation of how the Section 4(f) property will be used, including any mitigation or enhancement measures related to activities, features and attributes of the property:

Evaluating Section 4(f) *de minimis* Eligibility

1. Yes No Was there coordination with the Official(s) with Jurisdiction to identify an opportunity for a *de minimis* finding?

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges

2. Yes No Was the OWJ informed by the District of FDOT's intent to pursue a *de minimis* approval option? (attach letter to the document)
3. Yes No Was the public provided notice and an opportunity to review and comment on the effects of the project on the activities, features and attributes of the property?
4. Yes No Was the OWJ informed in writing that their concurrence with a no adverse effect finding to the activities, features or attributes which qualify the property for protection may result in FDOT making a *de minimis* approval under Section 4(f)?
5. Yes No Did the OWJ concur that the proposed project, including any enhancement, mitigation and minimization of harm measures, will result in no adverse effects to the activities features or attributes of the property?
6. Yes No Identify and describe the avoidance and minimization of harm measures (if any) incorporated into the project to support a *de minimis* finding:
7. Describe below the basis on which the *de minimis* determination was made. (e.g., consideration on why there is no adverse effects to the property and its activities, features and attributes)

Documentation

The following items **must** be attached to this form to ensure proper documentation of the Section 4(f) *de minimis*:

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges (Page 2 of 3)

1. DOA package (Including the Form and Attachments)
2. Any additional communications with the OWJ (e.g. concurrence letters)

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges (Page 3 of 3)

Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No The bikeway or walkway construction project is an independent construction project which requires the **use of recreation and park areas** established and maintained primarily for active recreation, open space, and similar purposes.
- Yes No The OWJ over the Section 4(f) property has given approval in writing that the project is acceptable and consistent with the designated use of the property and that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility.
- Yes No The project does not require the use of critical habitat or endangered species, or land from publicly owned wildlife or waterfowl refuge, or any land from a historic site of national, State or local significance.

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects

- Yes No There are no unusual circumstances such as major impacts, adverse effects, or controversy.
- Yes No The bicycle or pedestrian facilities are not incidental items of construction in conjunction with highway improvements serving the primary purpose of serving motor vehicular traffic.
- Yes No The project does not include the displacement of homes or businesses.
- Yes No Public agency is responsible for the maintenance of the bikeway/walkway.
-

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures
-

VI. Documentation

The following **MUST** be attached to this checklist to ensure proper documentation of the Individual Bikeway and Walkway Programmatic Section 4(f):

1. Brief project description
 2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
 3. Concurrence letter from OWJ
-

VII. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects (Page 2 of 3)

23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for **Section 4(f)** Statement and Determination for Independent Bikeway and Walkway Construction Projects; and

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

VIII. Approval Signatures

District: I have reviewed this form and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for an Independent Bikeway and Walkway Construction Project Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this Independent Bikeway and Walkway Construction Project Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects (Page 3 of 3)

Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply.

- Yes No The bridge will be replaced or rehabilitated with Federal Funds.
- Yes No The project will require the “use” of a historic bridge which is on or eligible for listing on the National Register of Historic Places (NRHP).
- Yes No The bridge is NOT a National Historic Landmark (NHL)

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges

Comments: <Enter comments on additional Section 4(f) properties>

Yes No Are impacts to other protected Section 4(f) resources greater than *de minimis*?

Explain: <Explain greater than **de minimis** Section 4(f) involvements here>

V. Alternatives Considered/Findings

No Build Alternative *(Check all that apply)*

Structural Deficiencies

The No Build Alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

Functional/Geometric Deficiencies

The No Build Alternative does not correct the situation that causes the bridge to be considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Build on New Location (parallel construction/conversion to one-way pair)

Structural Deficiencies

The New Location alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

Functional/Geometric Deficiencies

The New Location alternative does not correct the situation that causes the bridge to be

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 2 of 6)

considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

- Recommendation (Mandatory)**

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Rehabilitation of Historic Bridge without Affecting the Integrity of the Bridge

- Structural Deficiencies**

The Rehabilitation alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

- Functional/Geometric Deficiencies**

The Rehabilitation alternative does not correct the situation that causes the bridge to be considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

- Recommendation (Mandatory)**

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Replacement

- Structural Deficiencies**

The Replacement alternative corrects the situation that causes the bridge to be considered

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 3 of 6)

structurally deficient or significantly deteriorated.

Functional/Geometric Deficiencies

The Replacement alternative corrects the situation that causes the bridge to be considered functionally/geometrically deficient

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined to meet the Section 4(f) prudent and feasible standard and **is recommended.**

VI. Measures to Minimize Harm

Verify that the project includes all possible planning to minimize harm.

- For bridges that are to be rehabilitated, the historic integrity of the bridge is preserved, to the greatest extent possible, consistent with unavoidable transportation needs, safety, and load requirements;
- For bridges that are to be rehabilitated to the point that the historic integrity is affected or that are to be moved or demolished, the FDOT ensures that, in accordance with the Historic American Engineering Record (HAER) standards, or other suitable means developed through consultation, fully adequate records are made of the bridge;
- For bridges that are to be replaced, the existing bridge is made available for an alternative use, provided a responsible party agrees to maintain and preserve the bridge; and
- For bridges that are adversely affected, agreement among the SHPO, ACHP (if participating) and FDOT is reached through the Section 106 process of the NHPA on measures to minimize harm and those measures are incorporated into the project. This programmatic Section 4(f) evaluation does not apply to projects where such an agreement cannot be reached.

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with SHPO and other consulting parties.

<Describe mitigation (see Section 106 Memorandum of Agreement)>

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 4 of 6)

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Historic Bridge Programmatic Section 4(f):

1. Brief project description
2. Eligibility Determination of Historic Bridge
3. Historic Bridge Report
4. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
5. Photographs of the bridge detailing conditions cited in alternatives analysis
6. Executed Memorandum of Agreement resolving adverse effects or signed concurrence letter from the Florida SHPO
7. Any letters with consulting parties
8. Detour Map (as needed)

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicable criteria set forth in the Programmatic Section 4(f) Evaluation and Approval requirements for FHWA funded projects which necessitate the use of Historic Bridges (see [Section 4\(f\) Reference Resources Page](#)). All alternatives set forth in the subject programmatic were fully evaluated and the findings made are clearly applicable to this project. There are no feasible and prudent alternatives to the use of the historic bridge; and

The project includes all possible planning to minimize harm to the historic property. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Historic Bridge Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 5 of 6)

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Use of Historic Bridge Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 6 of 6)

FLORIDA DEPARTMENT OF TRANSPORTATION

Environmental
Management

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- Yes No The historic site involved is located adjacent to the existing highway
- Yes No The project does not require the removal or alteration of historic buildings, structures or objects on the historic site.
- Yes No The project does not require the disturbance or removal of archaeological resources that are important to preserve in place rather than to remove the archeological research.

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

- Yes No The impact on the Section 4(f) site resulting from the use of the land must be considered minor (“no effect” or “no adverse effect”) on the qualities which qualify the site for listing or eligibility on the National Register of Historic Places (NHRP).
- Yes No The SHPO agrees in writing with the assessment of impacts of the proposed project on and the proposed mitigation for the historic sites.
- Yes No The proposed class of action for the project is a CE or EA.

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any “uses”>

V. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because (*Verify that the following applies*):

- It would not correct existing or projected capacity deficiencies
- It would not correct existing safety hazards
- It would not correct existing or deteriorated conditions and maintenance problems
- Not providing such correction would constitute a cost or community impact of extraordinary magnitude, or would result in truly unusual problems when compared with the proposed use of the Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 2 of 5)

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased engineering, roadway or structure cost
- Unique engineering, traffic, maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project.
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering difficulties.
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic*

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 3 of 5)

or environmental effects, engineering and economic considerations, and preservation standards)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Minor Involvement of Historic Sites Programmatic Section 4(f):

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
3. Concurrence letter from OWJ and other agencies as needed

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Minor Involvements to Historic Sites Programmatic Section 4(f) Evaluation. All alternatives set forth in the subject programmatic were fully

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 4 of 5)

evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the historic site; and

The project includes all possible planning to minimize harm to the historic site. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Minor Involvement with Historic Sites Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Minor Involvement with Historic Sites Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 5 of 5)

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- Yes No The Section 4(f) lands are publicly owned public parks, recreation lands, or wildlife and waterfowl refuges located adjacent to the existing highway.
- Yes No The amount and location of the land to be used will not impair the use of the remaining Section 4(f) land, in whole or in part for its intended purpose. *(Is determined by FDOT and concurred with by the OWJ)*

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

- Yes No The total amount of land to be acquired from the resource will not exceed the values below:

Size of Section 4(f) Property	Limit of Acreage Acquired
< 10 acres	10 percent of site
10-100 acres	1 acre
> 100 acres	1 percent of site

- Yes No The proximity impacts of the project on the remaining Section 4(f) land shall not impair the use of such land for its intended purpose. *(Is determined by FDOT and concurred with by the OWJ)*
- Yes No The OWJ over the Section 4(f) lands has agreed, in writing, with the assessment of the impacts of the proposed project on, and the proposed mitigation for, the Section 4(f) lands.
- Yes No Land from a site purchased or improved with funds under the LWCF Act, the Federal Aid in Fish Restoration Act (Dingell-Johnson Act), the Federal Aid in Wildlife Act (Pittman-Robertson Act), or similar laws, or the lands are otherwise encumbered with a Federal interest (e.g., former Federal surplus property), coordination with the appropriate Federal agency has ascertained the agency's position on the land conversion or transfer. *(The programmatic Section 4(f) evaluation does not apply if the agency objects to the land conversion or transfer)*
- Yes No The proposed class of action for the project is a CE or EA.

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because *(Verify that the following applies)*:

- It would not correct existing or projected capacity deficiencies
- It would not correct existing safety hazards
- It would not correct existing or deteriorated conditions and maintenance problems

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 2 of 6)

Not providing such correction would constitute a cost or community impact of extraordinary magnitude, or would result in truly unusual problems when compared with the proposed use of the Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in (*Indicate all that apply*):

Substantial adverse community impacts to adjacent homes, businesses or other improved properties

Substantially increased engineering, roadway or structure cost

Unique engineering, traffic, maintenance, or safety problems

Substantial adverse social, economic, or environmental impacts

The project not meeting identified transportation needs

Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 3 of 6)

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering difficulties
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

- Justification** *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- Replacement of lands used with lands of reasonably equivalent usefulness and location and of at least comparable value.
- Replacement of facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities.
- Restoration and landscaping of disturbed areas.
- Incorporation of design features (e.g., reduction in right-of-way width, modifications to the roadway section, retaining walls, curb and gutter sections, and minor alignment shifts); and habitat features (e.g., construction of new, or enhancement of existing, wetlands or other special habitat types); where necessary to reduce or minimize impacts to the Section 4(f) property. Such features should be designed in a manner that will not adversely affect the safety of the highway facility.
- Payment of the fair market value of the land and improvements taken or improvements to

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 4 of 6)

the remaining Section 4(f) site equal to the fair market value of the land and improvements taken.

- Such additional or alternative mitigation measures as may be determined necessary based on consultation with, the officials having jurisdiction over the parkland, recreation area, or wildlife or waterfowl refuge.

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
3. Concurrence letter from OWJ and other agencies as needed

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the public park, recreation area or wildlife/waterfowl refuge; and

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 5 of 6)

X. Approval Signatures

District: I reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Minor Involvement with Public Parks, Recreation Areas or Wildlife or Waterfowl Refuges Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Minor Involvement with Public Parks, Recreation Areas or Wildlife or Waterfowl Refuges Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 6 of 6)

Section 4(f) Net Benefit Programmatic for Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Size of Section 4(f) Property: <Enter # of acres> acres or approximate size if in Historic District

Is the property (Check all that apply):

- Individually Significant
- A Contributing Resource to a Significant Historic District

ROW Required: <Enter # of acres> acres

Easement Required: <Enter # of acres> acres

Incorporation of a Section 4(f) property into a transportation project: <describe>

Describe the Section 4(f) impact: <Describe the impact to the property>

Describe the mitigation and/or enhancement measures which result in an overall benefit to the property: <Describe the mitigation or enhancement measures>

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites

II. Detailed explanation of how the Section 4(f) property will be used:

Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project use a Section 4(f) historic site?
- Yes No Does the proposed project include all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection?
- Yes No The project does not require major alteration of characteristics that qualify the property for listing under the National Register of Historic Places (NHPR) in consultation consistent with 23 CFR Part 800.
- Yes No Has State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) agreed in writing with the assessment of the impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property pursuant to Section 106 of the National Historic Preservation Act (NHPA); and that such measures will result in a net benefit to the Section 4(f) property?

III. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

IV. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because *(Verify that the following applies)*:

- The No Build Alternative is not feasible and prudent because it would neither address nor correct the transportation need cited as the NEPA purpose and need, which necessitated the proposed project.
- Justification** *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 2 of 6)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased roadway or structure cost
- Unique engineering, traffic, maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- A substantial missed opportunity to benefit a Section 4(f) property
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 3 of 6)

- The new location would substantially increase costs or engineering
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

V. Net Benefit Justification

<Enter Justification of Net Benefit finding>

Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VI. Public Involvement

- Public involvement to present the proposed use of the Section 4(f) property has been conducted. Public involvement requirements were fulfilled on: [Click here to enter a date.](#)

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

1. Brief project description

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 4 of 6)

2. Detailed Description of Property Conditions
3. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
4. Concurrence letter from OWJ including Net Benefit

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for Transportation Projects that have a Net Benefit to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the historic site.

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Net Benefit Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this Net Benefit Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 5 of 6)

Signature:

Date:

Director of OEM or designee

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 6 of 6)

**Section 4(f) Net Benefit Programmatic for Public Parks,
Recreation Lands and, Wildlife & Waterfowl Refuges**

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Size of Section 4(f) Property: <Enter # of acres> acres

ROW Required: <Enter # of acres> acres

Easement Required: <Enter # of acres> acres

Describe the Section 4(f) impact

<Describe the impact to the property>

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply.

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge

- Yes No Does the proposed transportation project use a Section 4(f) park, recreation area, wildlife or waterfowl refuge?
- Yes No Does the proposed project include all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection?
- Yes No Has the official(s) with jurisdiction (OWJ) over the Section 4(f) property agreed in writing
- with the assessment of the impacts; the proposed measures to minimize harm; and the
- mitigation necessary to preserve, rehabilitate and enhance those features and values of
- the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property?

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Alternatives Considered/Findings

No Action or No Build Alternative (*Check all that apply*)

Yes No This alternative is not feasible and prudent because it would neither address nor correct the transportation need cited as the NEPA purpose and need, which necessitated the proposed project.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 2 of 6)

Recommendation (Mandatory)

This alternative is determined **<to fail/to meet>** the Section 4(f) prudent and feasible standard and **<is/ is not>** recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased roadway or structure cost
- Unique engineering, traffic maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- A substantial missed opportunity to benefit a Section 4(f) property
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined **<to fail/to meet>** the Section 4(f) prudent and feasible standard and **<is/ is not>** recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 3 of 6)

Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Net Benefit Justification

<Enter Justification for a Net Benefit finding here>

VII. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VIII. Public Involvement

Public involvement to present the proposed “use” of the Section 4(f) property has been conducted. Public involvement requirements were fulfilled on:

IX. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

X. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 4 of 6)

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
3. Concurrence letter from OWJ including Net Benefit

XI. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for Transportation Projects that have a Net Benefit to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the <enter the name and/or address of the Section 4(f) resource>.

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

XII. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Net Benefit Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 5 of 6)

OEM Concurrence: Based upon the above considerations, this Net Benefit Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 6 of 6)

PART 2, CHAPTER 8

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

TABLE OF CONTENTS

8.1	OVERVIEW	8-1
8.1.1	Purpose.....	8-1
8.1.2	Definitions	8-2
8.1.3	Legal Authorities	8-5
8.2	PROCESS.....	8-10
8.2.1	Section 106 Process	8-10
8.2.1.1	Participants in the Section 106 Process.....	8-12
8.2.1.2	Native American Consultation	8-13
8.2.2	Additional Requirements and Processes	8-13
8.2.2.1	State-Designated Historic Highways	8-14
8.2.2.2	Burials, Cemeteries, and other Sites Containing Human Remains or Associated Burial Artifacts	8-14
8.3	PROCEDURE.....	8-15
8.3.1	Early Consideration of Archaeological and Historical Resources.....	8-16
8.3.2	Archaeological and Historical Resources Considerations Prior to and during PD&E	8-17
8.3.2.1	Section 106	8-17
8.3.2.2	Step One: Initiate the Section 106 Process.....	8-18
8.3.2.2.1	Establish the Undertaking.....	8-18
8.3.2.2.2	Apply Appropriate Program Alternative(s) and Coordinate with Other Reviews	8-19
8.3.2.2.3	Identify the Consulting Parties.....	8-22

8.3.2.2.4	Create a Plan to Involve the Public	8-22
8.3.2.3	Conduct Consultation with Native American Tribes	8-23
8.3.2.4	Step Two: Identify Historic Properties	8-25
8.3.2.4.1	Determine the Scope of the Resource Identification Effort	8-25
8.3.2.4.2	Identify Historic and Archaeological Resources	8-28
8.3.2.4.3	Evaluate the Historic Significance of the Identified Properties	8-29
8.3.2.4.4	Document the Historic and Archaeological Resources Survey Effort.....	8-30
8.3.2.5	Step Three: Assess Adverse Effects	8-32
8.3.2.6	Step Four: Resolve Adverse Effects	8-35
8.3.2.6.1	Minimize and Mitigate Adverse Effects.....	8-36
8.3.2.6.2	ACHP Participation.....	8-37
8.3.2.7	Exemption from Section 106 for Eisenhower Interstate Highway System	8-38
8.3.2.8	Section 106 Program Comment on Post-1945 Common Bridge Types	8-39
8.3.2.9	Contents and Routing of Documentation Related to the Section 106 Process	8-39
8.3.2.9.1	Notification Letter of No Potential to Affect Historic Properties.....	8-40
8.3.2.9.2	CRAS Reports, Technical Memoranda, and Case Reports.....	8-41
8.3.3	Coordinating NEPA and Section 106	8-45
8.3.3.1	Reporting Cultural Resources Findings in Environmental Documents.....	8-46

8.3.3.1.1	No Involvement with Cultural Resources/No Historic Properties Affected.....	8-49
8.3.3.1.2	No Adverse Effect or Adverse Effect to National Register Properties.....	8-50
8.3.4	Coordinating Section 106 and Section 4(f)	8-51
8.3.5	Treatment of Human Remains	8-52
8.3.6	Archaeological and Historical Resources Considerations Following PD&E	8-52
8.3.6.1	Re-evaluations	8-53
8.3.6.2	Design Considerations	8-53
8.3.6.3	Permitting.....	8-53
8.3.6.4	Cultural Resources Considerations during Construction.....	8-54
8.3.6.5	Review and Compliance Requirements	8-55
8.4	REFERENCES	8-55
8.5	FORMS	8-59
8.6	HISTORY	8-60

LIST OF TABLES

Table 12-1	Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources.....	8-5
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LIST OF FIGURES

Figure 8-1	State-Designated Historic Highways.....	8-61
Figure 8-2	Section 106 Process	8-62
Figure 8-3	Project Activity Types Identified in Section 106 PA as Requiring Desk Top Evaluation and Field Review.....	8-63
Figure 8-4	Contact List for Native American Tribes.....	8-67
Figure 8-5	Sample Submittal Letter to Tribes (No Tribal Cultural Sites).....	8-68

Figure 8-6 Sample Submittal Letter to Tribes (with Tribal Cultural Sites) 8-69

Figure 8-7 Florida Post-1945 Bridges Requiring Evaluation and/or Individual
Treatment under Section 106..... 8-70

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks 8-74

Figure 8-11 Sample Technical Report Cover 8-82

Figure 8-12 NEPA and Section 106 8-83

Figure 8-13 Contractor’s Request for a Cultural Resource Assessment 8-84

PART 2 CHAPTER 8

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

8.1 OVERVIEW

8.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter describes FDOT procedures for addressing historic and archaeological resources in the development and delivery of transportation projects. FDOT conducts surveys to locate, identify, and evaluate potential impacts on historic properties (cultural resources) resulting from proposed projects. This assessment is prepared to comply with **Section 106** of the **National Historic Preservation Act (NHPA) of 1966**, as amended, **36 Code of Federal Regulations (CFR) Part 800**, and the **Florida Historical Resources Act (FHRA), Chapter 267, Florida Statutes (F.S.)**, which require the lead agencies to take into account the effects of their undertakings on historic properties.

Section 106 applies to all federally funded, licensed, permitted, or approved undertakings, regardless of the Class of Action (COA) established by FHWA in **23 CFR Part 771** for compliance with **NEPA of 1969**, as amended. **Section 106** requires federal agencies to consider the effects of all federal undertakings and programs on historic properties in the planning and delivery of the proposed action or program. As a part of this effort, federal agencies must provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on the undertakings.

Fulfillment of **Section 106** must be reflected in whatever **NEPA** documentation the Lead Federal Agency or the applicant produces. The **NEPA** process provides a framework for all federal environmental impact documentation, and the **Section 106** process provides the decision-making procedure for considering effects to historic properties for all federal undertakings. Therefore, all federally funded or approved projects must comply with **NEPA** and the **NHPA**.

In addition, permits from state and federal agencies also require compliance with the associated historic preservation laws. For example, most federal permits that FDOT must obtain for its projects include a documented record of compliance with the **NHPA**. For

state permits, documentation of compliance with the **FHRA** is included. Without that record, the permitting authority will be unable to permit the proposed activities.

The Florida Legislature charges each state agency of the executive branch to consider the effects of its undertakings on any historic resource that is eligible for inclusion or listed in the National Register of Historic Places (NRHP) prior to the expenditure of state funds on the undertaking. This consideration includes providing the Florida Department of State (FDOS), Florida Division of Historical Resources (FDHR), an opportunity to comment on such an undertaking. The Director of the FDHR also serves as the Florida State Historic Preservation Officer (SHPO), as per the **NHPA**, and reviews Federal-aid projects in this same capacity. **Chapter 1A-46, Florida Administrative Code (F.A.C.)**, specifies the criteria under which the FDHR reviews **Cultural Resources Assessment Survey (CRAS) Reports** and the appropriate information required within the reports. **Section 267.12, F.S.**, and **Chapter 1A-32, F.A.C.**, provide the procedures to obtain a permit for archaeological investigations on state lands. In order to protect important or sensitive archaeological sites, **Section 267.135, F.S.**, provides for the non-disclosure of archaeological site locations.

In order to avoid costly delays in the later stages of project development, the CRAS identification and evaluation effort is initiated as early in the project development process as possible. This allows FDOT to avoid or minimize adverse effects to historic properties more quickly and easily. This chapter provides the procedures for planning and performing such work during the Project Development and Environment (PD&E) phase of project delivery. For additional clarification and guidance regarding the requirements outlined in this chapter, refer to FDOT's [Cultural Resource Management \(CRM\) Handbook](#). Compliance with historic preservation laws requires consideration of potential effects to historic properties and good faith consultation with all of the appropriate parties.

8.1.2 Definitions

Within this chapter, "cultural resources" is a term broadly used to include all archaeological sites, as well as historic buildings, structures, objects, and districts that are typically 50 years of age or older. In this chapter, the terms "cultural resources" and "historic resources" are used interchangeably. The terms "significant cultural resource" or "historic property" are used as meaning a historic resource included in, or eligible for inclusion in, the NRHD. For consistency, the definitions contained in the regulations implementing **Section 106** of the **NHPA (36 CFR Part 800)** are applicable to this chapter.

As used in this Chapter, the following definitions apply:

Advisory Council on Historic Preservation (ACHP): An independent agency of the U.S. government whose members are charged with advising the President and the Congress on matters relating to historic preservation; recommending measures to coordinate activities of federal, state, and local agencies and private institutions and individuals relating to historic preservation; and advising on the dissemination of information pertaining to such activities. The Council reviews the policies and programs of federal agencies in regard to compliance with the **NHPA**.

Area of Potential Effects (APE): The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Consultation: The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the **Section 106** process. The Secretary's **Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act** provide further guidance on consultation.

Consulting parties: Persons or groups that the federal agency consults with during the **Section 106** process, including, but not limited to, the ACHP, the State Historic Preservation officer (SHPO), Tribal Historic Preservation Officers (THPOs) or Tribal government officials or representatives, representatives of local governments, and individuals and organizations with a demonstrated interest in the undertaking.

Cultural Resources Assessment Survey (CRAS): The process of identification, documentation, and evaluation of archaeological, historical, architectural, and traditional cultural properties.

Effect: Alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Evaluation: The process of determining the eligibility of a cultural resource for listing in the National Register.

Florida Master Site File (FMSF): A comprehensive listing of recorded cultural resources in Florida, including archaeological sites, historic structures, bridges, cemeteries, resource groups, and National Register of Historic Places (NRHP)-listed sites. It includes records for resources that are no longer extant.

Historic property: Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Historic resource: As set forth in the **Florida Historical Resources Act (FHRA), Section 267.021, F.S.**, any prehistoric or historic district, site, building, structure, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources which may or may not meet the NRHP criteria and are generally 50 years of age or older. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

Indian Tribe: An Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation or village corporation, as those terms are defined in **Section 3** of the *Alaska Native Claims Settlement Act (43 U.S.C. § 1602)*, as set forth in **36 Code of Federal Regulations (CFR) § 800.16(m)**.

Integrity: The authenticity of a cultural resource's identity, evidenced by the survival of physical characteristics that existed during the resource's historic or pre-contact period. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling, and association.

Memorandum of Agreement (MOA): The document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

Minimize: Active attempts to reduce harm to the cultural resource.

Mitigation: Any actions that reduce or compensate for the damage an undertaking may have on a NRHP-listed or eligible property. Mitigation may include project redesign, relocation, and documentation.

National Register of Historic Places (NRHP): The NRHP maintained by the Secretary of the Interior.

National Register criteria: The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the NRHP (**36 CFR Part 60**).

National Register eligible: A cultural resource that has been determined to meet the criteria of eligibility for listing in the NRHP, but that has not been formally nominated to be listed. For the purpose of **Section 106** compliance, eligible properties are treated the same as listed properties.

Native American: Of, or relating to, a tribe, people, or culture that is indigenous to the United States.

No Adverse Effect: When an undertaking has an effect on a cultural resource, but the effect would not be harmful to those characteristics that qualify the resource for inclusion in the NRHP.

No Effect: When an undertaking has no effect of any kind (either harmful or beneficial) on cultural resources.

Programmatic Agreement (PA): A document that records the terms and conditions agreed upon to resolve the potential adverse effects of a federal agency program, complex undertaking or other situations in accordance with **36 CFR § 800.14(b)**. Programmatic agreements allow federal agencies to govern the implementation of a particular agency program or the resolution of adverse effects from complex projects or multiple undertakings similar in nature through negotiation of an agreement between the agency and the ACHP. PAs can be developed on a national, statewide, or regional scope for similar or repetitive undertakings, for undertakings with repetitive effects on historic

properties, or for situations where the effects to historic properties cannot be fully determined prior to the approval of an undertaking.

State Historic Preservation Officer (SHPO): The official appointed or designated pursuant to **Section 101(b)(1) of the Act** to administer the State historic preservation program or a representative designated to act for the SHPO.

Tribal Historic Preservation Officer (THPO): The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of SHPO for purposes of **Section 106** compliance on tribal lands in accordance with **Section 101(d)(2) of the Act**.

Undertaking: A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license or approval.

8.1.3 Legal Authorities

For purposes of this chapter, **Table 8-1**, below, provides a summary of the major legislation, regulations, and other authorities that FDOT considers in implementing its CRM program. A more detailed list of authorities governing the CRM program is available in **Chapter 1** and **Appendix A** of the [CRM Handbook](#).

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
Federal Legislation	
<i>Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, and its implementing regulations at 36 CFR Part 800 (Protection of Historic Properties)</i>	Requires federal agencies to consider the effects of their undertakings and programs on historic properties in the planning and delivery of the proposed action or program. As a part of this effort, federal agencies must provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on the undertakings. 36 Code of Federal Regulations (CFR) Part 800 incorporates amendments effective August 5, 2004. Subpart B of the regulations define how federal agencies meet the statutory responsibilities in the Section 106 process, and how the steps of this process can be coordinated with reviews under other federal laws.

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
<i>Section 106 Exemption Regarding Effects to the Interstate Highway System (ACHP, March 2005)</i>	<i>Guidance from ACHP for implementing the exemption from Section 106 and Section 4(f) requirements created in the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) for the bulk of the Interstate System.</i>
<i>Program Comment for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges (ACHP, November 2, 2012)</i>	Relieves the Federal Highway Administration (FHWA) and other federal agencies from the requirement under Section 106 of the NHPA to consider the effects of undertakings on certain common bridges and culverts constructed of concrete or steel after 1945. The federal agencies using the Program Comment must still complete Section 106 review for the undertaking, including the identification of historic properties and consideration of effects of the undertaking on historic properties other than the common bridge itself. The common bridges still need to be recorded on Florida Master Site File (FMSF) forms.
<i>Section 110 of the NHPA of 1966</i>	Requires federal agencies to develop historic preservation programs to identify, evaluate, and protect historic resources that are under federal agency jurisdiction and/or potentially affected by federal actions. Requires recording of historic properties altered, damaged, or destroyed as a result of a federal action and deposit of these records in the Library of Congress or other designated repository for future use and reference. Also, instructs federal agencies to consult with other federal, state, and local agencies, tribes, and other stakeholders, both public and private. Instructs federal agencies to integrate historic preservation into their plans and programs and addresses the treatment of National Historic Landmarks (NHLs) impacted by an agency's programs and undertakings (i.e., their projects).

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
<i>36 CFR Part 61 (Procedures for State, Tribal, and Local Government Historic Preservation Programs)</i>	Authorizes the Secretary of the Interior to establish professional standards, techniques, and methods for historic preservation and to guide local governments, states, and tribes in the preservation of “historic properties” (as defined by the NHPA) and the administration of historic preservation programs.
<i>Archaeological Resources Protection Act of 1979</i>	Enacted to secure the protection of archaeological resources and sites that are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals.
<i>Archaeological and Historic Preservation Act of 1974 [Public Law (Pub. L.) 93-291;16 U.S.C. § 469]</i>	Requires federal agencies to fund effects mitigation measures when their actions threaten to damage or destroy National Register-eligible properties.
<i>National Environmental Policy Act of 1969, as amended (42 United States Code [U.S.C.] § 4321)</i>	Requires the examination and avoidance of potential impacts to the social and natural environment when considering approval of proposed transportation projects. In addition to evaluating the potential environmental effects, the NEPA process prescribes interagency cooperation, public involvement, and documentation. The level of required <i>NEPA</i> documentation depends largely upon the nature and degree of project impacts, which determine a “class of action” (COA) [Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS)].
<i>Section 4(f) of the United States Department of Transportation Act of 1966, and its implementing regulations at 23 CFR Part 774</i>	Applies whenever a project incorporates lands from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic site of national, State, or local significance into a transportation facility. Such incorporation is referred to as a Section 4(f) use of the resource.

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
<i>American Indian Religious Freedom Act of 1978 (Pub. L. 95-341; 42 U.S.C. § 1996)</i>	Establishes as federal policy the protection of the rights of tribes to the free exercise of their religion, including access to sacred sites, and requires federal agencies to accommodate this policy. Amendments to Section 106 of the NHPA in 1992 strengthened the interface with this Act by declaring that a federal agency must include the tribes in the consultation process.
<i>Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (Pub. L. 101-601; 25 U.S.C. § 3001)</i>	Addresses the proper treatment of Native American human remains and funerary and sacred objects located on federal or tribal lands.
<i>Executive Order 11593: Protection and Enhancement of the Cultural Environment (1971) (3 CFR Part 154, reprinted in 16 U.S.C. § 470)</i>	Requires all federal agencies to identify, and take steps to avoid effects to, archaeological and historic properties under their jurisdiction that are eligible for listing in the National Register. It also requires complete documentation of National Register-eligible properties that will be demolished as a result of the federal undertaking.
<i>Executive Order 13007: Indian Sacred Sites (1996)</i>	Requires federal agencies to protect Indian sacred sites by avoiding adverse effects to the physical integrity of such sites. Accommodates access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners. Requires federal agencies to maintain confidentiality of information on such sites.
<i>Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (2000)</i>	Affirms and strengthens the federal government's commitment to meaningful consultation with tribes concerning federal actions, renews federal commitment to recognition of tribal sovereignty, and recognizes the government-to-government relationship between tribes and the U.S. government. In September 2004, President Bush's Memorandum, "Government-to-Government Relationship with Tribal Governments" reaffirmed the policy set forth in Executive Order 13175.
State Legislation	

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
<i>Chapter 267, Florida Statutes (F.S.), Florida Historical Resources Act (FHRA) (2000)</i>	The principal state law regarding the protection of archaeological and historical resources. It contains requirements similar to those of the federal <i>NHPA</i> . <i>FHRA</i> declares the state policy that the historic properties in this state represent “an important legacy to be valued and conserved for present and future generations.” It requires that each state agency consider the effects of an undertaking on any historic property that is eligible for inclusion in the National Register and to consult with Florida Division of Historical Resources (FDHR) to ensure that effects on historic properties are considered prior to the expenditure of state funds on the project.
<i>Section 253.027, F.S., Emergency Archaeological Properties Acquisition Act of 1988</i>	Provides a procedure to purchase archaeological and historical resources of statewide significance that are endangered by development, vandalism, or natural events.
<i>Section 872.05, F.S., Unmarked Human Burials (2011)</i>	Accords equal treatment and respect for human burials and human skeletal remains regardless of ethnic origin, cultural background, or religious affiliation. This law pertains to any human burials, human skeletal remains, and associated burial artifacts on public or private lands within Florida. In 1987, the law was amended to make it a third-degree felony to willfully and knowingly disturb, destroy, remove, or damage any unmarked human burials.
<i>Chapter 1A-32, Florida Administrative Code (F.A.C.), Archaeological Research (2014)</i>	Provides the criteria, notification requirements, and prohibited practices associated with archaeological research conducted on state-owned lands, including submerged lands.
<i>Chapter 1A-44, F.A.C. Procedures for Reporting and Determining Jurisdiction Over Unmarked Human Burials (1992)</i>	Establishes the procedure to follow in the event that unmarked human burials are encountered during a project.

Table 8-1 Legislation, Regulations, and Other Authorities Related to Archaeological and Historical Resources

Title and Citation	Relevance to Archaeological and Historical Resources
<i>Chapter 1A-46, F.A.C., Archaeological and Historical Reports Standards and Guidelines (2002)</i>	Specifies reporting and site recording requirements.

8.2 PROCESS

The guiding principle of FDOT’s CRM process is to identify, recognize, and consider the potential effects (if any) of its undertakings on significant historic resources, whether they are federal or state-only actions. The detail and level of analysis varies depending upon historical value of these resources and the potential for the project to affect them. Once FDOT completes this effort, FDOT develops practical ways to avoid or minimize identified effects. If the effects cannot be avoided or minimized, FDOT seeks ways to mitigate for identified adverse effects.

For projects that involve no federal approvals, funding sources, or actions, **Chapter 267, F.S.**, directs the CRM process. Projects developed, funded, or assisted by FDOT, which involve a federal action, must meet federal requirements, including laws, rules, regulations, and Executive Orders (EOs).

FDOT complies with applicable federal and state historic preservation mandates by adherence to the **Section 106** process for federally funded or assisted projects and with the requirements of the FHRA for projects involving only state funds. To avoid confusion, the FDHR incorporated the **Section 106** process into the state’s uniform compliance review program. The Director of the FDHR also serves as the SHPO; so regardless of whether an FDOT project is a federal or state-only undertaking, the state’s point of contact for consultation is the same.

The primary differences between the two review processes are: (1) the involvement of OEM and the ACHP and the role of tribal governments in the consultation process under **Section 106** and (2) the more specific report and site recording requirements as set forth in **Chapter 1A-46, F.A.C.** Since OEM has designed FDOT procedures to ensure compliance with both laws and processes, the only difference of importance for FDOT projects is the broader and more specific consultative requirements of the federal process with entities other than FDHR/SHPO.

8.2.1 Section 106 Process

The **Section 106** process is contained in the implementing regulations, **36 CFR Part 800**, issued by the ACHP (incorporating amendments effective August 5, 2004). These regulations establish the four-step **Section 106** process. By following the four steps and

applying the general requirements of **Section 106**, FDOT ensures compliance with the other related laws and requirements. The steps established by **36 CFR Part 800** form the core process FDOT follows to meet its historic resources management responsibilities.

The four steps of the **Section 106** process are:

1. **Step One** - Initiate the **Section 106** Process
2. **Step Two** - Identify Historic Properties
3. **Step Three** - Assess Adverse Effects
4. **Step Four** - Resolve Adverse Effects

The goal of the **Section 106** process as stated in **36 CFR 800.1** is to "... accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effect of the undertaking on historic properties...." As a result, final actions performed by federal agencies can range from avoidance to complete loss of the historic property without violating **Section 106**, as long as the agency considers the effects of the action on the property; evaluates all available avoidance, minimization, and mitigation options; and offers the consulting parties an opportunity to comment on the effects of the undertaking on historic properties.

Consultation is a key element in the **Section 106** process. The **Section 106** regulations define consultation as "the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the **Section 106** process." FDOT serves as the lead federal agency in most of the consultation required in this process, except for the government-to-government consultation required with federally recognized tribes which is handled by the FHWA as coordinated through OEM. However, the normal consultation process conducted by FDOT with the tribes is not considered government-to-government consultation. Moreover, the **NEPA** MOU does not prevent FDOT, FHWA and a tribe from agreeing to allow FDOT to carry out consultation activities on behalf of FHWA. When developing the **Section 106** consultation effort for a proposed highway project, FDOT works closely with SHPO to identify the appropriate consulting parties. For specific information about consulting parties, see **Section 8.2.1.1** and **Section 8.3.2.2.3**.

The consultation effort must be appropriate to the size and scale of the proposed undertaking, as well as to the scope of the federal involvement. For example, when the federal agency leading the action is a permitting agency, the scope of the area being studied is far more limited than when the lead agency is providing funding for the undertaking. Often, the consultation effort may depend on the nature of the historic properties located in the Area of Potential Effects (APE) of the proposed federal action.

Title 36 CFR Part 800 requires federal agencies to seek the views of the public during the **Section 106** process. Normally, FDOT's public involvement process described in [Part 1, Chapter 11, Public Involvement](#) satisfies both **NEPA** and **Section 106** compliance. However, in some cases, where the historic properties are of great concern to the public,

where the consultation involves large numbers of local citizens, or where special considerations for tribes must be considered, additional public involvement efforts may be necessary. The nature of the sites may also trigger additional consultations to meet the requirements of other laws such as the ***Native American Graves Protection and Repatriation Act (NAGPRA), Chapter 872, F.S.***, or the ***American Indian Religious Freedom Act (AIRFA)***.

8.2.1.1 Participants in the Section 106 Process

The ***Section 106*** process, and therefore FDOT's CRM process, involves several participants. The primary participants in the process include the following:

1. **FDOT** – The role of FDOT varies based upon its relationship to the proposed undertaking, the funding sources for the undertaking, and required approvals. These roles include: (1) the Lead Federal Agency per ***NEPA*** Assignment, (2) being an applicant for non-FHWA Federal-aid funds, (3) serving as the Lead Federal Agency for local transportation projects receiving Federal-aid funds, and/or (4) serving as the Lead State Agency for non-federal, FDOT-assisted or approved undertakings.
2. **Lead Federal Agency** – Under the ***NEPA*** MOU, FDOT assumes FHWA's responsibility for ***Section 106*** for all highway transportation projects and serves as the Lead Federal Agency with the exception of government to government consultation with the tribes. However, there is nothing in the ***NEPA*** MOU to prevent FDOT, FHWA, and a tribe from agreeing to allow FDOT *to carry out consultation activities on behalf of FHWA* and FHWA would remain legally responsible for government-to-government consultation. In addition, there may be instances where other agencies of the U.S. Department of Transportation (USDOT) serve as the lead federal agency or when other federal agencies serve as the Lead Federal Agency because they are granting a permit or approval.
3. **ACHP** - The ACHP issues the regulations to implement ***Section 106***, provides guidance on compliance with ***Section 106***, and oversees the ***Section 106*** process. The ACHP also may participate directly in the consultation process at its discretion or upon request from one of the consulting parties. The conditions under which the ACHP may participate directly in a specific circumstance are set forth in ***Appendix A to 36 CFR Part 800***.
4. **SHPO** - SHPO represents the interests of Florida and its citizens in the preservation of their cultural heritage. Florida's SHPO is designated by the Florida Secretary of State, and reviews Federal-aid projects, along with federal and state permitted projects. In Florida, the SHPO also serves as the Director of the FDHR, and in this capacity, reviews state-only undertakings and maintains Florida's state historic preservation plans and programs.
5. **Federally Recognized Tribes** - There are six federally recognized tribes with cultural associations in Florida. Two of these, the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida also have lands in Florida. The U.S

government has a unique relationship with the federally recognized tribes as codified in treaties, the U.S. Constitution, Supreme Court ruling, and federal law.

6. **Section 106 Consulting Parties** - These include the parties discussed above, as well as representatives of local governments, applicants for federal assistance, and other parties with a demonstrated interest in the effects of an undertaking on historic properties. For example, property owners and local historic preservation groups are usually specific to the project location. Projects involving National Historic Landmarks (NHLs) normally involve the National Park Service (NPS). Projects involving publicly owned historic resources would need to include the agency owning or managing the resource.
7. **The Public** - The Lead Federal Agency must seek and consider the views of the public on the effects of its undertakings on historic properties..

8.2.1.2 Native American Consultation

Under **36 CFR Part 800** federal agencies must consult with tribes regarding potential effects to historic properties that may be affected by a proposed undertaking and that may be of religious or cultural significance to the tribe regardless of whether the property is located on or off tribal lands. It is FDOT's responsibility to make a reasonable and good faith effort to identify the appropriate tribes for coordination. See **Section 8.3.2.3** for the considerations regarding the unique relationship of the federally recognized tribes to the consideration of historic properties in FDOT's CRM program. While FHWA cannot assign its government-to-government tribal consultation responsibilities to FDOT under the **NEPA** Assignment Program, FDOT will continue to coordinate and meet with the Native American tribes regarding projects. If, at any time, a tribe requests FHWA government-to-government consultation, OEM will notify FHWA. However, the MOU does not prevent FDOT, FHWA, and a tribe from agreeing to allow FDOT to carry out consultation activities on behalf of FHWA; but, FHWA would remain legally responsible for government-to-government consultation. In addition, the Seminole Tribe of Florida has an appointed Tribal Historic Preservation Officer (THPO). Therefore, when a project occurs on Seminole lands, the Seminole THPO fulfills the role of SHPO for the purposes of **Section 106**.

8.2.2 Additional Requirements and Processes

The **Section 106** process encompasses compliance with other laws that touch upon the treatment of historic properties. Examples of such laws are: federal- **NAGPRA**, **NEPA**, **Section 4(f)** of the **USDOT Act of 1966**, as amended, and the **Archaeological Resources Protection Act of 1979** and state - **Chapter 267, F.S.**, and **Chapter 872, Florida Statutes**. In addition, the **Section 106** process fulfills Florida's state rules regarding historic properties (such as **Rule 1A-32** and **Rule 1A-46** of the **F.A.C.**), as well as compliance with executive orders (such as **EO 13007** on Sacred Indian Sites).

The process for compliance with **Section 106** and **Chapter 267, F.S.**, is implemented through the **PA among the FHWA, ACHD, FDHR, SHPO, and the FDOT Regarding Implementation of the Federal-Aid Highway Program in Florida (Section 106 PA)**

executed on March 14, 2016. The **Section 106 PA** was amended to recognize **NEPA** Assignment on June 7, 2017.

The programmatic provisions address the requirements for the primary federal and state historic preservation laws only. They do not apply to projects occurring on tribal lands nor do they fulfill the requirements for consultation with Native American tribes under **Section 106** or any other law. These provisions also do not exempt undertakings from meeting the requirements set forth for resources protected by other laws (such as those resources designated by the Florida Legislature as State Historic Highways) or for resources protected by laws that do not require listing on or eligibility for the National Register.

Under the **NEPA** Assignment, FDOT assumes responsibility for compliance with **Section 106** of the **NHPA** and will continue coordination with the SHPO, other consulting parties, and the ACHP regarding cultural resource issues through formal assumption of **Section 106** responsibility. The District will continue to be responsible for activities stipulated in the **Section 106 PA**, including submittal and coordination of cultural resource surveys and other analyses.

8.2.2.1 State-Designated Historic Highways

The Florida Legislature has designated certain highways as State Historic Highways. Each highway is designated by a specific law that sets the standards and guidance for its preservation and treatment. This designation is not based upon the NRHP eligibility criteria nor any other standard evaluation method used to evaluate historic properties. Rather, the designation reflects a specific importance to the local community. For most of these resources, the designation prohibits alteration of roadway dimensions and immediate surroundings. In every case, these laws prohibit the expenditure of state funds on any proposed action involving these designated highways prior to coordination and agreement with FDHR on the proposed action. Almost every designated State Historic Highway in Florida is located in South Florida, the majority in District 6. For the current list of State-designated Historic Highways, see **Figure 8-1**. These resources are identified as part of the identification and evaluation of historic properties undertaken for a proposed action, as detailed in **Section 8.3**.

8.2.2.2 Burials, Cemeteries, and other Sites Containing Human Remains or Associated Burial Artifacts

FDOT's CRM process includes compliance with Florida's **Unmarked Human Burials** law in **Section 872.05, F.S.**, which governs the treatment of human remains. For FDOT, this law usually applies to human remains encountered during project construction or during archaeological research associated with project development. When a potential for the occurrence of human remains or burial artifacts has been identified for a site or location within the construction area of a project, FDOT includes compliance with the provisions of **Section 872.05, F.S.**, in its project development and delivery conditions.

The **Unmarked Human Burials** law differentiates between human remains of an individual that has been deceased less than 75 years and those of an individual deceased for 75 years or more. For those less than 75 years, the human remains come under the

jurisdiction of the district medical examiner. For those that are 75 years or more, the remains come under the jurisdiction of the state archaeologist. If these older remains are located on federal lands and they are associated with the cultural history of tribes, the federal agency owning or administering the land is informed in order to ensure compliance with **NAGPRA**. The requirements for the treatment of human remains are further addressed in FDOT's CRM procedures and in **Section 7-1.6** of FDOT's [Standard Specifications for Road and Bridge Construction](#).

8.3 PROCEDURE

This section describes FDOT's procedures for considering historic and archaeological resources in the development of its projects and programs. FDOT's CRM responsibilities are vested in OEM at the state level, and the District Environmental Office at the District level. Project Managers (PMs), Environmental Managers, and Cultural Resource Coordinators (CRCs) in both OEM and the District Environmental Office have responsibility for maintaining compliance with appropriate state and federal historic preservation laws, regulations, rules, and executive orders. OEM establishes overall guidance, procedures, training, and assistance in project reviews, and monitors the overall performance of FDOT's program. OEM assists the District PMs, Environmental Managers, and CRCs with **Section 106** process as requested by the Districts, SHPO, and any other consulting party.

The primary responsibility of the District Environmental Office during the **Section 106** analysis is to ensure that individual projects follow the established FDOT processes and procedures. The District CRCs apply the applicable laws, regulations and procedures to the individual projects and conduct the day-to-day consultations with the appropriate parties.

In addition to staff, FDOT contracts with consultants to provide cultural resource studies and perform other tasks that require meeting the professional qualifications standards established by the U.S. Secretary of the Interior (**Federal Register, Vol. 48, 44716**) to perform identification, evaluation, registration, and treatment activities for historic properties. Consultants identify archaeological sites and historic resources, evaluate the identified resources in accordance with the criteria for historic significance set forth by the NPS, and apply the Criteria of Adverse Effect as defined in **36 CFR § 800.5**. In all cases, the consultants' findings are professional recommendations.

FDOT staff or consultants performing actions to meet the requirements of historic preservation mandates must either meet or be supervised by individuals meeting the minimum criteria for archaeologists, historians, architectural historians, and other professionals as outlined in **36 CFR Part 61** and set forth in the Professional Qualifications Standards section of the **Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (FR, Vol. 48, 44716)** (September 29, 1983). The professional qualifications required to perform cultural resource assessments for FDOT are described in **Chapter 1** of the [CRM Handbook](#).

All FDOT undertakings receive some level of cultural resources analysis, even if to determine there is no potential for the occurrence of historic resources in the project area.

This analysis is separate from, and must be made prior to, the final, **NEPA** decision. A project's level of involvement with historic properties has the potential to impact the **NEPA** COA for the project; however, the anticipated **NEPA** COA does not substitute for an analysis of the project's potential to affect historic properties. The latter is addressed through the **Section 106** process. Similarly, for state-only projects, the requirements of **Chapters 267** and **872, F.S.**, apply equally to Non-Major State Actions (NMSAs), as well as State Environmental Impact Reports (SEIRs). The level of analysis and documentation for compliance with historic preservation mandates vary based upon specific project activities, but it is the findings of the analysis that are used as a part of the **NEPA** decision.

As set forth in **36 CFR Part 800** and recognized in the **Section 106 PA**, the decision concerning the level of survey effort and detail necessary to meet the requirements of historic preservation laws are based upon the nature and scope of proposed projects and the location of these projects in relation to both known and unknown historic properties. Therefore, determining the appropriate level of survey requires a careful review of all activities associated with the project, as well as the potential for the occurrence of historic properties in the geographic area that the project may directly or indirectly affect.

FDOT uses the four-step process established in **36 CFR Part 800** as the core of its CRM compliance program for both federal and state actions. This process includes locating, documenting, evaluating, and assessing the effects on historic properties, as well as developing avoidance, minimization, and/or mitigation measures for adverse effects to significant cultural resources, all in consultation with the appropriate parties. Regardless of the funding source, similar requirements for the assessment of cultural resources apply.

For proposed federally funded or approved actions, if the undertaking includes an additional federal action [such as a U.S. Coast Guard (USCG) or U.S. Army Corps of Engineers (USACE) permit], then the federal agency taking that action must comply with **Section 106** of the **NHPA**; however, in these cases those agencies will typically adopt FDOT's **NEPA** analysis and associated findings including those under **Section 106** to fulfill their requirements. For proposed state funded only projects, if the undertaking includes a federal action (such as a USCG or USACE permit), then the federal agency taking that action must comply with **Section 106** of the **NHPA**. In these cases, the agency taking the action becomes the Lead Federal Agency for **Section 106** compliance. Because permits are granted only for the specific activity or location being permitted, the **Section 106** compliance in these situations may not relieve FDOT of its **Chapter 267** responsibilities for the remainder of the proposed project.

8.3.1 Early Consideration of Archaeological and Historical Resources

Section 106, and FDOT's CRM process, require consideration of historic properties in the earliest stages of project development. FDOT's Efficient Transportation Decision Making (ETDM) screening process allows Districts to use the Environmental Screening Tool (EST) to review projects to determine if projects fall into the programmatic categories established in the **Section 106 PA**. See **Section 8.3.2.2.2** for additional procedures related to reviewing minor project activities.

Screening of qualifying transportation projects is required during the ETDM screening events (see [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). The early screenings for these projects include consideration of cultural resources and loosely correlate to steps one and two of the **Section 106** process. The Planning Screen and Programming Screen are conducted through the EST and are briefly described below (FDOT's [Efficient Transportation Decision Making Manual, Topic No. 650-000-002](#)).

The screening evaluations are:

1. **Planning Screen** – This initial screening identifies possible issues/resources of concern that need to be considered as the proposed project advances. This is the first opportunity for comments from other agencies with either responsibilities for, or consultative roles in, the **Section 106** process.
2. **Programming Screen** – This second screening event provides additional opportunity to scope the proposed project, identify potential project effects, and provide recommendations for technical studies, including the cultural resources survey and evaluation effort. This screening event may also present an excellent opportunity to establish contact with the interested parties for coordination of some of the early decisions regarding the CRM study, such as the identification of the appropriate consulting parties for the project and, more rarely, the delineation of the APE for the project.

Following the Programming Screen, the District produces a **Programming Screen Summary Report**. This report includes a summary of the comments provided by the resource agencies, FDOT's transportation partners, and other interested parties, including consulting parties under **Section 106**. The comments from those with a consultative role in the **Section 106** process are especially important for consideration as the District plans its PD&E Study for the proposed undertaking. In addition, comments from SHPO/THPO and the Native American Tribes are used to develop the scope of services needed to complete the CRAS for the proposed project.

For projects screened, there may be enough information to determine if the project has the potential to affect any historic resources. In part, these screening events should be used as part of the first two steps of the **Section 106** process (See **Sections 8.3.2.2 and 8.3.2.4**).

8.3.2 Archaeological and Historical Resources Considerations Prior to and during PD&E

FDOT uses the **Section 106** process to ensure compliance with most state and federal historic preservation regulations.

8.3.2.1 Section 106

The **Section 106** process is set forth in **36 CFR Part 800**. As specified in **Section 8.2.1**, there are four steps in the **Section 106** review process and, therefore, in FDOT's procedures.

Figure 8-2 provides a flow chart of this four-step process and a listing of the activities associated with each of the steps. This process is also discussed in FDOT's [CRM Handbook](#). The **Chapter 267, F.S.**, requirements are similar to the NHPA requirements; and this same four-step process is applicable to projects that do not require federal approvals or assistance, with the exception being that no coordination with federal agencies or the ACHP is required. If it is anticipated that a federal agency will become involved later in project development, the **Section 106** process should be followed to avoid unnecessary delays.

Regardless of whether a project qualifies for screening, a cultural resources evaluation is required. The level of effort involved in the **Section 106** evaluation is based on the potential for the project to affect historic properties, consideration of where the project occurs, and the nature of the proposed undertaking.

8.3.2.2 Step One: Initiate the Section 106 Process

This step involves the following four actions:

- Establish the undertaking
- Apply appropriate program alternative(s) and coordinate with other reviews
- Identify the consulting parties
- Create a plan to involve the public

8.3.2.2.1 Establish the Undertaking

Establishing the undertaking consists of a determination as to whether the proposed action constitutes an undertaking as defined in **36 CFR §800.16(y)**, and if so, whether it is a type of activity with a potential to cause effects to historic properties should any such properties be present.

In **36 CFR § 800.16(y)**, the term “undertaking” implies the involvement of a federal agency as a funding, approving, or acting participant in the proposed action. The **FHRA** does not define undertaking, but **Rule 1A-46.002 (q), F.A.C.**, defines “State undertaking” as meaning “...a project, activity or program in which a state agency of the executive branch has direct or indirect jurisdiction; those in which a state agency provides financial assistance to a project or entity; and those in which a state agency is involved through the issuance of state permits or licenses.”

If the undertaking is a type of activity with no potential to cause effects on historic properties, assuming such historic properties are present, no further obligations exist under **Section 106**.

The **Section 106 PA** establishes FDOT's CRM process in Florida and identifies activities that are programmatically determined to have no potential to affect historic properties, provided the conditions specified in the **Section 106 PA** are met and SHPO does not object to the finding (**Section 8.3.2.2.2**).

Since the tribes are not signatories to the **Section 106 PA**, if a Tribe disputes a determination that a project meets the applicability requirements established for determining the programmatic project categories, FDOT will seek to resolve the dispute. For any project where there may be properties of interest to the tribes in the vicinity of the proposed undertaking, the District must submit the appropriate project and location information to OEM for transmittal to the tribes. In these cases, the review period may need to be expanded to allow sufficient time for the tribes to respond.

If the undertaking is a type of activity that has potential to cause effects to historic properties then the project proceeds to the next step in the **Section 106** process.

8.3.2.2.2 Apply Appropriate Program Alternative(s) and Coordinate with Other Reviews

The **Section 106 PA** specifies two primary considerations that govern the required level of cultural resources study and review: (1) the project location in regard to the potential for cultural resources to be present in the area of the undertaking, and (2) the specific activities associated with the development, construction, and scope of the project and their potential to affect cultural resources, should such resources be present.

Regarding project location, some geographic areas are unlikely to contain historic resources, while other projects are so minor in scope that unless the specific project corridor itself contains, abuts, or is a historic resource, there is very little chance the undertaking could affect historic properties. However, if the basic historicity of the area is unknown, then a determination on the potential of the proposed project to affect historic resources, no matter how minor the project is, cannot be made with any certainty without a review of the structural and archaeological environment surrounding the project. Therefore, in order to reach a substantive decision, FDOT conducts the necessary review.

Regarding specific activities associated with a project, the **Section 106 PA** defines two categories of Minor Project Activities that typically have little or no potential to affect historic properties. The first group includes six project activity types that can be designated as “No Effect” on historical properties, provided the following conditions are met:

1. The activity is a stand-alone project;
2. The activity does not occur on tribal lands;
3. The activity does not include and is not located in or adjacent to any historic/archaeological resources of 50 years of age or older; is not listed on the NRHP; and is not a NHL;
4. The project must be limited to one of the six activities specified in the **Section 106 PA**; and
5. SHPO has been notified of the finding of no potential to affect historic properties and the rationale for the finding, and have not objected to the finding.

If the conditions listed above are met, then the six project activity types specified in Exhibit 1 of the **Section 106 PA** that can be applied are:

1. 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
2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks
3. Activities included in the state's highway safety plan under **23 U.S.C. § 402**
4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair and the removal and replacement of old pavement structure
5. Restoration, rehabilitation, and/or resurfacing existing pavement
6. Restoring and rehabilitating existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit)

The second category of Minor Project Activities require **Section 106** Desk Top Evaluation and Field Review in order to either verify that the project has no potential to affect historic properties or to determine what consultation or additional efforts are needed to meet the requirements of the historic preservation laws. The following conditions apply to this group of 57 project activity types:

1. The decisions concerning historic site evaluations and effect determinations are based on the requirements of the **NHPA** and **36 CFR Part 800**, and these decisions are made by individuals meeting the Secretary of the Interior's Professional Qualifications Standards for cultural resource professionals (**FR Vol. 48, 44716**).
2. If the Desk Top Evaluation and Field Review identifies a historic resource within the project APE, FDOT consults with SHPO/THPO regarding NRHP eligibility pursuant to **36 CFR § 800.4(c)**. For non-federally funded projects, FDOT consults with the FDHR pursuant to **Chapters 267 and 872, F.S.**
3. The results of the Desk Top Evaluation and Field Review indicate that the project activity has no potential to affect historic properties or will have no effect on historic resources, and FDOT states that as its finding.
4. SHPO does not object to the finding of no potential to affect historic properties or no effect to historic properties.
5. If FDOT finds a potential for effects on historic properties, FDOT consults with SHPO to determine the next course of action.

See **Figure 8-3** for the list of 57 types of project activities identified in Exhibit 2 of the **Section 106 PA** as requiring a Desk Top Evaluation and Field Review.

Reviewing Minor Project Activities

FDOT's procedure for reviewing the two categories of Minor Project Activities listed in the **Section 106 PA**, consists of an internal review and, as appropriate, a NRHP eligibility evaluation, and notification and coordination. The **Section 106 PA** specifies that the internal review be conducted by qualified cultural resource staff or consultants, including an archeologist and architectural historian or historian, meeting the Secretary of Interior's Standards for Professional Qualifications, and that they employ a multi-disciplinary approach to implement the following internal review process, as appropriate to the project:

- Determine if the project constitutes an undertaking as defined in **36 CFR Part 800**.
- Determine if the undertaking is the type of activity which has the potential to cause effects to historic properties if such properties are present.
- Determine the project's APE.
- Review existing information [including the Florida Master Site File (FMSF)] on recorded properties in the APE.
- Assess the likelihood that unidentified properties exist in the APE.
- Determine the degree of existing disturbance within the APE, performing a field inspection where warranted.
- Conduct a field survey in conformance with the applicable standards, where warranted.
- Determine whether there are historic resources or properties in the APE. If there are historic resources within the APE significance determinations for those resources must be made in consultation with SHPO/THPO and other appropriate consulting parties
- Assess the project's effects on any historic properties if any are present within the APE, by applying the definition of Effect in **36 CFR § 800.16** and the Criteria of Adverse Effect in **36 CFR § 800.5(a)**.

For projects that do not include historic resources or properties within the APE or that by their nature will have no effect on historic properties, FDOT documents the finding in the project file. This is accomplished by the District notifying OEM and SHPO of its finding of "no historic properties affected," accompanied by the project description, a map showing the location, and area of potential effect, along with other information supporting the finding. Unless SHPO, OEM or another consulting party objects to the finding, FDOT is not required to take any further action in the **Section 106** process.

8.3.2.2.3 Identify the Consulting Parties

FDOT, in consultation with SHPO/THPO, determine which particular agencies, organizations, citizens, or tribal governments should be invited to be a consulting party for the purposes of **Section 106**, as set forth in **36 CFR Part 800**.

The consulting parties may be any of the following:

- Federally recognized tribes that attach traditional religious and cultural significance to historic properties that may be affected by the undertaking.
- Other consulting parties, which may include:
 - Applicants for federal funding assistance, permits, licenses, or other approvals.
 - Representatives of local governments with jurisdiction over the area in which the effects of an undertaking may occur.
 - Parties with legal or economic interest in the undertaking or an affected historic property.
 - Those concerned with the undertaking's effects on historic properties, such as individual tribal members with special knowledge or expertise in identifying properties of traditional religious and cultural significance to that tribe.

OEM, in consultation with SHPO/THPO makes the final decision regarding consulting party status. Note that the ACHP is a participant in the **Section 106** process and may enter into the consultations at any time, particularly if there is a disagreement between two or more consulting parties, or if requested to participate by the public or any other consulting party. In addition, in the case of NHLs, the lead agency must consult with the NPS in order to comply with **Section 110** of **NHPA**, as well as **Section 106**. Once the consulting parties are identified the following procedures must be followed.

1. FDOT sends a letter to all potential consulting parties, which includes the project description, a discussion of efforts to identify historic properties, and an invitation to participate in the **Section 106** process.
2. FDOT submits all documentation related to identification of and effects (or no effects) to historic resources to SHPO/THPO, and the consulting parties, as appropriate. If SHPO/THPO requests additional information that will assist in completing their review of eligibility and effects, FDOT provides that information in a timely manner.
3. For projects where adverse effects to archaeological or historic resources have been identified, FDOT initiates consultation with SHPO/THPO and other appropriate parties on the resolution of those adverse effects.

8.3.2.2.4 Create a Plan to Involve the Public

Under historic preservation laws, public involvement activities are dependent on the nature and complexity of the project and its potential to affect historic properties. The public includes elected officials, local property and business owners, historic preservation groups, and other concerned citizens with an interest in the undertaking. Efforts to involve the public should be initiated early in the project development process and comments from the public will be solicited throughout the **Section 106** process.

For the purposes of streamlining FDOT's efforts to engage the public, the **Section 106** process is coordinated with the public involvement procedures established in [Part 1, Chapter 11, Public Involvement](#). For complex projects or those with a high degree of controversy, FDOT Districts shall inform the appropriate Project Delivery Coordinator (PDC) in OEM as well as the SHPO/THPO. For complex projects involving a number of consulting parties and a high level of public engagement, Districts should consider establishing a cultural resources coordinating committee.

There are times when the law requires that a particular historic property location, purpose, or nature must be kept confidential. It is the District's responsibility to ensure that sensitivities for these properties are fully respected in the public involvement efforts. To that end, the District Environmental Manager and/or CRC reviews all site information to ensure that FDOT does not inadvertently release information on sites that should remain confidential.

8.3.2.3 Conduct Consultation with Native American Tribes

For projects involving the use of federal funds or the need to obtain federal permits or licenses, FDOT or the Federal permitting agency is required to consult directly with federally recognized tribes as part of the **Section 106** process when a project may have the potential to affect historic properties. FHWA retains government-to-government consultation under **NEPA** Assignment. In accordance with ACHP guidance, FHWA's Florida Division, in partnership with FDOT, has initiated a government-to-government relationship with six federally recognized tribes (**Figure 8-4**) with cultural interests in Florida.

While FHWA cannot assign its government-to-government tribal consultation responsibilities to FDOT under the **NEPA** Assignment Program, FHWA has assigned normal **Section 106** consultation with the tribes to FDOT. As a result, FDOT will continue to coordinate with the Native American tribes, including notification of a proposed activity and the submittal of cultural resource reports or other appropriate documents. If, at any time, a tribe requests government-to-government consultation, OEM will notify FHWA. When a tribe has shown interest, or requested a survey, the District must submit sufficient copies to OEM for distribution to the tribes.

Any coordination with the tribes on state-funded projects is conducted through FDOT and, if in writing, on FDOT letterhead. If a federal permit is required for the project, the Districts inform the permitting agencies when consultation with the tribes will be needed and assist those agencies in the coordination and consultation with the tribes and SHPO/THPO, as appropriate.

At this time, the Seminole Tribe of Florida is the only Florida-resident Tribe with a designated THPO. As a result, the Seminole Tribe of Florida's THPO serves the same role as SHPO for projects occurring on Seminole tribal lands. Because not all tribes have a designated THPO or tribal lands in Florida, specific contacts for each Tribe may vary. The current list of tribal contacts (**Figure 8-4**) is maintained on FDOT's OEM website for [Native American Coordination](#).

For projects not occurring on tribal lands, it is normally appropriate to include all six of the federally recognized tribes culturally affiliated with Florida. However, the Mississippi Band of Choctaw Indians only wishes to be contacted on projects occurring in the Florida Panhandle, west of the Apalachicola River to the Alabama state line. Specifically, the Mississippi Band of Choctaw Indians area of interest in Florida includes the following counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, and Gulf.

The ultimate objective of this coordination is to conduct a good faith effort to elicit information concerning properties of traditional, historical, or religious importance to the tribes in a sensitive manner respectful of tribal sovereignty. To date, five major issues of concern to the tribes have been identified:

1. Government-to-government relationship
2. Confidentiality
3. Human remains
4. Archaeological sites
5. Traditional Cultural Properties

The basic steps to follow when conducting consultation with Tribes are outlined below. **Chapter 3** of the [CRM Handbook](#) provides additional information about coordination with Tribes.

Step 1 – FDOT provides the Advance Notification (AN) to the Chief or Chair of each Tribe, and as appropriate with copies to the THPO or **Section 106** tribal representative (see **Figure 8-4** or the website for [Native American Coordination](#) for appropriate tribal contacts).

Step 2 - This notification includes the following:

1. A clear statement that the project is being conducted pursuant to **Section 106** of the **NHPA**
2. A brief description of the project and proposed improvements
3. A map showing the location of the project and proposed improvements

4. A statement that a CRAS will be conducted and a copy of the report will be forwarded to the tribe
5. A request for comments from the tribe
6. The name of FDOT's designated CRC

Step 3 - If the Tribes have expressed interest in the project and/or the CRAS, or if the survey resulted in the discovery of any sites or resources that may have cultural or historical importance to the tribes, provide a draft transmittal letter and five additional copies of the final **CRAS Report** (six for projects in the counties of interest to the Mississippi Band of Choctaw Indians) to OEM for distribution to the appropriate federally recognized Tribes. See **Figure 8-5** for a sample **CRAS Report** submittal letter if the survey identified no archaeological sites. See **Figure 8-6** for a sample **CRAS Report** submittal letter if the survey identified archaeological sites.

1. If comments are received from the Tribes, FDOT's District CRC coordinates with the appropriate PDC in OEM and the project manager to address the comments, and then with the THPO or **Section 106** tribal representative.
2. If no comments are received, FDOT proceeds with the **Section 106** process.

The District CRCs consult with the appropriate PDC in OEM for projects where significant archaeological sites are identified during the CRAS. The State CRC can provide direction and assistance to assure that the Tribes are included in the determination of effects and in the subsequent efforts to find an appropriate avoidance, minimization, or mitigation solution.

8.3.2.4 Step Two: Identify Historic Properties

The purpose of Step Two of the **Section 106** process is to identify all NRHP-listed, determined eligible, or potentially eligible archaeological sites and/or historic resources located within the project APE, as defined in **36 CFR Part 800** (see **Section 8.1.2 Definitions**). This is accomplished through the completion of CRAS. Step Two of the **Section 106** process includes the following four actions:

1. Determine the scope of the resource identification effort.
2. Identify historic resources (for example, archaeological sites, buildings, objects of 50 years of age or older, as defined in **Section 267.021, F.S.**).
3. Evaluate the historic significance of the identified resources.
4. Document the historic and archaeological resources survey and evaluation effort.

8.3.2.4.1 Determine the Scope of the Resource Identification Effort

Identify the scope of the resources through the following activities:

1. Determine and document the APE.
2. Review existing information about historic properties within the project APE, including data concerning the potential for the occurrence of historic properties not yet identified. Much of these data are available at the FMSF and in the Florida Geographic Data Library (FGDL) database available in the EST.
3. Seek information from parties likely to have knowledge of, or concerns about, historic properties in the area.
4. Gather information from the appropriate Tribes about properties to which they attach religious and cultural significance while remaining sensitive to issues of tribal sovereignty, and any concerns they may have about the confidentiality of this information.

In order to meet the “reasonable and good faith effort” required by **36 CFR § 800.4**, these decisions must be based upon: (1) the activities associated with the proposed project and (2) the potential for the occurrences of historic properties within the project APE, as well as the types of resources that may be encountered. The level of effort required for the resource identification effort normally depends on Right of Way (ROW) needs, the extent of ground-disturbing activities, size and scope of the proposed undertaking, and the potential for the occurrence of historic properties in the project APE.

The District PM and District CRC establish the project’s APE in coordination with OEM and SHPO/THPO. In practice, a recommended APE is developed by the CRM professionals conducting the CRAS effort in tandem with the District PM and the District CRC. This APE is then specified and described in the **CRAS Report** or **Technical Memorandum**, with a justification for its geographic limits. For projects where the APE for archaeological resources is different from that defined for historic resources, the definition of each should be clearly specified in the **CRAS Report** or **Technical Memorandum**.

In defining the APE, the full range of possible project effects is considered that could directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist based on the scale and nature of the undertaking. Possible project effects include direct, indirect and cumulative effects. Direct effects include ground-disturbing activities and destruction of the property or elements associated with the property, as well as auditory and visual effects. Reasonably foreseeable effects include changes in transportation patterns and demands, traffic volumes, land use, population densities, and/or growth rates. Cumulative effects are defined in FDOT’s **Cumulative Effects Evaluation (CEE) Handbook**.

The identification of the APE should be based on the project scope and the potential to affect cultural resources; therefore, it should be sized to accommodate appropriate cultural resource investigations.

Due to the different nature of archaeological sites, how they can be affected, and the methods of identification and evaluation used, the survey efforts for are different from other categories of historic properties. For archaeological sites, the survey effort within

the APE is usually focused on the area where ground disturbance may occur. In addition to the existing and proposed ROW, this includes potential temporary construction areas, staging areas, access roads, and Stormwater Management Facility(ies) (SMF) and other project related activities which have the potential to affect historic properties. There also may be instances when proximity effects such as vibrations or destabilization of lands may affect archaeological resources beyond the proposed or existing ROW.

The survey effort for historic resources takes into consideration such factors as potential visual and auditory effects, changes in vehicular access, and destruction of important landscapes resulting from equipment storage and other construction-related activities. Viewshed issues can be particularly important in guiding the outermost limits of the APE because these resources can be sensitive to alterations of their settings. The CRM professionals conducting the CRAS need to take into account both the view from the project looking outward, as well as the view from the outside looking towards the project. This is particularly appropriate in the case of elevated roadways and bridges, as well as projects that alter landscapes and approaches. As a result, the areas requiring survey and evaluation for above ground resources often extend beyond the geographic area identified for archaeological investigations.

If the scope changes during the project, the APE and the survey efforts may need to be revisited for archaeological sites and/or historic resources.

For most projects, the APE is documented in the CRAS for review by the Lead Federal Agency, the SHPO/THPO, and other consulting parties. However, for multi-alternative, complex, and large projects, or for undertakings that may include a broad range of potential effects, consultation with the appropriate parties regarding the designation of the APE should be completed prior to initiating the CRAS. In cases where FDOT and SHPO, or other consulting parties, fail to agree on the establishment of the APE, OEM is responsible for making the final determination. For additional details on delineating the APE for a proposed project, refer to **Chapter 5** of the [CRM Handbook](#).

As stated in **Section 8.3.2.2.2**, the **Section 106 PA** provides two categories of minor projects, along with the criteria that govern the level of assessment. When the proposed undertaking fails to meet these criteria, a more intensive survey effort will be needed. For most minor project types unlikely to affect historic properties, the resource identification effort typically entails a desktop review (background research) and a field survey. As outlined in **Section 8.3.2.2.2**, the first category of minor projects includes specified activities that are so minor they normally could affect only those historic properties directly involved or directly incorporated into the activity. When one of these activities meets the conditions set forth in the **Section 106 PA** and SHPO does not dispute the finding of no potential to affect historic properties, the undertaking may proceed with no further involvement of SHPO. If, however, the project activity does not meet the conditions, then coordination with SHPO must be initiated to determine how to proceed.

The second category of minor projects outlined in the **Section 106 PA** contains activities (see **Figure 8-3; Exhibit 2 of Section 106 PA**) that are more involved than those listed in the first category. These projects, due to their nature and definition, are unlikely to affect historic properties. However, the geographic area that could be affected by these

activities is somewhat broader than the areas for the first category. Therefore, it is necessary to confirm a lack of historic resources in the immediate vicinity of the proposed undertaking by completing an appropriate level of analysis and study.

If, as a result of this minor survey effort, FDOT finds that the project meets the conditions outlined in the **Section 106 PA** and in **Section 8.3.2.2.2**, FDOT must inform SHPO of its finding and include sufficient supporting information. If SHPO does not object to the finding, the project may proceed with no further involvement of SHPO. If, however, the four conditions are not met; or when SHPO, or another consulting party (such as a Tribe, local preservation group, or a permitting agency) object to the finding, then further consultation with SHPO, and the appropriate consulting party must be undertaken to complete the **Section 106** process. Additionally, the **Section 106 PA** does not address separate decisions which may be required under **Section 106**, such as government to government consultation with federally recognized Tribes and FDHR review of State Historic Highways.

Unlike the programmatic categories of projects which generally minor projects, most major projects have a greater potential to affect historic resources. As a result, the identification and evaluation effort generally requires a more robust survey effort, including preliminary background research, field reconnaissance, historical/architectural field reviews, property examinations, and systematic archaeological testing, as appropriate.

8.3.2.4.2 Identify Historic and Archaeological Resources

Whether the CRAS is a small reconnaissance effort, a desktop analysis, or an intensive field survey, its primary goal is to identify, evaluate, and provide the boundaries of the historic properties (as defined in **Section 267.021, F.S.**) that may be affected by the proposed undertaking.

The CRAS, typically performed by an FDOT consultant, includes and assesses all previously recorded and newly identified archaeological sites and historic resources located within the project APE, includes the following activities:

1. Complete Background Research
2. Develop a Research Design
3. Conduct an Archaeological Field Survey
4. Conduct the Historic and Structural Resources Survey
5. Conduct Artifact Processing and Analysis
6. Provide for Artifact and Record Curation

Each of these activities is described in detail in **Chapter 5** of FDOT's [**CRM Handbook**](#).

It should be noted that for projects occurring on state-owned lands, a research permit from the Bureau of Archaeological Research is required in accordance with **Rule 1A-32.005, F.A.C.** A **Chapter 1A-32** permit is not required for archaeological survey within FDOT's ROW.

8.3.2.4.3 Evaluate the Historic Significance of the Identified Properties

Title 36 CFR Part 60 establishes the criteria for evaluating the significance of historic resources in terms of eligibility for the NRHP. **Title 36 CFR § 60.4** states that

. . .the quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that meet at least one of the four criteria for evaluation:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history (e.g., events, developments); or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction (e.g., architecture, cultural trends); or
- D. That have yielded, or may be likely to yield, information important in prehistory or history (e.g., research potential or value).

The NRHP also established a series of Criteria Considerations for properties not normally considered to have potential for historic significance (such as religious properties, cemeteries, properties not yet 50 years old, properties that have been relocated), which are provided in **36 CFR § 60.4**.

The evaluation of each archaeological site and historic resource within the APE for an undertaking includes applying the National Register Criteria for Evaluation. As indicated in the **National Register Bulletin No. 15 (NPS, 1991, revised 1997)**, it is critical to address both significance and integrity when evaluating historic resources for eligibility and to develop specific reasons why a historic resource is or is not National Register eligible and, if eligible, what criteria of eligibility apply to the property along with the property's character-defining features and associated elements. In order to comply with the provisions of **Sections 106 and 4(f)**, justifiable boundaries for properties found to possess historic significance are provided, along with any contributing landscape elements or associated structures, features, that are located either within or near the proposed ROW for the proposed project. In the case of historic districts, it is especially

important to note the non-contributing features of the historic district contained within the existing and proposed ROW of the transportation corridor under study. See [Part 2, Chapter 7, Section 4\(f\) Resources](#) for guidance regarding evaluation of **Section 4(f)** resources for the purposes of compliance with **Section 4(f) of the USDOT Act of 1966**, as amended. For further guidance on applying and reporting the National Register Criteria for Evaluation in FDOT CRAS efforts, see **Chapter 6** of the [CRM Handbook](#).

In compliance with **Section 106** of the **NHPA**, the information gathering and assessment effort includes parties with interests in and knowledge of the history of the area and the local value of the historic properties located in the APE. The special expertise of Tribes is included when assessing the eligibility of a property to which they may attach religious and cultural significance, even when it is not on tribal lands. Since Tribes may inform the Lead Federal Agency of their concerns directly, it is important for the District to maintain communication with the Lead Federal Agency regarding potential tribal interests in proposed undertakings and their potential to affect historic and archeological properties. It is also important for the District to include the CRM consultants in this communication, as appropriate.

Previous determinations of eligibility and non-eligibility of historic resources from earlier surveys may need a reassessment due to the passage of time or other factors. In addition, not all eligibility determinations contained at the FMSF or summarized in the Geographic Information System (GIS) database for ETDM are accurate. Therefore, check SHPO concurrence letters and FMSF forms for accurate site evaluations prior to revisiting previously recorded cultural resources.

8.3.2.4.4 Document the Historic and Archaeological Resources Survey Effort

The District sends the results of the **CRAS Report** or **Technical Memorandum** to OEM or other Lead Federal Agency, SHPO/THPO, and the other consulting parties. The **CRAS Report** or **Technical Memorandum** must:

- Identify and justify the APE;
- Record historic resources evaluated as part of the survey effort, provide the survey team's recommendations on the historic significance of the resources encountered in the project APE; and
- Provide a preliminary assessment of the potential effects of the proposed action on any identified historic properties when the project description and activities is detailed enough to permit such an assessment.

Two kinds of properties may be identified in the **CRAS Report** as historically significant: those properties already listed or determined eligible for listing in the NRHP, and those newly identified and assessed as potentially eligible for the NRHP.

Section 8.3.2.4.4 discusses the documentation of findings and recommendations, including the contents and routing of the **CRAS Report** and other documents related to

the **Section 106** process. Considerations for reporting the findings of the CRAS include the nature of the undertaking, the historic and archaeological sensitivity of its location, the findings resulting from the survey effort, the applicability of the provisions contained in the **Section 106 PA** (see **Section 8.3.2.2.2**), and the number and nature of the consulting parties. In accordance with **36 CFR § 800.4(d)**, at the conclusion of Step 2 of the **Section 106** process, the Lead Federal Agency makes an effect determination for the proposed undertaking. This effect determination is based on the information provided by FDOT in the **CRAS Report** or **Technical Memorandum**. In cases where SHPO/THPO objects or disagrees with the determination of significance contained in the **CRAS Report**, or if the ACHP or Secretary of the Interior requests it, FDOT obtains a determination of eligibility from the Keeper of the NRHP as set forth in **36 CFR Part 63**.

There are two possible determinations:

1. No Historic Properties Affected, or
2. Historic Properties Affected

If no historic properties are present or if historic properties are present but the undertaking will not affect them, the determination is “No Historic Properties Affected.” If, however, historic properties are affected by the undertaking, the determination is “Historic Properties Affected.”

The FDOT consults with SHPO/THPO and takes into account the views of any interested parties in order to meet the consultation requirements established by **Section 106**.

When making a determination of “No Historic Properties Affected,” FDOT must provide the following documentation to consulting parties per **36 CFR § 800.11(d)**:

1. A description of the undertaking, specifying the federal involvement, and its APE, including photographs, maps, drawings, as necessary;
2. A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information to identify historic properties within the APE; and
3. The basis for determining that no historic properties are affected.

If, as a result of the CRAS documentation and consultation efforts, FDOT finds that there will be no historic properties affected by the proposed project, then FDOT has fulfilled its **Section 106** responsibilities.

For undertakings where FDOT determines historic properties may be affected by the proposed project, and SHPO/THPO and appropriate consulting parties have been consulted, FDOT proceeds to Step Three of the **Section 106** process, as described in **Section 8.3.2.5**. Regardless of the **Section 106** effect finding, if the proposed project involves the use of any land from within the site boundaries of any property listed or eligible for listing on the NRHP (even if the land in question already lies within FDOT-

owned ROW) and it is a USDOT funded or permitted action, the **Section 4(f)** process must be initiated. ([Part 2, Chapter 7, Section 4\(f\) Resources](#)).

For projects that may affect NHLs, consultation must include the NPS and the ACHP.

Combining Effect Determinations and Eligibility Recommendations

Eligibility determinations for the NRHP are not final, until the CRAS has been coordinated and accepted by SHPO/THPO, and other consulting parties.

When combining a recommendation for a No Adverse Effect determination with the recommendation on the eligibility of a particular historic or archaeological resource, concurrence must be reached on the eligibility findings of the CRAS.

In certain circumstances, the survey findings may include District recommendations on potential effects and/or potential adverse effects of the undertaking on historic resources. The potential to have an effect upon historic properties occurs when a proposed undertaking may result in the "...alteration to characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register" [**36 CFR § 800.16 (i)**]. In these circumstances, it is important to provide sufficient information on the scope and activities of the proposed undertaking, along with the **CRAS Report** or **Technical Memorandum** for the SHPO/THPO or OEM to make an effect finding or to understand and comment upon the survey and its findings.

The most common situations for which the effects and eligibility determinations are combined are where there are no historic or archaeological resources occurring in the project APE or where the project meets the criteria and conditions outlined in the **Section 106 PA**, showing that it has no potential to affect historic properties.

8.3.2.5 Step Three: Assess Adverse Effects

After determining that the proposed project may have an effect on historic properties, the next step is to apply the Criteria of Adverse Effect for the project and the involved properties. These criteria are defined at **36 CFR § 800.5(a)(1)** as follows:

An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by an undertaking that may occur later in time, be farther removed in distance or be cumulative.

Adverse effects on historic properties as listed at **36 CFR § 800.5(a)(2)** include:

- Physical destruction or damage to all or part of the property.

- Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary of the Interior's Standards for Treatment of Historic Properties (see **36 CFR Part 68**) and applicable guidelines.
- Removal of a property from its historic location.
- Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance.
- Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.
- Neglect of a property that causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian Tribe or Native Hawaiian organization.
- Transfer, lease, or sale of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

Ground-disturbing activities within significant historic properties are subject to the Criteria of Adverse Effect. Therefore, actions such as archaeological testing and excavation on NRHP listed or eligible archaeological sites, or sites that appear to be eligible, should not be initiated without completing consultation with OEM, SHPO/THPO, and, as appropriate, other consulting parties including the Native American Tribes.

The application of the Criteria of Adverse Effect (**36 CFR § 800.5**) may result in a finding of either: (1) No Adverse Effect or (2) Adverse Effect. This determination is specific to the project, not to the historic properties. That is, where multiple historic properties are identified within a project APE, an adverse effect to one historic property is sufficient to determine an adverse effect for the project. Refer to **Chapter 6** of FDOT's [CRM Handbook](#) for more details about applying the Criteria of Adverse Effect.

As a rule, when a project may affect any historic properties identified in a CRAS report (see **Section 8.3.2.4.2**), the District prepares a **Section 106 Case Report** that discusses and documents these effects. More importantly, this reports contains the information required by **36 CFR § 800.11(e)** to support a finding of Adverse Effect or No Adverse Effect. This report needs to contain sufficient detail and illustration to support the recommended finding regarding adverse effects and to allow the consulting parties to reach independent conclusions as to the effect finding.

This **Case Report** is provided to OEM for its use in making and documenting a finding of Adverse Effect or No Adverse Effect. Once OEM makes its finding, it provides the **Case Report** and its finding to the SHPO/THPO and other consulting parties to seek their concurrence. In situations where there is an adverse effect, the **Case Report** should also enable the consulting parties to initiate discussion regarding the resolution of adverse effects.

The content and details of the **Case Report** depend on the level of involvement with historic properties, the degree of potential effects, and the complexity of the proposed undertaking and its relationship to historic resources. For projects involving the preparation of a **Section 4(f)** evaluation for the use of land from the affected historic property, information gathered and presented in the **Section 4(f)** evaluation is often used in the preparation of the **Case Report**.

Generally, these reports are also used during the fourth step of the **Section 106** process (Resolve Adverse Effects) because information in the **Case Report** may be integrated into the agreement and/or commitment documents to avoid, minimize or mitigate for any adverse effects associated with the project. Finally, the **Case Report** functions as FDOT's reporting mechanism for the ACHP's project effects review assessment when this review is needed. See **Chapter 7** of the [CRM Handbook](#) for more detail concerning the purpose and objectives of the **Case Report** and the considerations it must address.

The **Case Report** contains graphics sufficient to illustrate the relationship of the proposed project (including all alternatives) to the affected historic property or properties, including the boundary of each National Register listed or eligible property. It also contains enough information to illustrate all avoidance and minimization efforts that have been examined and why it is or is not practical to avoid the historic resource(s) or effects cannot be minimized further.

As set forth in **36 CFR § 800.5(b)**, a finding of No Adverse Effect is appropriate if:

1. The effects of the undertaking do not meet the Criteria of Adverse Effect.
2. The undertaking is modified to avoid adversely affecting historic properties. For example, in the case of an archaeological site that could have been adversely affected by the project or off-project related activities, effects are avoided by shifting the project away from the site or by excluding all project-related activities inside the boundaries of the site.
3. Conditions are imposed on the undertaking to avoid adverse effects (such as rehabilitation of a historic bridge in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, **36 CFR Part 68**).

When FDOT finds that a project has No Adverse Effect on historic properties, the following procedure applies:

1. FDOT provides the No Adverse Effect finding along with the pertinent information to SHPO/THPO and consulting parties, pursuant to **36 CFR § 800.11(e)**.
2. SHPO/THPO has 30 days from receipt of the complete documentation to review the findings. Failure to respond within 30 days permits FDOT to assume concurrence, pursuant to **36 CFR § 800.5(c)(1)**.
3. If SHPO/THPO either agrees with or does not object to the findings of effect made by FDOT and no consulting party has objected, FDOT carries out the proposed undertaking based upon the effect finding and the action as proposed.

4. In cases where FDOT determines there is no effect or No Adverse Effect to historic properties and has received no objections to this finding, FDOT has fulfilled its responsibilities under **Section 106**. This completes the **Section 106** process.
5. In the event that SHPO or any consulting party disagrees within the 30-day review period, they must specify the reasons for disagreeing with the finding. FDOT must then consult with the party to resolve the disagreement, or request that the ACHP review the finding, pursuant to **36 CFR § 800.5(c)(3)**.
6. If the ACHP is asked to review the finding, it has 15 days to respond. If there is no response within 15 days, FDOT may assume concurrence and proceed with the undertaking.
7. If the ACHP provides comments, FDOT must consider them when reaching a final decision on its finding of effects.

If, after consultation with the appropriate parties and a review of the project and its relationship to historic properties, FDOT determines that there is no adverse effect to historic properties, then the **Section 106** process is complete. In cases where SHPO/THPO has either agreed with the finding or has not responded to the finding at the close of the 30-day review period, and no consulting party has objected to the finding, FDOT may proceed with the undertaking after documenting its determination and the basis for arriving at this determination. If any agreements or commitments are made to reach a finding of No Adverse Effect, they are recorded and carried out as the project advances. If any changes occur that may alter the effect finding, consultation with the appropriate parties must be reinitiated.

All documentation pertaining to any determination concerning **Section 106** effect findings, including FDOT findings, SHPO/THPO review letter(s), and applicable comments from other consulting parties and the public, is included in the appropriate Environmental Document (see **Section 8.3.4.1**).

In the case of an Adverse Effect finding, FDOT documents this finding and the basis for the finding and transmits the finding and documentation to SHPO/THPO, the ACHP, and other consulting parties.

If SHPO/THPO disagrees with the finding or another consulting party objects to the finding within the 30-day review period, the disagreeing entity must provide the reasons for the disagreement or objection. In these cases, FDOT will either consult with the appropriate parties in order to resolve the disagreement or request the ACHP to review the finding in accordance with **36 CFR § 800.5(2)**. If no objections are received within the 30-day review period, FDOT may proceed to Step Four of the **Section 106** process.

8.3.2.6 Step Four: Resolve Adverse Effects

A finding of Adverse Effect requires further consultation among FDOT, SHPO/THPO, and the other consulting parties in order to resolve the adverse effects. This consultation brings together the parties to consider ways to avoid, minimize, or mitigate the adverse effects of the undertaking on the historic properties.

In conducting consultation, as well as in its efforts to engage the public, FDOT

1. Describes the proposed project and its purpose and need;
2. Clearly identifies any rules, processes, or schedules applicable to consultation;
3. Acknowledges the interests of others and seeks to understand them;
4. Develops and considers appropriate alternatives; and
5. Makes an effort to identify solutions that will leave all parties satisfied.

For most projects involving a finding of adverse effect, Steps Three and Four of the **Section 106** process are part of the same discussion(s).

In accordance with the **Section 106 PA** (see **Section 8.3.2.2.3**) and **36 CFR § 800.10**, the ACHP and the NPS must be consulted when the project activity involves potential effects to a NHL. The notification letter to the ACHP is accompanied by the same documentation required for a finding of No Adverse Effect or Adverse Effect, as called for in **36 CFR § 800.11(e)**, though for projects involving an NHL, the emphasis on preservation will be greater.

As appropriate, FDOT provides project documentation to the consulting parties. Particular care must be taken to comply with the confidentiality provisions of **Section 304** of the **NHPA** and **Section 267.135, F.S.**, regarding the protection of archaeological site locations within the project documentation, as applicable.

8.3.2.6.1 Minimize and Mitigate Adverse Effects

The procedures for resolving adverse effects include the following steps:

1. FDOT continues consultation with SHPO/THPO and other consulting parties to resolve the adverse effects by avoidance, minimization, or mitigation.
2. As appropriate, the ACHP is invited to participate or can decide to enter into consultation pursuant to **36 CFR Part 800, Appendix A**. Any consulting party or the public may contact the ACHP and request its participation. The ACHP has 15 days from receipt of a request to participate to notify FDOT and consulting parties whether it will participate in the resolution process.
3. If ACHP does not participate and FDOT and SHPO/THPO reach consensus on measures to resolve adverse effects, these measures are outlined in a **MOA**, pursuant to **36 CFR § 800.6(b)**. In these cases, continue to Steps 4 through 8. If FDOT and SHPO/THPO fail to agree on measures, the process skips to Step 9.
4. The District prepares a draft **Memorandum of Agreement (MOA)** and coordinates with all consulting parties.

5. District signs the agreement as a concurring party and forwards the agreement to the Director of OEM for approval. Once approved by OEM, OEM forwards the agreement to the SHPO for their approval. SHPO keeps one original copy and provides the others back to OEM and OEM forwards one original copy of the executed agreement to the District and retains the other.
6. The District provides the remaining consulting parties copies of the **MOA** as appropriate including the ACHP.
7. If the ACHP is a consulting party, SHPO will return all original copies to OEM and OEM will forward them to the District so that the District can provide the original copies to the ACHP. The ACHP will keep an original copy and return the remaining copies of the executed agreement to the District. The District will then disperse the remaining original copies to OEM and SHPO.
8. If the undertaking proceeds according to the terms and stipulations of the agreement, and FDOT has met all of its obligations under **Section 106** of the **NHPA**, then the process skips to Step 11.
9. If, FDOT and SHPO/THPO fail to agree on the terms of a MOA, FDOT shall request the ACHP to join the consultation and provide a copy of the documentation package pursuant to **36 CFR § 800.11(g)**. If ACHP doesn't join the consultation, FDOT must forward a copy of the documentation package and request comments.
10. The ACHP has 45 days from receipt to comment (FDOT should send the request electronically or by overnight mail). The ACHP provides its comments to FDOT with copies to all consulting parties.
11. FDOT is obligated to consider and take into account the comments of the ACHP. FDOT may choose whether or not to adopt the comments, or to proceed.
12. FDOT documents the final decision in accordance with **36 CFR § 800.7(c)(4)**, the ACHP and all consulting parties are notified, and the project proceeds.

The District is responsible for monitoring implementation of the commitments and conditions stipulated in the agreement.

In cases where consulting parties do not reach agreement, FDOT, SHPO/THPO, or the ACHP may decide to terminate consultation pursuant to **36 CFR § 800.7**.

The decisions reached during the consultation process are documented in a formal agreement. The agreement outlines FDOT's fulfillment of responsibilities under **Section 106** Guidelines for preparing agreements are provided in **Chapter 7** of the [CRM Handbook](#).

8.3.2.6.2 ACHP Participation

SHPO/THPO, a Native American Tribe, or any other consulting party may at any time request the ACHP to participate in the consultation. The ACHP will decide on its

participation within 15 days of receipt of a request pursuant to **36 CFR Part 800, Appendix A (Criteria for Council Involvement in Reviewing Individual Section 106 Cases)**. If a consulting party requests ACHP involvement, the District informs OEM prior to initiating this consultation.

If the ACHP decides to participate in the consultation process, it must notify FDOT (or the appropriate Lead Federal Agency) and the consulting parties. If the ACHP chooses to participate in the resolution of adverse effects, FDOT is responsible for coordinating consultation among all the parties, including SHPO/THPO.

New consulting parties may enter the consultation if FDOT and SHPO/THPO (and the ACHP, if participating) agree. If they do not agree and the ACHP is not a consulting party already, FDOT seeks the ACHP's opinion on the involvement of the consulting party. Any party, including applicants, licensees or permittees, that may have responsibilities under an agreement document must be invited to participate as a consulting party.

8.3.2.7 Exemption from Section 106 for Eisenhower Interstate Highway System

On March 10, 2005, the ACHP issued the Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System. The exemption removed the majority of the Interstate Highway System from being considered as a historic property under **Section 106** of the **NHPA**, except for those elements of the Interstate Highway System identified by SHPOs, state Departments of Transportation (DOTs), and state divisions of FHWA as being of exceptional importance.

This exemption does not apply to archaeological sites or resources that are not elements of the Interstate Highway System, even though they may be located within the ROW of the Interstate or otherwise intersect the Interstate. As a result, any undertaking (including Interstate undertakings) that may affect these non-Interstate properties must comply with the requirements of **Section 106**.

In Florida, four (4) significant elements of the Interstate Highway System are excluded from the exemption when undertakings have the potential to affect them. These elements of the Interstate Highway System undergo the standard **Section 106** consultation and review processes. The four elements are:

1. Bob Graham/Sunshine Skyway Bridge, Pinellas and Manatee Counties
2. Alligator Alley, Collier and Broward Counties
3. I-75 Snake Wall, Alachua County
4. Myrtle Avenue Overpass, Downtown Jacksonville

8.3.2.8 Section 106 Program Comment on Post-1945 Common Bridge Types

At the request of FHWA, in November 2012, the ACHP issued a Program Comment that eliminates individual historic review requirements under **Section 106** for common post-1945 concrete and steel bridges and culverts (also referred to as post World War II common bridge types). The intent of the Program Comment is to ensure that historic bridges that are likely to be significant for preservation in place receive the attention, while the process is substantially streamlined for the more common bridge types. These common bridges were constructed in vast numbers after World War II using standardized plans. Although there has been little public interest in the preservation of these common bridges and culverts, FHWA was required under **Section 106** to consider and document the potential historic significance of any bridge approaching 50 years of age that might be affected by FHWA projects.

As part of this Program Comment, FHWA and ACHP requested the state DOTs and SHPOs submit a list of common, post-1945 bridges. FDOT, in consultation and coordination with Florida's SHPO and FHWA's Florida Division identified nineteen (19) bridges that still require evaluation and/or individual treatment under **Section 106** of the **NHPA**. These bridges are listed in **Figure 8-7**.

While the Program Comment relieves the need to individually evaluate and consider the effects of the undertaking on these common bridges, these bridges located within the project APE still must be identified and recorded on FMSF forms.

8.3.2.9 Contents and Routing of Documentation Related to the Section 106 Process

The results of all cultural resources identification and evaluation efforts are documented in a **Notification Letter**, a **CRAS Report**, or a **Technical Memorandum**. See **Figure 8-8** for Guidance for circulation of documents related to compliance with **Section 106** under the **NEPA** Assignment Program.

In the case of undertakings determined to have no potential to affect historical resources, a **Notification Letter** is prepared. For minor projects with a minimal APE and either no or minimal involvement with cultural resources, (it may be appropriate to use a **Notification Letter**. In circumstances where consultation for a project under **Section 106** must be revisited due to project changes or other reasons that either change the APE for the project or change the potential historical value of the surrounding resources, a **Technical Memorandum** or addendum to the **CRAS Report** must be completed by FDOT and coordinated with the consulting parties.

The standard components and distribution of CRAS documents are provided in **Sections 8.3.2.9.1** and **8.3.2.9.2** and in **Chapter 7** of the [CRM Handbook](#).

The information contained in the **Notification Letter**, **CRAS Report**, and/or **Technical Memorandum** is summarized in the Environmental Document (see **Section 8.3.4.1**). In the case of Type 2 Categorical Exclusions (CEs), the findings and approvals related to

the CRAS are submitted as an attachment to the [**Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**](#). For Type 1 CEs the finding of no effects or no adverse effects on historic properties is kept with the completed [**Type 1 Categorical Exclusion Checklist, Form No. 650-050-12**](#) for the proposed project.

The FDOT District provides the **Notification Letter** to OEM and SHPO for projects or undertakings that are federally funded, licensed, permitted, or approved. For projects requiring a more thorough analysis, the District submits the final **CRAS Report/Technical Memorandum** to SHPO/THPO with copies to OEM. For projects with no federal involvement FDOT's District submits the document to the FDHR with notification to OEM.

Subsequently, FDOT will provide a transmittal letter to the SHPO/THPO summarizing the findings of the survey effort, and, as appropriate, outlining any consultation, coordination, or other related actions should SHPO/THPO concur with the report, the APE, and the survey findings and recommendations. Normally, FDOT uses a concurrence signature block for CRAS transmittals containing signature and concurrence lines for SHPO/THPO (see **Figure 8-9**). If appropriate, the signature block also informs SHPO/THPO that FDOT may apply a **Section 4(f) de minimis** approval for the use of the historic property if: (1) the project entails a use of the subject property and (2) SHPO/THPO concurs with a finding of No Adverse Effect to the historic property. Signature blocks may be used for **Technical Memorandum**, when appropriate.

For reports requiring distribution to the Tribes, the District provides sufficient copies to OEM to inform the Tribes under a separate cover. See **Figure 8-10** for guidance on the circulation of documents to the Tribes. For other consulting parties, the District may provide copies of the survey report directly to them. There may be circumstances where FDOT needs to provide copies of the CRAS directly to consulting parties such as the ACHP or NPS.

8.3.2.9.1 Notification Letter of No Potential to Affect Historic Properties

For projects where there is no potential to affect historic properties, the District provides a **Notification Letter** to SHPO and OEM outlining the project action, the project category, and an explanation of the project setting sufficient to verify that it meets the applicability criteria for that category of project. The **Notification Letter** must inform SHPO that FDOT has determined the proposed project meets the applicability criteria and, therefore, has no potential to affect historic properties. Unless SHPO objects to this finding within 30 days of receipt of this notification, the project may proceed without further consultation under **Section 106**. FDOT may provide the Tribes with an opportunity to comment on these undertakings. If this occurs, sufficient time must be allowed for a tribal response. If the proposed action changes in such a way that it may no longer meets the criteria set forth in the **Section 106 PA** (see **Section 8.3.2.2.2** for these criteria), the District will need to re-analyze the project and its potential to affect historic properties.

When there are historic resources located within the APE, then consultation regarding the historic significance of these resources with SHPO and other appropriate consulting parties must be initiated.

8.3.2.9.2 CRAS Reports, Technical Memoranda, and Case Reports

The **CRAS Report** provides the identification and evaluation of the significance or non-significance of all cultural resources located in the APE for the proposed undertaking. The Report must also include graphics clearly depicting the location and limits of the project and the boundaries of the APE for both archaeological and historical resources, as well as the rationale for these APE limits and the relationship of significant historic resources to the undertaking. It includes the boundaries of the resources identified as significant, highlights the features and characteristics that contribute to the significance of each historic property, and addresses the integrity of the property. Likewise, for those resources and sites identified as not eligible for the NRHP, the **CRAS Report** notes why the historic resource does not meet any of the four criteria of eligibility and/or explains how the property does not retain the aspects of integrity. In addition to the significance analysis, the **CRAS Report** (or **Technical Memorandum** when appropriate) includes the appropriate data from the background research, completed FMSF forms for all evaluated resources, and requests for determinations of eligibility for the NRHP or expanded FMSF forms for the properties recommended as significant.

If no historic resources are present in the project APE, then the **CRAS Report** includes the recommended finding of no historic properties affected; and this recommended finding is included in the transmittal letter for the report (see **Figure 8-9** for a sample Transmittal Letter). If historic resources are located within the project APE, then findings on eligibility for the NRHP are made by FDOT, SHPO/THPO, and other appropriate consulting parties before a determination of effects on historic properties for the project can be made. There are some instances where eligibility findings and project effects determinations may be combined, but this should only be in instances where the findings are obvious (e.g., for a NRHP-eligible canal that will not be altered). If FDOT finds that none of the evaluated resources represents significant historic properties, SHPO/THPO concurs, and the consulting parties agree, then by definition, the project cannot have an adverse effect on historic properties.

The cover page for CRAS Reports, Technical Memoranda and Case Reports must include the following NEPA assignment standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

See **Figure 8-12** for a sample cover page.

The standard components of the **CRAS Report** are:

1. Transmittal Letter
2. Executive Summary

3. Introduction (including project description and alternatives)
4. Environmental, Archaeological, and Historical Overviews
5. Research Considerations and Methodology (including definition and justification of the project APE)
6. Survey Results (archaeological and historical/architectural) and Site Evaluations
7. Conclusions
8. References
9. Appendices, including FMSF Forms, Survey Log Sheet

The **Technical Memorandum** format may be used in cases such as minor projects with a minimal APE and either no or minimal involvement with cultural resources. These projects may include proposed pond siting, ROW transfers, PD&E re-evaluations, and historic resources survey updates. For projects where a **CRAS Report** has already been prepared, the **Technical Memorandum** should reference this document, and not repeat information such as the environmental and cultural overviews. The **Technical Memorandum** should include the following information:

1. Transmittal Letter
2. Introductory information (e.g., project name, location, description, purpose, and need; purpose of the CRAS; definition of the project)
3. Results of background research for the project APE and vicinity, including the findings of the previous study, if applicable
4. Survey expectations vis-à-vis cultural resource potential
5. Archaeological and historical/architectural field survey results (including resource evaluations)
6. Conclusions
7. References
8. Appendices, including FMSF Forms, Survey Log Sheet

When a Project may affect historic properties identified in a CRAS, the District prepares a **Case Report** in order to assist the consulting parties in determining if the proposed action will have an adverse effect (see **Section 8.3.2.5**). The **Case Report** contains the supporting documentation as set forth in **36 CFR § 800.11(e)**:

1. A description of the undertaking, including all viable alternatives and the preferred Build Alternative, specifying the federal involvement, and the project APE, including photographs, maps, and drawings, as necessary;

2. A description of the steps taken to identify historic properties;
3. A description of the affected historic properties, including information on the characteristics that qualify them for the NRHP (as well as historic property boundaries);
4. A description of the undertaking's effects on historic properties;
5. An explanation of why the Criteria of Adverse Effect were found applicable or not, including any conditions or future actions to avoid, minimize or mitigate adverse effects; and
6. Copies of summaries of views provided by consulting parties and the public (including public meeting agendas, handouts, newsletters, relevant slides).

FDOT is responsible for distribution to SHPO/THPO, the appropriate consulting parties, the ACHP (when participating), and the NPS (for NHLs). Whenever there is a finding of adverse effect to historic properties, the ACHP must be provided the finding and the **Case Report**, even when ACHP is not participating in the consultation.

ROUTING

The routing path of the final **CRAS Report/Technical Memorandum**, from initial submittal by the consultant through review by SHPO/FDHR, is as follows:

1. The consultant prepares the **CRAS Report/Technical Memorandum** and submits it to the District PM and/or CRC for review.
2. The District PM/CRC reviews the report and requests changes if needed. They also provide a copy to OEM concurrently.
3. Once the report is acceptable to FDOT it is submitted by the District PM and/or CRC with appropriate documentation, to SHPO and other consulting parties. For survey reports or technical memorandum that require tribal comment, the District must provide sufficient copies to OEM for transmittal to the tribes. **Chapter 1A-46, F.A.C.**, requires that the final deliverables from the consultant must include the requested number of copies of the report (which may vary, depending on the project), a **Survey Log**, and a set of original **FMSF Forms**. For historic resources and resource groups, digital photographs are included on the **FMSF Forms** continuation sheets and are submitted as jpeg files (or current acceptable media files). The FMSF office requires paper copies for retention, and paper copies must be provided to the Miccosukee **Section 106** and **NAGPRA** coordinator, as well as be made available upon request to other consulting parties.
4. Once SHPO/THPO has reviewed and commented, the SHPO/THPO letter is provided to FDOT. If SHPO/THPO objects to the findings on the significance of a historic resource, FDOT (District and OEM) discusses the finding with SHPO/THPO to resolve the objection. If the objection cannot be resolved, then

information on the historical value of the resource must be submitted to the Keeper of the NRHP for a final determination of eligibility.

5. If FDOT, and SHPO/THPO (as well as other consulting parties) have concurred that historic properties occur within the APE, FDOT initiates Step 3 of the **Section 106** process, Assess Adverse Effects (see **Section 8.3.2.5**).
6. If SHPO/THPO, FDOT, and, as appropriate, the other consulting parties concur with a finding that no historic properties occur within the APE, or with a combined finding on eligibility and no effects to historic properties or no adverse effects to historic properties, this finding is retained in the project files along with the basis for the finding.

FDOT's transmittal letter to SHPO/THPO, prepared by the District, contains the standard summary information as indicated in the example letter provided in **Figure 8-9**.

Special Archaeological and Historical Resources Considerations in STATE- Funded Projects

The same considerations used to determine the potential to affect historic properties for federal actions are used to determine effects of non-federal actions. Therefore, the criteria established in **Section 106 PA** for determining the level of assessment, review, and consultation apply to state-funded projects.

For state-funded major transportation projects, a SEIR is prepared. FDOT is the Lead State Agency, and the District is responsible for the development and review of the SEIR; final approval is made by the District Secretary. The CRAS for SEIR projects follows the standard procedures established by **Chapter 267, F.S.**, and **Chapter 1A-46, Florida Administrative Code. Chapter 267, F.S.**, and largely mirrors the requirements of **Section 106**, but contains no requirement for consultation with Native American Tribes beyond the normal considerations of public participation. Nonetheless, the Districts should inform the Tribes whenever a project may affect an historic resource that could be of cultural or religious importance to them. If the project changes from a state-only project to a federally funded or approved project, tribal comment will be required. See **Section 8.3.2.3** regarding Native American consultation for state-funded projects requiring a federal permit.

For state-funded projects, FDOT consults with FDHR to make determinations of eligibility for inclusion in the NRHP. For projects that do not include historic properties within the APE or where the undertaking has no potential to affect historic properties, FDOT documents the finding in accordance with the **Section 106 PA** and the standard procedures for SEIRs or NMSAs, as appropriate. FDOT notifies FDHR of its finding within 30 calendar days of completing its review. The documentation package must include a map showing the project location and APE, along with sufficient information to support and explain the finding. In accordance with the **Section 106 PA**, unless FDHR objects within 30 days of receipt of notification, FDOT is not required to take any further action unless there is a dispute.

For projects that may adversely affect historic properties, FDOT and FDHR consult to determine the significance of the historic resources within the APE. It is important to consider the additional property types protected under **Chapter 267, Florida Statutes**. If significant historic resources occur within the APE, then FDOT and FDHR must consult on the extent and nature of these effects and develop ways to avoid, minimize, or mitigate these effects. Generally, for state-only projects, FDOT and FDHR record these commitments through an agreement between SHPO and the District Secretary outlining the effects of the project on the resource(s) in question and the measures adopted to minimize or mitigate these effects.

The findings of the CRAS are detailed in the cultural resources document (**CRAS Report or Technical Memorandum**), and summarized under the appropriate headings in the SEIR. In addition, the potential effects of the proposed project on the archaeological sites and historic resources within the project APE are summarized in the SEIR and discussed in the appropriate sections (e.g., Environmental Analysis, Commitments) of the SEIR. The cultural resources document and SEIR are transmitted to the Director of the FDHR. Normally, the CRAS will be completed prior to the approval of the SEIR. However, the SEIR cannot be approved prior to the completion of appropriate Public Involvement (see [Part 1 Chapter 11, Public Involvement](#)).

The **Non-Major State Action Checklist, Form No. 650-050-30** is provided in [Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#), and sample language for the SEIR is provided in **Section 8.3.4.1**. The transmittal letter prepared by the District is essentially the same as the letter provided as **Figure 8-9**. However, the letter is addressed to the Director of the FDHR and only requires the Director's signature. In addition, the term "SHPO" is replaced with "Director, Division of Historical Resources" in the body of the letter.

As mentioned above, NMSA projects also require an historical and archaeological impact evaluation. Typically, detailed evaluations are not warranted because these projects are generally small in scope with minimal effects. These decisions cannot be made until the District documents the presence or absence of historic properties in the project APE. Just as the **NEPA** COA for a project does not dictate the level of analysis needed for historic properties, neither does the criteria for determining whether a project is a SEIR or a NMSA.

If the state-funded or assisted undertaking involves a federal permit, approval, or license, then FDOT initiates coordination with the appropriate federal agency as early in this process as possible. In some cases, it may be necessary to inform the permitting agency of any programmatic approaches applicable to the project. For the purposes of **Section 106** of the **NHPA**, the permitting agency becomes the Lead Federal Agency for the permitted action.

8.3.3 Coordinating NEPA and Section 106

The regulations that implement **Section 106** of the **NHPA [36 CFR § 800.3(b)]** specifically encourage the coordination of **Section 106** responsibilities with the steps taken to satisfy other historic preservation and environmental laws. FDOT has adopted a streamlined

approach to satisfy **Section 106** and **NEPA** compliance so that approvals are received concurrently. The ACHP's regulations [**36 CFR § 800.8(a)**] provide guidance on how the **NEPA** and **Section 106** processes can be coordinated. In addition, the flow chart in **Figure 8-12** illustrates coordination between **NEPA** and **Section 106**.

NEPA documents, including an Environmental Assessment (EA) with Finding of No Significant Impact (FONSI) or a Final Environmental Impact Statement/Record of Decision (FEIS/ROD), include the information and results of the **Section 106** compliance efforts. This information includes a general presentation of the survey effort, a brief description of the historic properties identified, the consulting parties, the determinations of effect and adverse effect for the project, the consultation leading to the resolution of any adverse effects, and all commitments and agreements that supported the effect finding or the resolution of adverse effects. Any MOA developed under **Section 106**, or (when applicable) the final comments of the ACHP, are addressed in the ROD. Under normal circumstances, the MOA is executed before the ROD is issued, and the ROD provides for the implementation of the MOA's terms and stipulations. Details concerning the information and results to be included in the **NEPA** documents are provided in the following section.

8.3.3.1 Reporting Cultural Resources Findings in Environmental Documents

FDOT summarize the findings of the CRAS, as presented in the **CRAS Report** or **Technical Memorandum** which are incorporated by reference into the appropriate Environmental Document prepared for each project.

EA and DEIS

The EA and Draft Environmental Impact Statement (DEIS) contain a summary of the CRAS. The description and evaluation of archaeological sites and historic resources identified within the project APE are included in the Environmental Analysis section. Once OEM approves the document for public availability, the District sends it to the appropriate agencies and consulting parties for review and comment.

EA with FONSI or FEIS/ROD

If NRHP-listed or eligible archaeological sites and/or historic resources are identified within the project APE, the decisions made to resolve issues are addressed in the final Environmental Document. The Environmental Analysis section summarizes the potential effects (e.g., direct use, visual, noise) on NRHP-listed or eligible historic properties, as well as potential mitigation measures for the anticipated effects associated with the preferred alternative. Included in the Environmental Analysis section and/or the Comments and Coordination section, is a chronological discussion of agency coordination efforts, the determination of effects, the development of mitigation measures, and public outreach activities. Reference to all correspondence related to the **Section 106** process is also included. The Commitments section of both the EA with FONSI and FEIS/ROD or FEIS contains a description of the measures FDOT will use to minimize and mitigate adverse effects to the NRHP-listed or eligible historic properties. If the resolution

of adverse effects includes any formal agreement such as an MOA or Conditional No Adverse Effect agreement, this document is included as an appendix in the EA with FONSI, FEIS/ROD, or FEIS.

The correspondence providing FDOT's finding on effects to historic properties; SHPO/THPO opinion on this finding; and any correspondence related to the avoidance, minimization, or mitigation of effects to historic properties, as well as the opinions of the other consulting parties, are included in the Environmental Document.

SEIR

For SEIRs, the results of the CRAS are included in the Environmental Analysis section of the SEIR, and the Commitments section discusses all commitments made in regard to cultural resource issues. The SEIR must include FDOT's determination of effects to historic resources, the FDHR's opinion as to this determination, and all related correspondence.

Example CRAS Summaries

The EA, EIS, and SEIR documents should include standard language describing the nature and intensity of the CRAS, a definition of the project APE, the survey methods and findings, and a description and evaluation of all archaeological sites and historic resources identified within the project APE. In the case of the SEIR, FDHR becomes the consulting agency. For state-only projects, reference state legal authorities and only FDHR is consulted unless there is a specific reason to include other consulting parties [for example, on state-owned land, the Florida Department of Environmental Protection (FDEP) should be included in the decision making].

The following are examples of text for the CRAS summary to be included in the Environmental Document. Typically, this summary language is contained in the **CRAS Report** Executive Summary, and is used in the CRAS transmittal letter.

1. Include the Project Name, Purpose of the CRAS, and applicable laws, regulations, and standards, for example:

A Cultural Resource Assessment Survey of the proposed [project name], including background research and field survey, has been performed. The purpose of the survey was to locate, identify, and bound any cultural resources within the project area of potential effect (APE) and to assess their significance in terms of eligibility for listing in the National Register of Historic Places (National Register). This CRAS was conducted in compliance with Section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665, as amended), as implemented by 36 CFR Part 800 (Protection of Historic Properties, revised January 2001); the National Environmental Policy Act of 1969 (Pub. L. 91-190); and Chapter 267, Florida Statutes (F.S.), revised. This study was conducted in accordance with Part 2, Chapter 8

(Archaeological and Historic Resources) of the Florida Department of Transportation's Project Development and Environment Manual (revised), and the standards contained in the Florida Division of Historical Resources (FDHR) Cultural Resource Management Standards and Operational Manual (FDHR 2003). In addition, this survey meets the specifications set forth in Chapter 1A-46, Florida Administrative Code.

2. Summarize the research methods used, for example:

Research methods included preliminary background research; the preparation of a research design for review and approval by FDOT SHPO, and/or Tribes, if applicable; archaeological and historical/ architectural field surveys; artifact analysis; and preparation of draft and final reports. The fieldwork was conducted between [month and year to month and year].

As appropriate, this statement includes the level of analysis for proposed or potential SMF/FPC locations.

3. Summarize the results of the background research for both archaeological sites and historic resources, for example:

The initial review of the Florida Master Site File (FMSF), National Register listings, and the Efficient Transportation Decision Making (ETDM) Summary Report (Project # [xxxx]) for this project indicated that xx previously recorded archaeological sites ([FMSF numbers]) are located within or adjacent to the project APE, with another [xx] known sites located within 0.5 miles. Of the [xx] archaeological sites, [FMSF number(s)] was/were evaluated by SHPO as potentially eligible for inclusion in the National Register; the other [xx] sites [FMSF numbers] were not evaluated by SHPO. The background research suggested a variable probability for archaeological site occurrence within the project APE.

Background research indicated that [xx] historic resources ([FMSF numbers]) had been recorded previously within the project APE. These include [xx] [add architectural styles and composite build date range]. [Add SHPO evaluation]. A review of the relevant USGS quadrangle maps and property appraiser's website data revealed the potential for [xx] historic (*pre-circa* [date]) resources.

4. Summarize the results of the archaeological and historical/architectural field surveys, including a brief description and evaluation of all NRHP-listed or eligible

historic properties identified within the project APE. Address the appropriate NRHP criteria and the relevant aspects of integrity. For example:

As a result of archaeological field survey, cultural materials associated with [xx] of the previously recorded sites ([FMSF numbers]) were recovered. No evidence of the other [xx] sites was found. [xx] new archaeological site(s) ([FMSF numbers]) was/were discovered. The total of [xx] previously recorded and newly identified sites are classified as lithic and artifact scatters. All were evaluated as not eligible for listing in the National Register given the common nature, low research potential, and lack of any significant historical associations.

Historical/architectural field survey resulted in the identification and evaluation of [xx] historic buildings ([FMSF numbers]). With one exception [Site name, FMSF number], a [add build date, type, and style] all are Masonry Vernacular and Frame Vernacular style residences constructed between circa (ca.) 1945 and ca. 1960. These historic buildings represent commonly occurring types of architecture for the locale, and available data did not indicate any significant historical associations. In addition, alterations to the historic structures and/or lack of concentrated density appear to preclude their eligibility for the National Register either individually or collectively as a district.

For any resources determined eligible, provide the basic information on the site by extracting statements from the Determination of Eligibility or FMSF form for the property. Note the reasons the site is eligible, the characteristics that make it significant, its boundaries, etc. Include measures that have been incorporated into the proposed undertaking to avoid, minimize, or mitigate effects to the property. Example language for findings of No Involvement with Cultural Resources/No Historic Properties Affected (**Section 8.3.4.1.1**) and both No Adverse Effect and Adverse Effect (**Section 8.3.4.1.2**) follows.

8.3.3.1.1 No Involvement with Cultural Resources/No Historic Properties Affected

If the CRAS shows an absence of archaeological sites and/or historic resources within the project APE, or if the CRAS has identified archaeological sites and/or historic resources within the project APE but FDOT and SHPO agree that none of the sites or historic resources are eligible for inclusion in the NRHP, provide one of the following standard statements below, as applicable. The statement is included in the Cultural and Historic Resources section of the Environmental Analysis section of the EA with FONSI, FEIS/ROD, FEIS, or in other appropriate locations for other COAs:

A Cultural Resource Assessment Survey, conducted in accordance with the procedures contained in 36 CFR Part

800 and including background research and a field survey coordinated with the State Historic Preservation Officer (SHPO) (or Tribal Historic Preservation Officer (THPO)), was performed for the project. No archaeological sites or historical resources were identified, nor are any expected to be encountered during subsequent project development. FDOT, after consultation with SHPO/THPO, has determined that no historic properties will be affected by the proposed project. FDOT determination(s) and SHPO/THPO coordination letters are attached as Exhibit XX.

-OR-

A Cultural Resource Assessment Survey, conducted in accordance with the procedures contained in 36 CFR Part 800 and including background research and a field survey coordinated with the State Historic Preservation Officer (SHPO), was performed for the project. As a result of the assessment, [xx resources] ([FMSF numbers]) were identified. FDOT, after application of the National Register Criteria for Evaluation, found that neither the archaeological sites nor historic resources identified within the project APE meet the eligibility criteria for inclusion in the National Register. SHPO (and/or THPO as appropriate) concurred with this evaluation. No additional archaeological sites or historic resources are expected to be encountered during subsequent project development. Therefore, FDOT, after consultation with SHPO/THPO, has determined that no historic properties will be affected by the proposed project. FDOT determination(s) and SHPO/THPO coordination letters are attached as Exhibit XX.

For the SEIR, include the findings in the Cultural Resources section of the Environmental Analysis section. Reference FDOT as the lead agency making the findings and identify the FDHR (instead of SHPO) as the concurring/consulting party.

8.3.3.1.2 No Adverse Effect or Adverse Effect to National Register Properties

In the case where the CRAS results identify NRHP-listed or eligible archaeological sites and/or historic properties within the project APE, and where the Criteria of Adverse Effect pursuant to **36 CFR § 800.5(a)(1)** have been applied and the project does not meet the criteria, summarize the effects and describe the finding in the Cultural and Historic Resources section of the Environmental Analysis section of the EA with FONSI, FEIS/ROD, or FEIS, or in other appropriate locations for other COAs. Include any commitments made for the project that contributed to the No Adverse Effect finding. For example:

FDOT, after application of the Criteria of Adverse Effect, in consultation with SHPO, has determined that the preferred alternative will have No Adverse Effect to the [Name; FMSF number], a historic resource eligible for listing in the National Register of Historic Places (National Register). The preferred alternative will not require a direct use of the [Name]. The historic property will be visually affected by the preferred alternative due to the addition of noise walls adjacent to SR 747. However, FDOT, and SHPO have consulted pursuant to Section 106 of the National Historic Preservation Act and have determined to visually screen these noise walls from the [property name/FMSF #]. By installing vegetation between the noise wall and the historic property, FDOT will minimize the visual effects of the proposed undertaking on the historic property. Although the construction of noise walls will diminish the setting of the [Name], the screening will maintain the property's rural setting, which will preserve its integrity of location, design, materials, workmanship, feeling, and association, and therefore result in No Adverse Effect to [Name]. Please see [cite the location in the environmental document of the letter and/or Conditional No Adverse Effect determination concurrence from SHPO].

In the case where project development will result in adverse effects to NRHP-listed or eligible historic resources, summarize FDOT's commitments to minimize effects in the Commitments section of the EA with FONSI, FEIS/ROD, or FEIS, as applicable. For example:

The [Name] project will result in an unavoidable adverse effect to [site name and FMSF number], a property listed in the National Register of Historic Places (National Register)., FDOT, and the Florida State Historic Preservation Officer (SHPO) executed a Memorandum of Agreement (MOA) on [date], which outlined conditions to minimize and mitigate adverse effects to the property resulting from the project. Consequently, FDOT commits to the stipulations provided below as outlined in the MOA provided in [cite location of the MOA in the environmental document].

Follow this paragraph with a list of the specific stipulations developed.

8.3.4 Coordinating Section 106 and Section 4(f)

Often, when a project has the potential to have an adverse effect on a historic property, it also requires approval under **Section 4(f)** of the **USDOT Act of 1966**, as amended.

The properties protected under **Section 4(f)** include significant public parks and recreational resources, wildlife and waterfowl refuges, and historic sites. For historic

resources, the word “significant” means that the resource is listed in or eligible for listing in the NRHP, and these are also the resources protected by **Section 106** of the **NHPA**. As a result, FDOT often combines its **Section 106** compliance effort with a **Section 4(f)** analysis. The level of the **Section 4(f)** analysis depends upon the type of **Section 4(f)** evaluation or approval that is required for the use of the property in question. There are two types of **Section 4(f)** evaluations, and the level of effort and coordination is different for each. There is also a third **Section 4(f)** approval option that requires only a finding by FDOT that the proposed project has a minor, non-adverse effect on the protected property. This is referred to as a **Section 4(f) de minimis** finding. In these cases, no **Section 4(f)** evaluation is required because the effects of the project on the resource are inconsequential as a matter of the law.

The guidance for compliance with the requirements of **Section 4(f)** for historic properties is provided in [Part 2, Chapter 7, Section 4\(f\) Resources](#).

8.3.5 Treatment of Human Remains

Historic and prehistoric human remains are protected under **Chapter 872, F.S.** The treatment of human remains encountered during project construction or any other FDOT project-related activity must conform to **Chapter 872.05, F.S.**, the provisions of **36 CFR Part 800.13** and Post Review Discoveries in Stipulation X of the **Section 106 PA**, as well as **Chapter 3** of the [CRM Handbook](#) and **Section 7-1.6** of FDOT’s [Standard Specifications for Road and Bridge Construction](#). If human remains are encountered during project-related activities, all work ceases in the area of the human burial. As appropriate, the individual(s) making the discovery, the District Project Construction Engineering Inspector or the PM, should immediately contact the local Medical Examiner or the State Archaeologist. The appropriate process for any discovery of human remains depends upon a number of considerations including how the remains were discovered (for example, during construction or during archeological research), the age of the discovered remains, and the location of the discovery. For burials more than 75 years of age or greater, the State Archaeologist is contacted. For those less than 75 years of age, the District Medical Examiner is contacted. Necessary measures are taken to secure and protect the remains, including, as appropriate, stabilization and covering. FDOT’S Native American Coordinator is notified so that the Tribes, the SHPO/THPO, as well as other appropriate consulting parties, receive the proper information and are included in the determination of effects, if applicable. For Native American human remains discovered on federal lands, the federal land managing agency is responsible for consultation under **NAGPRA**. Also, see **Sections 8.2.2.2** and **8.3.6** for related procedures.

8.3.6 Archaeological and Historical Resources Considerations Following PD&E

Commitments developed under **Section 106** and all other associated federal and state laws governing the treatment or consideration of historic resources and properties are recorded in the Environmental Document and on the **Project Commitments Record, Form No. 700-011-35**. [Part 2, Chapter 22, Commitments](#) provides the process that must be followed to ensure commitment compliance for FDOT projects. Tracking project

commitments follows FDOT's [Procedure No. 700-011-035, Project Commitment Tracking](#).

In order to properly review and comply with the commitments made to SHPO/THPO, the Tribes, and/or other consulting parties, the District Environmental Office coordinates with the District Design and Construction offices to review the status of compliance with the commitments made. As a result, District staff in all three of these areas review the commitments made to avoid, minimize, and mitigate effects to historic properties.

If either the Design or Construction Office cannot meet a commitment, they inform the District Environmental Office as soon as they are aware of that situation so that the District Environmental Office can inform the appropriate consulting parties and re-initiate the consultation.

8.3.6.1 Re-evaluations

Re-evaluations are prepared as outlined in [Part 1, Chapter 13, Re-evaluations](#). The commitments and required coordination are updated and documented in the Mitigation Status and Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29**. Because the status of historic properties can change over time, CRM evaluations or **CRAS Reports/Technical Memoranda** may need to be updated, as appropriate, before advancing a proposed project into a new phase of development. Whenever there is a change to a project's potential to affect historic properties, consultation with SHPO/THPO and other appropriate parties is revisited and updated, as necessary. There are times when this may necessitate a change to the **Section 106** documentation or findings for the project, amendments to an MOA, or other changes to the commitments.

8.3.6.2 Design Considerations

Prior to making commitments concerning design elements during consultation with SHPO/THPO, the Tribes, and/or other consulting parties, the District Environmental Office must coordinate with the District Design and Construction Office to review the feasibility of such elements which may be proposed during the consultation.

In some instances, consultation results in design considerations specifically related to the project such as avoidance or minimization treatments; whereas, other instances result in mitigation activities including, recordation, as well as educational or commemorative efforts related to specific sites or types of sites, specific historical periods, specific historic communities, or research efforts to promote more robust avoidance alternatives for the future. The specific measures required for these efforts are often contained in a MOA prepared for the project (see **Chapter 8** of the [CRM Handbook](#)).

8.3.6.3 Permitting

Most permits obtained by FDOT include provisions for the protection or consideration of historic properties. These provisions arise from the general permit conditions requiring compliance with state or federal laws. However, if a commitment is made during the PD&E phase to avoid, minimize, or mitigate harm to a significant historic resource, this

commitment may be contained in the permit conditions as well. Occasionally, a permitting agency may conduct its own consultations under **Section 106** or under **Chapter 267, F.S.**, and include specific conditions in the permit.

8.3.6.4 Cultural Resources Considerations during Construction

If previously unidentified historic properties are discovered during construction, or if unanticipated impacts to known or previously unidentified historic properties occur during construction, the following procedures are followed:

1. All construction-related activity in the vicinity of the discovery stops and the contractor immediately notifies FDOT's project Construction Engineering Inspector (CEI), FDOT's PM, and the District Environmental Manager and/or CRC of the discovery. Necessary security measures are taken to protect the discovery, as appropriate.
2. The District notifies SHPO/THPO of the discovery and invites them to accompany FDOT staff (or consultants) to the location within forty-eight (48) hours of the discovery.
3. Following receipt of notification from the District, OEM immediately notifies any Tribe that might attach religious and cultural significance to the affected property informing the Tribes that FDOT must be notified of any tribal concerns related to the discovery within forty-eight (48) hours of receipt of notification by OEM..
4. FDOT consults with SHPO/THPO and appropriate consulting parties within forty-eight (48) hours to document and evaluate the project effects and the need, if any, for further investigation.
5. If FDOT determines that the discovery does not warrant further investigation, they provide written notification to SHPO/THPO, and appropriate consulting parties outlining their reasons and requesting their concurrence or opinion within two (2) business days of the visit to the discovery location. SHPO/THPO and, as appropriate, the Tribes will have two (2) business days after receipt to respond. If no comments are received within this period, concurrence will be assumed, and project construction may resume.
6. If FDOT determines that the site warrants further investigation, a scope of work is developed within forty-eight (48) hours of the visit to the site. The scope of work is submitted to SHPO/THPO. SHPO/THPO and Tribes have two (2) business days after receipt to review and comment. If no comments are received within this period, concurrence is assumed and work is implemented in accordance with the scope. If comments are received, FDOT takes the comments into account and carries out the scope of work. Upon completion and acceptance of the work, construction may proceed as planned. A report of the investigations is completed within the time frame established by the scope of work and copies are provided to all consulting parties.

7. Should any party object to the proposed work plan or results, FDOT will forward all documentation relevant to the dispute to the ACHP in accordance with **36 CFR § 800.2(b)(2)**. Upon receipt of adequate documentation, the ACHP shall review and advise FDOT on the resolution of the objection within thirty (30) days. Any comment provided by the ACHP, and all comments from the consulting parties will be taken into account by FDOT in reaching a final decision regarding the dispute.
 - a. If the ACHP does not provide comments regarding the dispute within thirty (30) days after receipt of adequate documentation, FDOT may render a decision regarding the dispute. In reaching its decision, FDOT will take into account all comments regarding the dispute from the consulting parties.
 - b. FDOT will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute. FDOT's decision will be final.
8. When the discovery consists of human remains, graves, or grave-associated artifacts or other properties to which federally recognized Tribes with ancestral ties to Florida may ascribe traditional cultural and religious significance, FDOT notifies the Tribes. FDOT complies with **Section 7-1.6** of FDOT's **Standard Specifications for Road and Bridge Construction**, the procedures for inadvertent discovery of human remains contained in **Chapter 872.05, F.S.** (see **Section 8.3.6**), the provisions of **36 CFR Part 800.13**, and the provisions regarding Post-Review Discoveries in Stipulation X of the **Section 106 PA**.

8.3.6.5 Review and Compliance Requirements

Prior to the approval of the construction plans and any design modifications proposed during construction, the Construction Office reviews the plans and/or the modifications to verify that the commitments associated with the project's relationship to or effects upon historic properties, as well as federal and state regulations, are incorporated into the design and plans. These reviews require the involvement of the District Environmental Office (see **Section 8.1**).

In addition to the plan notes and specifically outlined conditions provided with the project construction plans, the Contractor follows the provisions set forth in the most recent version of FDOT's **Standard Specifications for Road and Bridge Construction**.

8.4 REFERENCES

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ACHP, Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges, November 16, 2012. <http://www.achp.gov/progalt/Post-1945%20Bridge%20Program%20Comment.pdf>

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Amendment to Programmatic Agreement (PA) Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Florida Division of Historical Resources, State Historic Preservation Officer and the Florida Department of Transportation for the Federal-Aid Highway Program in Florida effective March 14, 2016. May 8, 2017

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American Indian Religious Freedom Act of 1978, 42 U.S.C. §1996.

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Chapter 253.027, F.S., Emergency Archaeological Properties Acquisition Act of 1988.

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Chapter 337.274, F.S., Authority of Department Agent or Employee to Enter Lands, Waters, and Premises of Another in the Performance of Duties (FDOT Agency Access to Private Property).

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0337/Sections/0337.274.html

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Transportation Equity Act for the 21st Century (TEA-21), 1998

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USDOT Act of 1966, 49 U.S.C. § 303

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8.5 FORMS

Non-Major State Action Checklist, Form No. 650-050-30*

[Project Commitments Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29*

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

8.6 HISTORY

1/12/1999, 9/7/2016

Designation	State/County Road Number	County	Dedicated by	Effective Date
McGregor Boulevard State Historic Highway	S.R. 867	Lee	75-312	07/05/1975
Bird Road State Historic Highway	S.R. 976	Miami-Dade	80-433	06/02/1980
Brickell Avenue	S.R. 5	Miami-Dade	SB 138	07/01/2007
Calle De Ocho State Historic Highway	S.R. 90	Miami-Dade	86-308	07/03/1986
Coral Way Historic Canopied Road	S.R. 972	Miami-Dade	76-304	05/29/1976
Coral Way and SW 3 rd Avenue State Historical	S.R. 972	Miami-Dade	84-379	06/06/1984
Crandon Boulevard State Historic Highway		Miami-Dade	88-418	07/07/1988
Killian Drive State Historic Highway	S.R. 990	Miami-Dade	95-434	06/01/1995
Le Jeune Road	SW 42 nd Avenue	Miami-Dade	02-304	05/01/2002
Old Cutler Road State Historic Highway		Miami-Dade	74-400	05/27/1974
Red Road State Historic Highway	C.R. 823	Miami-Dade	89-383	06/28/1989
South Bayshore Drive		Miami-Dade	77-491	06/20/1977
South Miami Avenue		Miami-Dade	77-491	06/20/1977
South West 62 nd Avenue		Miami-Dade	93-294	04/01/1993
Sunset Drive State Historic Highway		Miami-Dade	83-365	06/05/1983
Old Apopka Road Historic Roadway	S.R. 15	Orange	91-320	05/31/1991
North Ocean Boulevard	S.R. A1A	Palm Beach	92-152	04/08/1992

Figure 8-1 State-Designated Historic Highways

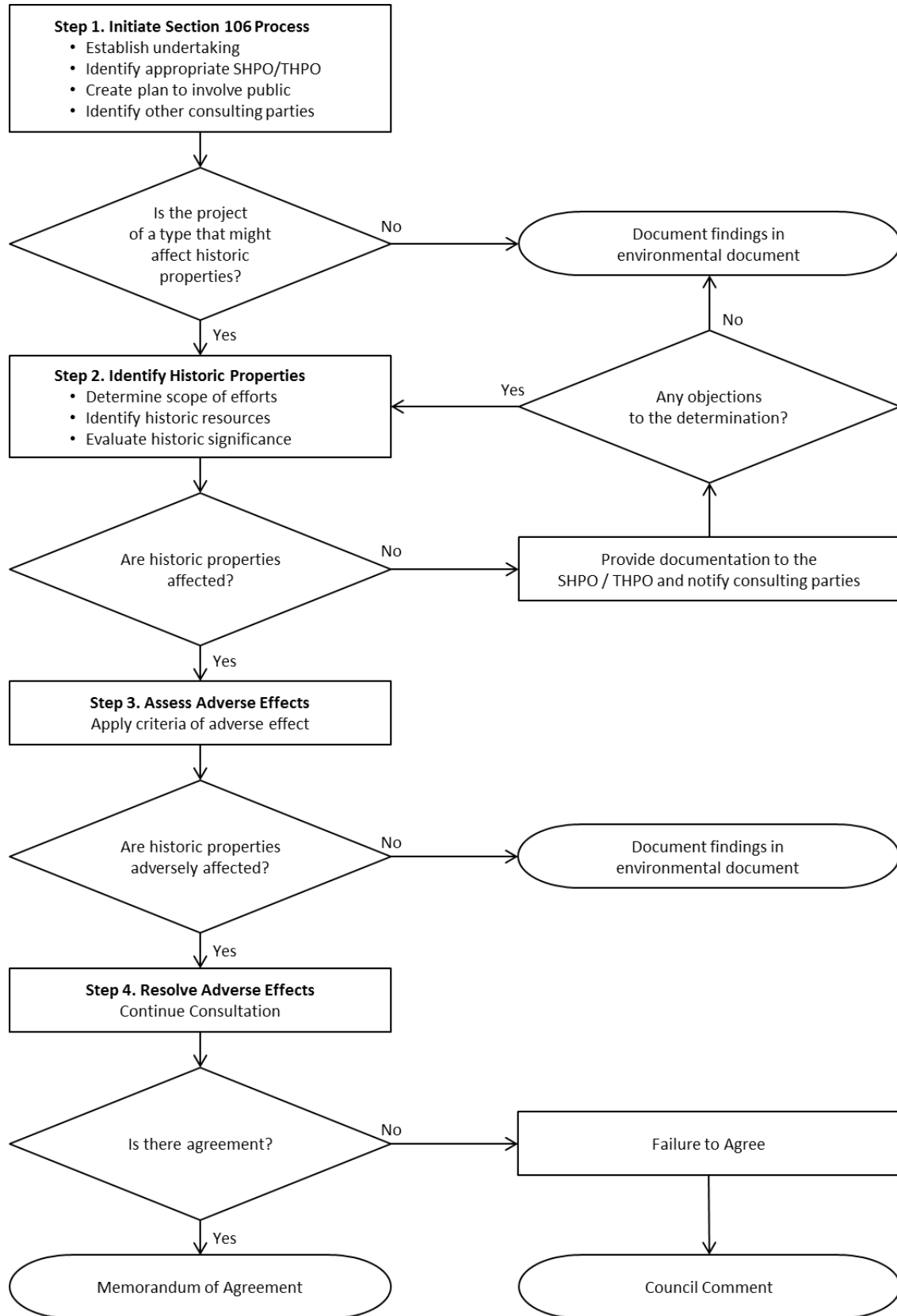


Figure 8-2 Section 106 Process

Minor highway project activity types requiring Section 106 Desktop and/or Field Review are:

1. Activities that do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities, as defined in 23 United States Code (U.S.C.) § 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. § 134; approval of statewide programs under 23 CFR Part 630; approval of project concepts under 23 CFR Part 476; 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 that establish classes of highways on the Federal-aid highway system.
2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities
4. Transfer of federal lands pursuant to 23 U.S.C. § 317 when subsequent action is not an FHWA action.
5. The installation of noise barriers, or alterations, to existing publicly-owned buildings to provide for noise reduction.
6. Landscaping.
7. Emergency repairs under 23 U.S.C. § 125.
8. Acquisition of scenic easements.
9. Determination of payback under 23 CFR Part 480 for property previously acquired with Federal-aid participation.
10. Improvements to existing rest areas and truck weigh stations.
11. Ride-sharing activities.
12. Bus and rail car rehabilitation.
13. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
14. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

Figure 8-3 Project Activity Types Identified in Section 106 PA as Requiring Desk Top Evaluation and Field Review

15. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities that themselves are within a CE.
16. Track and rail-bed maintenance and improvements when carried out within the existing ROW.
17. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
18. Promulgation of rules, regulations, and directives.
19. Adding or lengthening turning lanes (including continuous turn lanes), intersection improvements, channelization of traffic, dualizing lanes at intersection and inter-changes, auxiliary lanes, and reversible lanes.
20. Flattening slopes; improving vertical and horizontal alignments.
21. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.
22. Restore, replace and rehabilitate culverts, inlets, drainage pipes, and systems including safety treatments.
23. Widening, adding roadway width and and/or roadway reconstruction shoulders without adding through traffic lanes.
24. Roadway skid hazard treatment.
25. Upgrade, removal, or addition of guardrail.
26. Upgrade median barrier.
27. Install or replace impact attenuators.
28. Upgrade bridge end approaches/guardrail transition.
29. Upgrade railroad track circuitry.
30. Improve railroad crossing surface.
31. Improve vertical and horizontal alignment of railroad crossing.
32. Improve sight distance at railroad crossing.

Figure 8-3 Project Activity Types Identified in Section 106 PA as Requiring Desk Top Evaluation and Field Review (Page 2 of 4)

33. Railroad crossing elimination by closure, and railroad overpass removal within ROW.
34. Clear zone safety improvements, such as fixed object removal or relocation.
35. Screening unsightly areas.
36. Freeway traffic surveillance and control systems.
37. Motorist aid systems.
38. Highway information systems.
39. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair and the removal and replacement of old pavement structure.
40. Restore, rehabilitate, and/or resurface existing pavement.
41. Computerized traffic signalization systems.
42. Widening of substandard bridge to provide safety shoulders without adding through lanes.
43. Replacement of existing bridge (in same location) by present criteria.
44. Transportation enhancement projects involving acquisition of historical sites and easements, or historical preservation.
45. Preservation of abandoned railway corridors, including the conversion and use for pedestrian, equestrian, or bicycle trails.
46. Rehabilitation and operation of historic transportation buildings, structures, or facilities, including railroad facilities and canals.
47. Mitigation of water pollution due to highway runoff.
48. Bridge removal.
49. Approvals for disposal of excess ROW or for joint or limited use of ROW, where the proposed use does not have significant adverse effects.
50. Rehabilitation or reconstruction of existing rail and bus transit buildings and ancillary buildings where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.

Figure 8-3 Project Activity Types Identified in *Section 106 PA* as Requiring Desk Top Evaluation and Field Review (Page 3 of 4)

51. 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.
52. Acquisition of land for hardship or protective purposes for a particular parcel or a limited number of parcels; advance land acquisition loans under section 3(b) of the Urban Mass Transportation Act.
53. Mitigation Projects.
54. Animal crossings.
55. Changes in access controls.
56. Minor ROW acquisition for roadway and bridge projects without the addition of through traffic lanes.
57. Recreational Trails.

Figure 8-3 Project Activity Types Identified in Section 106 PA as Requiring Desk Top Evaluation and Field Review (Page 4 of 4)

Contact information for the six federally recognized Native American Tribes with cultural associations in Florida currently is as follows. For updated contact information, refer to FDOT's Native American Coordination web page at:
<http://dot.state.fl.us/emo/NA%20Website%20Files/index.shtm>.

Miccosukee Tribe of Indians of Florida

The Chief of the Miccosukee Tribe of Indians of Florida has formally designated a Section 106 representative and has directed that all correspondence regarding Section 106 issues be sent directly to this representative.

Section 106 and NAGPRA Representative
Miccosukee Tribe of Indians of Florida
HC61

SR Box68 Old Loop Road

Ochopee, FL

Mississippi Band of Choctaw Indians

Contract only for undertakings in the following Florida counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, and Gulf.

Tribal Chief	Tribal Historic Preservation Officer
Mississippi Band of Choctaw Indians	Mississippi Band of Choctaw Indians
Office of the Tribal Chief	P.O. Box 6257
101 Industrial Road	101 Industrial Road
Choctaw, MS 39350	Choctaw, MS 39350

Muscogee (Creek) Nation

Principal Chief	Tribal Historic Preservation Officer
Muscogee (Creek) Nation	Muscogee (Creek) Nation Cultural
P.O. Box 580	Preservation Office
Okmulgee, OK 74447	P.O. Box 580
	Okmulgee, OK 74447

Poarch Band of Creek Indians

Tribal Chair	Tribal Historic Preservation Officer
Poarch Band of Creek Indians	Poarch Band of Creek Indians
5811 Jack Springs Road	5811 Jack Springs Road
Atmore, AL 36502	Atmore, AL 36502

Seminole Tribe of Florida

Chairman	Tribal Historic Preservation Officer
Seminole Tribe of Florida	30290 Josie Billie Hwy, PMB 1004
6300 Stirling Road	Clewiston, FL 33440
Hollywood, FL 33024	

Seminole Nation of Oklahoma

Principal Chief	Tribal Historic Preservation Officer
Seminole Nation of Oklahoma	Seminole Nation of Oklahoma
P.O. Box 1498	P.O. Box 1498
Wewoka, OK 74884	Wewoka, OK 74884

Figure 8-4 Contact List for Native American Tribes

[DATE]

[TRIBAL CONTACT NAME]
[TITLE]
[ADDRESS]

Re: [PROJECT NAME]
COUNTY: [Name]

Dear [TRIBAL CONTACT NAME]:

Please find enclosed one copy of the Cultural Resource Assessment Survey (CRAS) Report for the [PROJECT NAME] for your review and comment. This report documents the cultural resource survey conducted pursuant to *Section 106* of the *National Historic Preservation Act (NHPA) of 1966* (Public Law 89-665, as amended) and its implementing regulations (36 CFR Part 800: *Protection of Historic Properties*, incorporating amendments effective August 5, 2004). The objectives of this survey were to identify cultural resources within the project corridor and assess their eligibility for inclusion in the *National Register of Historic Places (National Register)*. As noted in the [INSERT DATE] letter from the Florida Department of Transportation (FDOT) to the [INSERT TRIBE NAME] that initiated *Section 106* consultation (see attached), this report is being forwarded to you as part of the project-specific consultation.

No archaeological sites were identified during the survey of [PROJECT NAME]. If you have any questions, please feel free to call the Director of OEM at (850) 414-5316 or OEM Cultural Resources Coordinator at (850) 414-5323. You may also contact [NAME, TITLE, PHONE NUMBER] for project-specific information if so desired.

Sincerely,

[NAME]
Director, Environmental Management

Enclosures

cc: [Additional tribal contacts]
[District Engineer]
[District specific contacts]

State Cultural Resource Coordinator

Figure 8-5 Sample Submittal Letter to Tribes (No Tribal Cultural Sites)

[Date]

[TRIBAL CONTACT NAME]
[TITLE]
[ADDRESS]

Re: [PROJECT NAME]
COUNTY: [Name]

Dear [TRIBAL CONTACT NAME]:

Please find enclosed one copy of the Cultural Resource Assessment Survey (CRAS) Report for the [PROJECT NAME] for your review and comment. This report documents the cultural resource survey conducted pursuant to *Section 106* of the *National Historic Preservation Act (NHPA) of 1966* (Public Law 89-665, as amended) and its implementing regulations (36 CFR Part 800: *Protection of Historic Properties*, as revised January 2001 and incorporating amendments effective August 5, 2004). The objectives of this survey were to identify cultural resources within the project corridor and assess their eligibility for inclusion in the *National Register of Historic Places (National Register)*. As noted in the [INSERT DATE] letter from the Florida Department of Transportation (FDOT) to the [INSERT TRIBE NAME] that initiated *Section 106* consultation (see attached), this report is being forwarded to you as part of the project-specific consultation.

A total of [INSERT NUMBER] archaeological sites were identified during the survey of [PROJECT NAME]. [NOTE TYPE OF SITES AND THEIR NATIONAL REGISTER ELIGIBILITY RECOMMENDATION, IF APPLICABLE]

We welcome any comments you may have pertaining to this project and seek your concurrence with the finding. [DETAIL FINDINGS IF APPROPRIATE] We look forward to continuing the consultation process and working with you.

If you have any questions, please feel free to call the Director of OEM at (850) 414-or OEM Cultural Resources Coordinator) at (850) 414-5323. You may also contact [NAME, TITLE, PHONE NUMBER] for project-specific information if so desired.

Sincerely,

[NAME]
Director, Office of Environmental Management

Enclosures

cc: [Additional tribal contacts]
[District Engineer]
[District specific contacts]

State Cultural Resource Coordinator

Figure 8-6 Sample Submittal Letter to Tribes (with Tribal Cultural Sites)

Bridge Number and Name	County	Bridge Type and Year Built	Brief Description of Significance
054015 C.R. 721A / Harney Pond Canal	Glades	Prestressed Concrete slab 1958	Very early or particularly important example of its type in the state or the nation.
910001 S.R. 70 / Kissimmee River	Okeechobee/ Highlands	Steel girder 1966	Has distinctive engineering or architectural features that depart from standard bridge designs.
910009 S.R. 78/ Kissimmee River	Okeechobee	Steel girder 1964	Has distinctive engineering or architectural features that depart from standard bridge designs.
720075 SR 109 / SR 10A	Duval	Concrete Tee beam 1952	Has distinctive engineering or architectural features that depart from standard bridge designs.
720087 U.S. 1 / Miami Road	Duval	Continuous Steel girder 1968	Has distinctive engineering or architectural features that depart from standard bridge designs.
720100 S.R. 115A Flyover / S.R. 10A	Duval	Concrete Box beam 1961	Very early or particularly important example of its type in the state or the nation.
760002 S.R. 19 / Proposed Cross Florida Barge Canal	Putnam	Continuous Steel girder 1967	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
580951 S.R. 399 / ICWW	Santa Rosa	Steel girder 1960	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
460019 U.S. 98 (S.R. 30) / ICWW	Bay	Concrete girder 1965	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
570034 U.S. 98 (S.R. 30) / ICWW	Okaloosa	Steel girder 1964	Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
880005 James H. Pruitt Memorial / S.R. A1A over Sebastian Inlet	Indian River	Prestressed concrete girder 1964	Very early or particularly important example of its type in the state or the nation.
364040 C.R. 316 / Proposed Cross Florida Barge Canal	Marion	Continuous steel girder 1969	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.

Figure 8-7 Florida Post-1945 Bridges Requiring Evaluation and/or Individual Treatment under Section 106

Bridge Number and Name	County	Bridge Type and Year Built	Brief Description of Significance
360055 S.R. 40 / Ocklawaha River	Marion	Continuous steel girder 1972	Associated with an event or individual. Features spans of exceptional length or complexity. Displays other elements that were engineered to respond to a unique environmental context.
904603 Bimini Drive/ Sam's Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
904604 Harbour Drive / Joe's Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
904606 Seaview Drive / Un-Named Canal	Monroe	Prestressed concrete channel beam 1955 / 1982	Associated with an event or individual. Has distinctive engineering or architectural features that depart from standard bridge designs.
870078 S.R. 826 SB Flyover to S.R. 836	Miami-Dade	Prestressed concrete box beam 1967	Very early or particularly important example of its type in the state or the nation.
None Florida Kennels Rock Bridge / driveway over Red Canal	Miami-Dade	Concrete and rock culvert 1947	Has distinctive engineering or architectural features that depart from standard bridge designs.
None Rock Bridge over Red Road Canal	Miami-Dade	Concrete and rock culvert 1947	Has distinctive engineering or architectural features that depart from standard bridge designs.

Figure 8-7 Florida Post-1945 Bridges Requiring Evaluation and/or Individual Treatment under Section 106 (Page 2 of 2)

March 2, 2017

FDOT GUIDANCE FOR CIRCULATION OF DOCUMENTS RELATED TO COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966, AS AMENDED (NHPA) UNDER THE FEDERAL HIGHWAY ADMINISTRATION'S (FHWA) ASSIGNMENT OF COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) PURSUANT TO A MEMORANDUM OF UNDERSTANDING SIGNED DECEMBER 14, 2016.

1. Consultation under Section 106 will continue to proceed as described in the March 2016 Section 106 Programmatic Agreement, with the exception that FDOT's Office of Environmental Management (OEM) will serve as the lead federal agency (FHWA) in performing their tasks described in Stipulation IV A of the Section 106 PA (see attached document).
2. Government-to-government consultation remains with FHWA, when government-to-government consultation is requested by a federally recognized Native American Tribe with cultural ties to Florida. However, the day to day consultations and communications related to notification and distribution of project information, the submission and coordination of Cultural Resources Assessment Surveys and normal findings of effect or adverse effect do not represent government-to-government consultation. If a tribe requests government-to-government consultation to the FDOT District, the District must inform OEM. OEM will inform FHWA. If a tribe requests government-to-government consultation with FHWA through OEM, OEM will inform FHWA and the appropriate FDOT District.
3. Circulation of notifications, surveys, determinations of eligibility to the National Register of Historic Places (NRHP), technical memoranda and associated findings as well as determinations of effects and adverse effects should be sent directly from the District to the SHPO/Director of the DHR with an electronic copy to OEM. SHPO responses, as well as related consulting party responses, should be copied to OEM or forwarded to OEM.
4. Surveys and correspondence (including cover letters) to the Native American tribes should be provided by the District to OEM for distribution to the tribes. When necessary, OEM will coordinate with the District to determine the District's role in addressing specific inquiries or providing responses to the tribes.
5. For the transfer of cultural resources survey materials to the tribes, the District must identify when there may be historic properties of cultural or religious importance to the tribes and provide sufficient copies of the survey report to OEM to forward.
6. Once it is determined that a proposed project will have an adverse effect upon significant historic properties, OEM, through the assigned OEM Project Delivery Coordinator (PDC) and the OEM Cultural Resources Program Specialist, needs to be included in the consultations for the resolution of Adverse Effects.

Figure 8-8 FDOT Guidance for Circulation of Documents Related to Compliance with Section 106 of the National Historic Preservation Act of 1966 under the NEPA Assignment Program

7. Memoranda of Agreement and other commitment documents created in order to resolve adverse effects to historic properties require OEM review and legal review from the Office of the General Counsel. Documents generated by the fulfillment of Agreement Documents (*e.g.* Historic American Building Survey reports) are to be provided to OEM and OEM will communicate these to the SHPO for its review. Coordination of approach in preparing these materials must include OEM, and OGC as needed, in the discussions with the appropriate consulting parties.

8. Decisions to phase Cultural Resources Assessment Surveys or to initiate Phase II archaeological testing must include OEM in the consultations to reach agreement on the decision.

Figure 8-8 FDOT Guidance for Circulation of Documents Related to Compliance with Section 106 of the National Historic Preservation Act of 1966 under the NEPA Assignment Program (Page 2 of 2)

The following is a sample transmittal letter to SHPO. The sample transmittal letter is followed by examples of the different signature blocks required for different situations.

1. The transmittal letter includes a date and is addressed to:

[DATE]
Director and State Historic Preservation Officer
Florida Division of Historical Resources
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

2. In the subject lines, provide the project name and limits, project phase (e.g., PD&E Study, pond siting), the Financial Management Number, and/or the Federal-Aid Project (FAP) Number, as applicable:

Cultural Resource Assessment Survey
Project Development and Environment (PD&E) Study
[PROJECT NAME]
[COUNTY], Florida
Financial Management No.: XXXXXX X XX XX
Federal Aid Project No.: XXXXXX

3. Description of the project:

4. A Cultural Resource Assessment Survey (CRAS) was conducted within the Area of Potential Effects (APE) for the above-referenced project as part of the Florida Department of Transportation's (FDOT's) proposed widening of approximately [length] miles of [project roadway and limits]. The proposed improvements involve widening [PROJECT ROADWAY] from the existing two lanes to a four-lane, divided facility along the existing alignment. The Build alternative will require _____ feet of additional right of way and will include drainage improvements for the portion of the [PROJECT NAME] project running from [PROJECT START] to [PROJECT TERMINUS], associated curb and gutter improvements, and bringing the pedestrian facilities up to the standards established in the Americans with Disabilities Act (ADA). A description of the project APE for both archaeological sites and historic resources, followed by:

This APE was defined, in consultation with the State Historic Preservation Officer (SHPO), as the existing right of way for the archaeological survey. The historical APE extended approximately 300 feet from the edge of the existing right of way, and a maximum of 3,000 feet of the centerline of [PROJECT MAINLINE] along [NAMES OF INTERSECTIONS].

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks

5. Regulatory authorities:

This CRAS was conducted in accordance with the requirements set forth in the National Historic Preservation Act of 1966, as amended, and Chapter 267, Florida Statutes (F.S.). The investigations were carried out in accordance with Part 2, Chapter 12 (Archaeological and Historical Resources) of FDOT's Project Development and Environment (PD&E) Manual, FDOT's Cultural Resources Manual, and the standards contained in the Florida Division of Historical Resources (FDHR) Cultural Resource Management Standards and Operations Manual (FDHR 2003). In addition, this survey meets the specifications set forth in Chapter 1A-46, Florida Administrative Code.

6. Summary results of the background research

Background research revealed that no archaeological sites were previously recorded within the project APE. Archaeological background research suggested the project corridor had a generally low potential for aboriginal site occurrence. No historic period archaeological sites were expected. Therefore, the corridor was subjected to a pedestrian survey and appropriate judgmental subsurface testing. Eight previously recorded historic structures and one resource group were identified within the project APE. These recorded resources include six Frame Vernacular style residences constructed between circa (ca.) 1935 and 1955 [FMSF NUMBERS], two ca. 1950 Masonry Vernacular style commercial buildings [FMSF NUMBERS], and a segment of the Seaboard Railway corridor [FMSF NUMBER]. None of the recorded residential and commercial structures was listed or determined eligible for listing in the National Register; the resource group has not been evaluated by SHPO.

7. Summary results of the background research

Background research revealed that no archaeological sites were previously recorded within the project APE. Archaeological background research suggested the project corridor had a generally low potential for aboriginal site occurrence. No historic period archaeological sites were expected. Therefore, the corridor was subjected to a pedestrian survey and appropriate judgmental subsurface testing. Eight previously recorded historic structures and one resource group were identified within the project APE. These recorded resources include six Frame Vernacular style residences constructed between circa (ca.) 1935 and 1955 [FMSF NUMBERS], two ca. 1950 Masonry Vernacular style commercial buildings [FMSF NUMBERS], and a segment of the Seaboard Railway corridor [FMSF NUMBER]. None of the recorded residential and commercial structures was listed or determined eligible for listing in the National Register; the resource group has not been evaluated by SHPO.

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks (Page 2 of 6)

8. Summary results of the archaeological and historical/architectural field surveys, including evaluations of National Register eligibility:

No archaeological sites were identified as a result of field survey. The historical/architectural field survey indicated that four [FMSF NUMBERS] of the previously recorded historic structures and the resource group [FMSF NUMBER] have been demolished. Two previously recorded [FMSF NUMBERS] and 14 newly recorded [FMSF NUMBERS] historic resources were evaluated for eligibility for listing in the National Register. None of these resources is considered potentially eligible for listing in the National Register.

In cases where a preliminary analysis of proposed ponds is conducted as part of the CRAS for a PD&E Study, with the results summarized in a Technical Memorandum included as an appendix to the CRAS Report, the following standard language may be added to the letter:

A preliminary analysis of 14 proposed ponds was conducted as part of this CRAS; the Technical Memorandum summarizing the results of this analysis is included as Appendix [X]. No fieldwork was performed. A CRAS, including fieldwork, will be prepared after the preferred pond sites are selected.

In cases where previously recorded or newly discovered archaeological or historic resources are found to be either listed in the National Register or determined eligible for listing, the transmittal letter should provide the Criteria of Eligibility (for example, "Criterion A: associated with events that have made significant contribution to the broad patterns of our history"), along with the primary character of the property (for example, a rare example of a pre-Colombian village site, a contact-period trading site, a unique or important engineering achievement, the home of an important person, or the location of an important event, an excellent representative of an important architectural style, and so on). If any of the Criteria considerations established by the National Register are applicable to the property, provide those as well.

9. Summary of potential project effects to significant cultural resources when there is enough project and/or site detail to support this.

"Based on the results of background research and field survey, no significant cultural resources are located within the [PROJECT NAME] project APE. Therefore, project development will have no involvement with any archaeological sites or historic resources that are listed, determined eligible, or considered potentially eligible for listing in the National Register.

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks (Page 3 of 6)

OR, in the case of potentially eligible resources:

Based on the results of background research and field survey, no significant cultural resources are located within the [PROJECT NAME] project APE, with the exception of [FMSF NUMBER and NAME], which is potentially eligible for listing in the National Register, in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations. Should SHPO/THPO concur with this finding, we look forward to further consultation SHPO/THPO to evaluate the effects of the proposed undertaking (preferred alternative) on the potentially National Register-eligible [NAME OF PROPERTY].

10. Closing statement:

The CRAS Report is provided for your review and coordination with SHPO. Provided your office concurs with the findings, please transmit one copy of the CRAS Report, the FMSF forms, and the Survey Log Sheet to the State Historic Preservation Officer (SHPO) for review and concurrence. The second copy of the report is for your files. If you have any questions, please do not hesitate to call me at [TELEPHONE NUMBER and EMAIL ADDRESS].

In cases where the survey encountered or evaluated sites or resources that could be of cultural or religious importance to the Tribes, include a statement to that effect, along with a statement about coordination conducted with SHPO and the 5 (or 6) federally recognized Tribes. Forward sufficient numbers of the CRAS and associated documents for tribal review, including the cover letters for tribal coordination. Note that the cover letter for the Tribes will not include the signature blocks.

11. List of enclosed documents:

Enclosed are two copies of the CRAS Report [DATE], [NUMBER] FMSF forms [list the FMSF NUMBERS], a Survey Log Sheet, and two CDs with pdf files of the CRAS Report, FMSF forms, and Survey Log Sheet.

12. Signature and comment block for approval by SHPO (see below for sample signature blocks).

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks (Page 4 of 6)

Use the following signature block.

The Florida State Historic Preservation Officer finds the attached Cultural Resource Assessment Survey Report complete and sufficient and <input type="checkbox"/> concurs/ <input type="checkbox"/> does not concur with the recommendations and findings provided in this cover letter for SHPO/FDHR Project File Number _____. Or, the SHPO finds the attached document contains _____ insufficient information.	
SHPO Comments:	
[NAME], Director, and State Historic Preservation Officer Florida Division of Historical Resources	[DATE]

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks (Page 5 of 6)

For letters from FDOT to SHPO for state actions, use the following signature block:

The Florida State Historic Preservation Officer finds the attached Cultural Resource Assessment Report complete and sufficient and <input type="checkbox"/> concurs/ <input type="checkbox"/> does not concur with the determinations of historic significance provided in this cover letter and <input type="checkbox"/> does <input type="checkbox"/> does not find applicable the determinations of effects and adverse effects provided in this cover letter for SHPO/FDHR Project File Number _____.	
SHPO Comments:	
[NAME], Director Florida Division of Historical Resources	[DATE]

Figure 8-9 Sample Transmittal Letter with Sample Signature Blocks (Page 6 of 6)

March 2, 2017

FDOT GUIDANCE FOR CIRCULATION OF DOCUMENTS FOR COORDINATING CULTURAL RESOURCES CONSIDERATION WITH TRIBAL HISTORIC PRESERVATION OFFICIALS AS PART OF DEPARTMENT POLICES FOR TRIBAL COORDINATION REQUIREMENTS UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966, AS AMENDED (NHPA) AND UNDER THE FEDERAL HIGHWAY ADMINISTRATION'S (FHWA) ASSIGNMENT OF COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) PUSUANT TO A MEMORANDUM OF UNDERSTANDING SIGNED DECEMBER 14, 2016 AND UNDER DEPARTMENT PROCEDURES FOR COMPLIANCE WITH THE FLORIDA HITORICAL RESOURCES ACT (CHAPTER 267, FLORIDA STATUTES)

1. This is an expansion of the Guidance provided on March 2, 2017 and is for coordinating historic and archaeological surveys and findings with Native American Tribes having historical and cultural interests in Florida under both federal and state historic preservation law.
2. The guidance of March 2, 2017 remains in effect for Federal-Aid highway projects where OEM serves as the lead federal agency.
3. For projects which are solely state-funded, the appropriate FDOT-District (including Turnpike) remains responsible for ensuring compliance with Chapter 267, Florida Statutes (F.S.), and for the associated day-to-day coordination with the Director of the Florida Division of Historical Resources (DHR or SHPO) and appropriate Indian tribes, including the transmission of cultural resources assessment surveys and effects findings made pursuant to state law.

Figure 8-10 FDOT Guidance for Circulation of Documents for Coordinating Cultural Resources Consideration with Tribal Historic Preservation Offices under Section 106 of the National Historic Preservation Act of 1966 and the NEPA Assignment Program

4. In circumstances where the DHR or a tribe requests the involvement of OEM or any additional information or more detailed coordination (such as any special provisions or requests for activities such as monitoring, avoidance of survey activities in a specific area of the project areas of potential effects, ground penetration radar analysis, special treatments for artifacts, or any other unusual activity) provide the request to OEM and include OEM in the coordination. However, for normal day-to-day communications associated with compliance with Chapter 267, F.S., the District may complete this coordination as appropriate with DHR and the tribes with copies of all correspondence to the State Cultural Resources Coordinator (SCRC), the appropriate Project Development Coordinator (PDC) and the Director of the OEM.
5. Should there be a disagreement between the District and either DHR or one of the tribes, notify the PDC and copy related correspondences to the SCRC and the Director of OEM.
6. For state-funded projects requiring a federal permit, notify the permitting agency whenever consultation with a tribe will be required.

Figure 8-10 FDOT Guidance for Circulation of Documents for Coordinating Cultural Resources Consideration with Tribal Historic Preservation Offices under Section 106 of the National Historic Preservation Act of 1966 and the NEPA Assignment Program (Page 2 of 2)

CULTURAL RESOURCES ASSESSMENT SURVEY REPORT

Florida Department of Transportation

Financial Management Number: XXXXX-X

Limits of Project, County, Florida

(Brief Description of the Project)

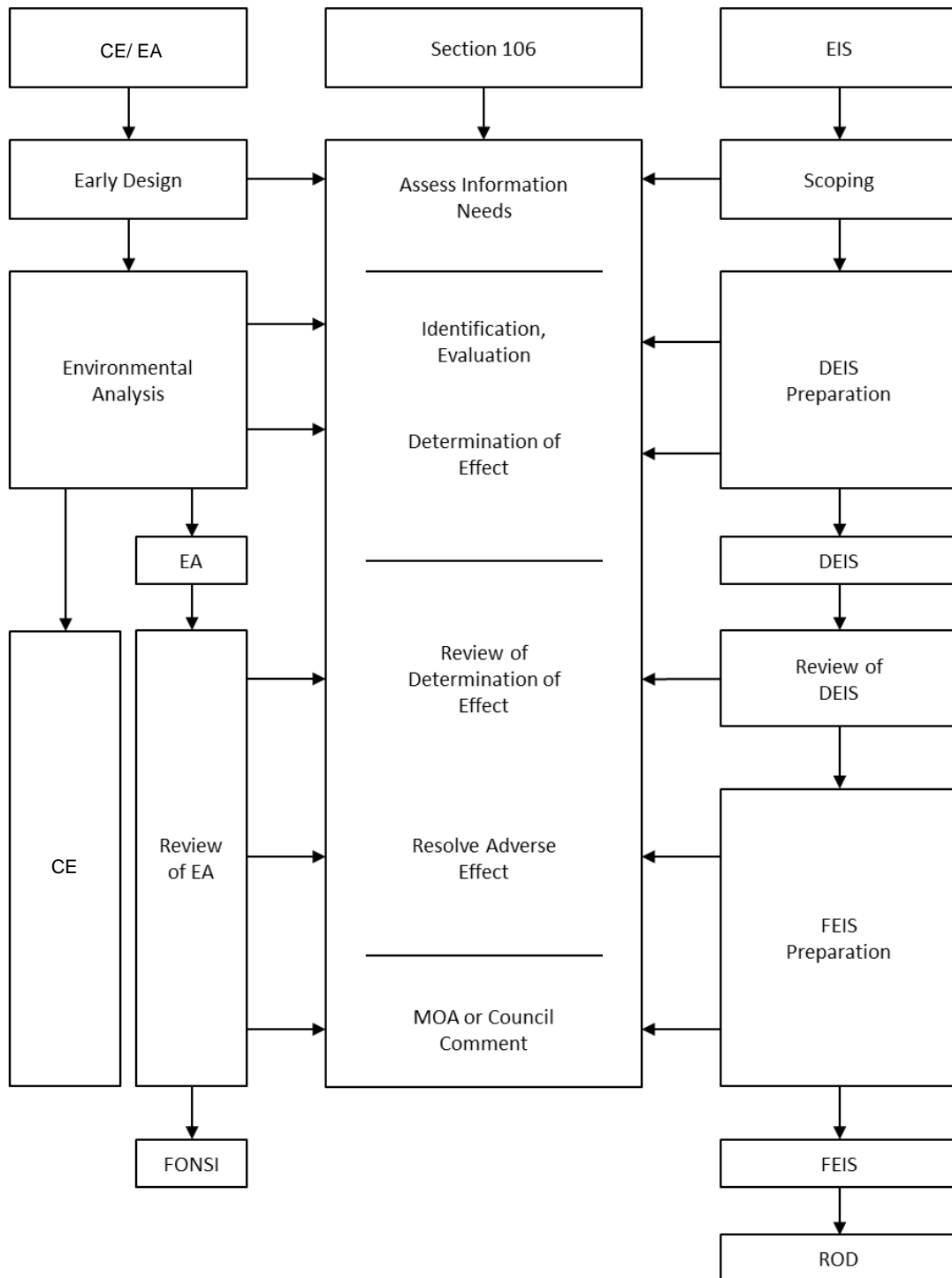
XX
XX
XX
XX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Prepared by District x

Figure 8-11 Sample Technical Report Cover

COORDINATION BETWEEN NEPA AND SECTION 106



The Public and Consulting Parties must be notified and given the opportunity to comment during each step of the Section 106 review process.

Figure 8-12 NEPA and Section 106

[Date]

[Name and Title]

Division of Historical Resources
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250
ATTN: Transportation Compliance

Re: Financial Management Number XXXXX-XXXX
Contract Number XXXXXXXXX
XXX County, Florida

Dear XXX:

We propose to conduct off project highway construction activities [ADD BRIEF DESCRIPTION] for the above-referenced Department of Transportation project. The proposed off project area, which covers (ACREAGE OR DIMENSIONS), is depicted on the attached map and is located as follows:

County	_____	Township	_____	Range	_____
Section	_____	¼ Section	_____	¼ ¼ Section	_____

Please initiate an assessment of the proposed off project area to determine the possible effects of our operations on archaeological, architectural, or historic sites or properties. Please advise at your earliest convenience as to whether the project may proceed without further involvement with your agency or if a cultural resources field survey is required.

If you have any questions concerning this request, contact (CONTRACTOR'S REPRESENTATIVE) at (TELEPHONE NUMBER).

Sincerely,

NAME
ABC Construction Company
[ADDRESS]

Attachment

CC: [NAME], Director
Office of Environmental Management Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, Florida 32399-0450

[NAME], District Project Manager
[NAME], District Environmental Manager
[NAME], District Cultural Resource Coordinator

Figure 8-13 Contractor's Request for a Cultural Resource Assessment

PART 2, CHAPTER 9

WETLANDS AND OTHER SURFACE WATERS

TABLE OF CONTENTS

9.1	OVERVIEW.....	9-1
9.1.1	Regulation of Wetlands and other Surface Waters.....	9-1
9.1.2	Federal Highway Administration Wetlands Policy and Guidance	9-2
9.1.3	FDOT Wetland Evaluation Process.....	9-4
9.2	PROCEDURE	9-5
9.2.1	Advance Notification.....	9-5
9.2.2	Wetland Evaluation	9-5
9.2.3	Conceptual Mitigation Plan.....	9-8
9.2.3.1	Federal Highway Administration Policy and Funding.....	9-8
9.2.3.2	Wetland Mitigation	9-9
9.2.4	Documentation	9-10
9.2.4.1	Categorical Exclusions	9-10
9.2.4.2	Environmental Assessment and Environmental Impact Statement	9-11
9.2.4.2.1	Environmental Analysis Section.....	9-11
9.2.4.3	Finding of No Significant Impact and Final Environmental Impact Statement.....	9-13
9.2.4.4	State Environmental Impact Report.....	9-14
9.2.5	Public Notice of Wetland Involvement	9-14
9.2.6	Merging the NEPA Process and Section 404 of CWA.....	9-14

9.2.6.1	Process.....	9-15
9.2.7	Permits for Wetland Impacts	9-16
9.2.8	Re-evaluation	9-16
9.2.9	Design and Construction	9-16
9.3	REFERENCES	9-17
9.4	FORMS.....	9-19
9.5	HISTORY	9-20

TABLE OF FIGURES

Figure 9-1	Wetland Evaluation Process	9-21
Figure 9-2	FDEP, WMDs, and USACE Mitigation Information	9-22

PART 1, CHAPTER 9

WETLANDS AND OTHER SURFACE WATERS

9.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Wetlands and other surface waters provide important and beneficial functions including: protecting and improving water quality, providing fish and wildlife habitat, and storing floodwaters. They are protected at the federal and state level because of the important functions they perform. The **Rivers and Harbors Act, Clean Water Act (CWA)**, and associated regulations aim to restore and maintain existing aquatic resources. This requires that agencies strive to first avoid adverse impacts, and then minimize adverse impacts, and finally offset unavoidable adverse impacts to existing aquatic resources; and for wetlands, strive to achieve a goal of no overall net loss of values and functions. This chapter provides procedures for identifying, evaluating, and documenting potential wetland and other surface waters impacts associated with transportation projects and describes regulatory mitigation requirements.

At the federal level, waters of the United States (wetlands and other surface waters) are regulated by the United States Army Corps of Engineers (USACE) with support from United States Environmental Protection Agency (EPA), United States Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS). In Florida, wetlands and other surface waters are regulated by the Florida Department of Environmental Protection (FDEP) and the Water Management Districts (WMDs). When it is determined that there are unavoidable adverse impacts to wetlands, compensatory mitigation is required pursuant to **33 Code of Federal Regulations (CFR) Part 325 and 332, 40 CFR Part 230, and Section 373.4137, Florida Statutes (F.S.)**.

9.1.1 Regulation of Wetlands and other Surface Waters

The USACE authority to regulate work in the Nations' waters comes from **Section 10** of the **Rivers and Harbors Act of 1899**, which established permit requirements to prevent

unauthorized obstruction or alteration of any navigable water of the United States, and **Section 404** of the **CWA**, which authorizes the USACE to require permits for the discharge of dredged or fill material into waters of the United States at specified disposal sites. The USACE is the federal agency responsible for permitting wetland impacts, with oversight by the EPA. The USFWS and NMFS serve in a commenting role to the USACE with respect to their jurisdictional responsibilities.

Section 404 of the **CWA** also established a state regulatory authority over wetlands as they relate to water quality impacts. In Florida, state authority over activities in surface waters and wetlands is administered by the FDEP and the five WMDs. The Florida Fish and Wildlife Conservation Commission (FWC) advise the FDEP and WMDs on wildlife issues as a requirement under Florida's Environmental Resource Permit (ERP) Program.

Wetlands are one of the public interest factors identified in **33 CFR § 320.4, Public Interest Review**. If a **Section 404** permit is being pursued, the public interest factors relevant to each alternative should be evaluated and balanced. Relevant factors may include conservation, economics, aesthetics, wetlands, cultural values, navigation, fish and wildlife values, water supply, water quality, and any other factors judged important to the needs and welfare of the people.

A methodology for identifying and delineating wetlands in Florida is provided in **Rule 62-340, Florida Administrative Code (F.A.C.), Delineation of the Landward Extent of Wetlands and Surface Waters**. This methodology is a unified statewide approach to wetland and other surface water delineation and recognizes the vegetation, hydrologic, and soil features that specifically exist in Florida. The USACE uses the **Corps of Engineers Wetland Delineation Manual, 1987** and **Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010** to determine the federal wetland jurisdictional boundary. State and federal wetland boundaries may or may not match one another, so confirmation on this boundary should be obtained from each agency.

The Uniform Mitigation Assessment Method (UMAM) detailed in **Chapter 62-345, F.A.C.**, is the state-wide method to determine the functional value provided by wetlands and other surface waters. In some cases, the USACE's Wetland Rapid Assessment Procedure (WRAP) may need to be used in order to utilize a mitigation bank that was permitted under WRAP and not UMAM. Regulatory agency coordination is required for sites where other assessment methodologies were used.

9.1.2 Federal Highway Administration Wetlands Policy and Guidance

Presidential Executive Order (EO) 11990 entitled "Protection of Wetlands" establishes a National Policy to "avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative".

The U.S. Department of Transportation (USDOT) in implementing **EO 11990** set forth its policy on wetlands in **USDOT Order 5660.1A**, Preservation of the Nation's Wetlands,

which is "to assure the protection, preservation, and enhancement of the Nation's wetlands to the fullest extent practicable during the planning, construction and operation of transportation facilities and projects. New construction in wetlands shall be avoided unless there is no practicable alternative to the construction and the proposed action includes all practicable measures to minimize harm to wetlands which may result from such construction. In making a finding of no practicable alternative, economic, environmental, and other factors may be taken into account. Some additional cost alone will not necessarily render alternatives or minimization measures impracticable, since additional cost would normally be recognized as necessary and justified to meet national wetland policy objectives." More guidance on practicable alternatives is provided in **40 CFR § 230.10(a)**.

To fulfill the requirements of **USDOT Order 5660.1A**, FHWA has issued a **Technical Advisory T6640.8A**, which provides guidance on the preparation of Environmental Documents, including the assessment of project impacts on wetlands.

As stated in **Technical Advisory T6640.8A**, for an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) where wetland impacts may be significant, the Environmental Document should:

1. Identify the type, quality and function of wetlands involved
2. Describe the direct and indirect impacts to the wetlands that may result from the proposed alternative(s)
3. Evaluate alternatives which would avoid wetland impacts
4. Identify practicable measures to minimize harm to wetlands

In evaluating the impact of the proposed project on wetlands, the following should be addressed:

1. The importance of the impacted wetland(s)
 - a. The primary functions of the wetlands (e.g., flood control, wildlife habitat, ground water recharge)
 - b. The relative importance of these functions to the total wetland resource of the area
 - c. Other factors such as uniqueness that may contribute to the wetlands importance
2. The severity of the impact
 - a. The analysis should show the project's effects on the stability and quality of the wetland(s)

- b. The analysis should consider the short and long-term effects on the wetlands and the importance of any loss

FHWA's policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands and natural habitat resulting from federal-aid projects are contained in **23 CFR Part 777. FHWA's Environmental Policy Statement (1990, amended 1994)**, provides that FHWA will "participate to the fullest extent permitted by law, in funding mitigation and enhancement activities required by Federal, State, and local statutes and regulations for project related impacts to the natural environment, neighborhoods, and communities."

Documentation of agency and public coordination and relevant agreements must be a part of the wetland section of the **Natural Resource Evaluation (NRE)** and summarized in the Environmental Document. The integration of the **NEPA** process with **Section 404(b)(1) Guidelines** of the **CWA** is desirable ([Section 9.2.6](#)).

For non-federal projects, documented as State Environmental Impact Reports (SEIRs), the process should be the same or similar to federal projects in the event that federal funding is needed at a later time or to avoid any unnecessary delay when requesting permits from federal agencies. Districts should prepare the SEIR similar in scope and format to an EIS. For more information about developing SEIRs, see [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

9.1.3 FDOT Wetland Evaluation Process

Involvement with wetlands and other surface waters should be evaluated regardless of whether the project is required to meet **NEPA** or state requirements or qualifies for Environmental Screening Tool (EST) screening. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for project types qualifying for EST screening. [Figure 9-1](#) provides a flow chart of the wetland evaluation process. The term "wetlands" is used throughout this chapter and includes other surface waters. Other surface waters are included in the wetland evaluation.

For projects qualifying for EST screening, the District uses information from the **Programming Screen Summary Report** to determine the project's involvement with wetlands. The analyst should review the Environmental Technical Advisory Team (ETAT) comments made for the "Potential Navigable Waterways" and "Wetlands and Surface Waters" issues and coordinate with appropriate District staff (e.g. Environmental Manager, Permits Coordinator). It may also be helpful to review ETAT comments on other related issues such as "Coastal and Marine," "Water Quality and Quantity," and in some cases "Wildlife and Habitat." Comments from agencies that regulate wetlands (such as USACE, FDEP and WMDs) are especially important. The results of the screening can help the District identify the level of evaluation that may be needed, if permits may be necessary, and whether potential mitigation opportunities in the project area exist. The report may state specifically that a wetland evaluation in the **NRE** is needed in the "List of Technical Studies" section of the report. Other sections of the report may be useful such as the "General Project Recommendations" and "Anticipated Permits" sections. At

the beginning of the Project Development and Environment (PD&E) process, it is important to contact the commenting agencies to confirm their recommendations made during the EST screening events and to ensure wetland issues are addressed.

Regardless of the Environmental Document to be produced, wetland involvement or impacts must be addressed in the appropriate wetland section. For the purposes of this chapter, the term “wetland section” means the location where wetland involvement or impacts are discussed in the Environmental Document. Wetland evaluations and impact analyses conducted during the PD&E phase are detailed in the Wetland Evaluation section of the **NRE**. The **NRE** contains the identification and description of the potential wetland resources involved, a wetland functional assessment, and an analysis of wetland impacts for each project alternative, as appropriate. The **NRE** also contains an evaluation of options for wetland impact avoidance and minimization, and compensatory mitigation opportunities for unavoidable impacts. A formal “Wetlands Finding” is required for all projects processed as Type 2 Categorical Exclusions (CEs), EA with Finding of No Significant Impacts (FONSIs), and Final Environmental Impact Statements (FEISs) as described in **Sections 9.2.4.1** and **9.2.4.3**. Potential wetland involvement must also be identified in the public hearing advertisement and presentation as described in [Section 9.2.5](#).

9.2 PROCEDURE

9.2.1 Advance Notification

For projects qualifying for EST screening, the proposed project is entered into the EST by the Efficient Transportation Decision Making (ETDM) Coordinator (See the [ETDM Manual, Topic No. 650-000-002](#)). The Advance Notification (AN) package may be distributed electronically as part of the programming screening event in the EST ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)) or when commencing the PD&E Study.

Wetland information is included in the Preliminary Environmental Discussion (PED) section of the Fact Sheet and includes the District’s initial identification of potential involvement with wetland resources within the project. The PED should also identify the location of potential jurisdictional wetlands (as defined by the FDEP, WMD, and/or the USACE) and provide a description of how the wetlands will be evaluated in the PD&E Study. The Fact Sheet may also include a list of permits that may be required and a list of technical studies that may be needed. The AN must not draw any conclusions regarding the significance of the wetland involvement, since this would constitute a “Wetlands Finding” ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)).

9.2.2 Wetland Evaluation

The wetland evaluation is recorded in the Wetland Evaluation section of the **NRE**, which is a FDOT technical report that documents protected species and habitat, wetland, and Essential Fish Habitat issues to support the Environmental Document. Each wetland and

other surface water with potential involvement is identified and evaluated. The District should consider commentary from the ETAT with wetland jurisdictional responsibility when preparing the **NRE**.

The Wetland Evaluation section of the **NRE** should include:

1. The identification of existing wetlands within the project area. Available site specific data should be collected and reviewed such as, but not limited to, EST screening information, Natural Resources Conservation Service (NRCS) Soil Surveys, FDOT Florida Land Use Cover Classification System (FLUCCS), USFWS National Wetland Inventory, United States Geological Survey (USGS) Topographic maps, aerial photographs (1"=100 ft.). All data sources must be documented in the **NRE**. Include any pertinent maps identifying the wetlands in the project area.
2. The identification of surface waters in the project area. Boundaries may be identified with the aid of data sources listed in item 1 above and/or any other available data sources and be field verified. All data sources must be documented in the **NRE**. Include maps of the surface waters in the project area.
3. A delineation of each wetland as detailed in the **Corps of Engineers Wetland Delineation Manual, 1987; Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region, 2010; The Florida Wetlands Delineation Manual, 1995; and Rule 62-340, F.A.C., Delineation of the Landward Extent of Wetlands and Surface Waters** as appropriate. Boundaries may be delineated with the aid of data sources listed in item 1 above and/or any other available data sources and be field verified. Include maps of the delineated wetlands in the project area. The USACE Jacksonville District accepts a **Preliminary Jurisdictional Determination Form**. The District should contact the USACE to determine whether a preliminary form is appropriate for a project.
4. A description of wetlands in the project area according to the FLUCCS and the USFWS Classification System as described in **Classification of Wetlands and Deepwater Habitats of the United States**. The FLUCCS should be to Level 3 only, unless sufficient information has been accumulated to accurately assign a Level 4 classification. The USFWS Classification should be to the subclass level only unless sufficient information has been accumulated to accurately identify dominant vegetation, water regime, water chemistry, or soil types. In using the USFWS Classification System, the analyst should note that a singular wetland may be identified as two or more wetland types, if there are major differences in vegetation or site hydrology. Include a map showing the location, boundaries, and classification (using both systems) of all wetland sites. Additionally, further coordination and evaluation may be required to adequately assess **Endangered Species Act** requirements.
5. An evaluation of the potential direct and indirect effects the project will have on the wetland. Wetland impacts regulated under Florida's ERP Program or USACE's

Section 10 of the Rivers and Harbors Act/Section 404 of the **CWA** process need to be identified and evaluated. Identify any alternatives that avoid wetland impacts. Estimate the wetland impact acres by comparing wetland boundaries with each project alternative's footprint. The alternative footprint should include potential stormwater pond locations. Determine the significance of each alternative's impact on each wetland site, including:

- a. Effects on flood control, erosion control, water pollution abatement, and wildlife habitat value
 - b. Effect on stability and quality of the wetland system
 - c. Short-term vs. long-term effects
6. A discussion of the proposed project's potential contribution to cumulative impacts on the identified wetlands. Consider losses resulting from direct and indirect effects of the project as well as impacts resulting from other development activities in the vicinity. Keep in mind that cumulative effects considerations under **NEPA** are different than those under the ERP Program and **Section 404** of the **CWA** permitting process (See FDOT's [Cumulative Effects Evaluation Handbook](#)).
 7. A discussion of practicable measures to minimize harm to each wetland site. Minimization could involve measures included in FDOT's [Standard Specifications for Road and Bridge Construction](#).
 8. A functional assessment of the wetlands in accordance with UMAM. Use these assessments to estimate the amount of wetland mitigation needed, based on functional loss and the importance of the affected wetlands to the surrounding biological community. For large scale projects when UMAM is not practicable, the District should coordinate with the appropriate regulatory agency to determine if an alternate assessment or UMAM modification can be utilized for the project. If the District intends to advance permitting activities prior to Design, a greater level of detail will be necessary. The functional assessment will be refined and finalized during permitting.
 9. A discussion of the potential mitigation options available and description of how those measures can be incorporated into the project. The mitigation discussion should provide sufficient mitigation to show that project impacts can be fully mitigated. Keep in mind that if the mitigation option being considered used a different type of functional assessment such as WRAP, the District will have to coordinate with the appropriate regulatory agencies to determine the amount of mitigation needed to offset project impacts. Document any agency coordination on those mitigation options.
 10. A discussion of consultation and coordination with the USACE, USFWS, EPA, NMFS, FDEP, WMDs and other appropriate federal, state, and local agencies concerning the impacts of the proposed project on wetlands. For the final **NRE**

include the outcome of draft review and coordination. Where issues are identified, reach a resolution with each respective agency, if possible. Document resolution in the final **NRE**.

The District must submit the draft **NRE** to OEM for review prior to submitting to the appropriate agencies for coordination/consultation. The District will update the **NRE** to reflect agency coordination/consultation. The contents of the **NRE** should be summarized and included in the Environmental Document and the final **NRE** should be retained in the project file. See [Part 2, Chapter 16, Protected Species and Habitat](#) for additional guidance on preparing the **NRE**.

9.2.3 Conceptual Mitigation Plan

9.2.3.1 Federal Highway Administration Policy and Funding

Project impacts to wetlands are addressed through the development and consideration of a project alternative(s). The Council on Environmental Quality (CEQ) requires consideration of mitigation measures as defined by **NEPA** in the development of project alternative(s) (**40 CFR § 1508.20**). These measures are:

1. Avoiding the impact altogether by not taking a certain action or parts of an action
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action
5. Compensating for the impact by replacing or providing substitute resources or environments

Avoidance, minimization, and compensation are to be employed in sequence. First, project impacts must be avoided to the extent practicable. Second, unavoidable impacts should be minimized. Third, remaining unavoidable impacts should be mitigated through compensatory actions.

As described in the USACE's Final Rule: **Compensatory Mitigation for Losses of Aquatic Resources, 2008**, "Compensatory mitigation can be carried out through four methods: the restoration of a previously-existing wetland or other aquatic site, the enhancement of an existing aquatic site's functions, the establishment (i.e., creation) of a new aquatic site, or the preservation of an existing aquatic site."

The **USDOT Order 5660.1A, Preservation of the Nation's Wetlands, 1978** provides similar guidance regarding avoidance and minimization strategies prior to the use of

compensatory mitigation for unavoidable wetland impacts. This policy requires demonstration that “there is no practicable alternative to the use of the wetlands and that all practicable measures to minimize harm to the wetlands have been included.” While the lead agency has the authority to restore and enhance existing wetlands and to create new wetlands, these do not counterbalance the effects of adverse impacts to wetlands which are avoidable or satisfy USDOT policy for the “protection, preservation and enhancement of the nation’s wetlands to the fullest extent practicable.”

FHWA will fund the appropriate compensatory mitigation as per the ***Federal Highway Administration Environmental Policy Statement, 1994*** for unavoidable impacts after it has been determined that the No-Action and the avoidance alternatives are not practical. All funding for environmental mitigation must be based on scientifically valid analysis and must show documented support of how the cost was derived to mitigate the adverse impact. In order for FHWA to participate in the funding of mitigation, the wetland analysis must meet the requirements of ***23 CFR Part 777***.

9.2.3.2 Wetland Mitigation

During project development, FDOT considers a project’s location and design to reduce wetland impacts. The first step in mitigating for a project is to avoid wetland impacts. The next step is to minimize wetland impacts. Any remaining wetland impacts which cannot be avoided or minimized must be addressed with a conceptual mitigation plan, which discusses compensatory mitigation opportunities. The level of detail for the conceptual mitigation plan is determined through coordination with the appropriate regulatory agency(s) and is dependent upon the amount of mitigation required. These considerations should be discussed during interagency coordination and documented in the Environmental Document. During permitting, the District will coordinate with the permitting agencies and finalize the mitigation plan.

As per ***Section 373.4137, F.S.***, compensatory mitigation of wetland impacts resulting from FDOT projects “will be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.” Specific information concerning the procedure for implementing the provisions of ***Section 373.4137, F.S.***, is included in [**Part 1, Chapter 12, Environmental Permits.**](#)

For those projects which cannot be mitigated through a permitted mitigation bank or the WMDs due to credit or site availability, respectively, FDOT will propose alternative mitigation and the general type(s) of mitigation (creation, restoration, enhancement, or preservation) to be used in the conceptual mitigation plan.

Early resolution of state and federal permit agencies' concerns and joint agreement on appropriate mitigation is promoted by OEM. Early agreements may substantially reduce delays during the permitting process and should be documented in the Comments and Coordination section of EAs and EISs.

FDOT documents commitments to provide compensatory mitigation for unavoidable impacts through the use of standard statements (see [Section 9.2.4](#)). If additional project-specific information (e.g., site selection, conceptual planning) is available on the individual mitigation project to be used, this information is also included in the Environmental Document.

The Environmental Document must describe the proposed mitigation opportunities considered and demonstrate that mitigation is available to offset impacts to wetlands. FDOT District's should review mitigation information available on FDEP, WMD and USACE websites ([Figure 9-2](#)). This information is documented in the wetland section of the Environmental Document. District staff should coordinate with the District Permit Coordinator when considering mitigation opportunities.

9.2.4 Documentation

The Environmental Document includes a summary of the **NRE** including relevant wetland information, evaluations, and proposed mitigation. If there is more than one alternative, the discussion should provide adequate information to compare alternatives ([Part 2, Chapter 3, Engineering Analysis](#)).

9.2.4.1 Categorical Exclusions

Categorical Exclusions (CEs) may have wetland involvement so long as there are no significant wetland impacts. A UMAM or other functional assessment is conducted per state and federal guidelines as appropriate, based on interagency coordination and existing permitting thresholds, for any proposed CE project involving wetlands.

Wetland involvement may be identified for projects that do not require EST screening and immediately advance to the Design phase. For these projects, provide a summary of wetland impacts, agency coordination, and mitigation (as appropriate) as supporting information to the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). Should this analysis indicate a significant impact, the project cannot be processed as a CE.

For Type 2 CE projects, documentation must include a concise summary of wetland impacts, agency coordination, the UMAM or other functional assessment, and if applicable, the mitigation commitment standard statement and a "Wetlands Finding." This information should be added to the wetland section (Section 3.C.1) of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**.

Mitigation commitments should be documented by use of the following standard statement:

Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344.

The “Wetlands Finding” must reference **EO 11990** and include the rationale used to reach the determination that:

1. The proposed project will have no significant short-term or long-term adverse impacts to wetlands,
2. There is no practicable alternative to construction in wetlands, and
3. Measures have been taken to minimize harm to wetlands.

This finding should be concisely summarized in the wetland section (Section 3.C.1. Wetlands) of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** with detailed information contained in the project file.

9.2.4.2 Environmental Assessment and Environmental Impact Statement

9.2.4.2.1 Environmental Analysis Section

The Environmental Analysis section of an EA or EIS should include an overall description of the wetland environment within proposed project alternatives. Documentation includes:

1. A description of wetland systems in the project vicinity (i.e., size and function)
2. A map showing the relationship of the project to the wetlands identified

All documentation for EA and EIS projects involving new construction in wetlands must contain an evaluation of potential wetland impacts to the level of detail appropriate for the involvement. The results of the wetland evaluation and relevant elements of the **NRE**, including the UMAM or other functional assessment, are summarized in the wetland section of the Environmental Analysis section. The following impact discussion must be included in the wetland section of the EA or EIS:

1. An identification of wetlands impacted by the proposed project alternatives using the USFWS Classification System and FLUCCS
2. A discussion of the importance of the wetlands impacted by the proposed project alternative to the surrounding biological community. This includes consideration of:
 - a. Primary functions of the wetlands (e.g., flood control, wildlife habitat, erosion control)
 - b. Relative importance of these functions to the total wetland resources of the area

- c. Other factors, such as uniqueness, that may contribute to the wetland's importance
3. A description of the impacts of each alternative on the wetlands identified, including the area impacted per site (both directly affected by dredge and fill and indirectly affected by project activities) and the potential loss of wetland function. This includes evaluation of:
 - a. Effects on the stability and quality of the wetlands
 - b. Short-term and long-term effects on the wetlands
 - c. Significance of any wetland loss on primary functions and values
4. An identification and evaluation of alternatives which would avoid wetland impacts
5. An identification of all practicable measures used to minimize wetland impacts
6. Maps showing the location of wetlands identified in relation to each alternative under consideration including alternatives to avoid construction in wetlands
7. A discussion of conceptual mitigation efforts necessary to compensate for unavoidable impacts to wetlands, based on the results of the UMAM or other functional assessment. Mitigation measures which should be considered include:
 - a. Compensatory mitigation pursuant to **Section 373.4137, F.S.**, and as appropriate, **33 CFR § 332**
 - b. Creation of new wetlands from upland areas
 - c. Acquisition of private wetlands for preservation, restoration or enhancement

All mitigation should be summarized at the end of the wetland section. Mitigation commitments must be reiterated in the Commitments section of the Environmental Document.

8. A discussion of agency coordination on the proposed avoidance and minimization activities and conceptual mitigation measures to limit adverse impacts

For EA or EIS projects, a standard statement is used to provide detailed information on the mitigation commitment for the purposes of public information. The standard statement is included in the Environmental Analysis section. EA and EIS projects address conceptual mitigation plans through the following standard statement:

Wetland impacts which will result from the construction of this project will be mitigated pursuant to Section 373.4137, F.S., to satisfy all mitigation

requirements of Part IV of Chapter 373, F.S., and 33 U.S.C. §1344. Compensatory mitigation for this project will be completed through the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.

9.2.4.3 Finding of No Significant Impact and Final Environmental Impact Statement

When there is no practicable alternative to an action which involves new construction in wetlands, the FONSI, FEIS/Record of Decision (ROD), or the FEIS must contain the "Wetlands Finding" required by **EO 11990** and **USDOT Order 5660.1A**.

Approval of the FONSI or FEIS containing the "Wetlands Finding" will document compliance with the requirements of **EO 11990**. The finding must contain in summary form the following information:

1. A reference to **EO 11990**
2. A discussion of the basis for the determination that there are no practicable alternatives to the proposed action
3. A discussion of the basis of the determination that the proposed action includes all practicable measures to minimize harm to wetlands
4. A standard concluding statement as follows:

In accordance with EO 11990, The Department has undertaken all actions to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities. Nonetheless, the Department has determined that there is no practicable alternative to construction impacts occurring in wetlands. Any unavoidable impacts to wetlands will be mitigated to achieve no net loss of wetland function.

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 **EO 11990**, as provided below:

The proposed project does not impact any wetlands, and, therefore, Executive Order 11990 does not apply.

The "Wetlands Finding" statement must be placed in the Environmental Analysis section of the Environmental Document and the Executive Summary of a FEIS if one is prepared separately from the ROD ([**Part 1, Chapter 9, Final Environmental Impact Statement**](#)).

Documentation of coordination with applicable agencies (e.g., letters, meetings, emails) should be included in the Appendix.

9.2.4.4 State Environmental Impact Report

SEIRs follow the same process for wetland evaluation as federal projects. The results of the wetland evaluation and relevant elements of the **NRE**, including the UMAM or other functional assessment and conceptual mitigation, are summarized in the wetland section (**Block 3.C.1. Wetlands and Other Surface Waters**) of the **State Environmental Impact Report Form, Form No. 650-050-43** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)).

9.2.5 Public Notice of Wetland Involvement

In compliance with **Executive Order 11990**, the public hearing advertisement for projects must include a statement informing the public of any wetland involvement on a project, as described in [Part 1, Chapter 11, Public Involvement](#). In addition, FDOT's public hearing presentation must also mention any wetland involvement for a project in order to increase public awareness of wetland impacts and invite public comment.

9.2.6 Merging the NEPA Process and Section 404 of CWA

It is the policy of the FHWA and USACE to reduce inefficiencies under the **CWA** for transportation projects requiring a **Section 404** permit. This policy is documented in the **2015 Red Book Synchronizing Environmental Reviews for Transportation and Other Infrastructure Projects**. The **NEPA/404** merger expedites project delivery for transportation projects and allows FDOT and the USACE to coordinate common elements under **NEPA** as they are required to evaluate alternatives, assess impacts to resources, and balance resource impacts prior to making a **NEPA** decision. Information gathered during the FDOT's **NEPA** process is coordinated with the USACE to ensure compliance with both agency's requirements.

The common elements are:

1. Project Need
2. Wetlands Identification, Delineation (as coordinated with USACE or WMD), and Classification
3. Wetlands Impact Assessment
4. Alternatives Analysis
5. Avoidance and Minimization Analysis
6. Conceptual Mitigation
7. Coordination

9.2.6.1 Process

The **NRE** developed during the PD&E Study provides technical information on wetland impact assessment and mitigation analysis which supports the **NEPA** decision making process. It can also provide preliminary information toward satisfying regulatory requirements in accordance with the **Section 404(b)(1)** Guidelines. The **NRE**, including the UMAM or other functional assessment, will be contained in the project file. Based on the information in the **NRE** a “Wetlands Finding” is included in the **NEPA** document. The **NRE** also documents all coordination activities with other agencies on critical elements such as concurrence or the need for additional coordination. The common elements documented in the **NRE** which are relevant to both **NEPA** and **Section 404(b)(1)** Guidelines are detailed below:

1. **Project Need** - The project need will typically contain capacity information, system linkage, transportation demand, modal interrelationships, safety information, and roadway deficiencies as supporting evidence for the project.
2. **Wetlands Identification, Delineation, and Classification** - The identification, delineation, and classification will be developed according to the procedures described in [Section 9.2.2](#). The USACE Jacksonville District has a process for preparing preliminary jurisdictional determinations.
3. **Wetlands Impact Assessment** - The assessment of potential impacts to wetland functions will be developed using the information obtained in the identification and delineation procedure, and utilizing UMAM or WRAP.
4. **Alternatives Analyses** - Each alternative, including the No-Action alternative, will be analyzed for wetland involvement.
5. **Avoidance and Minimization Analysis** - The analysis will document practicable measures considered to avoid and/or minimize wetland impacts. The Environmental Document should clearly indicate the steps taken for avoidance and minimization of impacts in order to eliminate the need to reassess and justify project design during the permitting phase.
6. **Conceptual Mitigation Plan** - A conceptual mitigation plan for unavoidable wetland impacts is developed in the PD&E phase and refined during the permitting process. The conceptual mitigation plan should identify the amount of mitigation necessary to replace the loss of wetland functions as identified by UMAM or other functional assessment. It should also identify mitigation opportunities that FDOT will implement to off-set adverse impacts such as the purchase of mitigation credits from a permitted mitigation bank, payment to FDEP/WMD for mitigation services, development of its own mitigation site, or any other option that meets state and federal requirements. Appropriate regulatory agency coordination regarding the conceptual mitigation plan is necessary.

7. **Coordination** - Coordination on the elements contained in the **NRE** will be documented. Coordination with federal, state and local regulatory agencies is necessary to the point that the environmental permits are achievable.

9.2.7 Permits for Wetland Impacts

FDOT is required to obtain authorization for wetland impacts pursuant to state and federal regulatory requirements. Refer to [Part 1, Chapter 12, Environmental Permits](#) for more information regarding FDOT procedures for obtaining permits and providing wetland mitigation.

9.2.8 Re-evaluation

Any change of wetland impacts or mitigation strategies after approval of the Environmental Document must be documented in the appropriate phase re-evaluation or design change re-evaluation as per [Part 1, Chapter 13, Re-evaluations](#). Commitments and coordination should be contained in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29**.

9.2.9 Design and Construction

Wetland commitments established during the PD&E Study and/or agency coordination must be documented in the Environmental Document through the **Project Commitments Record (PCR), Form No. 700-011-35** and transmitted to the Design and Construction Offices to be included in contract documents or be addressed through the permitting process. Follow FDOT **Procedure No. 700-011-035, Project Commitment Tracking**. Wetland commitments may be permit conditions, or actions/activities required to advance the project and/or require action from the contractor to implement. Wetland review during Design and compliance during Construction consists of the following:

1. Review Commitments specific to wetlands - Coordinate with appropriate environmental staff to ensure wetland commitments are addressed.
2. Plans Received - Review for completeness; identify/confirm project limits.
3. Field Review - Conduct on-site field review(s) with appropriate professionals to confirm existing wetland resources within project limits that are addressed in the plans.
4. Regulatory Agency Coordination and Permitting - The District coordinates with regulatory agencies.
5. Impact Review - Review plans and provide comments on wetlands that were identified and resolutions that should be coordinated with appropriate regulatory agencies or incorporated into the contract design plans.

6. Bid Document Review - Verify that completed final design plans and specifications incorporate required mitigation into the bid documents.
7. Compliance during Construction - Ensure that the Construction Office verifies compliance with wetland commitments, permit conditions and other commitments, as appropriate have been incorporated into the final design.
8. Construction Final Acceptance - Ensure that the wetland commitments (different from permit conditions) were addressed as specified in the contract plans, including modifications approved during construction. This is done by the Construction Office, but may require the Environmental Office involvement ([Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000, Chapter 12, Section 12.1](#)). Permit and mitigation sign-off is done through a separate process with the regulatory agency.

The District should verify commitment and regulatory compliance as the project advances. Additional minimization actions can be conducted during the project Design phase. These additional actions may need to be addressed in permitting. See [Part 2, Chapter 22, Commitments](#) for additional guidance.

9.3 REFERENCES

Clean Water Act of 1972

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FDOT. Construction Project Administration Manual. Topic No. 700-000-000

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Memorandum of Agreement between the Army and Environmental Protection Agency. February 6, 1990. The Determination of Mitigation under the Clean Water Act Section 404(b)(1) Guidelines

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Presidential Executive Order 11990. Protection of Wetlands, May 23, 1977

Rivers and Harbors Act of 1899

Rule Chapter 62-340 Florida Administrative Code (F.A.C), Delineation of the Landward Extent of Wetlands and Surface Waters

Rule Chapter 62-345 F.A.C., Uniform Mitigation Assessment Method

Section 373.019, Florida Statutes (F.S.), Definitions

Section 373.4137, F.S., Mitigation Requirements for Specified Transportation Projects

Title 33 CFR § 320.4, General Policies for Evaluating Permit Applications.
http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.320&rgn=div5#se33.3.320_14

Title 33 CFR Part 325, Processing of Department of the Army Permits
<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.325&rgn=div5>

Title 33 CFR Part 328, Definition of Waters of the United States
<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.328&rgn=div5>

Title 33 CFR Part 332, Compensatory Mitigation for Losses of Aquatic Resources
<http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt33.3.332&rgn=div5>

Title 40 CFR Part 230, Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material <http://www.ecfr.gov/cgi-bin/text-idx?SID=2bd9905827b72ddd21ecf34c76714286&mc=true&node=pt40.27.230&rgn=div5>

Title 40 CFR § 423.11, Specialized Definitions http://www.ecfr.gov/cgi-bin/text-idx?SID=b09fd47cef5e508a6b7915dc7ae96db4&mc=true&node=pt40.31.423&rgn=div5#se40.31.423_111

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U.S. Army Corps of Engineers (USACE), Corps of Engineers Wetland Delineation Manual. Wetlands Research Program Technical Report Y-87-1, 1987

USACE, Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region. Version 2.0, November 2010

USACE, Compensatory Mitigation for Losses of Aquatic Resources, April 2008

U.S. Department of Transportation (USDOT) Order 5660.1A. Preservation of the Nation's Wetlands, August 24, 1978

USDOT, Federal Highway Administration. Report No. FHWA-IP-90-010. A Guide to Wetland Functional Design, July 1990

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

9.4 FORMS

[Project Commitments Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29*

State Environmental Impact Report Form, Form No. 650-050-43

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without

Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>.
Sign in is required.

9.5 HISTORY

04/14/1999, 11/20/2009, 4/24/2013, 8/22/2016

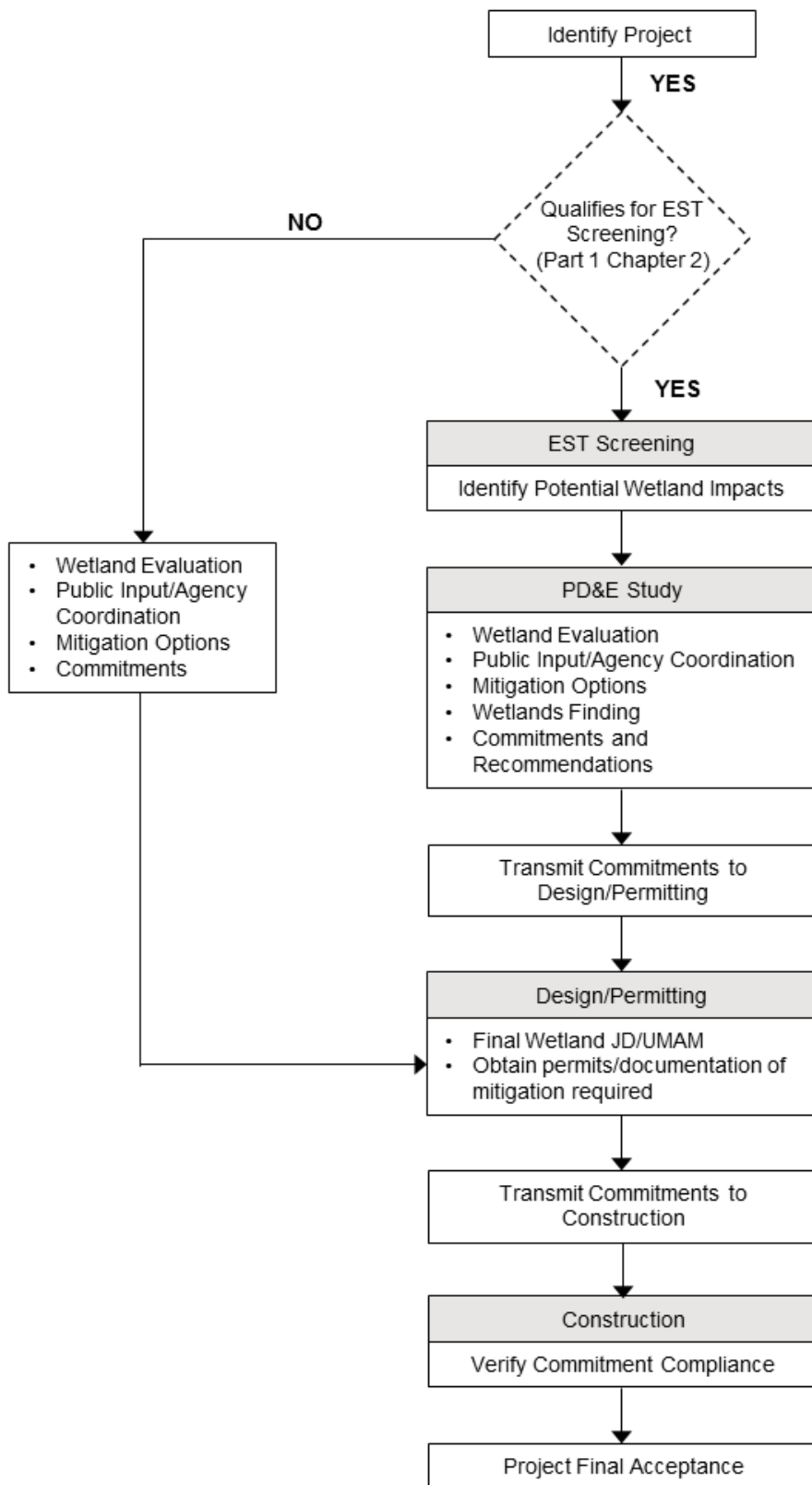


Figure 9-1 Wetland Evaluation Process

Florida Department of Environmental Protection:

<http://www.dep.state.fl.us/water/wetlands/mitigation/mitbanks.htm>

Water Management Districts:

Northwest Florida

<http://nfwmdwetlands.com/>

Southwest Florida

<http://www.swfwd.state.fl.us/projects/mitigation/>

St. Johns River

<http://webapub.sjrwd.com/agws10/mt/Default.htm>

South Florida

<http://www.sfwmd.gov/portal/page/portal/xweb%20about%20us/extra%20land%20acquisition>

Suwannee River

<http://www.srwd.state.fl.us/>

United States Army Corps of Engineers:

<http://geo.usace.army.mil/ribits/index.html>

Figure 9-2 FDEP, WMDs, and USACE Mitigation Information

PART 2, CHAPTER 10

AQUATIC PRESERVES AND OUTSTANDING FLORIDA WATERS

TABLE OF CONTENTS

10.1	OVERVIEW	10-1
10.1.1	Aquatic Preserves	10-1
10.1.2	Outstanding Florida Waters.....	10-2
10.2	PROCEDURE.....	10-2
10.2.1	Determine Involvement with Aquatic Preserves and/or Outstanding Florida Waters.....	10-2
10.2.1.1	Projects not in an Aquatic Preserve or Outstanding Florida Water.....	10-3
10.2.1.2	Projects in Aquatic Preserves.....	10-3
10.2.1.2.1	Documentation of Projects Without Impacts	10-4
10.2.1.2.2	Documentation of Projects with Impacts	10-4
10.2.1.2.3	Section 4(f) Applicability.....	10-5
10.2.1.3	Projects in an Outstanding Florida Water	10-6
10.2.2	Project Permitting.....	10-7
10.3	REFERENCES.....	10-8
10.4	FORMS	10-9
10.5	HISTORY	10-9

LIST OF FIGURES

Figure 10-1	Aquatic Preserves.....	10-10
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PART 2, CHAPTER 10

AQUATIC PRESERVES AND OUTSTANDING FLORIDA WATERS

10.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

FDOT is required to assess potential project impacts on aquatic preserves and Outstanding Florida Waters. This chapter provides guidance and procedures on how these assessments are completed, coordinated and documented during project development.

10.1.1 Aquatic Preserves

An aquatic preserve is defined as “an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition,” **Section 258.37, Florida Statutes (F.S.)**. The Florida Legislature, through the **Florida Aquatic Preserve Act of 1975 (Act), Sections 258.35 – 258.394 and 258.40 - 258.46, F.S.**, set aside state-owned submerged lands with exceptional biological, aesthetic and scientific value as aquatic preserves. The Board of Trustees of the Internal Improvement Trust Fund through the Florida Department of Environmental Protection (FDEP) Division of State Lands is responsible for the implementation, administration and enforcement of the Act, including the adoption of rules for management of aquatic preserves as found in **Chapter 18-20, Florida Administrative Code (F.A.C.)**.

Most of the aquatic preserves are located along the coast and involve marine or estuarine environments with the exception of a few aquatic preserves which are located inland. Many of the aquatic preserves are associated with state or federal parks and refuges. Generally, aquatic preserves designated under **Chapter 258, F.S.**, are also considered Outstanding Florida Waters (OFWs) under **Rule 62-302.700(2)(f), F.A.C.** ([Section 10.1.2](#)).

10.1.2 Outstanding Florida Waters

Section 403.061(27), F.S., grants FDEP rulemaking authority to establish a special category of water bodies within the State, to be designated as OFWs, which shall be worthy of special protection because of their natural attributes. Most OFWs are open water areas managed by the state or federal government as parks, including wildlife refuges, preserves, marine sanctuaries, estuarine research reserves, certain waters within state or national forests, scenic and wild rivers, Special Waters OFWs, or aquatic preserves.

10.2 PROCEDURE

10.2.1 Determine Involvement with Aquatic Preserves and/or Outstanding Florida Waters

It is the responsibility of the District to determine whether a project is located in, over, or adjacent to a designated Aquatic Preserve and/or OFW.

If the project was not screened in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) ([ETDM Manual, Topic No. 050-000-002](#)), the location of aquatic preserves and OFWs in relation to the project may be determined by referring to:

1. A list of Aquatic Preserves and a link to a map of their locations provided in [Figure 10-1](#). It may be necessary to confirm this determination by referencing **Chapter 258, Florida Statutes**.
2. A list of the OFWs provided in **Rule 62-302.700, Florida Administrative Code**. This list includes an identification of all OFWs by County. Some examples of OFWs include aquatic preserves, National Seashores, waters in National Parks, State Parks and specially designated areas.
3. Aquatic Preserve or OFW data layers as stored in the Florida Geographic Data Library through the EST independent of running an ETDM screening event.

If further assistance is needed, the District should contact the FDEP Environmental Technical Advisory Team (ETAT) member.

For projects that were screened in the EST, aquatic preserve and OFW data as well as ETAT comments are provided in the Special Designations section of the **Programming Screen Summary Report** ([ETDM Manual, Topic No. 050-000-002](#)). This includes Geographic Information System (GIS) data and applicable maps that identify the proximity of the proposed action to aquatic preserves or OFWs. ETAT comments on the Special Designations issue should identify any potential impact to the resources. Comments by FDEP are especially important. It may also be helpful to review ETAT comments on other issues such as Wetlands and Surface Waters and Water Quality and Quantity.

10.2.1.1 Projects not in an Aquatic Preserve or Outstanding Florida Water

When a project is not located in, over, or adjacent to an aquatic preserve or OFW, it should be documented as follows:

Type 2 Categorical Exclusion (Type 2 CE): “NoInv” should be marked in the appropriate issue in Section 3.C.2 of the *Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*.

Environmental Assessment (EA) and Environmental Impact Statement (EIS): The Aquatic Preserve and Outstanding Florida Waters section of an EA or EIS should state that the project is not in an aquatic preserve or OFW.

State Environmental Impact Report (SEIR): “NoInv” should be marked in the appropriate issue in the *State Environmental Impact Report Form, Form No. 650-050-43*. A note should be included on the Supporting Information line that states “The project is not in an aquatic preserve or Outstanding Florida Water.”

10.2.1.2 Projects in Aquatic Preserves

Coordination with FDEP is needed if potential impacts to an aquatic preserve have been identified [e.g., sovereign submerged lands, right of way (ROW), in-water work]. Once ROW requirements have been defined, aerials depicting alternatives with ROW located within the boundary of an aquatic preserve should be submitted to FDEP for review and comment. They should be addressed to:

Director, Florida Coastal Office
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Mail Station 235
Tallahassee, FL 32399-3000

A letter requesting a FDEP response within a period of thirty days should accompany the aerials. This letter must contain the following standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

If a determination is made that the project will have no impact after coordination with FDEP, provide documentation according to [Section 10.2.1.2.1](#). If there is an impact, document according to [Section 10.2.1.2.2](#).

Projects that are located in an aquatic preserve must also be identified in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** according to [Part 2, Chapter 11, Water Quality and Water Quantity](#).

10.2.1.2.1 Documentation of Projects Without Impacts

For Type 1 CE projects located in an aquatic preserve, which will have no impact on the aquatic preserve, a copy of the FDEP coordination letter(s) should be placed in the project file, or the issue is addressed during the acquisition of the Environmental Resource Permit (ERP) ([Section 10.2.2](#)).

For a Type 2 CE, EA, EIS, or SEIR project located in an aquatic preserve, which will have no impact on the aquatic preserve, the following standard statement is included in the Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

This project is included in the (Name of Aquatic Preserve). After coordination with the Florida Department of Environmental Protection, it has been determined that the project will not have an impact on the (Name of Aquatic Preserve).

Any coordination with FDEP should be discussed in the Environmental Document and coordination letters should be referenced in the document and included in the project file.

Type 2 CE: "NO" should be marked in Section 3.C.2, Environmental Analysis, of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. The standard statement above should be included in the Aquatic Preserves and Outstanding Florida Waters section of the document. The FDEP coordination letter(s) should also be referenced in this section and included in the project file.

EA and EIS: Include the above standard statement in the Aquatic Preserve and Outstanding Florida Waters section of the Environmental Document. Discussion of coordination with FDEP in the Comments and Coordination section should be consistent with the Aquatic Preserve and Outstanding Florida Waters section and a copy of FDEP coordination letter(s) should be placed in the Appendix.

SEIR: Place an "X" in the "No" column in the Environmental Analysis section of the SEIR. Include the above standard statement in the Aquatic Preserves section of the document. Provide justification of the decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file.

10.2.1.2.2 Documentation of Projects with Impacts

For a Type 2 CE, EA, EIS, or SEIR project located in an aquatic preserve, which will impact the aquatic preserve, the following areas should be assessed and included in the

Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

1. Identify the aquatic preserve affected and show the location of that part of the project that may affect the aquatic preserve on a figure or map.
 - a. Discuss the extent of potential impacts to the aquatic preserve.
 - b. Assess the impacts that the proposed project will have on the aquatic preserve.
 - c. Discuss why there is no practicable alternative to locating the project outside the aquatic preserve.
 - d. Identify all measures to minimize harm to the aquatic preserve.
 - e. Identify permits needed and appropriate permitting agencies.
 - f. Provide results of coordination with appropriate agencies having jurisdiction over the aquatic preserve and address any ETAT comments.

Type 2 CE: In Section 3.C.2, Environmental Analysis, of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, place an "X" in the "NO" column indicating the level of impact as not significant, or if the project will alter it in a positive manner, mark the column indicating "ENHANCE." Provide supplemental information listed above in an attachment to the form. Coordination letter(s) should be referenced in the supplemental information and included in the project file.

EA and EIS: A copy of the FDEP coordination letter(s) and any other correspondence should be placed in the Appendix. In addition, discussion of coordination with FDEP in the Comments and Coordination section should be consistent with the Aquatic Preserve section.

SEIR: In the Environmental Analysis section of the SEIR, place an "X" in the appropriate column indicating the level of impact. If an issue exists but the project will alter it in a positive manner, mark the column indicating "ENHANCE." If there is a potential for substantial impact, mark the column "YES". Provide justification of decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file.

10.2.1.2.3 Section 4(f) Applicability

The Districts should determine **Section 4(f)** applicability for projects located in aquatic preserves if the project is a United States Department of Transportation (USDOT) federal action. **Section 4(f)** may also apply to OFWs because of other designations (State Park, Aquatic Preserve, National Park). **Section 4(f)** applies to the portions of aquatic preserves which are designated on an approved land management plan for use as or are actively being used as a park, recreational area, wildlife or waterfowl refuge, or is an

historic site or property. **Section 4(f)** is not applicable unless specific land uses, as identified in **Section 4(f)**, exist on those portions of the land needed for highway purposes. See [Part 2, Chapter 7, Section 4\(f\) Resources](#) for more information on **Section 4(f)** applicability. Designation as an aquatic preserve does not in itself invoke **Section 4(f)** in the absence of specific **Section 4(f)** land use categories. Such land uses are often delineated in a preserve's management plan. Coordination with the official with jurisdiction is needed to prepare **Section 4(f)** documentation; however, the OEM has sole responsibility for determining **Section 4(f)** applicability.

10.2.1.3 Projects in an Outstanding Florida Water

For Type 1 CE projects located in an OFW, a copy of the FDEP coordination letter(s) should be placed in the project file, or the issue is addressed during acquisition of the ERP.

For Type 2 CE, EA, EIS, and SEIR projects located in an OFW, the following should be assessed and included in the Aquatic Preserves and Outstanding Florida Waters section of the Environmental Document.

1. Identify the OFW and provide a map or figure showing how it relates to the project
2. Address any ETAT comments
3. Identify potential impacts to OFWs that can be evaluated prior to permitting, including potential alternative and treatment strategies.

Type 2 CE: In Section 3.C.2, Environmental Analysis, of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, place an "X" in the "NO" column indicating the level of impact is not significant, or if the project will alter it in a positive manner, mark the column indicating "ENHANCE." Provide supplemental information listed above in an attachment to the form. Correspondence with FDEP should also be referenced in the supplemental information and included in the project file.

EA and EIS: Include any correspondence with FDEP in the Appendix. In addition, discussion of coordination with FDEP in the Comments and Coordination section should be consistent with the Aquatic Preserves and Outstanding Florida Waters section.

SEIR: In Section 3.C.2, Environmental Analysis, of the **State Environmental Impact Report Form, Form No. 650-050-43** place an "X" in the appropriate column indicating the level of impact. If an issue exists but the project will alter it in a positive manner, mark the column indicating "ENHANCE." If an issue exists but there is little or no impact, mark the column indicating "NO." If there is a potential for substantial impact, mark the column "YES". Provide justification of decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination. Correspondence with FDEP should be referenced in the SEIR and included in the project file.

Projects that are located in an OFW must also be identified in the ***Water Quality Impact Evaluation Checklist, Form No.650-050-37***, according to [Part 2, Chapter 11, Water Quality and Water Quantity](#).

10.2.2 Project Permitting

Generally, FDEP and the Water Management Districts cannot issue permits for direct pollutant discharges to OFWs, which would lower ambient (existing) water quality, significantly degrading OFWs (Anti-degradation Requirement).

Pursuant to ***Rule 62-4.242, Florida Administrative Code***.

(2)(a.) No Department permit or water quality certification shall be issued for any proposed activity or discharge within an Outstanding Florida Waters, or which significantly degrades, either alone or in combination with other stationary installations, any Outstanding Florida Waters, unless the applicant affirmatively demonstrates that:

(2)(a)1. *[does not apply to FDOT projects]*

(2)(a) 2. The proposed activity of discharge is clearly in the public interest, and either

a. A Department permit for the activity has been issued or an application for such permit was complete on the effective date of the Outstanding Florida Water designation; or

b. The existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge, except on a temporary basis during construction for a period not to exceed thirty days; lowered water quality would occur only within a restricted mixing zone approved by the Department; and, water quality criteria would not be violated outside the restricted mixing zone. The Department may allow an extension of the thirty-day time limit on a construction-caused degradation for a period demonstrated by the applicant to be unavoidable and where suitable management practices and technology approved by the Department are employed to minimize any degradation of water quality.

Please note the use of “Department” in ***Rule 62-4.242*** above means the FDEP, rather than FDOT. Projects located in OFWs receive a greater level of scrutiny by the state environmental regulatory agencies during ERP permitting. Where project impacts are proposed within an OFW, the applicant must provide reasonable assurance that the project is “clearly in the public interest.” (***Section 373.414, F.S.***) This is determined by balancing each of the following criteria as listed in ***Rules 62-330.301 and 62-330.302, Florida Administrative Code***.

1. Whether the activities will adversely affect public health, safety or welfare or the property of others;

2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species or their habitats [will not result in harm to named listed wildlife species [**Rule 62-330.302(1), F.A.C.**].
3. Whether the activities will adversely affect navigation or flow of water or cause harmful erosion or shoaling;
4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
5. Whether the activities will be of a temporary or permanent nature;
6. Whether the activities will adversely affect or will enhance significant historical and archaeological resources (under provisions of **Section 267.061, F.S.**); and
7. The current condition and relative value of functions being performed by areas affected by the proposed activities.

In order to meet permitting requirements, there is generally a greater emphasis on minimization and avoidance of jurisdictional areas designated as OFWs. For more information on permitting requirements please see [Part 1, Chapter 12, Environmental Permits](#). Commitments and commitment monitoring are addressed in [Part 2, Chapter 22, Commitments](#).

10.3 REFERENCES

Chapter 18-20, F.A.C., Florida Aquatic Preserves

Chapter 62-25, F.A.C., Regulation of Stormwater Discharge

Chapter 62-302.700, F.A.C., Special Protection, Outstanding Florida Waters,
Outstanding National Resource Waters

Chapter 62-330, F.A.C., Environmental Resource Permitting

Chapter 62-4.242, F.A.C., Antidegradation Permitting Requirements; Outstanding
Florida Waters; Outstanding National Resource Waters; Equitable Abatement

FDOT. Efficient Transportation Decision Making Manual. Topic No. 650-000-002.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Section 258, Part II, F.S., Aquatic Preserves

Section 403.061, F.S., Subsection (27)

10.4 FORMS

State Environmental Impact Report Form, Form No. 650-050-43

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

Water Quality Impact Evaluation Checklist, Form No. 650-050-37

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

10.5 HISTORY

Part 2, Chapter 19, Aquatic Preserves: 3/15/2004, 11/08/2007, 1/11/2011

Part 2, Chapter 21, Outstanding Florida Waters: 03/15/2004, 11/8/2007, 01/11/2011

8/9/2016: Combined Aquatic Preserves and Outstanding Florida Waters chapters into one chapter

AQUATIC PRESERVES

1. Fort Clinch State Park
2. Nassau River - St. Johns River Marshes
3. Pellicer Creek
4. Tomoka Marsh
5. Mosquito Lagoon
6. Banana River
7. Indian River - Malabar to Vero Beach
8. Indian River - Vero Beach to Fort Pierce
9. Jensen Beach to Jupiter Inlet
10. Loxahatchee River - Lake Worth Creek
11. Biscayne Bay – Cape Florida to Monroe County Line
12. North Fork: St. Lucie
13. Yellow River Marsh
14. Fort Pickens State Park
15. Rocky Bayou State Park
16. St. Andrews State Park
17. St. Joseph Bay
18. Apalachicola Bay
19. Alligator Harbor
20. St. Martins Marsh
21. Matlacha Pass
22. Pine Island Sound
23. Cape Romano - Ten Thousand Islands
24. Lignumvitae Key
25. Coupon Bight
26. Lake Jackson
27. Pinellas County
28. Estero Bay
29. Cape Haze
30. Wekiva River
31. Rookery Bay
32. Cockroach Bay
33. Gasparilla Sound - Charlotte Harbor
34. Terra Ceia
35. Guana River Marsh
36. Big Bend Seagrasses
37. Boca Ciega Bay
38. Rainbow Springs
39. Lemon Bay
40. Oklawaha River

Map showing locations of Aquatic Preserves:

<http://www.dep.state.fl.us/COASTAL/SITES/>

Figure 10-1 Aquatic Preserves

PART 2, CHAPTER 11

WATER QUALITY AND WATER QUANTITY

TABLE OF CONTENTS

11.1	OVERVIEW.....	11-1
11.1.1	Definitions.....	11-2
11.1.2	Water Quality.....	11-5
11.2	PROCEDURE.....	11-5
11.2.1	Regulatory Agencies and Stakeholder Coordination.....	11-5
11.2.2	Determine Level of Assessment.....	11-6
11.2.2.1	Projects Not Qualifying for EDTM Screening.....	11-7
11.2.2.2	Projects Qualifying for ETDM Screening.....	11-7
11.2.3	Water Quality Impact Evaluation.....	11-9
11.2.3.1	Existing Conditions.....	11-10
11.2.3.1.1	Identify Water Resources.....	11-10
11.2.3.1.2	Collect Data and Estimate Water Quality Impacts.....	11-10
11.2.3.2	Water Quality Impact Evaluation Documentation.....	11-10
11.2.3.3	Environmental Document.....	11-13
11.2.3.3.1	Federal Projects.....	11-14
11.2.3.3.2	State Funded Projects.....	11-14
11.2.3.3.3	Commitments.....	11-14
11.2.3.4	Re-evaluation.....	11-15
11.2.4	Water Quantity.....	11-15

11.2.4.1	Federal and State Stormwater Regulations and Permits	11-15
11.2.4.1.1	NPDES Permit.....	11-15
11.2.4.1.2	Total Maximum Daily Load	11-16
11.2.4.1.3	Environmental Resource Permits	11-17
11.2.4.2	Conceptual Drainage and Pond Siting Analysis.....	11-17
11.2.4.2.1	Existing Drainage Conditions	11-18
11.2.4.2.2	Proposed Drainage Conditions.....	11-19
11.2.4.2.3	Pond Siting Analysis.....	11-19
11.3	REFERENCES	11-20
11.4	FORMS	11-21
11.5	HISTORY	11-21

LIST OF FIGURES

Figure 11-1	Water Quality Impact Evaluation.....	11-22
Figure 11-2	EPA Sole Source Aquifer Checklist	11-26
Figure 11-3	Sample Pond Siting Report Cover Page	11-27

PART 2, CHAPTER 11

WATER QUALITY AND WATER QUANTITY

11.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Section 403.021(11), Florida Statutes (F.S.), declares that it is a public policy of the State to conserve the waters of the State to protect, maintain, and improve the designated most beneficial uses of waters, as prescribed by **Chapter 62-302, Florida Administrative Code (F.A.C.)**. Even though state surface water quality standards applicable to waters of the state do not apply within a stormwater management system as provided by **Section 373.4142, F.S.**, as long as the stormwater management system is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit, this statute does require FDOT to provide reasonable assurance that the water quality within its stormwater management system will not adversely impact public health, fish and wildlife, or adjacent waters. Therefore, FDOT projects are evaluated for potential impacts on water quality from stormwater runoff; and are designed to address and mitigate impacts from stormwater runoff through compliance with stormwater management plans and applicable regulatory requirements. **Section 373.4596, F.S.**, requires FDOT projects to fully comply with state, water management district (WMD), and when delegated by the state, local government stormwater management programs.

This Chapter provides procedures for assessing and documenting potential water quality and water quantity impacts to water resources from transportation projects to comply with **NEPA**, the **Clean Water Act (CWA)**, and other related federal and state environmental laws and regulations. Additionally, this chapter provides guidance on documenting water resource information and coordinating with water resources agencies and other stakeholders through completion of a **Water Quality Impact Evaluation Checklist, Form No. 650-050-37**. The level of water quality impact analysis depends upon the extent of potential impacts of a proposed project on surface and/or groundwater

resources. Specifically, the impacts covered in this chapter are related to direct and indirect stormwater discharges from transportation projects into surface water (other than wetlands) and/or groundwater. The term “water resources” is used throughout this chapter and includes both surface and ground water. The chapter does not cover impacts to wetlands and other surface water impacts not related to stormwater. See [Part 2, Chapter 9, Wetlands and Other Surface Waters](#) for wetland evaluation procedures.

11.1.1 Definitions

Aquatic Preserve – established under the *Aquatic Preserve Act*, means an official designated exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.

Basin Management Action Plan (BMAP) –a comprehensive plan, coordinated by the Florida Department of Environmental Protection (FDEP), of regulatory and non-regulatory actions to meet the Total Maximum Daily Load (TMDL) for a given watershed. BMAPs are designed to implement restoration strategies that reduce pollutant concentrations to meet a TMDL.

Designated Uses – the present and future most beneficial use of a body of water as designated by the Environmental Regulation Commission by means of the Waterbody Classification.

Environmental Look Arounds (ELA) – a process of proactively looking for opportunities for joint stormwater management projects with agencies or stakeholders.

FDEP Group Number – the number and name assigned to waterbodies and water segments by FDEP, based on watersheds/ basins that have been developed for the state and that form the basis for Basin Rotation.

Impaired Waters – surface waters that do not meet the standards set for them are determined to be “impaired” and in need of restoration. Using data from assessments, FDEP has verified many waterbodies as impaired. The impairments are separated into the following assessment categories:

- 1 Attains all designated uses
- 2 Attains some designated uses and insufficient or no information or data are present to determine if remaining uses are attained
- 3a No data and information are present to determine if any designated use is attained
- 3b Some data and information are present but not enough to determine if any designated use is attained

- 3c Enough data and information are present to determine that one or more designated uses may not be attained according to the Planning List methodology
- 4a Impaired for one or more designated uses but does not require TMDL development because a TMDL has already been completed
- 4b Impaired for one or more designated uses but does not require TMDL development because the water will attain water quality standards due to existing or proposed measures
- 4c Impaired for one or more criteria or designated uses but does not require TMDL development because impairment is not caused by a pollutant
- 4d The waterbody does not meet applicable criteria, but no pollutant can be identified; therefore, a TMDL will not be developed at this time.
- 4e Impaired, but recently completed or on-going restorative activities are underway to restore the designated uses of the waterbody
- 5 Water quality standards are not attained and a TMDL is required

Municipal Separate Storm Sewer System (MS4) – a publicly-owned conveyance or system of conveyances, such as roads with stormwater systems, municipal streets, catch basins, that are designed or used for collecting or conveying stormwater that discharges to surface waters of the state.

Numeric Nutrient Criteria (NNC) – statewide numeric nutrient standards for Florida’s waters established under **Chapter 62-302.531, F.A.C.** and **Chapter 62-302.532, F.A.C.**

Outstanding Florida Water (OFW) – a waterbody designated by the Environmental Regulation Commission as worthy of special protection because of its natural attributes. OFW generally include surface waters listed in **Chapter 62-302.700, F.A.C.**

Outstanding National Resource Water (ONRW) – a waterbody designated by the Environmental Regulation Commission that are of such exceptional recreational or ecological significance that water quality should be maintained and protected under all circumstances, other than temporary lowering and the lowering allowed under **Section 316 of the Clean Water Act**. ONRW are listed in **Chapter 62-302.700(10), F.A.C.**

Reasonable Assurance Plan (RAP) or 4b Plan – waterbody restoration plan for waterbodies that are impaired but with control programs already in place to restore water quality standards.

Site Specific Alternative Criteria (SSAC) – an alternative surface water quality standard that can replace the criteria applicable statewide in cases where site specific information supports different numeric criteria. The SSAC must fully support and protect the designated uses of the waterbody.

Sole Source Aquifer (SSA) – The Environmental Protection Agency (EPA) defines a sole or principal source aquifer as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer (**40 CFR § 149**). These areas may have no alternative drinking water source(s) that could physically, legally and economically supply all those who depend on the aquifer for drinking water. EPA has identified two SSAs in Florida, the Volusia-Floridan and Biscayne Aquifers.

Special Water – a waterbody demonstrated to be of exceptional recreational or ecological significance as listed in **Chapter 62-302.700(9)(i), F.A.C.**

Surface Water Improvement and Management Program (SWIM) – established in 1987 as one mechanism to address nonpoint source pollution to address a waterbody’s needs as a system of connected resources rather than isolated wetlands or waterbodies. The WMDs are directly responsible for the SWIM program.

Total Maximum Daily Load (TMDL) – a scientific determination of the maximum amount of a given pollutant that a waterbody can absorb and still meet the water quality standards that protect human health and aquatic life. The FDEP is responsible for the TMDL program.

Water Quality Criteria – elements of the state water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports the present and future most beneficial use.

Waterbody Classification – Classification of surface waters of the state according to designated use as established by **Chapter 62-302.400, F.A.C.**, and is as follows:

Class I	Potable Water Supplies
Class I-Treated	Treated Potable Water Supplies
Class II	Shellfish Harvesting or Propagation
Class III	Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
Class III-Limited	Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Maintenance of a Limited Population of Fish and Wildlife
Class IV	Agricultural Water Supplies
Class V	Navigation, Utility and Industrial Use

Waterbody Identification Number (WBID) – Unique identifiers assigned to polygons that roughly delineate the drainage basins surrounding the waterbody assessment units (drainage basins, lakes, lake drainage areas, springs, rivers and streams, segments of

rivers and streams, coastal, bay and estuarine waters in Florida). WBIDs are assigned a FDEP district as part of their attribution. Projects can be in more than one WBID.

Wellhead Protection Area – an area consisting of a 500 foot radial setback distance around a potable water well where ground water is provided the most stringent protection measures to protect the ground water source for a potable water well and includes the surface and subsurface area surrounding the well (**Chapter 62-521, F.A.C.**).

Wild and Scenic River – a designation under the National Wild and Scenic Rivers System created by Congress in 1968 to preserve rivers with outstanding natural, cultural, and recreational values in a free-flowing condition.

11.1.2 Water Quality

The **Clean Water Act** is the primary law regulating pollution of the nation’s waterways. Originally enacted in 1948 as the **Federal Water Pollution Control Act**, it was amended in 1972 under the **CWA** to add programs for water quality improvements with the goal of restoring and maintaining the chemical, physical and biological integrity of the country’s water. (**33 U.S.C. § 1251 et seq**) The “**Clean Water Act**” became the Act’s common name with the amendments in 1972. The **CWA** made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. The Environmental Protection Agency (EPA) has set water quality standards for all contaminants in surface waters. In Florida, the Florida Department of Environmental Protection (FDEP) implements the **CWA** programs under **Chapters 403 and 373, F.S.**

11.2 PROCEDURE

Project impacts to water resources must be evaluated regardless of whether the project is required to meet federal and state environmental review requirements. The water quality evaluation should provide the information necessary to estimate potential impacts to water resources as part of the project development process in compliance with the goals and requirements of the **CWA, Chapter 373, F.S.**, and **Chapter 403, F.S.** The **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** developed during the PD&E Study documents the technical information for the water quality impact evaluation that supports the **NEPA** decision making process.

11.2.1 Regulatory Agencies and Stakeholder Coordination

The management of water quality impacts associated with transportation projects involves engaging various state and federal agencies, and other local and regional stakeholders as early as in the Planning phase and Efficient Transportation Decision Making (ETDM) process. The goal of early coordination is to proactively identify potential water quality and water quantity requirements and critical areas of stormwater concerns and to explore opportunities for joint stormwater projects that can address those issues with stakeholders.

If the project is located near waterbodies with a Basin Management Action Plan (BMAP) or Reasonable Assurance Plan (RAP), the Project Manager should coordinate with BMAP or RAP stakeholders to understand FDEP and local concerns. Such coordination may also identify the level of water quality evaluation, additional agencies and stakeholders with whom FDOT should collaborate, and whether any potential regional water resource improvement opportunities exist in the project area.

Coordination with regulatory agencies and other stakeholders during a PD&E Study should include the Environmental Look Arouds (ELA) process as described in Chapter 5 of the [FDOT Drainage Manual, Topic No. 625-040-002](#). The ELA process provides an opportunity for assessing and utilizing options for FDOT to partner in innovative, cooperative regional stormwater management projects. The ELA process leads to improved environmental benefit and/or reduced stormwater management costs. The Project Manager should convene ELA meeting(s) soon after the stormwater management requirements are estimated and before stormwater management design decisions are established. The ELA meetings should also explore watershed wide stormwater needs and innovative approaches to meeting permit requirements for the project. The Project Manager should document areas of potential cooperation in the project file for future follow up as the project progresses into the Design phase.

Projects with federal funding located within the boundaries of designated sole source aquifers (SSAs) must be planned and designed to assure they will not contaminate the aquifer. The Project Manager must coordinate with EPA's Region 4, Ground Water and Underground Injection Control (UIC) Section, to obtain EPA concurrence on the project in compliance with **Section 1424(e) of the Safe Drinking Water Act (SDWA) and 40 C.F.R. § 149** when the project has the potential to impact an SSA. Coordination with EPA's Region 4, Ground Water and Underground Injection Control (UIC) Section should start during ETDM screening when the Advance Notification (AN) is distributed and should continue throughout the PD&E Study. The Preliminary Environmental Discussion (PED) should indicate if the project is within the SSA boundary and would impact the SSA. The District Environmental Manager or Project Manager should respond to inquiries, comments or concerns expressed by the EPA's Region 4 Ground Water and UIC Section to obtain EPA's concurrence with the FDOT's measures to protect the aquifer. The EPA concurrence letter must be referenced and attached to the final Environmental Document.

11.2.2 Determine Level of Assessment

The level of evaluation for water resources during the PD&E phase depends on the project involvement with water resources, quality of the water resources, potential impacts, the potential for implementing non-traditional water quality improvements, or impacts to SSAs. The Water Quality Impact Evaluation (WQIE) is a method to identify and evaluate potential water quality impacts for a PD&E Study. The WQIE should have sufficient detail to reflect consideration of water quality issues, including the ELA, see [Section 11.2.3.2](#). If coordination with regulatory agencies or other stakeholders is

needed, additional documentation in form of a technical memo may be needed. WQIE results should be documented in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37**, saved in the project file, and briefly summarized in the Environmental Document. The **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** should be updated during a re-evaluation if changes have occurred to water quality status, such as delisting from the verified impaired water body list or adoption of new TMDLs, or if the project impacts on water quality have changed.

Detailed evaluations are generally not warranted for transportation projects not qualifying for ETDM screening, typically Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSA). These projects have no significant environmental effects, and therefore typically require minimal water quality evaluation.

A higher potential for water resources impacts typically exists with transportation projects qualifying for screening. Most PD&E projects receive prior consideration of water resources issues during the ETDM process. The results of the Programming Screen are documented in a **Programming Screen Summary Report**. The water resources evaluation in the PD&E Study focuses on issues identified during the Programming Screen.

11.2.2.1 Projects Not Qualifying for EDTM Screening

Water quality issues may be identified for projects that do not require ETDM screening and advance straight to the Design phase. Documentation should be provided as follows:

1. **Type 1 Categorical Exclusions** – Verify that the project does not involve significant impacts on water quality. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for more guidance.
2. **Non-Major State Actions** – Verify that there are no water quality resources affected by the project. See [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#) for more guidance.
3. **Type 2 Categorical Exclusions** – Some Type 2 CEs may not require screening through the EST. For these projects, water quality resource impacts are documented on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, and in the project file. See [Section 11.2.3.4](#) for guidance on documenting Type 2 CEs.

11.2.2.2 Projects Qualifying for ETDM Screening

In accordance with [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen. The following items should be addressed as the projects advances through the project development process:

1. **Planning Screen Evaluation** – In the PED, the District will provide a discussion about known potential project involvement with surface water bodies and groundwater and their designations in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). Identify all water resources located within the project area using online resources maintained by the FDEP and WMDs, as well as other data sources.

Specific information identified during the screening may include:

a. Surface Water

1. Identification of surface waterbody to which the stormwater ultimately discharges;
2. Any special designations of receiving water bodies (OFW, Aquatic Preserve);
3. Whether the project is within a permitted MS4;
4. WBIDs in which the project is located, and associated FDEP Group Number and Name;
5. State Water Management District (WMD) in which the project is located;
6. Water Control Districts or Regional Water Authorities;
7. Waterbody Classification.
8. Listing status - whether the WBID is identified as impaired, has a TMDL and/or BMAP or RAP;
9. The appropriate numeric nutrient standard for the waterbody if applicable; and,
10. If project discharges to a waterbody identified as impaired, identify the pollutant(s) of concern, numeric criteria or TMDL (whichever applies).

b. Groundwater

1. Groundwater recharge mechanism;
2. Identification of the aquifer where the project is located;
3. Identification of SSA;
4. Potentially affected springsheds; and,
5. Whether the potentially affected spring has a BMAP or RAP plan.
6. Water Control Districts or Regional Water Authorities with potable water well fields.

2. **Programming Screen Evaluation** – Include discussion about potential project involvement with surface and ground water resources (based on the District familiarity with the project area and information from the Planning Screen) in the PED of the AN. The District ETDM Coordinator and the Project Manager should include other District staff such as District Drainage Engineer, Permit Coordinator, and others who will be involved with the project in subsequent phases. Discuss with the District Drainage Engineer to explore opportunities and options for stormwater treatment for the project. Coordinate as needed with the Environmental Technical Advisory Team (ETAT) and other stakeholders throughout the ETDM screening process.
3. **PD&E Evaluation** – After ETDM screening, review the **Programming Screen Summary Report** for ETAT comments for the water quality issues as well as ETAT comments on other issues such as coastal and marine, wetlands and surface waters, floodplains, and sole source aquifers and other special designations. Determine the project's involvement with project specific or regional water resource issues from resource agencies comments. Use information from the ETDM screening to scope the water quality evaluation effort during the PD&E Study. The Project Manager should discuss scope activities with other offices such as Drainage, Permit, and Maintenance. Use information from **Programming Screen Summary Report** to document existing conditions.

The Project Manager should prepare a **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** for each alternative as appropriate. Convene ELA meetings with regulatory agencies and appropriate stakeholders. Complete the appropriate level of documentation based on the project and associated impacts and outcome of ELA meetings. Complete the appropriate conceptual drainage analysis based on the level of design detail in the PD&E Study ([Part 1, Chapter 4, Project Development Process](#)). The Project Manager should document Commitments in the Environmental Document and the **Project Commitment Record, Form No. 700-011-35**.

11.2.3 Water Quality Impact Evaluation

The purpose of the WQIE in the PD&E Study is to identify and characterize existing water resources in a project area, assess project's potential impacts to water resources, identify and evaluate mitigation measures, if necessary, and document coordination that occurred. Since water quality requirements and basin parameters affect stormwater pond size requirements and drainage criteria, the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** should be completed prior to finalizing the pond siting analysis.

The following sections outline the approach to complete a WQIE during the PD&E Study.

11.2.3.1 Existing Conditions

At the beginning of the PD&E Study, the Project Manager should coordinate with the ETAT members to discuss their comments provided in the **Programming Screen Summary Report**. This helps to verify if potential water resources issues and environmental concerns have changed or not changed since the screening was completed. Using the results of the Programming Screen, the District can begin to document the existing water resources that may be affected by the proposed project. This documentation can start before the PD&E Study is initiated.

11.2.3.1.1 Identify Water Resources

Delineate water resource basins or watershed boundaries where the project may have a direct impact on water quality. Identify water resource characteristics within the basin boundaries. Review the project area for the existence of joint stormwater management projects. Joint projects may require expansion of the stormwater analysis beyond the project's immediate hydrologic basin boundaries. The Project Manager should coordinate with the District Drainage Design Office to determine any additional areas associated with pond siting, water storage, hydrologic restoration, recharge or treatment. Coordination should also include the District Permit Coordinator and NPDES/ MS4 Coordinator to identify areas where pollutant load reduction efforts are needed.

11.2.3.1.2 Collect Data and Estimate Water Quality Impacts

11.2.3.2 Water Quality Impact Evaluation Documentation

Data to evaluate potential water resources issues within the project area can be obtained from various sources such as FDEP and WMD websites, geographic information system (GIS) water resources data, county and city water atlases, regional stormwater master plans, and flood studies. The FDEP TMDL website is frequently updated with new information and should be checked periodically during the PD&E Study. Impacts to other environmental resources—such as wetlands, wildlife and plant species, or special aquatic sites-- should also be identified. Water Quality Impact Evaluation Documentation

The detailed results of data collection efforts and continued coordination with water resources agencies and stakeholders are documented in the **Water Quality Impact Evaluation Checklist, Form No. 650-050-37 (Figure 11-1)** and summarized in the Environmental Document. If more than one project alternative is analyzed in detail, a **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** is completed for each alternative; in cases where the project alternatives are in the same drainage basin(s), one **Water Quality Impact Evaluation Checklist, Form No. 650-050-37** is prepared. The results of each alternative are then compared and documented in the **Preliminary Engineering Report (PER)** and summarized in the Environmental Document.

The ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** has five parts which include the following information:

Part 1 - Project Information

This section includes general project identification:

1. Project Name
2. County
3. Financial Management (FM) Number
4. Federal-Aid Project Number
5. Brief project description including the location and identification of water resources within the project area that are potentially affected. The description of the project should include all activities related to construction and summarize both long-term and short-term anticipated impacts on identified water resources.

Part 2 - Determination of WQIE Scope

Determine if the project:

1. Discharges to surface or ground water;
2. Alters the drainage system; or,
3. Is located within a permitted MS4. If yes, name the Phase I or Phase II MS4. Lists of permitted Phase I and Phase II MS4 facilities can be found on the FDEP website (See [Section 11.3](#) for a web link).

Part 3 - Project Basin and Receiving Water Characteristics

Provide the following information:

1. Names of receiving water bodies (or closed basin);
2. WMD(s) in which the basin is located;
3. ELA meeting date (attach meeting minutes/notes);
4. Water Control Districts or Regional Water Authorities with jurisdiction in the area in which the basin is located;
5. Identification of a springshed or recharge area within project area;

6. Identification of any sole source aquifer in proximity to the project;
7. Identification of any other aquifers;
8. Identification of any spring vents;
9. Identification of any well head protection area;
10. Identification of groundwater recharge; and,
11. Date of notification to the District Drainage Engineer if karst conditions are expected or if a higher level of treatment may be needed due to a project's location within a WBID verified as impaired in accordance with **Chapter 62-303, F.A.C.**

Part 4 - Water Quality Criteria

List all WBIDs and all parameters for which a WBID has been verified impaired, or has a TMDL in Table 1 of the Checklist. This information must be updated during each re-evaluation.

Indicate whether the coordination shown in Table 2 of the Checklist has been completed and attach meeting notes or minutes from all coordination meetings identified.

1. Provide this information in Table 1 of the Checklist as described below:
 - a. Receiving waterbody name (or closed basin name);
 - b. DEP Group Number;
 - c. DEP Basin (Group Name);
 - d. Waterbody Identification numbers (WBIDs);
 - e. Waterbody classification(s);
 - f. Special Basin Designations ([Part 2, Chapter 10, Aquatic Preserves and Outstanding Florida Waters](#) and [Part 2, Chapter 12, Wild and Scenic Rivers](#));
 - g. Appropriate numeric nutrient criteria (NNC)—i.e., Lakes, Spring vents, Streams, Estuaries;
 - h. Impairment status - whether the WBID(s) identified is impaired;
 - i. TMDL status;
 - j. Pollutant(s) of concern and numeric criteria or TMDL criteria; and,
 - k. Whether project is in a basin that has a BMAP, RAP plan, or SSAC.
2. Mark boxes accordingly and include information on Table 2.

Table 2 summarizes coordination efforts with federal, state, and local agencies, local stakeholders, and BMAP or RAP stakeholders—indicate if FDOT is a stakeholder. Documentation should indicate if additional coordination is recommended after the PD&E phase and provide the contact person and contact information.

3. Attach documentation of regional stormwater or other project opportunities identified in ELA meeting(s). Attach notes or meeting minutes from all coordination meetings.
4. Describe any direct effects associated with project construction and operation. Direct effects are those that occur in direct association with the construction or operation of the project, such as:
 - a. Turbidity;
 - b. Sedimentation;
 - c. increase in stormwater runoff;
 - d. decrease in water quality (violation of water quality standards/objectives) of downstream or receiving water bodies; and,
 - e. enhancement of water quality through treatment.

List all regulatory agency requirements and indicate the most stringent criteria that apply. Additionally, more stringent water quality criteria such as for OFWs or aquatic preserves should be documented for the purposes of sediment and erosion control planning for construction.

5. Discuss any other relevant water quality information.

Part 5: WQIE Documentation

Mark boxes as appropriate, and attach supporting documentation.

It is important to update the ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** throughout the life of the project because the status of water resources impairments is updated frequently. The FDEP TMDL website is updated with new information and should be checked periodically. See [Section 11.3](#) for a link to FDEP's website.

11.2.3.3 Environmental Document

Water resource involvement or impacts must be summarized in the water quality section of the appropriate Environmental Document for the project. For the purposes of this chapter, the term “water quality section” means the section where water resource involvement or impacts are discussed in the Environmental Document. The Environmental Document should summarize post-construction, best management practices (BMPs) which will be implemented to address potential water quality and

quantity impacts from the project's stormwater impacts. Furthermore, the Environmental Document should state whether the project will meet the criteria and requirements of stormwater quantity and quality criteria. The ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** is maintained in the project file.

11.2.3.3.1 Federal Projects

Major elements of the ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** are summarized in the Environmental Document. The results of any meetings should be documented in the Comments and Coordination Section of an EA or EIS and, when applicable, the Commitments Section.

Draft Environmental Documents for projects that occur within the boundaries of a designated SSA are sent to EPA Ground Water/Drinking Water Branch for evaluation when it is determined (through coordination during ETDM screening and/or development of the ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37***, specifically the EPA Sole Source Aquifer Checklist, that EPA clearance is required. All issues raised by EPA should be addressed in the Environmental Analysis Section of a Type 2 CE, EA, or EIS. The results of any meetings should be documented in the Comments and Coordination Section of an EA or EIS and when applicable, the Commitments Section. Documentation from EPA that the project is compliant with ***Section 1424(e)*** of the ***SDWA*** and ***40 CFR §149*** must be included in the final Environmental Document.

11.2.3.3.2 State Funded Projects

The State Environmental Impact Report (SEIR) form should indicate the level of water quality impact in the appropriate column. If a project does not involve impacts to water resources, mark the column indicating "NOINV." If water resources exist but the project will improve water quality, mark the column indicating "ENHANCE." If water resources exist but there is little or no impact, mark the column indicating "NO." If there is a potential for significant impacts to water resources, mark the column "YES". Provide justification of decision in the Supporting Information column as necessary to support the impact determination. All commitments made through coordination efforts should be documented in the Commitments section of the ***SEIR***. The ***Water Quality Impact Evaluation Checklist, Form No. 650-050-37*** should be saved in the project file.

11.2.3.3.3 Commitments

Water resource commitments may be related to BMAP/RAP commitments, ELA commitments, or actions/activities required to advance the project and/or require action for the Contractor to implement. Commitments may include the retrofitting of structures to increase water quality treatment; building of water quality improvement features; hydrologic enhancement; recharge or reuse projects; or continued coordination with water resource agencies or other stakeholders. Commitments must be coordinated with other FDOT offices to ensure they are feasible.

Commitments related to water resource issues made by the FDOT should be included in the Environmental Document consistent with [Part 2, Chapter 22, Commitments](#).

11.2.3.4 Re-evaluation

Any change to the project which may affect water quality impacts after approval of the Environmental Document must be documented in a **Re-evaluation Form, Form No. 650-050-29** consistent with [Part 1, Chapter 13, Re-evaluations](#). Commitments and coordination, and the status of any water quality permits, should be discussed in the Water Quality and Water Quantity, Commitment Status, and/or Status of Permits sections of the **Re-evaluation Form, Form No. 650-050-29**.

11.2.4 Water Quantity

Water quantity impacts associated with transportation projects are usually addressed through permitting of stormwater management systems. General permit requirements prohibit FDOT stormwater projects from causing adverse water quantity impacts to receiving waters and adjacent lands; causing adverse flooding to on-site or off-site property; adversely impacting existing surface water storage and conveyance capabilities; adversely affecting the quality of receiving waters such that state water quality standards will be violated; causing adverse secondary impacts to water resources; adversely impacting the maintenance of surface or ground water levels or surface water flows; adversely impacting a Work of the District; and requires stormwater systems to be capable of performing and functioning as proposed and to comply with any applicable special basin or geographic area criteria (**Chapter 62-330.301, F.A.C.**).

11.2.4.1 Federal and State Stormwater Regulations and Permits

All FDOT projects must adhere to federal and state regulations. It is the Project Manager's responsibility to become familiar with the laws, rules, and regulations that may affect the project. This section summarizes some of those rules as well as programs designed to aid in improving water quality and address water quantity aspects associated with transportation projects. Refer to [Part 1, Chapter 12, Environmental Permits](#) for more information regarding FDOT procedures for obtaining environmental permits.

11.2.4.1.1 NPDES Permit

Section 402 of the CWA (33 U.S.C. § 1342) established the National Pollutant Discharge Elimination System (NPDES) stormwater permit program to regulate water pollution caused by municipal separate storm sewer systems (MS4s) and a generic NPDES permit for small construction activity disturbing between 1 and 5 acres. In Florida, the NPDES stormwater permit program is administered by FDEP in accordance with **Section 403.0885, F.S.**, which is different from the Environmental Resource Permitting (ERP) program authorized by **Chapter 373, F.S.** FDOT is a regulated MS4 operator under **Chapter 62-624, F.A.C.** Regulated MS4 operators must obtain an NPDES stormwater permit and implement a Statewide Stormwater Management Plan (SSWMP) that

describes the activities to be conducted, methods to be used, and procedures to be followed to reduce the discharge of pollutants from its MS4s to the maximum extent practicable.

11.2.4.1.2 Total Maximum Daily Load

Section 303(d) of the CWA requires states to identify waters where current pollution control technologies alone cannot meet the water quality standards set for that waterbody. Every two years, states are required to submit a list of impaired waters plus any that may soon become impaired to the EPA for approval. The impaired waters are prioritized based on the severity of the pollution and the designated use of the waterbody (e.g., fish propagation or human recreation). States must establish the TMDLs of the pollutant(s) in the waterbody for impaired waters on their lists.

The **Florida Watershed Restoration Act (FWRA)** which is codified at **Section 403.067 F.S.**, was enacted to protect waters of the state through the Total Maximum Daily Load (TMDL) program as required by **Section 303(d) of the CWA** and **33 USC § 1251**. The TMDL program promotes improvements in the quality of waters of the state by coordinating control of pollution from both point and nonpoint sources. TMDLs are adopted for waters identified as impaired by FDEP in accordance with **Chapter 62-303, F.A.C.**, also known as the **Impaired Waters Rule (IWR)**. TMDLs are adopted by law in **Chapter 62-304, F.A.C.** TMDLs may be implemented through BMAPs, NPDES permits, or through other pollution reduction strategies.

BMAPs are formal plans for restoring impaired waters by reducing pollutant loadings. BMAPs are developed under **Section 403.067, F.S.**, with local stakeholders, including FDOT. BMAP obligations upon cities and counties can be costly; and can serve as an incentive for local governments to seek joint stormwater projects with FDOT. Example of BMAPs are: permit limits on wastewater facilities, urban and agricultural best management practices, stormwater best management practices, conservation programs, financial assistance and revenue generating activities.

The list of TMDLs and their BMAPs can be found on the FDEP website which is updated regularly. Projects that are located within an impaired waterbody with established TMDLs may be subjected to meeting stricter regulatory requirements for water quality.

FDEP implements RAPs to restore water bodies to meet their designated uses. Implementation of RAPs alleviates the need to establish TMDLs. **Chapter 62-303.600, F.A.C.**, allows FDEP to not list impaired waters if pollution control programs, such as RAPs, are being implemented to restore water quality standards and are deemed sufficient to result in attainment of applicable water quality standards. The FDEP's decision shall be based on a plan that any proposed pollution control mechanisms from stakeholders such as FDOT demonstrate reasonable assurance that the proposed pollution control mechanism and expected improvements in water quality in the water segment will attain applicable water quality standards.. The list of adopted RAPs can be found on the FDEP website which is updated regularly.

11.2.4.1.3 Environmental Resource Permits

Implemented by **Chapter 62-330, F.A.C.**, and administered by WMDs or FDEP, ERPs regulate activities involving the alteration of surface water flows and provides protection for the vital functions of wetlands and other surface waters. Any FDOT transportation project involving the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works including structures, dredging and filling located in, on or over wetlands or other surface waters as defined in **Chapter 62-340, F.A.C.**, are governed by the ERP Program under **Chapter 62-330, F.A.C.** ERP permit requirements prescribe stormwater pond sizes and vary among WMDs. Stormwater pond design criteria for slopes, berms, and clearances, in the [Drainage Manual, Topic Number 625-040-002](#), are set so as to satisfy similar WMD pond design criteria. Generally, ERP requirements regulate stormwater discharge restrictions leaving FDOT right of way (ROW). Typically, maximum post-development discharge is limited to no greater than pre-development discharge for the specified design storm events required by the WMD. In certain basins with historical flooding and/or limited stormwater conveyance infrastructure, WMDs require upon site development, reductions from pre-development discharge; this often results in larger stormwater ponds to achieve the required lower discharge flow rate and/or volume. On FDOT transportation projects, ERPs are obtained prior to construction, typically when the drainage design is substantially complete—i.e. after Phase II design plans.

11.2.4.2 Conceptual Drainage and Pond Siting Analysis

The drainage analysis conducted during the PD&E Study is dependent on the level of engineering and design analyses required for the PD&E project. At a minimum, the PD&E Study should identify the project's drainage issues and other possible issues that may affect drainage and other design elements; present the overall stormwater management approach; (briefly) discuss and present possible stormwater design concepts that mitigate stormwater runoff; and estimate the general size and potential locations of stormwater management facilities (ponds) that meet regulatory requirements. Stormwater ponds are sized to meet both attenuation (quantity control) and treatment (quality control) requirements. Evaluation of size, locations for stormwater ponds, and alternative stormwater management options (e.g., detention, retention, infiltration) during PD&E ensures additional ROW beyond roadway improvements are analyzed for potential impacts to other environmental resources. Drainage concepts and stormwater pond locations are established during PD&E to evaluate potential impacts to environmental resources.

Drainage analysis is documented in the **PER, Pond Siting Report (PSR)**, and summarized in the Water Quality and Quantity Section of the Environmental Document. The stormwater management facility type, size, location and costs are documented in the **PSR**. Projects in urban core area where adjacent land is fully built out would not necessarily warrant preparation of a **PSR**; in such cases, a **Concept Drainage Design Report** is prepared to document preliminary drainage analysis and data that will support

drainage design in the Design phase. The contents for the **Concept Drainage Design Report** are typically expanded during the Design phase when the stormwater management systems are designed in detail.

The information presented in the **PSR** and **Conceptual Drainage Design Report** is specific to each project and possible drainage approach. The reports must include a cover page prepared using the **Technical Report Cover Page, Form No. 650-050-38** and be signed and sealed by a professional engineer in accordance with **Chapter 471, F.S.** A sample cover page is shown in [Figure 11-3](#).

11.2.4.2.1 Existing Drainage Conditions

For each project alternative being evaluated in the PD&E Study, the existing drainage conditions should be identified, as follows:

1. General drainage patterns near the project;
2. Description of the existing drainage basins with their respective outfalls (include information about name and size of basin and whether it is an open or closed basin);
3. The receiving waterbodies, their classifications, their special designations if appropriate, and if they are verified impaired through the FDEP's TMDL Program;
4. Previous permit information—WMD's permits and drainage connection permits;
5. Base flood elevation, tidal information, water control district's seasonal high water table or control elevations;
6. The land use within the project area;
7. Deficiencies in existing conditions—history of flooding, substandard clearances, scour/erosion problems;
8. The soil types within the project area;
9. Description of existing stormwater systems and stormwater management facilities including conveyance system; location and size of cross drains; location and description of bridges; location, type and size of ponds; other stormwater facilities;
10. Known above or below ground contamination materials that have a potential to be impacted by the project and hence affect water quality; and,
11. Historical, archeological, and environmental information that have the potential to be impacted by the project.

11.2.4.2.2 Proposed Drainage Conditions

Drainage analysis for proposed conditions should provide a conceptual drainage system, which appropriately includes the following items:

1. Description of the onsite drainage basins with their respective outfalls;
2. Discussion on how stormwater from offsite area will be handled;
3. WMD and FDOT water quality treatment and the rate (or volume) discharge requirements;
4. Floodplain compensation requirements and estimated compensation volume;
5. General discussion of the preliminary proposed drainage (ditched, piped, ponds);
6. Approximate size and potential locations of Stormwater Management Facilities;
7. Approximate location and size of cross drains (new or existing)—evaluate potential for ROW, drainage or construction easements;
8. Treatment of existing cross drains (e.g., lengthened, type of end treatment, replaced, plugged);
9. Proposed new bridge structures;
10. Modifications to existing bridge structures;
11. Drainage related design variations; and,
12. Utility conflicts.

11.2.4.2.3 Pond Siting Analysis

For all stormwater ponds requiring ROW acquisition, a pond siting evaluation is required during PD&E Study. Location of ponds for the preferred alternative must be evaluated for potential impacts to the human, natural, cultural and/or physical environment. The Project Manager should first explore innovative opportunities such as regional facilities, joint-use facilities, and stormwater re-use systems, through the ELA process. [Chapter 9 of the FDOT Drainage Design Guides](#) provides a process that can be followed during pond siting evaluation.

Stormwater pond design considerations during the PD&E Study include seasonal high ground water table, soil permeability, tail water, maintenance, constructability, aviation safety issues, and environmental issues. When identifying the size and location of pond sites, it is important to consider the aesthetic qualities of stormwater management ponds on all FDOT projects. The [FDOT Drainage Manual, Topic No. 625-040-002](#) requires the

design of stormwater management facilities be consistent with the [Highway Beautification Policy, Topic No. 000-650-011](#) and integrated with existing and proposed landscaping and adjoining land uses.

11.3 REFERENCES

Chapter 62-302, F.A.C., Surface Water Quality Standards

Chapter 62-303, F.A.C., Identification of Impaired Surface Waters

Chapter 62-304, F.A.C., Total Maximum Daily Loads

Chapter 62-621, F.A.C., Generic Permits

Chapter 62-624, F.A.C., Municipal Separate Storm Sewer Systems

Chapter 373, F.S., Water Resources

Chapter 403, F.S., Environmental Control Clean Water Act of 1972, as amended.
<http://www.fws.gov/laws/lawsdigest/fwatrpo.html>

EPA, Safe Drinking Water Act, Section 1424(e), 1976.
<https://www.epw.senate.gov/sdwa.pdf>

FDEP, Guidance on Developing Restoration Plans and Alternatives to TMDLs – Assessment Category 4b and 4e Plans, June 2015.
<https://www.dep.state.fl.us/water/watersheds/assessment/docs/4b4ePlansGuidance.pdf>

FDEP, Permitted Phase I MS4s in Florida, January 2017.
http://www.dep.state.fl.us/water/stormwater/npdes/docs/Phase_I_MS4_list.pdf

FDEP, Permitted Phase II MS4s in Florida, January 2017.
http://www.dep.state.fl.us/water/stormwater/npdes/docs/Phase_II_MS4_list.pdf

FDEP, Wastewater Facility Information,
<http://dep.state.fl.us/water/wastewater/facinfo.htm>

FDOT, Drainage Manual, Topic No. 625-040-002.
<http://www.dot.state.fl.us/rddesign/Drainage/files/DrainageManual.pdf>

FDOT, Efficient Transportation Decision Making Manual.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT, Statewide Stormwater Management Plan, 2012.

<http://www.dot.state.fl.us/statemaintenanceoffice/FDOTStormWaterMgmtPlan2012.pdf>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Memorandum of Understanding, EPA, FDOT and FHWA, executed on January 25, 1999.

<http://www.fdot.gov/environment/pubs/SSA%20MOU%20Attachments.pdf>

11.4 FORMS

[Project Commitment Record, Form No. 700-011-35.](#)

Re-evaluation Form, Form No. 650-050-29*

Technical Report Cover Page, Form No. 650-050-38

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

Water Quality Impact Evaluation Checklist, Form No. 650-050-37

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

11.5 HISTORY

2/25/2004, 7/27/2016

WATER QUALITY IMPACT EVALUATION CHECKLIST

PART 1: PROJECT INFORMATION

Project Name:	
County:	
FM Number:	
Federal Aid Project No:	
Brief Project Description:	

PART 2: DETERMINATION OF WQIE SCOPE

Does project discharge to surface or ground water? Yes No

Does project alter the drainage system? Yes No

Is the project located within a permitted MS4?
Name: Yes No

If the answers to the questions above are no, complete the applicable sections of Part 3 and 4, and then check Box A in Part 5.

PART 3: PROJECT BASIN AND RECEIVING WATER CHARACTERISTICS

Surface Water

Receiving water(s) names:

Water Management District:

Environmental Look Around meeting date: ____/____/____

Attach meeting minutes/notes to the checklist.

Water Control District Name (list all that apply):

Is the project located within a springshed or recharge area? Yes No

Ground Water

Sole Source Aquifer (SSA)? Yes No Name _____

If yes, complete Part 5, D and complete SSA Checklist from EPA website ([Figure 11-2](#))

Other Aquifer? Yes No Name _____

Figure 11-1 Water Quality Impact Evaluation

Springs vents? Yes No Name _____

Well head protection area? Yes No Name _____

Groundwater recharge? Yes No Name _____

Notify District Drainage Engineer if karst conditions are expected or if a higher level of treatment may be needed due to a project being located within a WBID verified as Impaired in accordance with Chapter 62-303, F.A.C.

Date of notification: ____/____/____

PART 4: WATER QUALITY CRITERIA

List all WBIDs and all parameters for which a WBID has been verified impaired, or has a TMDL in **Table 1**. This information must be updated during each Re-evaluation.

Note: If BMAP or RAP has been identified in **Table 1**, **Table 2** must also be completed. *Attach notes or minutes from all coordination meetings identified in **Table 2**.*

EST recommendations confirmed with agencies? Yes No

BMAP Stakeholders contacted: Yes No

TMDL program contacted: Yes No

RAP Stakeholders contacted: Yes No

Regional water quality projects identified in the ELA Yes No

If yes, describe:

Potential direct effects associated with project construction and/or operation identified? Yes No

If yes, describe:

Discuss any other relevant information related to water quality.

Figure 11-1 Water Quality Impact Evaluation (Page 2 of 5)

PART 5: WQIE DOCUMENTATION

- A. No involvement with water quality
- B. No water quality regulatory requirements apply.
- C. Water quality regulatory requirements apply to this project (provide Evaluator's information below). Water quality and quantity issues will be mitigated through compliance with the design requirements of authorized regulatory agencies.
- D. EPA Ground/Drinking Water Branch review required. Yes No
Concurrence received? Yes No
If Yes, Date of EPA Concurrence: ___/___/___ (Attach the concurrence letter)

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Evaluator Name (print):	
Title:	
Signature:	Date:

Figure 11-1 Water Quality Impact Evaluation (Page 3 of 5)

Table 1: Water Quality Criteria

Receiving Waterbody Name (list all that apply)	FDEP Group Number / Name	WBID(s) Numbers	Classification (I,II,III,IIIL,IV,V)	Special Designations*	NNC limits**	Verified Impaired (Y/N)	TMDL (Y/N)	Pollutants of concern	BMAP, RA Plan or SSAC

* ONRW, OFW, Aquatic Preserve, Wild and Scenic River, Special Water, SWIM Area, Local Comp Plan, MS4 Area, Other

** Lakes, Spring vents, Streams, Estuaries

Note: If BMAP or RAP has been identified in Table 1, Table 2 must also be completed.

Figure 11-1 Water Quality Impact Evaluation (Page 4 of 5)

Table 2: Regulatory Agencies/Stakeholders Contacted

Receiving Water Name (list all that apply)	Agency's Contact and Title	Date Contacted	Follow-up Required (Y/N)	Comments

Figure 11-1 Water Quality Impact Evaluation (Page 5 of 5)

PROJECT NAME:

NAME OF SOLE SOURCE AQUIFER:

1. Location of project:
2. Project description.
3. Is there any increase of impervious surface? If so, what is the area?
4. Describe how storm water is currently treated on the site?
5. How will storm water be treated on this site during construction and after the project is complete?
6. Are there any underground storage tanks present or to be installed? Include details of such tanks.
7. Will there be any liquid or solid waste generated? If so how will it be disposed of?
8. What is the depth of excavation?
9. Are there any wells in the area that may provide direct routes for contaminants to access the aquifer and how close are they to the project?
10. Are there any hazardous waste sites in the project area, especially if the waste site has an underground plume with monitoring wells that may be disturbed? Include details.
11. Are there any deep pilings that may provide access to the aquifer?
12. Are Best Management Practices planned to address any possible risks or concerns?
13. Is there any other information that could be helpful in determining if this project may have an effect on the aquifer?
14. Does this Project include any improvements that may be beneficial to the aquifer, such as improvements to the wastewater treatment plan?

The EPA Sole Source Aquifer Program may request additional information if impacts to the aquifer are questionable after this information is submitted for review.

Figure 11-2 EPA Sole Source Aquifer Checklist

POND SITING REPORT (OR CONCEPT DRAINAGE DESIGN REPORT)

Florida Department of Transportation

District X

Project Title

Limits of Project

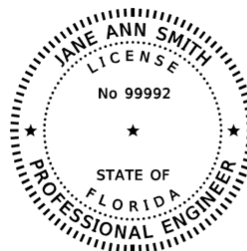
County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

(Signature Block as Needed)



THIS DOCUMENT HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

JANE ANN SMITH
Date: 2013.10.09
16:40:48 - 4'00'

PRINTED COPIES OF THIS DOCUMENT ARE
NOT CONSIDERED SIGNED AND SEALED.
THE SIGNATURE MUST BE VERIFIED
ON THE ELECTRONIC DOCUMENTS.

ROADWAY ENGINEERS, INC.
123 MAIN STREET
TALLAHASSEE, FL 32301
CERTIFICATE OF AUTHORIZATION: 12345
JANE ANN SMITH, P.E. NO. 99992

Figure 11-3 Sample Pond Siting Report Cover Page

PART 2, CHAPTER 12

WILD AND SCENIC RIVERS

TABLE OF CONTENTS

12.1 OVERVIEW	12-1
12.2 PROCEDURE	12-3
12.2.1 Determination of Involvement	12-3
12.2.1.1 Rivers Not Listed on the Nationwide Rivers Inventory	12-4
12.2.1.2 Rivers Listed on the Nationwide Rivers Inventory	12-4
12.2.2 Coordination	12-4
12.2.3 Documentation	12-5
12.2.3.1 Rivers Not Listed on the Nationwide Rivers Inventory	12-5
12.2.3.2 Rivers Listed on the Nationwide Rivers Inventory Without Impacts.....	12-6
12.2.3.3 Rivers Listed on the Nationwide Rivers Inventory with Impacts .	12-6
12.2.4 Section 4(f) Applicability.....	12-7
12.3 REFERENCES	12-8
12.4 FORMS.....	12-9
12.5 HISTORY.....	12-9

PART 2 CHAPTER 12

WILD AND SCENIC RIVERS

12.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides procedures for evaluating and documenting potential effects of federal projects on Wild and Scenic Rivers and designated study rivers. FDOT is responsible for determining whether a federal transportation project impacts a designated Wild and Scenic River or a congressionally designated study river and for consulting with the National Park Service (NPS) or other appropriate River Administering Agency (RAA) to avoid direct and adverse effects to these resources. This chapter provides guidance on complying with the following:

1. Presidential Directive dated August 2, 1979, **Wild and Scenic Rivers and National Trails**;
2. Council of Environmental Quality (CEQ) Memorandum dated August 10, 1980, **Interagency Consultation to Avoid or Mitigate Adverse Effects of Rivers in the Nationwide Inventory**;
3. **Federal Register (FR), Volume 47, Number 173**, dated September 7, 1982 (**47 FR 39454**), **National Wild and Scenic Rivers System-Final Revised Guidelines for Eligibility, Classification, and Management of River Areas**;
4. **The Wild and Scenic Rivers Act (WSRA) of 1968, as amended, 16 U.S.C. § 1271 et seq.**; and,
5. **36 Code of Federal Regulations (CFR), Part 297, Wild and Scenic Rivers.**

The **WSRA** was signed into law on October 2, 1968 (**Public Law 90-542, as amended**) to identify and preserve select river segments and their immediate surroundings possessing "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values." **Section 7** of this **Act**, along with the

implementing rules, requires that no federal license, permit, or other authorization be issued for a project which would affect the free flowing characteristics, the water quality, or the outstandingly remarkable values of a Wild and Scenic River or a river under study for designation as a Wild and Scenic River (study river). Therefore, prior to issuing such a project license, permit, authorization, or federal funding to a project which is within, alongside, above or below the boundaries of these resources, the federal agency must 1) provide notice to the Secretary responsible for administering the river and 2) consult with the NPS and/or any other appropriate federal agency administering the river to reach a determination that the project will not have a direct and adverse effect on the outstanding remarkable values that provide the basis for the segment's designation as a Wild and Scenic River or study river.

The following are the two designations of rivers assessed in federal Environmental Documents:

1. **Nationwide Rivers Inventory** - Includes the river segments designated in the **WSRA** for further study in order to determine if they should be included in the National Wild and Scenic Rivers System (study rivers) as well as the river segments which have been formally designated as Wild and Scenic Rivers.
2. **Wild and Scenic Rivers** - Those rivers with free-flowing conditions approved by the Secretary of the U.S. Department of Interior (USDOI) being classified, designated, and administered as one of the following:
 - a. **Wild River Areas:** Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.
 - b. **Scenic River Areas:** Those rivers or sections of rivers that are free of impoundments with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.
 - c. **Recreational River Areas:** Those rivers or sections of rivers that are readily accessible by roads or railroads, that may have some development along their shorelines, and that may have undergone some impoundments or diversion in the past.

It is the responsibility of the District to determine whether a project is located within, across, or adjacent to the boundaries of a river listed in the **Nationwide Rivers Inventory (NRI)**, as early as possible in the planning or project development process. To obtain the most current list of the **NRI**, contact the NPS. See [Section 12.3](#) for a link to the NPS website.

The following segments of two rivers in Florida are currently designated as Wild and Scenic Rivers:

1. **Northwest Fork of the Loxahatchee River:** From River Bend Park downstream 7.6 miles to Jonathan Dickinson State Park.
2. **Wekiva River:** Consists of 41.6 total miles. The Wekiva River from its confluence with the St. Johns River to Wekiwa Springs. Rock Springs Run from its headwaters at Rock Springs to the confluence with the Wekiva Springs Run. Black Water Creek from the outflow from Lake Norris to the confluence with the Wekiva River

12.2 PROCEDURE

12.2.1 Determination of Involvement

Each river has specific segments that meet qualifications for inclusion in the **NRI** or for Wild and Scenic River designation. In cases where the project is in, across, or adjacent to a study river or a listed Wild and Scenic River, the project, at minimum, will be a Type 2 Categorical Exclusion (CE).

There are two ways **Section 7** of the **WSRA** can apply to federally funded or approved transportation projects. The first is when a project is located within the boundaries of a designated or study river and the second is when a project is alongside the boundaries, or which requires construction activity upstream, downstream or on a tributary of the designated or study river.

Section 7 establishes three (3) procedural findings that apply to projects involving river segments identified in the **NRI**. These findings are related to the nature of the project's relationship to the river segment and, in the case of the last two procedural findings, whether the river segment involved is a designated Wild and Scenic River or a study river. Furthermore, the analysis for these findings must be coordinated with the river managing agency and/or the NPS, as appropriate.

1. Direct and adverse impacts to the river - This evaluation occurs for all river segments identified in the **NRI** (that is, both study and designated Wild and Scenic Rivers). It applies to projects which are located inside the river which may alter the free-flowing conditions, water quality and/or the Outstanding River Values (ORVs).
2. Invade the area or unreasonably diminish the values of the river - This evaluation applies to projects outside the designated wild and scenic rivers corridor which may impact the river or its ORVs.
3. Invade the area or diminish the values of the river - This evaluation applies to projects outside the designated study river corridor which may impact the river or its ORVs.

The ORVs are defined in the **WSRA** as those resources within a river corridor worthy of special protection. The District will determine if the project is within, across, or adjacent to any rivers listed in the **NRI**. This determination may have been made during the Efficient Transportation Decision Making (ETDM) process where qualifying projects are entered

into the Environmental Screening Tool (EST) by the ETDM Coordinator. (See the [ETDM Manual, Topic No. 650-000-002](#))

During Project Development and Environment (PD&E), the District reviews information from the ETDM process contained in the **Programming Screen Summary Report**, especially any Environmental Technical Advisory Team (ETAT) comments for the “Special Designations” issue. It may be helpful to also review ETAT comments on other issues such as “Water Quality and Quantity.” Comments by the NPS are especially important.

For projects not qualifying for ETDM screening, the District Project Manager determines if the project is located within, across, or adjacent to the boundaries of a river segment listed on the **NRI**. These river segments are delineated and identified in the geographic layers used by the EST and can be accessed for locational data for projects which do not qualify for ETDM screening. If there is no involvement with any rivers listed in the **NRI** the project may proceed without further involvement with the **WSRA**. The finding of no involvement should be recorded in the project file and in the appropriate Environmental Document.

12.2.1.1 Rivers Not Listed on the Nationwide Rivers Inventory

If the project is not within, across, or adjacent to the boundaries of a river segment listed in the **NRI**, then no further action is required in regard to compliance with legislation governing the consideration of designated Wild and Scenic River or study river segments. Documentation is required in the Environmental Document according to [Section 12.2.3.1](#).

12.2.1.2 Rivers Listed on the Nationwide Rivers Inventory

If the project is within, across, or adjacent to the boundaries of a river segment listed in the inventory, proceed with coordination in [Section 12.2.2](#) and documentation in accordance with [Sections 12.2.3.2](#) and [12.2.3.3](#).

12.2.2 Coordination

For projects involving either a study river or a river designated as a Wild and Scenic River, consultations with the managing entity of the river and the appropriate RAA must be conducted in accordance with **Section 7** of the **WSRA** (see the guidance provided in **Interagency Wild and Scenic Rivers Coordinating Council: Wild and Scenic Rivers Act, 2004** in [Section 12.3](#)). When the project involves either a study river or a designated river and the project development process reaches the stage when alternative Right of Way (ROW) requirements have been conceptually defined, aerials depicting alternatives with conceptual ROW limits will be submitted for review and comment to the appropriate RAA for designated rivers and for study rivers, to the NPS at:

Florida Field Office
National Park Service-RTCA Program

665 S. Orange Ave.
Sarasota, FL 34236

This coordination letter, includes the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

The NPS (or other appropriate agency) will respond within a period of thirty (30) days to the request. Any responses or comments received should be resolved. There are times when this may require close coordination with the RAA or the NPS for certain projects where there may be either a physical or visual intrusion of the proposed project on the river. In all cases, however, the responses, comments and resolutions are included and discussed in the Wild and Scenic Rivers section of the Type 2 CE, Environmental Assessment (EA), or Environmental Impact Statement (EIS), as appropriate. For EAs and EISs, a copy of the letters and resolutions should be included in the Appendix and the discussion of coordination with NPS and/or the other managing agencies and, as appropriate, governing bodies in the Comments and Coordination section should complement what is written in the Wild and Scenic Rivers section of the document. For a Type 2 CE, appropriate letter(s), meeting minutes and resolutions should be referenced in the Type 2 CE documentation and placed in the project file.

When the project involves a designated Wild and Scenic River, coordination and consultation includes the appropriate RAA. If the river is managed by a federal agency other than the NPS [these include the U.S. Forest Service (USFS), the Bureau of Land Management (BLM) and the U.S. Fish and Wildlife Service (USFWS)], the coordination must include that agency. For state-managed Wild and Scenic Rivers, the coordination must always include the NPS and the governing council of the specific river.

12.2.3 Documentation

As appropriate, the Type 2 CE, EA, or EIS will contain one of the standard statements set forth in the next three sections regarding the designation or involvement with a Wild and Scenic or study river. The statement must be supported by appropriate documentation in the Wild and Scenic Rivers section of the Environmental Document (see [Part 1, Chapter 5, Type 2 Categorical Exclusion](#), [Part 1, Chapter 6, Environmental Assessment](#), and [Part 1, Chapter 8, Draft Environmental Impact Statement](#)).

12.2.3.1 Rivers Not Listed on the Nationwide Rivers Inventory

For Type 2 CE projects involving rivers not included on the **NRI**, a standard statement is not required. It is sufficient to mark the box (No Inv) for no involvement on **Section 3.C.4. Wild and Scenic Rivers** of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. If needed, this determination can be explained in the Supporting Information ([Part 1, Chapter 5, Type 2 Categorical Exclusions](#)).

For EA or EIS projects involving rivers not included on the **NRI**, the following standard statement is included in the Wild and Scenic Rivers section of the EA or EIS. As appropriate, cite the **WSRA**:

The (Name of River) is not listed in the National Park Service's Nationwide Rivers Inventory and is not designated as a Wild and Scenic River and, therefore, the coordination requirement for the Wild and Scenic Rivers Act does not apply to this project.

12.2.3.2 Rivers Listed on the Nationwide Rivers Inventory Without Impacts

For projects involving rivers included on the **NRI** which have no impacts on the river, the following standard statement is included in Wild and Scenic Rivers section of the Type 2 CE (Supporting Information), EA, or EIS.

The (Name of River) is listed in the National Park Service's Nationwide Rivers Inventory (or is a designated Wild and Scenic River). After coordination with the National Park Service, or other appropriate River Administrating Agency, it has been determined that the project will not directly affect, invade or (unreasonably) diminish the outstanding river values of (Name of River).

The “unreasonably” diminish statement applies to designated Wild and Scenic Rivers only; for study rivers, the higher threshold of just “diminish” applies.

In addition, for EA and EIS documents, the RAA and NPS letters of no direct or adverse effects to ORVs should be included in the Appendix along with appropriate information in the Comments and Coordination section. For a Type 2 CE, the NPS letter should be referenced in the Type 2 CE documentation and placed in the project file.

12.2.3.3 Rivers Listed on the Nationwide Rivers Inventory with Impacts

For projects involving potential impacts to rivers listed on the **NRI**, including those river segments listed as designated Wild and Scenic Rivers, the following areas should be assessed and included in the Wild and Scenic Rivers sections of the Type 2 CE, EA, or EIS.

1. State the name and description of the inventory river;
2. Note whether the river is a designated Wild and Scenic River or a study river;
3. Describe the surrounding environment and setting of the river;
4. Describe the river's usage;

5. Identify any adverse impacts on natural, cultural, and recreational values (the ORVs including any scenic values) within and on each side of the river from the river bank inland one-fourth of a mile. Examples of adverse impacts would be:
 - a. Alteration of free-flowing nature of river,
 - b. Alteration of the setting, or
 - c. Deterioration of water quality.
6. Address comments submitted by NPS and other appropriate agencies with letters included in the Appendix (for EA or EIS only);
7. Reference the NPS and other agency letters in the Type 2 CE documentation (for Type 2 CE only);
8. State alternatives and designs considered that can avoid or minimize harm;
9. Address measures to mitigate harm;
10. Determine if the project's impacts will preclude or downgrade the wild and scenic designation of the river; and
11. Adopt and summarize a monitoring and enforcement program as developed in consultation with the RAA and, as applicable, the managing board or committee, where applicable, for any mitigation listed in the Environmental Document.

If a determination is made that a project will have no impact on either a study river or a designated Wild and Scenic River after coordination with NPS or other appropriate agency, then the standard statement in [Section 12.2.3.2](#) should be provided in the Wild and Scenic Rivers section of the Environmental Document.

12.2.4 Section 4(f) Applicability

Publicly-owned waters of designated Wild and Scenic Rivers, as well as study rivers, may be protected by **Section 4(f)** based upon their designated functions. Publicly-owned lands in the immediate proximity of such rivers may also be protected by **Section 4(f)**, depending on the manner in which they are administered by the federal, state, or local government which manages the land. Designation under the **WSRA** does not in itself create a **Section 4(f)** resource. However, ORVs often include consideration of surrounding areas which function for **Section 4(f)** protected purposes. In addition, the river management may include **Section 4(f)** functions over the length of the river or in certain areas of the river. **Section 4(f)** would only apply to sites that function as, or which are designed or designated as public parks, recreation areas, wildlife and waterfowl refuges, and historic and archaeological sites. Therefore, during the consultations with the RAA or NPS for projects which are alongside, across, or within rivers listed in the **NRI**, the FDOT District must include consultations regarding the functions of the river and its surroundings in the area of the proposed project. When **Section 4(f)** applies to the use

of property which is either within the river corridor or which represents an element of the ORVs, the consultations with the official of the agency having jurisdiction over the property in question, the NPS and other appropriate agencies to resolve these potential adverse impacts will need to be coordinated carefully. This is because concurrence on the **Section 4(f)** finding/approval will need to fulfill the coordination and approval requirements of **Sections 7 and 12** of the **WSRA**. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), or Questions 21 B,C and D contained in the **July 20, 2012 Section 4(f) Policy Paper** located at FDOT's [Section 4\(f\) References](#) web page for more information.

12.3 REFERENCES

CEQ Memorandum, Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, August 10, 1980

FHWA, 2012. Section 4(f) Policy Paper. July 20, 2012.
<https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>

FDOT. [Efficient Transportation Decision Making Manual, Topic No. 650-000-002](#)

Interagency Wild and Scenic Rivers Coordinating Council. Wild and Scenic Rivers Act (WSRA): Section 7. October 2004. <http://www.rivers.gov/documents/section-7.pdf>

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NPS. <http://www.nps.gov/ncrc/programs/rtca/nri/index.html>

National Wild and Scenic Rivers Systems; Final Revised Guidelines for Eligibility, Classification and Management for River Areas, Federal Register, Vol. 47, No. 173, September 7, 1982

Presidential Directive, Wild and Scenic Rivers and National Trails, August 2, 1979

Title 16 U.S.C. § 1278 - Restrictions on water resources projects.
<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title16-section1278&num=0&edition=prelim>

Title 36 CFR Part 297. Wild and Scenic Rivers. <https://www.gpo.gov/fdsys/pkg/CFR-2012-title36-vol2/pdf/CFR-2012-title36-vol2-part297.pdf>

The Wild and Scenic Rivers Act, P.L. 90-542

The Wild and Scenic River Study Process, Technical Report for the Interagency Wild and Scenic Rivers Coordination Council, December 1999

Wekiva River Rock Spring Run & Seminole Creek Wild and Scenic River Study.
Southeast Support Office, National Park Service, U.S. Department of the Interior
(USDOI), June 1999

12.4 FORMS

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

12.5 HISTORY

03/15/2004, 01/08/2008, 8/15/2016

PART 2, CHAPTER 13

FLOODPLAINS

TABLE OF CONTENTS

13.1	OVERVIEW	13-1
13.1.1	Definitions.....	13-2
13.2	PROCEDURE.....	13-3
13.2.1	Determine Level of Analysis	13-3
13.2.2	Location Hydraulic Studies and Report	13-5
13.2.2.1	Location Hydraulic Study.....	13-6
13.2.2.2	Only Practicable Alternative Finding.....	13-8
13.2.2.3	Significant Encroachment.....	13-8
13.2.2.4	Risk Evaluation.....	13-9
13.2.2.5	Location Hydraulic Report	13-10
13.2.3	Bridge Hydraulic Report	13-12
13.2.4	Environmental Document	13-13
13.2.4.1	Type 2 Categorical Exclusion	13-13
13.2.4.2	State Environmental Impact Report.....	13-13
13.2.4.3	Environmental Assessment and Draft Environmental Impact Statement	13-14
13.2.4.4	Finding Of No Significant Impact and Final Environmental Impact Statement	13-15
13.2.5	Public Involvement	13-16
13.3	REFERENCES.....	13-16
13.4	FORMS	13-17
13.5	HISTORY	13-17

LIST OF FIGURES

Figure 13-1 Floodplain Statements	13-18
Figure 13-2 Sample Location Hydraulics Report Cover Page	13-21

PART 2, CHAPTER 13

FLOODPLAINS

13.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter outlines the procedure for evaluating project impacts on 100-year (base) floodplains, and provides guidance on how to document floodplain analysis in the Environmental Document to comply with **23 Code of Federal Regulations (CFR)** Part 771 and applicable regulations, guidance, and Executive Orders (EO).

Protection of floodplains and floodways is required by **Executive Order 11988: Floodplain Management; USDOT Order 5650.2, Floodplain Management and Protection;** and **Federal-Aid Policy Guidance on Location and Hydraulic Design of Encroachments on Flood Plains, 23 CFR Part 650A**. The intent of these regulations is to avoid or minimize highway and land use development encroachments that reduce storage and increase water surface elevations within base floodplains. Where encroachment is unavoidable, the regulations require FDOT to take appropriate measures to minimize impacts. Further guidance for implementation of **Executive Order 11988: Floodplain Management** can be found in the **Guidelines for Implementing Executive Order 11988, Floodplain Management**.

Location hydraulics studies required by **23 CFR Part 650A** must be prepared during the Project Development and Environment (PD&E) Study commensurate with the level of encroachment to allow consistent evaluation and identification of impacts. The results of location hydraulic studies should be documented in the **Location Hydraulics Report (LHR)**. The **LHR** must be reviewed by the District Drainage Engineer to verify that all base floodplains are identified and the **LHR** is consistent with existing basin and floodplain management program. The results of the location hydraulic studies should be briefly summarized in the Environmental Document and considered when making the NEPA decision.

13.1.1 Definitions

Base Flood - The flood or tidal event having a 1% chance of being equaled or exceeded in any given year (commonly known as a 100-year flood).

Base Floodplain - The area subject to flooding by the base flood.

Encroachment - Activities or construction within the floodplain including fill, new construction, substantial improvements, and other development.

Direct Effects – Impacts which occur as a direct result of an action and occur at the same time and place as the action.

Floodplain - Any land area susceptible to being inundated by floodwaters from any source.

Flood Receptor -The entity that may be harmed (e.g., a person, property, habitat), by flood.

Indirect Effects – Impacts which are reasonably foreseeable effects that occur because of an action but occur later in time or are removed from the action location.

Impact - The effect of an encroachment upon the human, natural or physical environment.

Hydraulic Capacity - Measure of the volume of water which can pass through a given structure or culvert or measure of the volume and flow of water within a watercourse.

Natural and Beneficial Floodplain Values - Include but are not limited to fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, forestry, natural moderation of floods, water quality maintenance, and groundwater recharge.

Regulatory Floodway - The floodplain area that is reserved in an open manner by federal, state or local requirements, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so that the cumulative increase in water surface elevation is no more than a designated amount [not to exceed 1 foot as established by the Federal Emergency Management Agency (FEMA) for administering the National Flood Insurance Program].

Risk - The consequences associated with the probability of flooding attributable to an encroachment, including the potential for property loss and hazard to life during the service life of a facility (highway).

Support Base Floodplain Development - The process to encourage, allow, serve, or otherwise facilitate additional base floodplain development. Direct support results from an encroachment, while indirect support results from an action out of the base floodplain.

13.2 PROCEDURE

Potential floodplain impacts shall be assessed for all FDOT projects which involve activities or construction near or within the floodplains. Each project alternative should be analyzed for potential floodplain encroachment and the resulting impacts (positive, negative and indirect impacts) must be documented in the **LHR** and briefly summarized in the Environmental Document. Consideration should also be given to secondary and cumulative impacts to floodplains, as appropriate.

Evaluation of potential floodplain impacts involves the following activities:

1. Determine if a project is located in or will affect the base floodplain.
2. Conduct early public involvement and interagency coordination.
3. Identify and evaluate practicable alternatives to locating in the base floodplain, including alternative sites outside of the floodplain.
4. Identify impacts (direct and indirect) of the project on the floodplain.
5. If impacts cannot be avoided, develop measures to minimize the impacts; and measures to restore and preserve the floodplain, as appropriate.
6. Re-evaluate alternatives to determine if locating the project in the floodplain is still practicable.
7. Document the results in the **LHR** and Environmental Document, and present the findings to the public.

13.2.1 Determine Level of Analysis

The level of assessment and documentation for potential impacts to floodplains during the PD&E phase depends on the significance of the base floodplain encroachments. Detailed floodplain evaluations are generally not warranted for transportation projects not qualifying for screening in the FDOT's Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) [typically Type 1 Categorical Exclusions (CEs) and Non-Major State Actions (NMSA)], or where there is no floodplain involvement. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for more guidance on how to document floodplains on Type 1 CE projects.

Transportation projects qualifying for ETDM screening generally are more complex. In accordance with [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen.

The Project Manager should coordinate with the regulatory and resources agencies, and local agencies throughout the project development process. Coordination with these agencies is useful in identifying floodplain issues, environmental data, and local drainage

or watershed specific studies in the project area. Additionally, the Project Manager should coordinate with the District staff such as District Drainage Engineer, District Permit Coordinator, District Environmental Office staff, and others who may be involved in the project.

1. **Planning Screen Evaluation** - Prepare Preliminary Environmental Discussion (PED) in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). Include a discussion about known potential project involvement with floodplains, drainage basins/watershed and receiving water bodies and their designations.

Review information available in the Planning Screen regarding the location of floodplains as identified by the Federal Emergency Management Agency (FEMA) **Flood Insurance Rate Maps (FIRM)**, the locations of Special Flood Hazard Areas (SFHA), and Flood Insurance Study (FIS). Review specific information about areas of flood hazards that were provided by the Environmental Technical Advisory Team (ETAT).

2. **Programming Screen Evaluation** - Include discussion about known potential project involvement with floodplains, drainage basins and receiving water bodies [based on information obtained in the Planning Screen (if completed) and the District familiarity with the project area in the PED and the Advance Notification (AN), as appropriate.

After screening is completed, review ETAT comments related to floodplains from the **Programming Screen Summary Report**. Use this information to determine the level of potential floodplain impacts and how they may be evaluated and mitigated in the PD&E Study. Begin to evaluate and document existing conditions for use in the floodplain analysis.

3. **PD&E Evaluation** - Review the **Programming Screen Summary Report** for ETAT comments for floodplain issues as well as ETAT comments on other issues that may concern possible floodplain impact and drainage designs, such as “Coastal and Marine” and “Wetlands and Surface Waters”. The Water Management Districts (WMDs) comments may reference a recent drainage study as being the best available information, which may supersede existing floodplain maps. Verify if the modeling in the WMD drainage study was performed to certain standards, such as FEMA guidelines.

The impacts of the project on floodplain must be understood before the preferred alternative is selected. Complete the appropriate level of analysis and documentation based on the project context, anticipated impacts, and outcome of any resource agency coordination. There are four categories of encroachments as they pertain to base floodplain involvement: no involvement, no encroachment, minimal encroachment, and significant encroachment (See [Section 13.2.2](#)). The Project Manager should make preliminary determination of the level of floodplain encroachment and the type of documentation necessary for **LHR** based on field

review, ETDM screening results and consultation with the District Drainage Engineer.

Where floodplain impacts will occur, the analysis must be sufficient to determine the level of impacts and whether they will be significant. The analysis will be documented in the *LHR*. Document floodplain commitments in the Environmental Document and the *Project Commitment Record, Form No. 700-011-35*. (See [Part 2, Chapter 22, Commitments](#)). See [Section 13.2.4.3](#) for documentation of floodplain impacts in the Environmental Document.

13.2.2 Location Hydraulic Studies and Report

FDOT requires an *LHR* to be prepared for any Type 2 CE, Environmental Assessment (EA), Environmental Impact Statement (EIS), or State Environmental Impact Report (SEIR) project that have a potential to encroach on the base floodplain, pursuant to **23 CFR Part 650A**. The *LHR* describes the types of construction activities near floodplains and includes a description of the measures to avoid or minimize floodplain impacts associated with the project. The District Drainage Engineer or designee must review the *LHR* and verify that all base floodplains are identified and the *LHR* is consistent with existing basin and floodplain management program. Additionally, the project manager or designee should consult with local natural resource and floodplain management agencies when a hydraulic study shows an impact to floodplains.

Title 23 CFR Part 650A requires location hydraulic studies for all alternatives containing floodplain encroachments and for those actions which would support base floodplain development, commensurate with the significance of the risk or environmental impact. These studies must include discussion of the following:

1. The risks associated with implementation of the action.
2. The impacts on natural and beneficial floodplain values.
3. The support of incompatible floodplain development.
4. The measures to minimize floodplain impacts associated with the project.
5. The measures to restore and preserve the natural and beneficial floodplain values impacted by the project.

Location studies shall include evaluation and discussion of the practicability of alternatives to any significant encroachments or any support of incompatible floodplain development.

The information contained in the *LHR* is site specific, but the level of floodplain analysis is dependent upon the flood risk associated with each type of encroachment. Use of detailed calculations for every drainage structure associated with a project is not usually necessary and should be avoided, unless the project is accelerated and includes design

phase activities with the PD&E Study or detailed calculation is required to develop the preferred roadway alternative for a new alignment. The encroachment types are listed below:

1. **No Involvement** - No involvement means that there are no floodplains in the vicinity of the project alternatives.
2. **No** - When encroachments are classified as “No” this means that there are floodplains in the vicinity of the project alternatives, but there is no floodplain encroachment.
3. **Minimal Encroachments** - Minimal encroachments on a floodplain occur when there is floodplain involvement but the impacts on human life, transportation facilities, and natural and beneficial floodplain values are not significant and can be resolved with minimal efforts. Normally, these minimal efforts to address the impacts will consist of applying FDOT’s drainage design standards and following the WMD’s procedures to achieve results that will not increase or significantly change the flood elevations and/or limits.
4. **Significant Encroachments** - A highway encroachment and any direct support of likely base floodplain development that would involve one or more of the following construction or flood related activities:
 - a. A significant potential for interruption or termination of a transportation facility which is needed for emergency vehicles or which provides a community’s only evacuation route
 - b. A significant risk including the potential for property loss and hazard to life
 - c. A significant adverse impact on natural and beneficial floodplain values

When the project causes significant encroachment on a floodplain a risk analysis is required to establish a level of risk allowable for a project area and to design the alternative to that level.

Note that even though the amount of floodplain involvement could be small, the impacts may be important or notable enough to be considered a significant encroachment.

It is possible that a project will involve more than one type of encroachment. When this occurs, it is necessary to include information that addresses each of the encroachment types in the **LHR**.

13.2.2.1 Location Hydraulic Study

Every wetland and cross drain has an associated floodplain; however, it is not necessary to evaluate the hydraulic impacts of each one. The impacts to flood elevations and limits are minimized by designing cross drain facilities in accordance with the [FDOT Drainage Manual, Topic No. 625-040-002](#). Only those alternatives or design features that may

create substantial differences in flood elevations and limits should be evaluated. For projects or alternatives that would not create substantial changes in the flood elevations, include a statement in the **LHR** indicating that the drainage features will be designed in accordance with the [FDOT Drainage Manual, Topic No. 625-040-002](#), and no adverse impacts to floodplains are anticipated as a result of the project. See [Figure 13-1](#) for sample statements to be included in the **LHR** and Environmental Document.

The expected change in flood elevations due to a project must be estimated to perform the appropriate level of risk evaluation, see [Section 13.2.2.4](#). Alternatives that avoid longitudinal encroachment of the floodplain will include evaluation and discussion of the practicability of the alternatives. New alignment alternatives usually require a preliminary evaluation to determine hydraulic capacity for anticipated bridge/culvert size. When new alignments include longitudinal encroachments, they should be analyzed to determine any increase in the base flood elevation. On existing alignments, the possibility of decreased hydraulic performance of existing structures requires an evaluation to determine the change in the base flood elevation upstream (and downstream where appropriate).

If the hydraulic evaluation determines that flood elevations will not change significantly, no further evaluation is needed and the encroachment should be minimal.

If the hydraulic evaluation shows that flood elevations will increase either upstream or downstream, a location hydraulic study must be performed on the area impacted to evaluate the potential for flood impacts. The location hydraulic study should consist of a more detailed floodplain model to size proposed structures (bridges/culverts) appropriately. The model needs to identify the downstream constraint (tailwater limitation) that is affecting the floodplain stage and limits within the project. This information needs to be documented in the **LHR** to demonstrate the resulting impacts have been adequately addressed by the proposed design and the constraints are outside of the FDOT's control.

Additionally, the location hydraulic study should consist of an evaluation of the floodplain to determine any increase in the number of flood receptors and the increase in damage to flood receptors that will result from any increase in flood elevations. If necessary, appropriate coordination with FEMA, and local natural resource and floodplain management agencies should be initiated to adequately assess flood impacts.

Whenever it is determined that the project will involve a regulatory floodway, the District Drainage Engineer, or designee, must coordinate with local agencies and FEMA to ensure the project will be developed consistent with local floodway plans and floodplain management programs. This coordination effort and all associated drainage work must be documented in the **LHR** and summarized in the Environmental Document.

The impacts of each encroachment on natural floodplain values must be evaluated. After evaluating the impacts to the floodplain, a statement explaining the significance of any encroachments will be included in the **LHR** for each type of construction activity in the floodplain. Similar types of floodplain construction activities should be grouped together and the significance of their floodplain encroachments addressed accordingly.

Figure 13-1 provides several sample statements for use in the Environmental Document. The statements may be modified to fit the project activities and flood risk identified in the **LHR**.

13.2.2.2 Only Practicable Alternative Finding

Pursuant to **23 CFR § 650.113**, a proposed alternative which includes a significant encroachment will not be approved unless it is the only practicable alternative. The finding of the only practicable alternative must be approved by FHWA. To obtain the finding, the District must provide the recommendation and supporting information to the District's FHWA Transportation Engineer with a copy to OEM. The only practicable alternative finding must be included in the final Environmental Document and must be supported by the following information:

1. The reasons why the proposed action must be located in the floodplain,
2. The alternatives considered and why they were not practicable, and
3. A statement indicating whether the action conforms to applicable State or local floodplain protection standards.

13.2.2.3 Significant Encroachment

Evaluation to determine the significance of each encroachment should include assessment of construction or flood related impacts to lives, property, and transportation facilities that serve emergency vehicles or provide emergency evacuation. Additionally, the evaluation should include assessment of construction or flood related impacts to determine the potential for loss or gain to natural and beneficial floodplain values. The following floodplain values should be included in assessment:

1. Natural moderation of floods
2. Water quality maintenance
3. Groundwater recharge
4. Fish and wildlife habitat
5. Plants
6. Open space and natural beauty
7. Recreation
8. Agriculture and Aquaculture
9. Forestry

If floodplain analysis determines that the impacts to lives, property and floodplain values

cannot be avoided, the District must develop measures to minimize the impacts and mitigate the floodplain

13.2.2.4 Risk Evaluation

Determination of floodplain encroachments should include an evaluation of flood-related risk to the project and surrounding environment. Evaluation of risk should include the following:

1. Risks to transportation infrastructure – road closure, repair costs.
2. Risks to highway users – loss of life, service disruption.
3. Risks to residents – damages, service disruption, property loss.

Typically, the level of risk is reduced through application of design standards and drainage design procedures when the project does not encroach the floodplain. FDOT has established design parameters for the design frequency, backwater limitations, and limiting velocity, which are based on the importance of the transportation facility to the system and allowable risk for that facility. Additionally, design standards of other agencies that have control or jurisdiction over the waterway or facility concerned are considered in the evaluation.

To quantify the risk on project alternatives that encroach floodplains, FDOT uses risk assessment or risk analysis depending on the significance of floodplain encroachment. Risk assessment is performed for minimal encroachments while risk analysis is performed for significant encroachments that are anticipated to increase or substantially change floodplain elevations and/or limits. The cost and effort required for a risk analysis is considerably higher than for a risk assessment. Risk evaluation must be documented in the **LHR**. The District Drainage Engineer and Project Manager must review **LHR** and verify the determination of the significance of each floodplain encroachment and any risk evaluation.

Risk assessment is a subjective analysis of the risks resulting from various design alternatives, without detailed quantification of flood risks and losses. It may consist of developing the construction costs for each alternative, and subjectively comparing the risks associated with each alternative. A risk assessment is more appropriate for small structures, or for structures which size is not influenced by hydraulic constraints.

Risk analysis is an economic comparison of alternatives using expected total costs (construction costs plus risks costs) to determine the alternative with the least total expected cost to the public. It should include probable flood related costs during the service life of the facility for highway operation, maintenance, and repair, for highway aggravated flood damage to other property, and for additional or interrupted highway travel. See Chapter 4 of the [Drainage Design Guide](#) for more guidance on this evaluation.

13.2.2.5 Location Hydraulic Report

The LHR is typically prepared during the PD&E Study. The **LHR** should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis. The cover page of the **LHR** should be prepared using **Technical Report Cover Page, Form No. 650-050-38** and contain the following standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

A sample **LHR** cover page is provided in [Figure 13-2](#).

The following describes the requirements necessary for the completion of the **LHR** for each level of significance of encroachment.

1. **No or No Involvement** - For projects where the level of significance for the floodplain encroachment is “No” or “NoInv”, a location hydraulic study is not required and the review of the project alternatives is documented in the Environmental Document and the **Preliminary Engineering Report (PER)**.
2. **Minimal Encroachments** - If a project has minimal impacts due to floodplain encroachments, the **LHR** should describe the types of floodplain construction activities and measures to minimize project impact to floodplain. Any commitments made to restore and/or preserve floodplain should be documented in the Environmental Document and the **Project Commitment Record, Form No. 700-011-35**.

The following items must be included in the **LHR** for all alternatives containing minimal encroachments. Each item should be discussed to a level that adequately addresses the environmental impacts and flood risks:

- a. General description of the project including: location, length, existing and proposed typical sections, drainage basins, cross drains;
- b. Determination of whether the proposed action is in the base floodplain;
- c. The history of flooding of the existing facilities and/or measures to minimize any impacts due to the proposed improvements;
- d. Determination of whether the encroachment is longitudinal or transverse, and if it is a longitudinal encroachment an evaluation and discussion of practicable avoidance alternatives;
- e. The practicability of avoidance alternatives and/or measures to minimize impacts;

- f. Impact of the project on emergency services and evacuation;
 - g. Impacts of the project on the base flood, likelihood of flood risk, overtopping, location of overtopping, backwater, etc.;
 - h. Determination of the impact of the project on regulatory floodways, if any, and documentation of coordination with FEMA and local agencies to determine the requirements for the project to be developed consistent with the regulatory floodway;
 - i. The impacts on natural and beneficial floodplain values, and measures to restore and preserve these values (this information may also be addressed as part of the wetland impact evaluation and recommendations);
 - j. Consistency of the project with the local floodplain development plan or the land use elements in the Local Government Comprehensive Plan, and the potential of encouraging development in the base floodplain;
 - k. A map showing project, location, and impacted floodplains. A **FIRM Map** should be used if available. If not, other maps (e.g., US Geological Survey (USGS), U.S. Army Corps of Engineers (USACE), Soil Conservation Service (SCS), Bureau of Land Management, U.S. Forest Service, or best available information from the WMDs) may be used. Copies of applicable maps should be included in the appendix; and,
 - l. Results of any risk assessments performed.
3. **Significant Encroachments** - In addition to the items listed in the requirements for minimal encroachments the following additional items must be included in the **LHR** for all alternatives containing significant encroachments and for those actions which would support base flood development:
- a. Measures to minimize floodplain impacts associated with the project;
 - b. The practicability of avoidance alternatives to significant encroachments or support of incompatible floodplain development;
 - c. The hydraulic adequacy of existing structures;
 - d. The frequency of traffic interruption due to flooding for the existing facility;
 - e. When replacing structures and for structures proposed as alternatives on new alignments, discuss the requirements to meet hydraulic needs for the project;
 - f. Drainage problems which would result from extending or replacing existing structures in addition to downstream tailwater constraints that affect the flood elevations within the project limits;

- g. Estimate both the existing floodplain volume (capacity) and the volume of the encroachment (this information can be estimated based on USGS Maps, FIRM Maps, LiDAR maps, existing drainage maps, or best available information from the WMDs; and
- h. Flooding impacts to private property both upstream and downstream.

If the project involves a bridge structure, and if a separate **Bridge Hydraulic Report (BHR)** is not prepared during PD&E, the following items must be addressed in the **LHR**:

1. Conceptual bridge length.
2. Conceptual scour considerations.
3. Preliminary clearances both vertically and horizontally.

Once the **LHR** is complete, its information is briefly summarized in the Environmental Document per [Section 13.2.4](#).

13.2.3 Bridge Hydraulic Report

BHRs are not normally completed during the PD&E phase of a project. However, a **BHR** may be prepared to determine the “hydraulic length” of the bridge or the length necessary to meet the hydraulic requirements. This is particularly important in situations where the bridge or culvert has a history of roadway overtopping. Correcting the overtopping usually involves raising the road and providing much larger hydraulic capacity through the bridge or culvert. This situation may be appropriate for a Risk Analysis to compare the construction costs to risk costs. The construction costs should be documented in the Environmental Document. If bridge alternatives will be developed to avoid or minimize wetland impacts, then a **BHR** will analyze and document the costs and benefits of the additional bridge length, in accordance with Chapter 4 of the [FDOT Drainage Manual, Topic No. 625-040-002](#).

If the entire project consists of a bridge replacement with no other cross drains, then the requirements of the **LHR** must be included in the draft **BHR**.

When the draft **BHR** is prepared during the PD&E Study, its cover page shall contain the following standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. §327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

13.2.4 Environmental Document

13.2.4.1 Type 2 Categorical Exclusion

For a Type 2 CE, include the results of floodplain analysis in the Environmental Analysis Section of the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*** (See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)) by marking the appropriate level of impact as follows:

1. **NoInv** is marked if there are no floodplains in the vicinity of the proposed alternatives.
2. **No** is marked when there are floodplains in the vicinity but there are no significant floodplain encroachment impacts from the recommended alternative. The supporting documentation should describe the types of floodplain construction activities, and measures to minimize project impact to floodplain. See **Figure 24-1** for sample statements that can be included in the form.
3. **Enhance** is marked when the project will be a benefit to the floodplain, such as improving hydraulic opening on a bridge

If there is regulatory floodway involvement then the supporting documentation to the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*** must address the project's consistency with the regulatory floodway and demonstrate coordination with the FEMA and local floodway management agencies on the consistency issue.

13.2.4.2 State Environmental Impact Report

For SEIRs, include the results of the coordination in the Environmental Analysis section of the SEIR by placing an "X" in the appropriate column indicating the level of impact. See [Part 1, Chapter 10, State, Local Agency and Private Project Delivery](#).

1. **NoInv** is marked if there are no floodplains in the vicinity of the proposed alternatives.
2. **Enhance** is marked if the project will be a benefit to the floodplain, such as improving hydraulic opening on a bridge.
3. **No** is marked when there are floodplains in the vicinity but there are no floodplain encroachment impacts from the recommended alternative.
4. **Yes** is marked if there is a potential floodplains impact. Provide justification of decision in the Supporting Information column and supplement with attachments as necessary to substantiate the impact determination (see [Section 13.2.4.3](#))

13.2.4.3 Environmental Assessment and Draft Environmental Impact Statement

The Floodplain section for an Environmental Assessment (EA) or Draft Environmental Impact Statement (DEIS) must include:

1. Identification of the geographic area of the base floodplain and a determination of whether the proposed action will encroach upon the base floodplain using available reference maps. The potential references include:
 - a. **FIRM** must be used, if available. The map reference number must be provided in the document. If the project is not in a FEMA-identified hazard area, **FIRM** will not be available and other sources should be used.
 - b. Other maps (e.g., USGS, USACE, SCS, Bureau of Land Management, U.S. Forest Service, or best available information from the WMDs) may be used.
 - c. Appropriate maps will be developed by the Drainage Engineer if no other maps are available.
2. An exhibit showing the relationship of each project alternative under study with each base floodplain and regulatory floodway involved.
3. If there is no encroachment on a base floodplain and the proposed action will not support development in the base floodplain, a statement to that effect will be provided (see [Figure 13-1](#) for sample statements).
4. If the project encroaches or supports base floodplain development within a base floodplain, discuss the following information for each proposed alternative that causes the impacts commensurate with the level of impacts:
 - a. Flood risks associated with, or resulting from, the proposed action.
 - b. Impacts on natural and beneficial floodplain values.
 - c. Degree to which the action provides direct effects or indirect effects in the support of development in the base floodplain, see [FDOT Cumulative Effects Evaluation Handbook](#).
 - d. The potential for significant interruption or termination of community's only evacuation route or facility for emergency vehicles.
 - e. Measures to minimize floodplain impacts associated with each alternative.
 - f. Measures to restore and preserve the natural and beneficial floodplain values that are impacted.

The EA or DEIS should briefly summarize the results of the **LHR**. The EA or DEIS should identify the number of encroachments and any support of incompatible base floodplain developments and their potential impacts. Where an encroachment results in substantial impacts or supports incompatible floodplain development, the EA or DEIS should provide more information on the location, impacts, and appropriate mitigation measures. The EA or DEIS should also include an evaluation and discussion of practicable alternatives to avoid or minimize such involvements.

If an alternative encroaches upon a regulatory floodway, the following questions must be addressed in the EA or DEIS:

1. Can the highway encroachment be located so that it is consistent with the regulatory floodway? or
2. Can the regulatory floodway be revised to accommodate the project? (This typically involves a FEMA map revision.)

For each alternative encroaching upon a designated or proposed regulatory floodway, the EA or DEIS should provide a preliminary indication of whether the encroachment would be consistent with, or require a revision to the regulatory floodway. Engineering and environmental analyses should be undertaken, commensurate with the level of encroachment, to allow the appropriate evaluation of impacts. Coordination with FEMA and appropriate state and local governmental agencies should be undertaken for each regulatory floodway encroachment.

13.2.4.4 Finding Of No Significant Impact and Final Environmental Impact Statement

When the preferred alternative includes significant encroachments but the human environment is not significantly affected, the finding must be provided in the Floodplain section of an EA with Finding of No Significant Impact (FONSI).

If the preferred alternative includes significant encroachments that significantly affect the human environment, the Environmental Analysis Section and the Executive Summary of the Final Environmental Impact Statement (FEIS) must include an "Only Practicable Alternative Finding" required by **23 CFR § 650.113** and **Executive Order 11988** (See [Section 13.2.2.2](#))

If the preferred alternative encroaches on a regulatory floodway, the FONSI or FEIS should discuss the consistency of the action with the regulatory floodway. If a regulatory floodway revision is necessary, the FONSI or FEIS should include evidence from FEMA and local or State agency indicating that such revision is acceptable.

If the project has no involvement with or is not located within a floodplain, a finding is still provided. See [Figure 13-1](#) for sample statements.

13.2.5 Public Involvement

In accordance with **Executive Order 11988**, the FDOT must provide public notice if there will be a significant floodplain encroachment. To comply, the District must include in its public workshop or hearing advertisements, a statement that the project involves encroachments on base floodplains and, if applicable, involvement with a regulatory floodway. At all public workshops, the District should include information concerning any anticipated floodplain encroachments. If a public hearing is held, the presentation at the public hearing must also include any anticipated floodplain encroachments.

13.3 REFERENCES

Federal-Aid Policy Guide 23 CFR § 650A.

<http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0650a.htm>

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

<https://www.environment.fhwa.dot.gov/projdev/impTA6640.asp>

FDEP. website www.dep.state.fl.us/

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

<http://www.fdot.gov/environment/pubs/etdm/etdmmanual.shtm>

FDOT. Cumulative Effects Evaluation Handbook

<http://www.fdot.gov/environment/pubs/CEE/CEE-Handbook-2012-1218.pdf>

FDOT. Drainage Manual, Topic No. 625-040-002

<http://www.dot.state.fl.us/rddesign/Drainage/files/DrainageManual.pdf>

FDOT. Design Standards. <http://www.fdot.gov/roadway/DS/17/STDs.shtm>

Guidelines for Implementing Executive Order 11988, Floodplain Management and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. October 8, 2015. <http://www.fema.gov/media-library/assets/documents/110377>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Presidential Executive Order 11988, Floodplain Management and Protection.

<http://www.whitehouse.gov/the-press-office/2015/01/30/executive-order->

[establishing-federal-flood-risk-management-standard-and- or
https://www.fema.gov/executive-order-11988-floodplain-management-0](#)

13.4 FORMS

[Project Commitment Record, Form No. 700-011-35](#)

Technical Report Cover Page, Form No. 650-050-38

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

13.5 HISTORY

1/7/2008, 8/17/2016

Suggested Statements for Environmental Documents

The following sample summary statements may be appropriate for common types of base floodplain construction activities not resulting in significant floodplain impacts. These statements should be modified based on the results of the location hydraulic studies documented in the ***Location Hydraulics Report***.

1- PROJECTS WHICH WILL NOT INVOLVE ANY WORK BELOW THE 100 YEAR FLOOD ELEVATION

The following statement is used when the 100-year flood elevation is available from existing information, and it is evident that project will not involve any work below the 100-year flood elevation.

Although this project involves work within the horizontal limits of the 100-year floodplain, no work is being performed below the 100-year flood elevation and, thus, this project does not encroach upon the base floodplain.

2- PROJECTS WHICH WILL NOT INVOLVE THE REPLACEMENT OR MODIFICATION OF ANY DRAINAGE STRUCTURES

These projects must be on existing alignment. They may involve a change in the profile grade elevation of a magnitude normally associated with resurfacing. There are no known drainage problems within the limits of the project, or other factors that override the need for concurrent drainage improvements.

This project will not involve the replacement or modification of any existing structures, or the addition of any new drainage structures. Thus, this project will not affect flood heights or base floodplain limits. It will not increase flood risks or damage; and there will be no significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.

3- PROJECTS INVOLVING MODIFICATION TO EXISTING DRAINAGE STRUCTURES

Work under this type of project will not involve the replacement of any existing drainage structures or the construction of any new drainage structures. Work will only involve modification of existing structures (e.g., extending cross drains, adding headwalls, or extending bridge piers). Projects that affect flood heights and flood limits, even minimally, may require further evaluation to support statements that emphasize the insignificance of the modifications.

Figure 13-1 Floodplain Statements

Modifications to existing drainage structures included in this project will result in an insignificant change in their capacity to carry floodwater. This change will cause minimal increases in flood heights and flood limits. These minimal increases will not result in any significant adverse impacts on the natural and beneficial floodplain values or any significant change in flood risks or damage. There will not be a significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.

4- PROJECTS ON EXISTING ALIGNMENT INVOLVING REPLACEMENT OF EXISTING DRAINAGE STRUCTURES WITH NO RECORD OF DRAINAGE PROBLEMS

This type of work excludes replacement activities that would reduce the hydraulic performance of existing facilities. Also, there should be no record of drainage problems and no unresolved complaints from residents in the area.

"The proposed structure will perform hydraulically in a manner equal to or greater than the existing structure, and backwater surface elevations are not expected to increase. Thus, there will be no significant adverse impacts on natural and beneficial floodplain values. There will be no significant change in flood risk, and there will not be a significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant."

5- PROJECTS ON EXISTING ALIGNMENT INVOLVING REPLACEMENT OF DRAINAGE STRUCTURES IN HEAVILY URBANIZED FLOODPLAINS

These projects include work in flood sensitive, heavily urbanized floodplains, where the conditions of flooding are largely attributable to the low-lying terrain. The work does not include those replacement structures that will reduce the hydraulic performance of existing facilities or a change in the profile grade when the existing grade is overtopped by an event below the 100-year storm. Replacement drainage structures are limited to hydraulically equivalent structures in most instances.

Replacement drainage structures for this project are limited to hydraulically equivalent structures. The limitations to the hydraulic equivalency being proposed are basically due to restrictions imposed by the geometrics of design, existing development, cost feasibility, or practicability. An alternative encroachment location is not considered in this category since it defeats the project purpose or is economically unfeasible. Since flooding conditions in the project area are inherent in the topography or are a result of other outside contributing sources, and there is no practical alternative to totally eradicate flood impacts or even reduce them in any significant amount, existing flooding will continue, but not be increased.

Figure 13-1 Floodplain Statements (Page 2 of 3)

The proposed structure will be hydraulically equivalent to or greater than the existing structure, and backwater surface elevations are not expected to increase. Thus, the project will not affect existing flood heights or floodplain limits. There will be no significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.

6- PROJECTS ON NEW ALIGNMENT OR PROJECTS ON EXISTING ALIGNMENT WITH POTENTIALLY SIGNIFICANT CHANGES IN 100 YEAR FLOOD ELEVATIONS

Work on this type of project will cause changes in flood stage and flood limits.

The construction of the drainage structure(s) proposed for this project will cause changes in flood stage and flood limits. These changes will not result in any significant adverse impacts on the natural and beneficial floodplain values or any significant changes in flood risk or damage. These changes have been reviewed by the appropriate regulatory authorities who have concurred with the determination that there will be no significant impacts. There will not be significant change in the potential for interruption or termination of emergency service or emergency evacuation routes. Therefore, it has been determined that this encroachment is not significant.

In addition to the above statements, for those projects which do not involve regulatory floodways and do not support incompatible base floodplain development, the following positive statement can be added:

It has been determined, through consultation with local, state, and federal water resources and floodplain management agencies that there is no regulatory floodway involvement on the project and that the project will not support base floodplain development that is incompatible with existing floodplain management programs.

Figure 13-1 Floodplain Statements (Page 3 of 3)

LOCATION HYDRAULICS REPORT

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. §327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Figure 13-2 Sample Location Hydraulics Report Cover Page

PART 2, CHAPTER 14

COASTAL ZONE CONSISTENCY

TABLE OF CONTENTS

14.1	OVERVIEW	14-1
14.1.1	Federal Consistency	14-2
14.2	PROCEDURE.....	14-3
14.2.1	Projects Requiring a Consistency Review.....	14-3
14.2.2	Consistency Review with Advance Notification	14-3
14.2.3	Subsequent Consistency Review	14-4
14.2.4	Mediation of Determinations of Inconsistency	14-5
14.2.4.1	Mediation During Advance Notification	14-5
14.2.4.2	Mediation During Subsequent Consistency Review.....	14-5
14.3	REFERENCES	14-6
14.4	HISTORY	14-6

LIST OF FIGURES

Figure 14-1	Florida Coastal Management Program Statutes	14-7
Figure 14-2	Florida Coastal Management Program Agencies.....	14-8

PART 2, CHAPTER 14

COASTAL ZONE CONSISTENCY

14.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

In an effort to resolve conflicts between competing uses in the nation's coastal zone, Congress passed the **Coastal Zone Management Act (CZMA)** in 1972. The **CZMA** sought to preserve, protect, develop, and where possible, restore and enhance the resources of the nation's coastal zone. In order to achieve its goal, Congress provided coastal states with incentives to encourage them to develop and implement comprehensive management programs which balance the need for coastal resource protection with the need for economic growth and development within the coastal zone.

The **CZMA** authorizes the federal government, through the Secretary of Commerce, to provide coastal states with grant-in-aid to assist with the development and implementation of their coastal management programs. Coastal states are first required to submit their management programs to the Secretary of Commerce's designee, the Director of the National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management for approval. When the state management program receives federal approval, **Section 307** of the **CZMA** provides the state with the ability to review federal activities within or adjacent to their coastal zone to determine whether the federal activity complies with the enforceable policies included in the state's approved management program.

Section 307 of the **CZMA** and its implementing regulations, **15 CFR Part 930**, stipulate that all federal agency activities that affect any land or water use or natural resource of the coastal zone must be consistent, to the maximum extent practicable, with the enforceable policies of the state's federally approved management program. Federal licenses or permits, and federal financial assistance for activities affecting any land or

water use or natural resource of the coastal zone are required by **Section 307** to be fully consistent with the enforceable policies of state coastal management programs.

The **Florida Coastal Management Act of 1978 [Chapter 380, Part II, Florida Statutes (F.S.)]** authorized the state to develop a comprehensive state coastal management program based on existing statutes and rules. The Florida Coastal Management Program (FCMP) received federal approval on September 24, 1981.

The FCMP consists of a network of twenty-four statutes administered by nine state agencies and the five water management districts, designed to ensure the wise use and protection of the state's water, cultural, historic, and biological resources; to minimize the state's vulnerability to coastal hazards; to ensure compliance with the state's growth management laws; to protect the state's transportation system; and to protect the state's proprietary interest as the owner of sovereign submerged lands. [Figure 14-1](#) provides a list of statutes included in the FCMP. [Figure 14-2](#) lists the participating state agencies.

The State of Florida's review of federal activities for consistency with the **CZMA** is coordinated by the Florida Department of Environmental Protection (FDEP), which serves as the lead agency for the FCMP. FDEP uses the State Clearinghouse (SCH), which is located within FDEP, to facilitate the coordination process. Federal agencies and applicants are required by the FCMP to provide the SCH with a detailed description of proposed federal activities in accordance with **15 CFR Part 930**. Proposed federal activities are distributed by the SCH to each FCMP member agency with a statutory interest in the activity (consistency reviewer). Comments provided by the FCMP agencies are used by FDEP to make a determination on behalf of the State of Florida regarding the consistency of a proposed federal action with the policies included in the FCMP.

14.1.1 Federal Consistency

As a member of the FCMP network, FDOT participates in the review of federal activities to ensure consistency with the FCMP statutes under its purview, and reviews federal activities within or adjacent to the state to ensure that the federal activity will not result in adverse impacts to the state transportation system, or FDOT's ability to perform its statutory functions. Individual federal actions are evaluated by FDOT for compliance with the applicable requirements of **Chapter 334** and **Chapter 339, Florida Statutes**.

When FDOT is seeking federal funding, a determination of consistency with the FCMP may be required prior to the allocation of federal funds for the project. If the project also requires a federal license or permit, a separate consistency review for federal licenses or permit applications may be required in accordance with **15 CFR § 930, Subpart D** and **Section 380.23, Florida Statutes**. Consistency reviews of projects which require permits from the U.S. Army Corps of Engineers (USACE) or the U.S. Coast Guard (USCG), or a state Environmental Resource Permit are conducted during the permitting process. In accordance with **Section 380.23, F.S.**, the issuance or denial of the state permit serves as the state's consistency decision for analogous USACE or USCG permits. Procedures governing the consistency review of analogous state permits are included in **Section 373.428, Florida Statutes**.

14.2 PROCEDURE

14.2.1 Projects Requiring a Consistency Review

Projects that require a Federal Consistency Determination are those with federal funding and/or projects that will require a federal action (i.e., federal license or permit). Projects must undergo a consistency review if federal funds are to be used in any phase of the project implementation. Federally-funded Environmental Assessment (EA) and Environmental Impact Statement (EIS) projects are always, and Type 2 Categorical Exclusions (CEs) are usually subject to consistency review. State Environment Impact Reports (SEIRs) do not require a Federal Consistency Determination during Project Development and Environment (PD&E) unless a federal license or permit is required. Type 1 CE projects are exempt from consistency review until permitting.

14.2.2 Consistency Review with Advance Notification

For projects requiring the preparation of an Advance Notification (AN) Package, the District Efficient Transportation Decision Making (ETDM) Coordinator or Project Manager prepares the package in accordance with [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#) and [Chapter 4, Programming Screen](#) of the [ETDM Manual, Topic No. 650-000-002](#). The AN can occur during the Programming Screen or be processed separately before the PD&E Study. If done during screening, the completed AN package is emailed along with a Programming Screen Notice to the SCH and to each FCMP member agency with a statutory interest in the activity (consistency reviewer). The SCH may then forward the information to additional interested parties, if needed. The Federal Consistency Review Process in the Environmental Screening Tool (EST) can be found in [Chapter 4, Programming Screen](#) of the [ETDM Manual, Topic No. 650-000-002](#).

Issuance of the electronic notice for the Programming Screen begins a 45-calendar day comment period, to allow for the distribution, receipt, and discussion of agency responses consistent with the Programming Screen and federal consistency review. Upon notification by the District ETDM Coordinator/Project Manager, consistency reviewers are responsible for providing comments in the EST to ensure that the project complies with the statutes and requirements within their jurisdiction. Each state agency's consistency reviewer will also indicate whether or not the project is consistent with the FCMP.

The SCH has 15 days after receipt of all comments to complete the federal consistency review for the State of Florida. The SCH consolidates the consistency reviewers' comments, reviews the comments, and indicates a determination of the project's consistency with the FCMP in the EST. This consistency decision is based on the consistency findings of all state agencies with a statutory interest in the project.

Should additional review time be required, a written request for a 15-day time extension must be submitted to the District ETDM Coordinator within the initial 45-day comment period. If more than a 30-day extension is required by the SCH, the project should be placed into dispute resolution ([Section 14.2.4.1](#)) until the review is complete. The District

shall not proceed with further project development before receiving a consistency determination.

The finding of consistency is included in the ***Final Programming Screen Summary Report***, in the Appendix of the EA or EIS, or referenced in the Type 2 CE and the following standard statement is placed in the Coastal Zone Consistency section of the Type 2 CE, EA, or EIS:

The State of Florida has determined that this project is consistent with the Florida Coastal Zone Management Plan.

For an EA or EIS, reference the location of the finding in the Appendix. The standard statement should also be included in the Final Environmental Impact Statement (FEIS) Executive Summary when applicable.

Whenever a project is determined to be inconsistent with the FCMP, a letter of inconsistency will be issued by the FDEP on behalf of the state. A finding of inconsistency must cite the section of the relevant statute under the reviewing agency's authority with which the project is inconsistent, and must identify actions that can be taken to resolve the conflict. Prior to actually issuing a finding of inconsistency, the reviewing agency should immediately call the SCH if problems are identified. If any consistency reviewing agency indicates that the project is not consistent, this would trigger discussions with the SCH and possibly initiate the dispute resolution process (***Chapter 4, Programming Screen*** of the [ETDM Manual, Topic No. 650-000-002](#)). If an inconsistency letter is received, it is uploaded to the EST to support documentation for the project diary.

If significant concerns are identified during the AN review, the District will be advised by FDEP of conditions of approval or the need for additional coordination. The SCH should be provided with project information of sufficient scope and detail to determine whether the project is consistent with the requirements of all applicable FCMP statutes. The requested project information should be provided as soon as the information becomes available. All issues or concerns identified during the AN review should be addressed. When ***NEPA*** documents are prepared for the project, a draft document may be used to provide the required data and information. If significant concerns are not identified during the review, additional coordination will not be required unless the nature, location, or scope of the project is substantially changed. The District is still required to comply with all conditions needed to ensure compliance with the FCMP.

14.2.3 Subsequent Consistency Review

During development of the Type 2 CE, EA, or EIS, the consistency determination made with the AN may be modified if after the review of the document, an FCMP agency determines that the project is no longer consistent. Changes in a determination can come at any stage of project development.

14.2.4 Mediation of Determinations of Inconsistency

14.2.4.1 Mediation During Advance Notification

If a recommendation or determination of inconsistency with the FCMP is made by the SCH and its consistency reviewing agencies during AN, the project will go through the ETDM Issue Resolution Process, which is discussed in detail in **Chapter 2, ETDM Process** of the [ETDM Manual, Topic No. 650-000-002](#). The goal of the ETDM issue resolution process is to resolve conflicts at the agency staff level, providing as many opportunities for resolution as possible prior to elevation of the dispute within FDOT and the review agencies. Once the issue has been resolved, the issue resolution process will be documented in the EST. The [EST Handbook](#) provides additional guidance on tracking and documenting the issue resolution process.

14.2.4.2 Mediation During Subsequent Consistency Review

If a state agency determines that a project is inconsistent at a later stage of project development, the agency must provide FDEP with a written determination signed by the agency head or authorized designee which includes the following:

1. The specific statutes, rules, or regulations with which the project is in conflict; and
2. Provide for FDOT's consideration of suggested alternatives, if any, that would allow the project to be consistent with the FCMP.

Where an agency fails to identify the authority with which the project is in conflict, or the agency's objection is signed by an unauthorized individual, the determination will not form the basis of a finding of inconsistency by FDEP, the lead coastal management agency.

If FDEP receives a state agency objection or notice of a pending objection; FDOT will be advised of the basis for the objection. FDEP will work in consultation with the Governor's Office, FDOT, and the objecting agency to resolve the objection prior to the need for a formal state consistency decision. If the objection cannot be resolved, the FDEP will provide OEM and the NOAA Office of Ocean and Coastal Resource Management with a state consistency objection letter in accordance with **15 CFR Part 930**.

When FDOT receives a **Letter of Inconsistency** from FDEP, or when it is communicated via the Director level or above that a **Letter of Inconsistency** is anticipated, FDOT will not advance the project to the next development phase (Design) until an agreement, allowing the objection to be lifted, is reached between the objecting agency and FDOT. The FDEP will mediate interagency disputes in an attempt to resolve conflicts. This mediation will be a tiered process, beginning with the interagency review group and continuing, if necessary, to the agency head.

If, after the FDEP mediation, an objecting agency continues to deem the project to be inconsistent, FDOT and/or the FDEP may refer the objection to the Governor for final determination in accordance with **Section 380.23(2)(b), Florida Statutes**.

In the event of a disagreement between FDEP and OEM regarding whether or not a federal assistance activity is subject to consistency review, OEM may seek mediation by the Secretary of Commerce in accordance with **15 CFR § 930.99**. In such cases, the procedures and time limits set forth in **15 CFR § 930, Subpart G**, will apply.

14.3 REFERENCES

Chapters 334 and 339, F.S.

Chapter 380, Part II, F.S., Coastal Planning and Management

FDEP, Florida Coastal Management Program State Clearinghouse Manual.

http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/manual2.htm

FDEP, A Guide to the Federally Approved Florida Coastal Management Program.

http://www.dep.state.fl.us/cmp/publications/2013_updated_FCMP_Guide.pdf

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

FDOT, Environmental Screening Tool (EST) Handbook

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Section 373.428, F.S.

Title 15 CFR Part 930. Federal Consistency with Approved Coastal Management Programs

Title 16 United States Code 1456, Coordination and Cooperation

14.4 HISTORY

8/18/1999, 4/12/2011, 1/5/2016

The enforceable policies of Florida's federally approved management program, the Florida Coastal Management Program, consist of the following Florida Statutes and their implementing regulations in the Florida Administrative Code. The authority derived from these statutes is applied by the state agencies charged with their implementation to ensure protection of Florida's coastal resources.

Chapter 161	Beach and Shore Preservation
Chapter 163, Part II	Intergovernmental Programs: Growth Policy; County and Municipal Planning; Land Development Regulation <i>Enforceable policy includes only Sections 163.3164; .3177(6)(a), (10)(h&l), & (11)(a&c); .3178(1) & (2)(d-l); .3180(2)(a-c), (5)(a&c), (6), & (8); .3194(1)(a); .3202(2)(a-h); and .3220(2)&(3)</i>
Chapter 186	State and Regional Planning
Chapter 252	Emergency Management
Chapter 253	State Lands <i>Section 253.61(1)(d) is not approved as enforceable policy</i>
Chapter 258	State Parks and Preserves
Chapter 259	Land Acquisitions for Conservation or Recreation
Chapter 260	Florida Greenways and Trails Act
Chapter 267	Historical Resources
Chapter 288	Commercial Development and Capital Improvements
Chapter 334	Transportation Administration
Chapter 339	Transportation Finance and Planning
Chapter 373	Water Resources
Chapter 375	Outdoor Recreation and Conservation Lands
Chapter 376	Pollutant Discharge, Prevention and Removal
Chapter 377	Energy Resources <i>Sections 377.06, .24(9), and .242(1)(a)5 are not approved as enforceable policy</i>
Chapter 379	Fish and Wildlife Conservation <i>Sections 379.2551 and .362 are not approved as enforceable policy</i>
Chapter 380	Land and Water Management <i>Section 380.23(3)(d) is not approved as enforceable policy</i>
Chapter 381	Public Health; General Provisions <i>Enforceable policy includes only Sections 381.001, .0011, .0012, .006, .0061, .0065, .0066, and .0067</i>
Chapter 388	Mosquito Control
Chapter 403	Environmental Control <i>Section 403.7125(2) and (3) are not approved as enforceable policy</i>
Chapter 553	Building Construction Standards <i>Enforceable policy includes only Sections 553.73 and .79</i>
Chapter 582	Soil and Water Conservation
Chapter 597	Aquaculture

Figure 14-1 Florida Coastal Management Program Statutes

Department of Economic Opportunity

Department of Environmental Protection

Department of Agriculture and Consumer Services

Department of Health

Department of State, Division of Historical Resources

Department of Transportation

Fish and Wildlife Conservation Commission

Florida Division of Emergency Management

Florida Department of Business and Professional Regulation, Florida Building
Commission

Northwest Florida Water Management District

St. Johns River Water Management District

South Florida Water Management District

Southwest Florida Water Management District

Suwannee River Water Management District

Figure 14-2 Florida Coastal Management Program Agencies

PART 2, CHAPTER 15

COASTAL BARRIER RESOURCES

TABLE OF CONTENTS

15.1	OVERVIEW	15-1
15.1.1	Types of Coastal Barrier Resources.....	15-2
15.1.2	Federal Funding Prohibitions	15-2
15.1.2.1	Exceptions to Federal Funding Prohibitions	15-3
15.1.3	Consultation Overview	15-3
15.2	PROCEDURE	15-4
15.2.1	Determining if Provisions of Coastal Barrier Resources Act Apply	15-4
15.2.2	Consultation Requirements	15-5
15.2.3	Documentation in Environmental Document	15-6
15.3	REFERENCES.....	15-6
15.4	FORMS	15-7
15.5	HISTORY	15-7

LIST OF FIGURES

Figure 15-1 Coastal Barrier Resources Act Consultation Process United States Fish and Wildlife Service.....	15-8
Figure 15-2 United States Fish and Wildlife Service Contacts	15-9

PART 2, CHAPTER 15

COASTAL BARRIER RESOURCES

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

15.1 OVERVIEW

This chapter contains the procedures to determine whether a FDOT project is subject to the provisions of the **Coastal Barrier Resources Act of 1982 (CBRA)** and the **Coastal Barrier Improvement Act (CBIA) of 1990**, collectively "the Acts", found at **16 U.S.C. §§ 3501-3510**. The chapter also details the coordination, consultation and documentation required to ensure compliance with the Acts. This chapter is only applicable to federally funded projects.

In 1982, the **CBRA** was signed into law (**Pub. L. 97-348**), prohibiting federal expenditures for the development of designated undeveloped coastal barriers and their associated aquatic habitat, including wetlands, estuaries, and inlets. The **CBRA** and **CBIA** required the U.S. Department of the Interior (USDOI) to establish the Coastal Barrier Resource System (CBRS) creating designated "units" or areas that fall under this protection. However, the **CBRA** contains exceptions, described in [Section 15.1.2.1](#), to allow the use of federal funds on certain projects.

Three goals of the **CBRA** are to:

1. Minimize loss of human life;
2. Reduce wasteful expenditure of federal resources; and
3. Protect the natural resources associated with coastal barriers.

The **CBRA** accomplishes these goals by restricting federal expenditures and financial assistances which have the effect of encouraging development of coastal barriers, by establishing the coastal barrier resource system, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

15.1.1 Types of Coastal Barrier Resources

The **CBRA** defines an “undeveloped coastal barrier” as:

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that–

- (i) consists of unconsolidated sedimentary materials,
- (ii) is subject to wave, tidal, and wind energies, and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats contain few manmade structures and these structures, and man’s activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes.

Types of coastal barriers include:

1. **Bay barriers** – Coastal barriers that connect two headlands, and enclose a pond, marsh, or other aquatic habitat.
2. **Tombolos** – Sand or gravel beaches that connect offshore islands to each other or to a mainland.
3. **Barrier spits** – Coastal barriers that extend into open water and are attached to the mainland at only one end.
4. **Barrier islands** – Coastal barriers completely detached from the mainland.

The **CBIA** amended the **CBRA** by adding units to the CBRS and establishing a category identified as Otherwise Protected Areas (OPAs). OPAs are undeveloped coastal barriers within the boundaries of lands reserved as wildlife refuges, parks, or areas for other conservation purposes. New construction within OPAs cannot receive federal flood insurance unless it conforms to the purposes for which the area is protected. No other restrictions are placed on federal expenditures in these areas.

In Florida, CBRS units (i.e. specific coastal barriers) have been designated along the Atlantic and Gulf Coasts. The U.S. Fish and Wildlife Service (USFWS) issues maps identifying the boundaries of CBRS units and OPAs. These maps can be found on the USFWS website (see [Section 15.3](#) for website).

15.1.2 Federal Funding Prohibitions

The **CBRA** restricts most federal or financial assistance for development within the boundaries of designated coastal barrier units, except for OPAs identified on maps of the System. The **CBRA** defines financial assistance as "any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect

federal assistance." **Section 5** of the **CBRA (16 U.S.C. § 3504)** provides that no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the CBRS, including, but not limited to:

1. Construction or purchase of any structure, appurtenance, facility, or related infrastructure;
2. Construction or purchase of any road, airport, boat landing facility, or other facility within a CBRS unit;
3. Construction of a bridge or causeway leading to any CBRS unit; and
4. Assistance for erosion control or stabilization of any inlet, shoreline, or inshore area, except in certain emergencies.

15.1.2.1 Exceptions to Federal Funding Prohibitions

Exceptions to the prohibition on financial assistance are provided in **Section 6** of the **CBRA (16 U.S.C. § 3505)**. Listed below are summaries of the exceptions that may be applicable to FDOT:

1. Maintenance, replacement, reconstruction, or repair, but not the expansion (except for U.S. Highway 1 in the Florida Keys) of publicly owned or publicly operated roads, structures, or facilities that are essential links to a larger network or system (FHWA has determined that all highways on the federal network are essential links in a larger network or system);
2. Construction, operation, maintenance, and rehabilitation of U.S. Coast Guard (USCG) facilities and access to them;
3. Maintenance or construction of improvements to existing federal navigation channels and related structures, including disposal of dredge materials;
4. Expenditures related to conservation, navigation, recreation, scientific research, disaster relief, roads, and shoreline stabilization, providing that the expenditures are consistent with the purpose of **CBRA** (see **16 U.S.C. § 3505(a)(6)(A) – (G)** for specific details);
5. Federal expenditure or financial assistance that was provided by Congressional appropriation prior to October 18, 1982.

15.1.3 Consultation Overview

For projects which may qualify for exception under **Section 6** of **CBRA**, the consultation requirements described in the Advisory Guidelines contained in the **48 Federal Register (FR) 45664, 10/06/1983**, must be satisfied. Under these guidelines, the USFWS must be consulted with and allowed to comment on the proposed action prior to commitment of federal funds. The USFWS will provide comments and

determine if the federal action is consistent with the **CBRA**. Consultation with USFWS is not required in areas identified as OPAs.

Projects which are not eligible for federal funding under **Section 5** of the **CBRA** are either removed from FDOT's Work Program or assigned for state or local funds. This determination occurs during the Planning phase (see [Section 15.2](#)).

For other projects that are within, or in the vicinity of a coastal barrier resource, the consultation process is completed during the project development phase as described in this chapter. The consultation process is shown in [Figure 15-1](#).

15.2 PROCEDURE

The following procedures apply to Type 2 Categorical Exclusions (Type 2 CEs), Environmental Assessments (EAs), and Environmental Impact Statements (EISs), ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)).

Since funding for a project can be rescinded by Lead Federal Agencies, it is necessary to determine, as early as possible, whether a project is located within, or in the vicinity of, a coastal barrier resource designated under the **CBRA**. This determination should be made during the Planning and/or Programming Screens of the Efficient Transportation Decision Making (ETDM) process ([ETDM Manual, Topic No.650-000-001](#)) and should be discussed during any Statewide Acceleration Transformation (SWAT) team meetings where the Acts may apply.

15.2.1 Determining if Provisions of Coastal Barrier Resources Act Apply

The first step is for the District to determine if a project is subject to provisions of the **CBRA**. During the development of the Preliminary Environmental Document (PED), the District should review the CBRS unit maps and include its initial evaluation of coastal barrier involvement for the project ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)) and review the results of the Geographical Information System (GIS) analysis for the **CBRA** data layer. The unit type on **CBRA** data layer's metadata should identify whether the area is an OPA or CBRS unit. During the screening events, the Environmental Technical Advisory Team (ETAT) will review the PED and available GIS layers in the Environmental Screening Tool (EST). At the end of the Programming Screen, the District should review the information published in the **Programming Screen Summary Report** with attention to any ETAT comments and degree of effect determinations for the Coastal and Marine issue. Comments by USFWS are especially important. If a proposed project is in the vicinity of or leads directly to a designated coastal barrier resource unit that is not otherwise identified as an OPA, then consultation is required with the USFWS.

If the District determines that the project is neither in the vicinity of nor leads directly to a designated coastal barrier resource unit, then no additional documentation is required other than a statement to the project file indicating that the coastal barrier

resource data layer or maps were reviewed and no resources were identified within the project area.

For Type 2 CEs with no CBRS involvement, mark the box “NoInv” in **Section 3.C.7** on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**.

For EAs and EISs along coastal areas where the provisions of the **CBRA** could apply but the appropriate review has taken place and it has been determined that there is no CBRS involvement, add the following or similar statement to the Environmental Analysis section accordingly:

It has been determined that this project is neither in the vicinity of, nor leads directly to a designated coastal barrier resource unit pursuant to the **Coastal Barrier Resources Act of 1982 (CBRA)** and the **Coastal Barrier Improvement Act of 1990 (CBIA)**.

For EAs and EISs that are not along coastal areas, the Environmental Document does not require a statement in this regard.

If the District determines that the project is in the vicinity of, or leads directly to a designated coastal barrier resource unit then the USFWS must be consulted as required in [Section 15.2.2](#). Documentation of this coordination is included in the Environmental Document according to [Section 15.2.3](#). Consultation with USFWS is not required for projects designated as OPA units.

15.2.2 Consultation Requirements

The District is responsible for preparing the following:

1. A transmittal letter, which includes the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. §327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

2. A description of the proposed action.
3. A map showing the project location, the **CBRA** unit(s), and a reference to the appropriate CBRS unit map (see link under [Section 15.3](#)).

This information is sent to the local field office of the USFWS with a copy to the District’s USFWS ETAT representative. See [Figure 15-2](#) to determine the appropriate field office and mailing address.

The subject line of the transmittal letter should contain the project’s ETDM Number, Financial Management Number, and Federal-Aid Project Number (if available). A statement should be made to the effect that:

This project information package is being provided to you to initiate consultation in compliance with the **Coastal Barrier Resources Act (CBRA)**. The subject project and its relationship to a federally-designated coastal barrier resource is described in this package.

Please review the attached information and provide the District Environmental Engineer/Manager a written opinion regarding whether the project meets the exception under **Section 6** of **CBRA** within thirty (30) calendar days.

15.2.3 Documentation in Environmental Document

Documentation in Type 2 CEs, EAs, and EISs is necessary if the project is subject to the consultation requirements of the **CBRA**.

For Type 2 CEs – The consultation process and final determination should be briefly summarized and included in the Type 2 CE documentation. Mark the box “No” in **Section 3.C.7** on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** as appropriate based on the outcome of the consultation. The correspondence and other documents developed during the consultation process should be contained in the project file and referenced in Type 2 CE documentation.

For an EA – The consultation process and final determination should be summarized in the Coastal Barrier Resources section of the Environmental Analysis section of the EA. The correspondence and other documents developed during the consultation process should be referenced in the EA and contained in the Appendix of the EA.

For an EIS – The consultation process and final determination should be summarized in the Coastal Barrier Resources section of the Environmental Analysis section of the EIS. The correspondence and other documents developed during the consultation process should be referenced in the EIS and contained in the Appendix of the EIS.

15.3 REFERENCES

Coastal Barrier Improvement Act of 1990

Coastal Barrier Resources Act of 1982

Coastal Barrier Resources Reauthorization Act of 2000

Coastal Barrier Resources Reauthorization Act of 2005

FR, 1982. Coastal Barrier Resources Act; Delineation Criteria. FR Vol. 47, No. 158

FR, 45664, 08/06/1983

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Public Law 97-348 – October 18, 1982

USFWS website link to CBRS unit maps: <http://www.fws.gov/ecological-services/habitat-conservation/cbra/Maps/index.html>

15.4 FORMS

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

15.5 HISTORY

08/18/2000, 02/01/2011, 07/15/2016

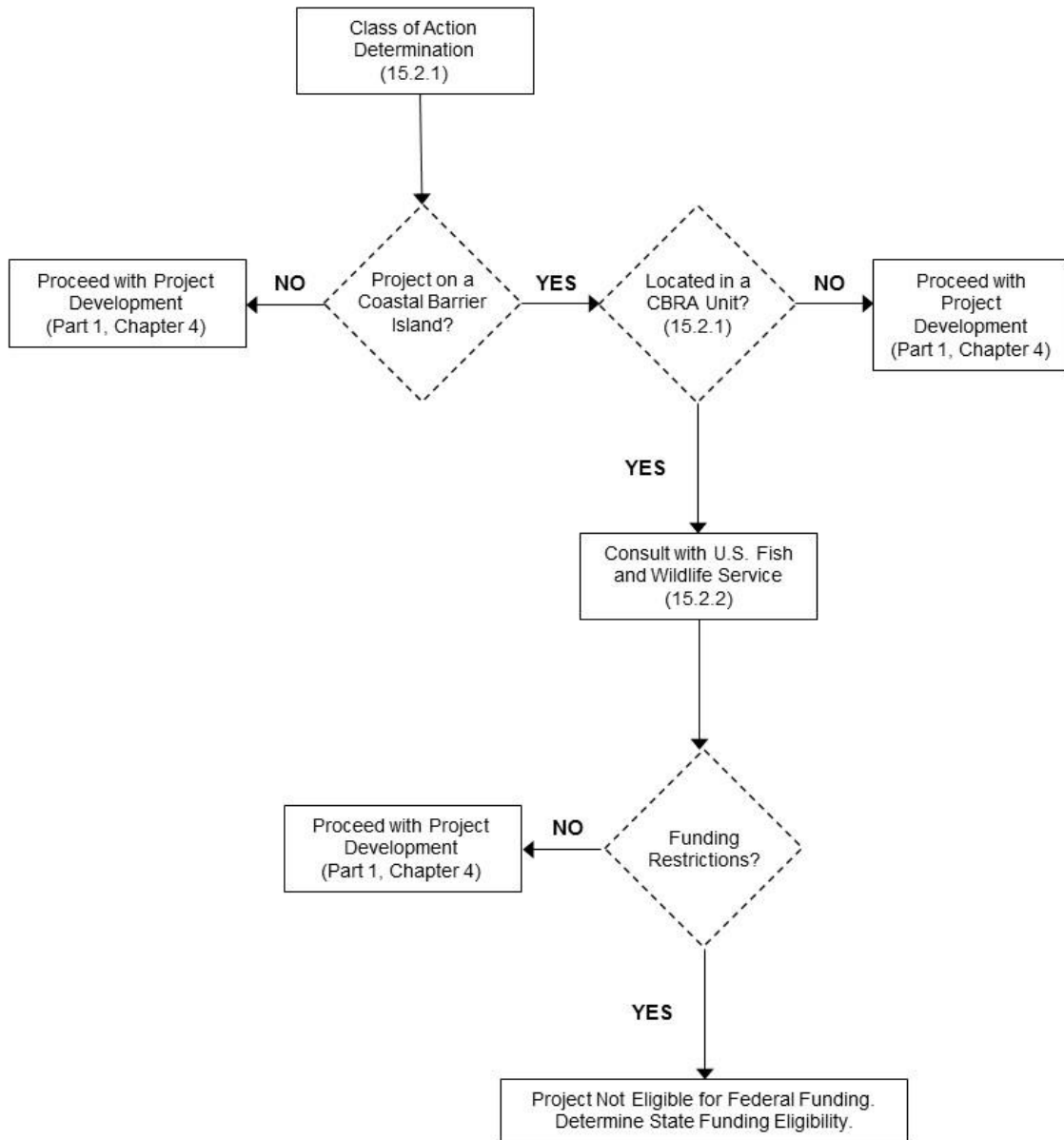


Figure 15-1 Coastal Barrier Resources Act Consultation Process United States Fish and Wildlife Service

Vero Beach

[FDOT Districts 1, 4, 5, 6 (Osceola Co. only)]

CBRA Consultation
South Florida Ecological Services Field Office
1339 20th Street
Vero Beach, FL 32960
Phone: (772) 562-3909
Fax: (772) 562-4288
<http://www.fws.gov/verobeach/>

Panama City

(FDOT District 3)

CBRA Consultation
Panama City Ecological Services Field Office
1601 Balboa Avenue
Panama City, FL 32405
Phone: (850) 769-0552 x232
Fax: (850) 763-2177
<http://www.fws.gov/panamacity/>

Jacksonville

[FDOT Districts 1, 2, 5, 7 (Manatee Co. only)]

CBRA Consultation
North Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
Phone: (904) 731-3336
Fax: (904) 731-3045
<http://www.fws.gov/northflorida/>

Figure 15-2 United States Fish and Wildlife Service Contacts

PART 2, CHAPTER 16

PROTECTED SPECIES AND HABITAT

TABLE OF CONTENTS

16.1	OVERVIEW	16-1
16.1.1	Purpose and Use	16-1
16.1.2	Definitions	16-1
16.1.3	Legislative Authority	16-7
16.1.4	Protected Species and Habitat Evaluation Process Summary	16-8
16.1.5	Key Points for Protected Species and Habitat Coordination Process .	16-10
16.2	REGULATORY AGENCY PROCESS.....	16-11
16.2.1	Coordination/Consultation/Engagement with Agencies	16-11
16.2.2	Endangered Species Act Process	16-12
16.2.2.1	Consultation With Federal Agencies	16-13
16.2.2.1.1	“No Effect” Determinations	16-14
16.2.2.1.2	Section 7 Consultation	16-14
16.2.2.1.3	Informal Consultation	16-15
16.2.2.1.4	Formal Consultation	16-16
16.2.2.1.5	Consultation Completion	16-18
16.2.2.1.6	Proposed and Candidate Species	16-18
16.2.3	Other Federal Protections.....	16-19
16.2.4	Coordination with State Agencies	16-19
16.2.5	Listed Plant Species	16-20
16.3	PROCEDURE.....	16-21
16.3.1	Level of Assessment.....	16-21

16.3.1.1	Projects Not Qualifying for Screening.....	16-22
16.3.1.2	Projects Qualifying for Screening	16-23
16.3.1.2.1	ETDM Process Contribution to PD&E	16-24
16.3.2	PD&E Phase.....	16-25
16.3.2.1	Describe Existing Conditions.....	16-25
16.3.2.1.1	Identify Action Area	16-25
16.3.2.1.2	Identify Protected Species and Critical Habitat that May Occur in the Action Area	16-26
16.3.2.1.3	Collect Data and Map Habitat.....	16-26
16.3.2.1.4	Conduct Field Surveys	16-27
16.3.2.2	On-going Agency Coordination	16-27
16.3.2.3	Conduct Protected Species and Habitat Analysis/Impact Assessment	16-28
16.3.2.4	Technical Memo.....	16-29
16.3.2.5	Biological Assessment and Natural Resources Evaluation	16-30
16.3.2.5.1	Content of the Natural Resources Evaluation.....	16-30
16.3.2.5.2	Review by Resource Agencies.....	16-33
16.3.2.6	PD&E Documentation	16-33
16.3.2.6.1	Project File	16-34
16.3.2.6.2	Environmental Document	16-34
16.3.2.6.3	Commitments	16-37
16.3.3	Design and Construction Phases.....	16-37
16.3.3.1	Re-evaluation	16-37
16.3.3.2	Commitment Implementation	16-37
16.3.3.3	Design Considerations	16-39
16.3.3.4	Permitting.....	16-39

16.3.3.4.1	Federal and State Protected Species Permits.....	16-40
16.3.3.5	Contractor Requirements	16-40
16.3.3.6	Off-project Activities	16-41
16.3.3.6.1	Procedure.....	16-41
16.3.3.7	Maintenance Activities.....	16-42
16.4	EMERGENCY CONSULTATION.....	16-42
16.5	REFERENCES	16-44
16.6	FORMS.....	16-46
16.7	HISTORY.....	16-47

LIST OF TABLES

Table 16-1	Effect Determinations.....	48
------------	----------------------------	----

LIST OF FIGURES

Figure 16-1	Protected Species and Habitat Evaluation Process	49
Figure 16-2	Federally Listed Species Process	50
Figure 16-3	National Marine Fisheries Service Memorandum for Distribution	51
Figure 16-4	Offices Responsible for “Section 7” Consultation.....	54
Figure 16-5	State Listed Species Process	55
Figure 16-6	Listed Species Information Sources.....	56
Figure 16-7	Sample Natural Resources Evaluation Cover Sheet.....	61
Figure 16-8	Sample Letter to Contractor on Species Survey	62
Figure 16-9	Hurricane Katrina Response Letter.....	63
Figure 16-10	Example of Emergency Consultation	65

PART 2, CHAPTER 16

PROTECTED SPECIES AND HABITAT

16.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

16.1.1 Purpose and Use

This chapter provides procedures for determining effects of transportation projects on protected species and habitat. The chapter also provides guidance on coordinating with natural resource agencies to ensure compliance with the **Endangered Species Act (ESA) of 1973**, as amended, and the **Florida Endangered and Threatened Species Act, Section 379.2291, Florida Statutes (F.S.)**. The term protected species is used throughout this chapter as a general term for species that are protected by law, regulation, or rule. When the term listed species is used, it refers to species that are identified as threatened or endangered at the federal or state level. This chapter also provides guidance on documenting protected species and habitat impacts, coordination with natural resource agencies, and related commitments in the Environmental Document [Categorical Exclusion (CE), Environmental Assessment (EA) or Environmental Impact Statement (EIS), State Environmental Impact Report (SEIR)] and accompanying technical memo or **Natural Resources Evaluation (NRE)**. Guidance on consultation with natural resource and regulatory agencies, documentation, and procedures during Design (permitting) and Construction phases, as well as emergency consultation with resource agencies is also provided.

16.1.2 Definitions

Action area - All areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action [**50 Code of Federal Regulations (CFR) § 402.02**].

Adverse modification (or destruction) of critical habitat - Activities that may destroy or adversely modify critical habitat by altering the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for the target (listed) species.

Affect/Effect - To affect (a verb) is to bring about a change (“The proposed action is likely to adversely affect piping plovers nesting on the shoreline”). The effect (usually a noun) is the result (“The proposed highway is likely to have the following effects on the Florida scrub jay”). “Affect” appears throughout **Section 7** regulations and documents in the phrases “may affect” and “likely to adversely affect.” “Effect” appears throughout **Section 7** regulations and documents in the phrases “adverse effects,” “beneficial effects,” “discountable effects,” “effects of the action,” and “no effect”.

Biological Assessment (BA) - Information prepared by, or under the direction of, a Lead Federal Agency to determine whether a proposed action is likely to: (1) adversely affect listed species or designated critical habitat; (2) jeopardize the continued existence of species that are proposed for listing; or (3) adversely modify proposed critical habitat. **BAs** must be prepared for “major construction activities.” (See **50 CFR § 402.02**). The outcome of the **BA** determines whether formal consultation or a conference opinion is necessary (**50 CFR § 402.02, 50 CFR § 402.12**).

Biological Opinion (BO) - Document which includes: (1) the opinion of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) as to whether a federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat [**50 CFR § 402.02, 50 CFR § 402.14(h)**].

Candidate species - Plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species pursuant to the **Endangered Species Act (ESA)**. These are taxa for which USFWS has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions [**61 Federal Regulation (FR) 7596-7613 (February 28, 1996)**].

Compensatory Mitigation - Serves to compensate for an unavoidable impact to species or habitat by replacing or providing substitute resources having similar functions of equal or greater ecological value.

Conference - Process of early interagency cooperation involving informal or formal discussions between a federal agency and USFWS or NMFS pursuant to **Section 7(a)(4)** of the **ESA** regarding the likely impact of an action on proposed species or proposed critical habitat. Conferences are: (1) required for proposed federal actions likely to jeopardize the continued existence of a proposed species, or destroy or adversely modify proposed critical habitat; (2) designed to help federal agencies identify and resolve potential conflicts between an action and species conservation early in a project's

planning; and (3) designed to develop recommendations to minimize or avoid adverse effects to proposed species or proposed critical habitat (**50 CFR § 402.02, 50 CFR § 402.10**).

Conservation measures - Actions to benefit or promote the recovery of listed species that are included by the federal agency as an integral part of the proposed action. These actions will be taken by the resource agency or applicant, and serve to minimize or compensate for project effects on the species under review. These may include actions taken prior to the initiation of consultation, or actions which the federal agency or applicant have committed to complete in a **BA** or similar document.

Conservation recommendations - The Service(s)'s non-binding suggestions resulting from formal or informal consultation that: (1) identify discretionary measures a federal agency can take to minimize or avoid the adverse effects of a proposed action on listed or proposed species, or designated or proposed critical habitat; (2) identify studies, monitoring, or research to develop new information on listed or proposed species, or designated or proposed critical habitat; and (3) suggestions on how an action agency can assist species conservation as part of its action and in furtherance of the authorities under **Section 7(a)(1)** of the **ESA; 50 CFR § 402.02**.

Constituent elements - Designated or proposed critical habitat essential to the conservation of the species takes into consideration both physical and biological features, including, but not limited to: (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and (5) habitats that are protected from disturbance or are representative of the historic geographic and ecological distributions of a species as prescribed by **50 CFR § 424.12(b)**.

Critical habitat - For listed species 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 **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 **ESA**, upon a determination by the Secretary that such areas are essential for the conservation of the species (**16 U.S.C. § 1532-1533**) Designated critical habitats are described in **50 CFR § 17 and § 226**.

Environmental baseline - The past and present impacts of all federal, state, or private actions and other human activities in an action area, the anticipated impacts of all proposed federal projects in an action area that have already undergone formal or early **Section 7** consultation, and the impact of state or private actions that are contemporaneous with the consultation in process (**50 CFR § 402**). The environmental baseline does not include the effects of the action under review in the consultation (**USFWS and NMFS, 1998**).

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: "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. EFH is described in ***Fishery Management Plans***, and is approved by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration (NOAA) Fisheries (**50 CFR § 600.10**).

Formal consultation - A process between USFWS or NMFS and a federal agency or applicant that: (1) determines whether a proposed federal action is likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat; (2) begins with a federal agency's written request and submittal of a complete initiation package; and (3) concludes with the issuance of a biological opinion and incidental take statement by either USFWS or NMFS. If a proposed federal action may affect a listed species or designated critical habitat, formal consultation is required (except when USFWS or NMFS concur, in writing, that a proposed action "may affect, is not likely to adversely affect" listed species or designated critical habitat) (**50 CFR § 402.02, 50 CFR § 402.14**).

Findings - A determination made by the lead agency on the level of impact a proposed action has on a resource. This determination is derived from all known information including coordination/consultation with the resource/regulatory agency.

Incidental take (federal) - 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 (**50 CFR § 402.02**).

Incidental Take (state) - Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of the carrying out of an otherwise lawful activity [**Chapter 68A-27.001(5), Florida Administrative Code, (F.A.C.)**].

Incidental Take Statement (federal) - The part of a non-jeopardy **BO** that estimates the amount or extent of incidental take of listed species anticipated from the action subject to consultation as authorized under **50 CFR § 402.14(i)** and the resulting incidental take will not violate **ESA Section 9 (16 U.S.C. § 15.38)** take prohibitions.

Indirect effects - Those effects that are caused by or will result from the proposed action and are later in time, but are still reasonably certain to occur (**USFWS and NMFS, 1998**).

Informal consultation - An optional process that includes all discussions and correspondence between the Service(s) and a federal agency or designated non-federal representative, prior to formal consultation, to determine whether a proposed federal action may affect listed species or critical habitat. This process allows the federal agency

to utilize the Services expertise to evaluate the agency's assessment of potential effects or to suggest possible modifications to the proposed action which could avoid potentially adverse effects. If a proposed federal action may affect a listed species or designated critical habitat, formal consultation is required (except when USFWS or NMFS concur, in writing, that a proposed action "may affect, is not likely to adversely affect" listed species or designated critical habitat) (**50 CFR § 402.02, 50 CFR § 402.13**).

Jeopardize the continued existence of - To engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (**50 CFR § 402.02**).

Listed species (federal) - Any species of fish, wildlife or plant which has been determined to be endangered or threatened under **Section 4** of the **ESA**. Listed species are found in **50 CFR § 17.11-17.12 (50 CFR § 402.02)**.

Listed species (state) - Animal species listed as state-designated threatened or of special concern by the Florida Fish and Wildlife Conservation Commission (FWC) in **Chapter 68A-27, F.A.C.**; plant species listed by the state as Endangered, Threatened, or Commercially Exploited on the **Regulated Plant Index (5B-40.0055, F.A.C.)**.

Major Construction Activity - A construction project (or other undertaking having similar physical impacts) which is a major federal action significantly affecting the quality of the human environment as referred to in the **NEPA, [42 U.S.C. § 4332(2)(C), 50 CFR § 402.02]**. Under **NEPA** major construction activities require Environmental Impact Statements.

May affect - The appropriate conclusion when a proposed action may pose **any** effects on listed species or designated critical habitat. When the federal agency proposing the action determines that a "may affect" situation exists, then it must either initiate formal consultation or seek written concurrence from the Service(s) that the action "may affect, is not likely to adversely affect" listed species as defined below. A determination of "may affect" without a "not likely to adversely affect" or "likely to adversely affect" determination should not be submitted to the Service(s) as a finding (**USFWS and NMFS, 1998**).

May affect, not likely to adversely affect - The appropriate conclusion when effects on listed species are expected to be discountable, insignificant, or completely beneficial. "Beneficial effects" are contemporaneous positive effects without any adverse effects to the species. "Insignificant effects" relate to the size of the impact and should never reach the scale where a take occurs. "Discountable effects" are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur (**USFWS and NMFS, 1998**).

May affect, likely to adversely affect - The appropriate finding in a **BA** (or conclusion during informal consultation) if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated actions or interdependent

actions, and the effect is not: discountable, insignificant, or beneficial (see definition of "may affect, not likely to adversely affect"). In the event the overall effect of the proposed action is beneficial to the listed species, but is also likely to cause some adverse effects, then the proposed action "is likely to adversely affect" the listed species. If an incidental take is anticipated to occur as a result of the proposed action, a "may affect, is likely to adversely affect" determination should be made. A "may affect, is likely to adversely affect" determination requires the initiation of formal **Section 7** consultation (**USFWS and NMFS, 1998**).

Natural Resources Evaluation (NRE) - A FDOT technical report that provides documentation of protected species and habitat, wetland, and EFH issues to supplement the Environmental Document. The FDOT **NRE** may be sent to USFWS or NMFS to serve as a **BA** when necessary, but also includes information on state listed species and protected species and habitat.

No effect - The appropriate conclusion when the action agency determines its proposed action will not affect a listed species or designated critical habitat. Concurrence from USFWS or NMFS is not required (**USFWS and NMFS, 1998**).

Proposed critical habitat - Habitat proposed in the **Federal Register (FR)** to be designated as critical habitat, or habitat proposed to be added to an existing critical habitat designation, under **Section 4** of the **ESA** for any listed or proposed species (**50 CFR § 402.02**).

Proposed species - Any species of fish, wildlife or plant that is proposed in the **FR** to be listed under **Section 4** of the **ESA** (**50 CFR § 402.02**).

Protected species - In this chapter this term is used for species that are protected by federal or state regulations such as the **ESA, Migratory Bird Treaty Act of 1918, Marine Mammal Protection Act of 1972, F.S., F.A.C.**, etc.

Reasonable and prudent alternatives - Recommended alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that can be implemented consistent with the scope of the federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that USFWS or NMFS believe would avoid the likelihood of jeopardizing the continued existence of listed species or the destruction or adverse modification of designated critical habitat. These are applicable only when the Service determines an action is likely to result in jeopardy or adverse modification (**50 CFR § 402.02**).

Reasonable and prudent measures - Actions the Service(s)'s Director believes necessary or appropriate to minimize the impacts, i.e., amount or extent, of incidental take (**50 CFR § 402.02**). These measures are considered nondiscretionary (mandatory) if a jeopardy or adverse modification opinion is to be avoided.

Service(s) - USFWS or NMFS (or both).

Take (federal) - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct [**16 U.S.C. § 1532(19)**]. “Harm” is further defined by USFWS to include 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” is defined by USFWS as actions 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) - To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct (**Chapter 68A-27, F.A.C.**). The term “harm” in the definition of take means 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. The term “harass” in the definition of take means 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.

Technical memo - A brief memorandum documenting coordination between FDOT and the Service(s) or FWC concerning protected species and habitat issues.

16.1.3 Legislative Authority

Section 7(a)(2) of the **ESA (16 U.S.C. § 1536)** requires federal agencies to consult with USFWS or the NMFS, as appropriate, to ensure that federally funded or authorized actions are not likely to jeopardize the continued existence of federally endangered or threatened species, or result in the destruction or adverse modification of designated critical habitat. The term “critical habitat” has a specific legal meaning and is a term defined and used in the **ESA (16 U.S.C. § 1532)**. It pertains to specific geographic areas that contain features essential to the conservation of threatened or endangered species and may require special management and protection (**USFWS, 2013**). Generalized maps and detailed legal descriptions of critical habitat can be obtained through USFWS and/or **Federal Register (FR)** notices.

The Secretary of the U.S. Department of Interior (DOI), acting through USFWS, and the Secretary of the U.S. Department of Commerce, acting through NMFS, hereinafter referred to as the Services, are mandated to protect and conserve all forms of wildlife, plants, and marine life they find in serious jeopardy. In general, USFWS coordinates **ESA** activities for terrestrial and freshwater species and NMFS coordinates **ESA** activities for marine and anadromous species. Consultation responsibilities are shared for some species, (e.g., marine sea turtles and the anadromous Gulf sturgeon) which may be present in different habitats depending on the season or their life cycle stage.

Amendments to the **ESA** in 1978, 1979 and 1982 changed the consultation requirements of **Section 7** and established the implementing regulations (**50 CFR Part 402**). These procedures allow federal agencies to consolidate **Section 7** requirements with

interagency cooperation procedures required by other statutes, such as **NEPA (42 U.S.C. 4321 et seq.)**. **Section 7** requirements are met through the environmental review process, **NEPA** and environmental permitting.

Section 404 of the **Clean Water Act of 1972 (CWA)** regulates the discharge of dredged or fill material into waters of the United States. The Environmental Protection Agency (EPA) provides oversight of the **Section 404** program and policies, while the U.S. Army Corps of Engineers (USACE) administers the day-to-day program and is responsible for federal wetland determinations and wetland permitting. Impacts to wetlands and other surface waters provide a “nexus” for involvement of the Services as cooperating federal agencies, where the Services advise the USACE or other Lead Federal Agency on the potential for wetland impacts to affect federally listed species and their habitat. See [Section 16.3.3.4](#) for more information on permitting.

USACE may be required to prepare **NEPA** documents for permit issuance and will often participate as a cooperating agency on a transportation project. Pursuant to **40 CFR § 1506.3** “a cooperating agency may adopt without recirculation of the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.” As a cooperating agency USACE routinely adopts FDOT’s **NEPA** document for projects for which they provide **Section 404** permits.

Just as the federal agencies oversee the protection of certain species and resources, the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC), **Article IV, Section 9, Fla. Const.**, entrusted to “exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and . . . marine life.” These powers and duties are further carried out through the legislative directives enacted in **Chapter 379, F.S.**, and embodied in the implementing regulations adopted in **Chapter 68, F.A.C.**

16.1.4 Protected Species and Habitat Evaluation Process Summary

[Figure 16-1](#) provides a flow chart of the protected species and habitat evaluation process. Involvement with protected species and wildlife habitat should be evaluated regardless of whether the project is required to meet **NEPA** or state requirements. Similarly, this evaluation should take place regardless of whether the project qualifies for screening through the Efficient Transportation Decision Making (ETDM) process. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), for project types qualifying for ETDM screening. [Section 16.3.1.1](#) provides guidance for documenting protected species and habitat evaluation for projects not qualifying for ETDM screening.

For projects that qualify for screening, species and habitat evaluation begins during the Programming Screen as explained in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). As part of the Preliminary Environmental Discussion (PED), the District requests an official species list from the Service(s) Environmental Technical Advisory Team (ETAT) members and a list from the FWC ETAT members for state listed, or other protected species. If the Advance Notification (AN) is

sent separately from the Programming Screen, the PED includes an update to the species list from the ETAT.

The District first reviews information from the **Programming Screen Summary Report**, then gathers information from various sources to aid in the determination of involvement with a federally listed threatened or endangered species, proposed threatened or endangered species, or designated or proposed critical habitat ([Section 16.3.1.2.1](#)). Information should also be collected on state listed species, habitat connectivity, areas that are ecologically important, and species that are otherwise protected by regulation. All information on protected species and habitats is compiled into a FDOT technical memo or **NRE**.

If federally listed species or critical habitat are present within the action area, then consultation with the Service(s) is necessary. Consultation may be as simple as a brief informal consultation or more in depth formal consultation ([Section 16.2.2.1](#)). In addition, if state listed species are present or expected to be present within the action area, then coordination with FWC is recommended.

A project requires an official federal document, called a **Biological Assessment (BA)**, if federally listed species or critical habitat may be present in the action area that requires an EIS (**50 CFR § 402.12**). A FDOT **NRE** can be submitted to the Services for use as a **BA**. A **BA** is not typically required for CEs and EAs; however, if federally listed species or critical habitat involvement exists, information must be provided to the Services in the form of an NRE or a technical memo, as appropriate, to support the effects determination. See [Section 16.1.2](#) for definitions of the different effect determinations.

If the project is given a determination of “may affect, is likely to adversely affect” listed species or is designated critical habitat, the District will request that OEM initiate formal consultation under **Section 7** of the **ESA** ([Section 16.2.2.1](#)). Formal consultation results in a **Biological Opinion (BO)** from the Services that determines whether a proposed action is likely to jeopardize the continued existence of a listed species (jeopardy), or destroy or adversely modify critical habitat (adverse modification).

The starting point for an effect determination is the environmental baseline (see [Section 16.1.2](#) for definition). The term “environmental baseline” is not synonymous with “existing conditions.” The environmental baseline “is an analysis of the effects of past and ongoing human and natural factors leading to the current status of the species, its habitat (including designated critical habitat), and ecosystem, within the **action area**” (**USFWS and NMFS, 1998**). It therefore considers not only “existing conditions,” but past activities that have already affected listed species and critical habitat, and any other existing/proposed private, local, state, or federal actions that are contemporaneous with FDOT’s proposed action.

Information on state listed species and valuable natural habitats should also be collected for the project. In Florida, state listed species are regulated by the FWC for listed wildlife, and the Florida Department of Agriculture and Consumer Services (FDACS) for listed plants. FDOT must evaluate projects for compliance with the **Florida Endangered and**

Threatened Species Act of 1977 (Chapter 379, F.S., Chapter 68A-27, F.A.C., Chapter 5B-40, F.A.C.). Involvement with state listed species (endangered, threatened, or species of special concern) or natural areas such as Strategic Habitat Conservation Areas (SHCAs) or Florida Natural Areas Inventory (FNAI) rare natural communities should be addressed and issues worked out through coordination with appropriate state resource agencies. Impacts to these species and habitats should also be addressed in the Environmental Document.

For off-project activities associated with construction of the project the District follows the same procedures for identifying possible involvement with protected species or habitat ([Section 16.3.3.6](#)).

16.1.5 Key Points for Protected Species and Habitat Coordination Process

1. Engage in early, continual, and strategic coordination with resource and regulatory agencies (USFWS, NMFS, FWC, USACE).
2. For projects qualifying for ETDM screening, information from the screening should be used to prepare the scope of services for the PD&E Study and focus the protected species and habitat analysis/impact assessment.
3. Projects with protected species and habitat issues need to be evaluated and addressed regardless of Class of Action (COA).
4. Coordinate internally with FDOT Project Development and Environment (PD&E), Design, and Construction staff (as applicable) throughout the process (e.g., ETDM screening, analysis, impact assessment, making commitments). Since PD&E Studies may result in commitments developed to address the specific protected species and habitat issues of a project, it is critical that appropriate internal coordination efforts within the District occur before commitments are made.
5. Consultation will be needed with the applicable Service when federally listed species and/or critical habitat may exist within the action area. This may be informal consultation or may require the initiation of formal consultation by the Lead Federal Agency.
6. Request concurrence from the Services on “may affect, not likely to adversely affect” determinations and document in the Environmental Document.
7. If an issue is identified during consultation that could affect completion of the consultation process, the District must inform OEM and OEM will coordinate with the Service(s) (and other Lead Federal Agency if applicable) to determine the appropriate course of action.
8. The contents of the **NRE** are summarized and included in the Environmental Document. The final **NRE** and agency correspondence is uploaded to the project file.

9. Ensure clear and concise transmittal of the commitments from the PD&E phase to the subsequent project phases (Design and Construction) using [Procedure No. 700-011-035, Project Commitment Tracking](#).

16.2 REGULATORY AGENCY PROCESS

16.2.1 Coordination/Consultation/Engagement with Agencies

Effectively addressing protected species and habitat for transportation projects depends on engaging the various state and federal resource and regulatory agencies. When project managers routinely adhere to the three generalized coordination principles outlined below, there is a high probability of successful resolution of potential or actual protected species and habitat issues throughout the project's development. The key elements of successful agency coordination can be summarized as follows: "**Early, continual, and strategic coordination.**"

Early coordination - Engagement with state and federal agencies should occur as early in the project as appropriate. For projects screened through the ETDM process, official agency engagement may occur during the Planning Screen, or more commonly during the Programming Screen (see [Section 16.3.1.2.1](#)). The overall goal of early engagement during the PD&E phase is to be **proactive** in identifying potentially protected species and habitat, and then **actively coordinating** with wildlife and other agencies to formulate strategies and responses that address those resources. Early coordination with agencies provides an important opportunity for the agencies to review any data and analyses that have been developed, and to discuss the steps for advancing protected species/habitat coordination for the PD&E Study. It also aids in the development of alternatives and informs permitting and future phases.

Continual coordination - Continual engagement with agencies involves communication as needed, in order to (among other things): determine the level of assessment and documentation required; confirm which species and/or habitats are likely to be affected by the project; decide whether **Section 7** informal consultation or formal consultation is required; and obtain agency confirmation for effect determinations, as appropriate. Continual coordination promotes an **ongoing dialog** between FDOT and the resource and regulatory agencies, minimizing the chances of miscommunication, misunderstandings, and "surprises" that could needlessly delay, complicate, or compromise a project.

Strategic coordination - Each project possesses unique circumstances and "facts on the ground." Strategic coordination involves thoughtful consideration of an **overall strategy** for handling protected species and habitat throughout Planning, PD&E, Design, Construction and Maintenance.

The advantages of developing a strategic approach include:

1. Early awareness of potential protected species/habitat;

2. Avoidance/minimization of potential impacts;
3. Aids in the development of alternatives;
4. A decrease in timeframes for resource and regulatory agency approvals;
5. Supports short or long term surveys, research, species studies, which may be required;
6. Complete documentation for the administrative record; and
7. Seamless transfer of information and commitments into the Design and Construction phases.

16.2.2 Endangered Species Act Process

For federally funded, authorized, or implemented projects, **Section 7** of the **ESA** requires consultation with the Service(s) to ensure that actions are not likely to jeopardize the continued existence of federally endangered or threatened species, or result in the destruction or adverse modification of critical habitat. All data collected on federally listed species and critical habitats should be included in a **NRE** or technical memo, and meeting minutes, commitments, and consultation with the Services should be summarized in the Environmental Document ([Section 16.3.2.6.2](#)).

It is highly recommended that the District reference the **Endangered Species Consultation Handbook (USFWS and NMFS, 1998)**, if involvement with a federally listed species is possible.

Regardless of whether the project is federally funded, the Districts **must** coordinate with the Service(s) if the project may impact federally listed species or critical habitat. For non-federal projects, such as SEIRs, it is highly recommended that the data collection process be the same as or similar to what is compiled for federal projects. This can be important in the event that federal funding is needed at a later time, or to avoid any unnecessary delays when subsequently requesting permits from federal agencies (such as the USACE).

If no federal nexus (e.g., no federal permit) exists and listed species may be present, consultation with the Service(s) may determine that **Section 10** of the **ESA**, which authorizes incidental take permit(s) requiring submittal of Habitat Conservation Plan(s), may apply to the project. District staff should coordinate closely with OEM if no apparent federal nexus exists to determine if **Section 10** consultation may be necessary, as these consultations are usually lengthy and more complex than **Section 7**. OEM will coordinate with the Service(s) to determine the process.

16.2.2.1 Consultation With Federal Agencies

Interagency consultation with the Service(s) is an administrative review that operates in parallel with the science-based review process used for effects determinations. Overall, the information used for consultation should focus on conducting a thorough review of the effects of the alternative(s) for each listed species and/or critical habitat(s) potentially affected by the action.

Under federal law, each agency shall use the best scientific and commercial data available to complete an interagency consultation (**16 U.S.C. § 1536**). The consultation documentation should lead the reviewer (i.e., the Service) through a discussion of effects to a logical, well-supported conclusion. It is **essential** that FDOT, as an action agency, evaluate and summarize project effects in a logical, objective and scientific manner that clearly supports the ultimate effect determinations and consultation conclusions. For example, technical reports, such as technical memos and **NREs**, should not only include appropriate effect determinations, but needs to include sufficient supporting evidence and rationale to adequately justify these determinations.

Coordination with the Service(s) involves more than simply submitting documentation and obtaining review comments. **Early** coordination should identify listed species and/or critical habitat present in the action area, and which species and habitats have the potential to be affected by the project. **Continual** coordination requires ongoing communication with the Service(s) to document consensus, to identify areas of disagreement, and to resolve outstanding issues. **Strategic** coordination requires an evaluation of project-related listed species and habitat issues, thoughtful consideration of how to minimize project impacts to listed species and habitats, and an overall approach for conducting an efficient federal coordination/consultation process. Coordination could also include discussion on other protected species.

The coordination/consultation process must be performed for **each** listed species and/or **each** type of critical habitat within the action area. For example, if there are six federally listed species present, there will be six separate effect determinations. If out of those determinations only two are “may affect, likely to adversely affect” determinations, then only those species or critical habitat(s) will require formal consultation. The level of federal coordination required (no consultation, informal consultation, or formal consultation) will be determined by each effect determination. [Table 16-1](#) provides a step by step process to follow for each effect determination. Species and/or critical habitat receiving a “no effect” determination are not subject to consultation, but are addressed by the appropriate documentation as described in [Section 16.2.2.1.1](#). Species and/or critical habitat(s) subject to a “may affect, not likely to adversely affect” determination are handled via informal consultation ([Section 16.2.2.1.3](#)). Formal consultation occurs when a “may affect, likely to adversely affect” determination is made for listed species and/or critical habitat ([Section 16.2.2.1.4](#)), and must be initiated through OEM.

[Figure 16-2](#) provides a flow chart for the federal coordination/consultation process. The flow chart serves as a useful aid for each listed species and/or critical habitat that may be

subject to federal coordination, as an effect determination and subsequent coordination will be required for each one.

The NMFS Southeast Regional Office has procedures for action agencies to submit **Section 7** consultation requests electronically (*NMFS, 2013*). See [Figure 16-3](#). These requests must include all of the relevant project information necessary for the NMFS consulting biologist to clearly understand the project and its potential impacts to listed species. For projects that do not require a **BA**, NMFS has prepared a **Section 7 Checklist** and accompanying guidance to aid in document preparation and submittal (*NMFS, 2013*). The District should copy the NMFS ETAT representative on the electronic submittal, or notify them of the submittal via letter ([Figure 16-4](#)).

All coordination with the Service(s) should be uploaded to the project file and included in the final Environmental Document according to [Section 16.3.2.6.2](#).

Re-initiation of consultation is required to occur when **BO** terms and conditions are exceeded. Re-initiation may also be required after initial consultation has been completed in response to changes in scope or design of the project, discovery of the presence of previously unknown listed species, or the listing of new species or designation of critical habitat.

16.2.2.1.1 “No Effect” Determinations

Where FDOT determines that an action will have “no effect” on a listed species or critical habitat (see [Section 16.1.2](#)), consultation with the Service(s) is not required. A “no effect” determination means no effect whatsoever (neither detrimental or beneficial) to a species or critical habitat, in the short term or long term. Although consultation is not required for a “no effect” determination, the analysis supporting it should be documented in the project file, technical memo, or **NRE** as appropriate. Results and any coordination with the Service(s) (e.g., ETAT comments, communications) should be documented in the final Environmental Document.

16.2.2.1.2 Section 7 Consultation

When federally listed species and/or critical habitat occur within the action area and a “may affect” determination applies, consultation with the Service(s) is necessary. There are two types of **Section 7** consultation processes: informal and formal. Informal consultation is a process designed to help determine whether formal consultation is needed. In contrast, formal consultation is a required process when a proposed action “may affect, is likely to adversely affect” listed species or designated critical habitat.

As stated in the *Endangered Species Consultation Handbook (USFWS and NMFS, 1998, E-21)*, “The ‘may affect’ evaluation looks not only at effects on the entire species or local management unit, but also considers the effect on individual members of the species. If even one individual may be affected, the biologist must conclude that there is a ‘may affect’ situation.”

The interaction between effect determinations and consultation procedures are primarily dictated by existing conditions (e.g., presence of wildlife corridors, listed species presence), combined with the project scope and viable alternatives. In some cases, formal consultation may be unavoidable, as in cases where major construction unavoidably impacts listed species that have a restricted range, or impacts critical habitat for a relatively long distance. However, in other cases, avoidance and minimization efforts can limit impacts to listed species and/or critical habitat to a degree that may change an initial “may affect, is likely to adversely affect” determination (formal consultation) to a “may affect, not likely to adversely affect” determination that triggers informal consultation. If compensatory mitigation can be identified or agreed upon during consultation, it should be documented.

Note that an effect determination must be reached for each listed species and/or each critical habitat within the action area. It takes only one “may affect, likely to adversely affect” determination to trigger formal consultation. If a project impacts only one listed species to a degree where formal consultation is required, it may be advisable to avoid or minimize the impact of a project (if possible) to an extent that justifies a “may affect, not likely to adversely affect” determination.

16.2.2.1.3 Informal Consultation

Informal consultation is the vehicle for determining the potential for adverse effects on a listed species or critical habitat, identifying ways to avoid them [such as Best Management Practices (BMPs) and conservation activities], and resolving project conflicts or misunderstandings. Informal consultation can provide FDOT the opportunity to implement project scope revisions or conservation activities prior to project implementation. Informal consultation may necessitate preparation of an official species list ([Section 16.3.2.1.2](#)) and/or the completion of a technical memo or *NRE* ([Section 16.3.2.5](#)) by the District.

The Districts initiate informal consultation with the USFWS by contacting the local office ([Figure 16-4](#)) when listed species are potentially present within the project’s action area and may be affected by the action. Informal consultation with the NMFS is initiated by following the guidance provided in [Figure 16-3](#). Coordination with OEM or other Lead Federal Agency may occur as necessary.

If listed species and/or critical habitat are present, FDOT must determine if the action may affect them. A “may affect” determination includes those actions that are “not likely to adversely affect” as well as “likely to adversely affect” federally listed species. During informal consultation the District(s) and the Service(s) work together to evaluate potential impacts on listed species, and eliminate or reduce potential impacts where possible. In many cases, the ultimate effect determinations may be influenced by project modifications. FDOT and the Service(s) may engage in continual coordination to reach agreement on effect determinations and project modifications necessary to accommodate particular listed species.

FDOT may reach an effect determination that the action “may affect, is not likely to

adversely affect” listed species or designated critical habitat (i.e. the effects are beneficial, insignificant, or discountable). FDOT should submit a copy of the technical memo or **NRE** to the Service(s) for review along with a letter requesting concurrence on the effect determination. This information should include reasons supporting the determination, any modifications to the project and/or commitments to reduce impacts, and compensatory mitigation agreed upon during informal consultation. If the Service agrees with the effect determination, it will document that agreement in a concurrence letter. If the Service does not concur with the “may affect, not likely to adversely affect” determination, the Service will send a non-concurrence letter to FDOT. FDOT must either 1) initiate formal consultation through OEM, or 2) modify the project to avoid adverse impacts. Either option should assist FDOT in obtaining a “no effect” or “may affect, not likely to adversely affect” determination and will require continued coordination with the Service(s).

16.2.2.1.4 Formal Consultation

Formal consultation may be required for any project regardless of the COA. FDOT and the Service(s) work together to determine if options exist that could allow the action to advance without jeopardizing the species’ existence or adversely modifying or destroying critical habitat. Although OEM must initiate formal consultation, the Districts work closely with OEM and the Services throughout the formal consultation process.

The differences between informal consultation and formal consultation are that formal consultation:

1. Occurs when there is a “may affect, likely to adversely affect” determination;
2. Must be initiated by OEM;
3. Has prescribed timeframes; and
4. Results in a **BO** which may determine whether the proposed activity will jeopardize the continued existence of a listed species (jeopardy) or destroy or adversely modify critical habitat (adverse modification).

In short, formal consultation is a manageable process that involves a higher level of scrutiny and analysis.

Formal consultation cannot be initiated until the **NRE** is completed. If the District determines that the action “**may affect, is likely to adversely affect**” listed species or designated critical habitat, then the District must request via e-mail that OEM as the action agency initiate formal consultation. OEM, with assistance from the District, sends a written request to the Service(s) which includes an initiation package describing the project and its relevance to federally listed species and habitats (see **USFWS and NMFS, 1998, 4-4**). Once the initiation package is received, the Service has 30 working days to review the package for completeness, and should provide a written acknowledgement of the consultation request to the action agency. Within the 30-day period, the Service must

advise the action agency of any data deficiencies and request additional information to complete the initiation package (see **USFWS and NMFS, 1998, 4-1**).

The formal consultation period officially begins when the Service determines that the initiation package is complete. The **ESA** and **Section 7** regulations require that formal consultation be completed within 90 calendar days [**50 CFR § 402.14(c)**]. The Service strives to issue the **BO** during the formal consultation period, but must deliver the **BO** to the action agency no later than 45 calendar days after the conclusion of formal consultation [**50 CFR § 402.14(e)**]. This 45-day period is often used by the action agency and the Service to review and refine the **BO**. The entire process can take up to 135 days to complete after the initiation of formal consultation, underscoring the need for “early, continual, and strategic coordination.”

In response to a request for formal consultation, the Service issues a **BO**, which is the document with the Service’s opinion as to whether the project “action” is likely to jeopardize the continued existence of a federally listed species or destroy or adversely modify critical habitat.

In contrast to “**may affect**” determinations, where individual members of listed species are the focus, jeopardy is determined at the listed species population level. “The determination of jeopardy or adverse modification is based on the effects of the action on the continued existence of the entire population of the listed species or on a listed population, and/or the effect on critical habitat as designated in a final rulemaking” (**USFWS and NMFS, 1998, 4-36**).

For non-jeopardy opinions, the **BO** will contain an **Incidental Take Statement**, which provides exemption from the **ESA Section 9** prohibitions to address actions that may cause an unintentional taking of non-plant species. Any terms and conditions provided in the **Incidental Take Statement** are “non-discretionary measures that are necessary and appropriate to minimize the impact of incidental take,” in order for the exemption in **Section 7(o)(2)** of the **ESA** to apply (**USFWS and NMFS, 1998, 4-49 and 4-53**).

During formal consultations, the key to reaching non-jeopardy opinions is to focus on the avoidance and minimization of project impacts, not compensation strategies: “Section 7 requires minimization of the level of take. It is not appropriate to require mitigation for the impacts of incidental take” (**USFWS and NMFS, 1998, 4-53**).

If the **BO** reaches a jeopardy or adverse modification conclusion, it will include reasonable and prudent alternatives and associated reasonable and prudent measures for implementing the project to avoid jeopardy or adverse modification. Note that the Services should include the action agency and applicant in developing reasonable and prudent alternatives and measures. Depending upon project-specific circumstances, several reasonable and prudent alternatives may exist, only one alternative may exist, or no alternatives may exist. Reasonable and prudent measures are the nondiscretionary (mandatory) actions developed for each alternative, which are necessary for a given alternative to avoid a jeopardy or adverse modification opinion. The reasonable and

prudent measures developed for each of several alternatives may be the same or different, depending upon the specific alternative. FDOT may:

1. Adopt the reasonable and prudent alternatives/measures;
2. Not advance the project;
3. Request an exemption from **Section 7(a)(2)**;
4. Modify the action or offer reasonable and prudent alternatives/measures not yet considered, and reinitiate consultation; or
5. Proceed with the action if upon review of the **BO** FDOT believes that such action satisfies **Section 7(a)(2)**.

FDOT must notify the Service(s) of its final decision on any proposed action that receives a jeopardy or adverse modification biological opinion.

16.2.2.1.5 Consultation Completion

Environmental investigations, reviews, and consultations are intended to be coordinated as a single process, and compliance with all applicable environmental requirements are to be reflected in the Environmental Document to the fullest extent possible. This applies to all COAs. In some instances, consultation cannot be completed in a single process, especially if one of the Services does not have enough information (i.e., project details may not yet be available) to concur with (or not concur with) an FDOT effect determination. In these situations, the Districts should coordinate with OEM. Together OEM and the District will determine the appropriate course of action to advance the project. The Environmental Document should include a summary of the consultation, the reasons why it cannot be completed as described in the Service(s) letter and provide reasonable assurance that the requirements will be fulfilled consistent with **23 CFR § 771.133**. Commitments made during this coordination should be included in the Commitments section of the Environmental Document and recorded in the **Project Commitment Record, Form No. 700-011-35**. An update to the commitment(s) must be provided in subsequent project Re-evaluations.

16.2.2.1.6 Proposed and Candidate Species

Proposed species are those that are proposed in the **FR** to be listed under **Section 4** of the **ESA**. Species and critical habitat proposed for listing may require a **conference** with the Service(s), according to **ESA Section 7(a)(4)** and **50 CFR § 402.10**, if agency action is likely to jeopardize the continued existence of such proposed species or result in the destruction or adverse modification of proposed critical habitat. Informal conference is an early interagency coordination, similar to informal consultation, where the Service(s) assist in determining effects and may advise on ways to avoid and minimize adverse effects to proposed species, or proposed critical habitat. Following informal conference, the Service(s) issue a conference report containing recommendations for reducing

adverse effects. These recommendations are advisory until a listing becomes effective – but following the report’s recommendations helps avoid future conflicts and the need to reinitiate a consultation once the species is listed or critical habitat is designated.

Formal conference must be initiated by OEM and is required when a project is likely to jeopardize the continued existence of a proposed species, or is likely to adversely modify proposed critical habitat. Formal conference procedures are the same as formal consultation. The opinion at the end of formal conference is a conference opinion and follows the contents and format of a **BO**. When the species is listed or critical habitat is designated, the Services have the option of adopting the conference opinion as the **BO** for the project. An **Incidental Take Statement** issued with a conference opinion does not become effective unless the Services adopt the conference opinion as the **BO** (**50 CFR § 402.10; FHWA, 2002**).

Candidate species are not proposed for listing, but are species for which the development and publication of proposed rules for listing are anticipated. Effective candidate species conservation may reverse the species decline, ultimately eliminating the need for **ESA** protection. **Section 7** consultation is not required for candidate species though consideration of conservation measures may help to minimize project delays if a candidate species becomes federally listed before construction of a project has been completed (**FHWA, 2002**).

16.2.3 Other Federal Protections

Several species that are not federally listed and therefore not subject to **ESA** review may be protected by other federal regulations such as 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. It should be noted that all non-exotic birds in the state of Florida are protected by the **MBTA**. Rules promulgated under the **MBTA (50 CFR Part 21)** prohibit the destruction of active nests (i.e., nests which contain eggs or flightless young) without a federal permit.

The federal **Bald and Golden Eagle Protection Act** prohibits anyone from taking, possessing, or transporting a bald eagle or golden eagle, or the parts, nests, or eggs of such birds without prior authorization. This includes inactive nests as well as active nests. The USFWS has Bald Eagle Monitoring Guidelines (**USFWS, September 2007**) that provides information for applicants proposing construction activities occurring within 1,500 feet of an active bald eagle nest during the nesting season. See [Part 1, Chapter 12, Environmental Permits](#), for guidance on permits for the American bald eagle, Florida burrowing owl, and osprey.

16.2.4 Coordination with State Agencies

The procedures for coordination with the FWC are not as rigidly prescribed as those for the federal process, but the general process, overall goals, and documentation requirements are similar. FDOT places the same emphasis on “early, continual, and

strategic coordination” with FWC, to ensure that state-protected species and habitat issues are considered from the earliest planning phase and carried through the PD&E, Design, and Construction phases of the project. [Figure 16-5](#) provides a flow chart for the state protected species process.

Coordination with FWC focuses on state listed wildlife species and habitats as well as other protected species (e.g., bald eagle, bats). In order to avoid regulatory duplication for threatened and endangered species, the following state rule applies: “Activities that result in take or incidental take of federally-designated Endangered and Threatened Species do not require a permit from the Commission when authorized by the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service...” (**Rule 68A-27.007, F.A.C.**). Some species that are federally protected may also require coordination with FWC, such as Florida manatees and sea turtles.

For projects that qualify for ETDM screening, the ETDM process initiates the project-level coordination with FWC, as FWC is represented on the ETAT that participates in the Planning and/or Programming Screens ([Section 16.3.1.2](#)). The FWC ETAT should provide focused comments and a list of state listed species, or otherwise protected species that should be considered/analyzed during the PD&E Study ([Section 16.3.1.2.1](#)).

As the coordination with FWC progresses, through the PD&E Study, issues related to particular state listed species, other protected species, and habitats are addressed, and FWC decisions are documented via correspondence and/or memos. The FWC typically requests that effect determinations, similar to those made for federally listed species ([Section 16.2.2.1](#)), be made for state listed species. The coordination process continues throughout the PD&E process, and commitments to FWC (e.g., wildlife crossing, species-specific survey) are recorded in the Environmental Document. Species-specific surveys or permitting may be necessary after conclusion of the PD&E phase.

Decisions made during coordination and FDOT commitments to FWC should be documented to facilitate the transfer of information and commitments to subsequent project phases (Design and Construction). Any assumptions (e.g., road alignments) and/or conditions (e.g., species-specific surveys) that are associated with FDOT’s commitments to FWC must be included in the Environmental Document. Some of these commitments may become part of a permit, or permit conditions in future phases.

16.2.5 Listed Plant Species

Under federal law, activities that may impact federally-listed plant species are subject to regulation under the **ESA**. However, destruction, damage or relocation of protected plants is not prohibited unless these activities take place on federal lands or are otherwise in violation of state law on other lands.

In cases where projects may impact lands under federal jurisdiction (commonly National Forests, National Park Service lands, National Wildlife Refuges, military bases, and areas designated as critical habitat), USFWS can determine through **Section 7** consultation that

there are no other options available and that the action will not jeopardize the continued existence of the species. In those cases, USFWS may authorize destruction of plants on federal lands.

Input from the ETAT representatives during ETDM screening should identify federally listed plant species that may occur within the action area. Coordination with the appropriate agencies for federally listed plant species is always included as part of the federal consultation process, if any listed plant species are potentially present. Should federally listed plant species be identified within the action area, they need to be considered together with listed wildlife species during consultation to avoid and minimize overall project impacts. Based on consultation with USFWS, listed plants may be moved to suitable habitats in order to avoid direct impacts.

The only federally listed marine plant species, Johnson's seagrass (*Halophila johnsonii*), requires coordination with NMFS when a project may cause direct or indirect impacts. Johnson's seagrass occurs only in coastal environments of southeast Florida, between Sebastian Inlet and central Biscayne Bay. Critical habitat for this species has been designated in 10 distinct locations within its range (**50 CFR § 226.213**). For projects potentially impacting these areas coordination with NMFS occurs under the general federal consultation process.

State listed plant species are regulated by the FDACS, but state regulation only addresses the harvesting, transport, and/or sale of listed plant species. The plant species listed by the state as Endangered, Threatened, or Commercially Exploited is included on the Regulated Plant Index (**Rule 5B-40.0055, F.A.C.**). State rules do not specifically regulate or prohibit the incidental taking of state listed plants in the course of project activities, but general principles of avoidance and minimization also apply to projects impacting these plant species. In cases where known occurrences of state listed plant species will be unavoidably impacted by project activities, the impacted plants may be transplanted to appropriate habitats nearby as a minimization/conservation measure. FDOT notifies FDACS and the Endangered Plant Advisory Council when bids for construction projects are first advertised according to **Chapter 5B-40, F.A.C.**

16.3 PROCEDURE

16.3.1 Level of Assessment

The level of assessment and documentation during the PD&E phase depends on the potential for protected species and habitat impacts. The protected species and habitat evaluation is intended to be flexible within the PD&E phase, as well as FDOT standard reviews for projects outside of PD&E.

Detailed evaluations are generally not warranted for transportation projects not qualifying for screening in the ETDM Environmental Screening Tool (EST) (typically Type 1 CEs and Non-Major State Actions (NMSAs)). See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for clarification on projects that qualify for screening. Projects that do not require screening, based on analysis, have no significant

effects. They typically require a flexible approach, but due to their less complex and comprehensive nature the evaluation can be streamlined.

A higher potential for protected species and habitat involvement -usually exists with transportation projects qualifying for screening (typically Type 2 CE, EA, EIS, or SEIR). These project classifications may warrant a more detailed level of analysis and documentation. Most PD&E projects will have received prior consideration of protected species and habitat issues during the ETDM process. The results of the Programming Screen are available in a ***Final Programming Screen Summary Report***. The protected species and habitat evaluation in the PD&E Study builds on issues identified during the Programming Screen.

The level of project assessment for protected species and habitat during the PD&E phase depends on the potential for impacts. FDOT determines what is reasonable in the given context. If an impact is identified, it should be assessed regardless of the nature of the project.

16.3.1.1 Projects Not Qualifying for Screening

Protected species and habitat involvement may be identified for projects that do not require EST screening and advance straight to the Design phase. For transportation projects not qualifying for EST screening, the protected species and habitat evaluation should be in sufficient detail to ensure that the project considers protected species and habitat. For these projects FDOT typically makes a “No Effect” or a “May affect, not likely to adversely affect” determination. Sometimes species-specific conditions may be required in order to make this decision. If coordination is needed with the Service(s), additional documentation in the form of a technical memo will suffice, and a ***NRE*** is typically not necessary ([Section 16.3.2.4](#)). If during this coordination it is determined that formal consultation may be needed, the project may need to be developed through the Minor Categorical Exclusion (MiCE) process and coordinated with OEM ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). 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:

1. **Type 1 Categorical Exclusions (CEs)** - Type 1 CEs may involve listed species and critical habitat as long as the documentation demonstrates the proposed project has no significant effects on them. For these projects, include a summary of listed species and habitat impacts, agency coordination and compensation for impacts (as appropriate) in the project file as supporting information to the ***Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*** ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). If a technical memo was prepared, reference it in the checklist and include it in the project file. If this analysis indicates a significant impact, the project cannot be processed as a CE. Agency coordination letters (e.g., concurrence letter) are also included in the project file.
2. **Non-Major State Actions (NMSAs)** - For a NMSA mark “No” on the ***Non-Major***

State Action Checklist, Form No. 650-050-30 to document that there are no listed species or critical habitat affected by the project ([Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#)). For these projects include a summary of listed species and habitat impacts, agency coordination and compensatory mitigation for impacts (as appropriate) in the project file as supporting information to the NMSA. If a technical memo was prepared reference it and include it in the project file.

3. **Type 2 Categorical Exclusions** - Some Type 2 CEs may not require screening through the EST. For these projects listed species and habitat impacts are documented as if the project was screened. See [Section 16.3.2.6.2](#) for guidance on documenting Type 2 CEs.

16.3.1.2 Projects Qualifying for Screening

Transportation projects qualifying for EST screening are generally more complex. In accordance with [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen. As projects advance, protected species and habitat issues should be considered as follows:

1. **Planning Screen Evaluation** - Identify potential listed species and/or critical habitat within the project area that could affect the advancing of the project in a timely manner, assist with the elimination of fatally flawed alternatives, or require consideration of avoidance, minimization, or mitigation measures at this early planning stage. Protected species may also be identified during this evaluation.
2. **Programming Screen Evaluation** - Provide commentary about effects and summarize scoping recommendations to further understand the level of potential listed species and habitat impacts. Begin to prepare existing conditions for the Environmental Document. Protected species may also be identified during this evaluation.
3. **PD&E Evaluation** - Build upon previous evaluations by filling information gaps, coordinate with the Services and FWC on issues of concern identified in planning and programming screens, perform an impact assessment, and compare alternatives. Complete the appropriate level of protected species and habitat documentation based on the project and associated impacts to listed species. Document necessary commitments.
4. **Final Design** - Incorporate any commitments made in the **Project Commitment Record, Form No. 700-011-35**. If there are changes or updates identified during a review of the final plans, document them in a Re-evaluation. Ensure the project meets federal and state regulations. During permitting re-initiate consultation if necessary.

5. **Construction** - Verify implementation of any protected species and habitat commitments (e.g., avoidance, inclusion, installation). Verify compliance with federal and state regulations.

16.3.1.2.1 ETDM Process Contribution to PD&E

For projects qualifying for EST screening, the proposed project is entered into the EST (see the [ETDM Manual, Topic No. 650-000-002](#)). The AN package may be distributed as part of the Programming Screen in the EST and includes a PED ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). Protected species and habitat information is included in the PED, reflecting the District's initial consideration of the project's potential involvement with protected species and habitat resources. The PED should also identify the location of federally designated critical habitat and provide a description of how protected species and habitat are to be evaluated in the PD&E Study. The AN may also include a list of permits and a list of technical studies that may be needed.

The District uses the EST to electronically send the AN to the Services and FWC along with other ETATs, state and federal agencies, and other organizations. If sent during the Programming Screen it initiates the project-level coordination with the Services and FWC. As ETAT members, the Services and FWC review the proposed project, respond with comments, provide a species list, and identify any critical habitat(s) within the action area. The ETAT should provide focused comments and actionable recommendations to avoid or minimize potential effects to protected species and their habitat. They should also identify potential permits, compensatory mitigation opportunities, technical studies, and other items within their jurisdiction/responsibility.

The EST reports and stores the ETAT review in the **Programming Screen Summary Report**, which includes comments related to protected species and habitat issues. This report provides a foundation for project managers to coordinate directly with the Services and FWC. For example, the ETAT should provide a list of potential listed species and/or critical habitats that warrant further review with the Services and/or FWC, as well as information on otherwise protected species. The EST reports can also provide an informed basis for formulating strategies to address potential protected species and habitat issues throughout the project life cycle (i.e., strategic coordination).

Information from the ETDM screening process should be used to prepare the PD&E scope of services and focus the protected species and habitat analysis/impact assessment. During PD&E, FDOT determines the project's involvement with federally listed threatened or endangered species, proposed (under review) threatened or endangered species, or designated or proposed critical habitat from resource agency comments and information included in the **Programming Screen Summary Report**. The Districts should review ETAT comments and Degree of Effect (DOE) determinations for the "Wildlife and Habitat" issue in the **Programming Screen Summary Report** as well as ETAT comments on other issues such as "Coastal and Marine," "Wetlands and Surface Waters," and "Water Quality and Quantity." However, the associated DOE from the agencies is not a finding.

FDOT should focus on comments from the Services and FWC as resource experts. The **Programming Screen Summary Report** may identify a **NRE** as being needed in the “Anticipated Technical Studies” section of the report. Other sections of the report may be useful such as the “General Project Recommendations” and “Anticipated Permits” sections. Information from the screening should be used in preparing the existing conditions for the Environmental Document.

The Services or FWC comments should identify specific protected species or critical habitat that should be considered/analyzed during the PD&E Study. The Districts should use this list of species as a starting point for preparing the existing conditions for the **NRE** (see [Section 16.3.2.1.2](#)). Comments on the ETDM screening may also identify listed species habitats of concern or wildlife connectivity issues.

Coordination with the Services and other resource agencies occurs throughout the ETDM process. However, listed species and habitat impact assessment and informal or formal consultation with the Services are not initiated until the PD&E phase. The ETDM Coordinator and Project Manager should coordinate internally with Permit Coordinators, District Environmental Offices [District Environmental Management Offices (DEMOs), Planning and Environmental Management Offices (PLEMOs)], and others who may be involved in the project following the screening.

16.3.2 PD&E Phase

16.3.2.1 Describe Existing Conditions

Upon initiating the PD&E Study, the District should coordinate with the Services and/or FWC to discuss comments from the **Programming Screen Summary Report** and ensure that potential protected species and habitat have not changed since the screening. The District should collect data and conduct field surveys to identify the initial existing conditions in the action area, such as the protected species and federally designated critical habitat that may occur there, as well as habitat types. Often the District can begin preparing existing conditions text before PD&E is initiated based on ETAT commentary. However, presence or absence of some species can change over time and initial screenings or surveys may be considered out of date by the Services or FWC at the time a project is scheduled to begin, if they are done too far ahead of time.

16.3.2.1.1 Identify Action Area

The action area is defined as “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action” (**50 CFR § 402.02**)(**USFWS and NMFS 1998**). The action area boundaries for the project are established in coordination with the Services. This coordination is important, as any disagreement regarding the action area boundaries can affect subsequent listed species and habitat analyses. Coordination with other FDOT offices is suggested to determine any additional areas (e.g., maintenance of traffic) that may need to be included in the action area.

16.3.2.1.2 Identify Protected Species and Critical Habitat that May Occur in the Action Area

In developing the PED, the Districts use available information including their familiarity with the project area to identify protected species (federal, state, and otherwise protected) and/or critical habitat that may be affected by the project. The Service(s) online species lists, available data sources, current literature, and species specialists may also be consulted to help identify what federally listed species may be in the action area. Include species and critical habitats “proposed” for federal listing, as well as federal “candidate” species, on the list. Federally designated critical habitat within the action area also needs to be identified.

The District should also review official lists of state listed animals regulated by the FWC and plants regulated by the FDACS using online species lists and data, as well as other data sources ([Figure 16-6](#)).

Additionally, the species of concern identified by the Services and/or FWC during the ETDM process should form the basis of a list of species to be analyzed in the PD&E Study. During the Programming Screen, the Service(s) should provide the official species list. Coordination with the Service(s) and/or FWC in PD&E may identify additional species to be included on the list.

16.3.2.1.3 Collect Data and Map Habitat

The best and most current scientific and commercial data available should be gathered from various sources to help determine the possibility for species occurrence within the action area. Sources include the Service(s)’ websites, Geographic Information System (GIS) species occurrence data, existing studies or surveys, information from past **BOs**, and **NREs**, status reports and listing rules, critical habitat designations, recovery plans, habitat management guidelines, and species specific studies. Information on wide ranging or migratory species that may not be listed by state or federal regulations should be collected since migratory bird species are protected by the **MBTA of 1918**, as amended.

Habitat maps provide a baseline for analysis of species presence/absence and potential impacts. Land covers/land uses, the presence/absence and quality of suitable habitats, and rare natural communities in the project site should be mapped and described. The presence of critical habitat, and/or SHCAs, consultation areas, and focal areas should also be identified and mapped. The habitat mapping effort should include the evaluation of various existing digital data sets and historical and recent aerial photography.

A field survey conducted by a biologist is needed to compare existing site conditions with digital data and to map the presence, extent, and configuration of existing land uses/land covers, potential habitats, and rare natural communities. Photo-interpretation and extrapolation may also prove valuable in mapping large projects, and should be based on observations during field surveys.

16.3.2.1.4 Conduct Field Surveys

Appropriate field surveys should be conducted to determine and record the presence of protected species individuals, evidence of listed species utilization, and document the presence and quality of existing habitats. Areas in which listed species (federal and state) or species' habitat is known or suspected to occur within the action area should be surveyed for individuals or signs of individuals of the listed species. The field survey may result in observations of additional, previously unidentified listed species or habitats. All observations of listed species, signs of listed species, and species' habitat should be recorded, Global Positioning System (GPS) coordinates taken, and the quality of habitats should be assessed and recorded.

It is recommended that field surveys for federally and state listed species and habitats, as well as otherwise protected species, be conducted concurrently. This survey is often conducted concurrently with field verification of habitat mapping. During this survey, plant species should be identified and recorded for each vegetative community and dominant species noted for each stratum present (e.g., canopy, subcanopy, shrub/understory, and ground cover).

Field surveys for specific species may be required and should be designed to account for life histories and behaviors (e.g., breeding, foraging, resting, migration, flowering, seeding) of the listed species that are expected to be, or could potentially be, present on a given site. Survey design should consider appropriate time of day and season of the year for species identification, as well as species' habitat quality and current site conditions including, but not limited to, recent and long-term fire and hydrologic history; recent and current climatic events (e.g., drought, flooding) and weather conditions; soil, topographic, and vegetative health or disturbances; noise levels; and typical human usage. Some listed species have agency developed or approved survey methodologies.

Consultation/coordination with the Services or FWC may identify the need to obtain quantitative data for a specific species; in those instances, a more intensive survey than is usually required may be warranted. Examples of quantitative data are percent cover for plants and population size for wildlife such as gopher tortoises. Methods for collecting quantitative data should be provided by the Services or FWC during consultation/coordination. Copies of survey results and associated field notes should be provided to the Services or FWC soon after surveys are completed. Note that some survey information, such as nest sites, may become outdated after one season. These species-specific surveys are typically not conducted until after the PD&E phase and closer to Construction and may be tied to project permitting ([Section 16.3.3.4](#)). During the PD&E Study, a commitment to conduct a species-specific survey later in the process may need to be included as a commitment in the Environmental Document ([Part 2, Chapter 22, Commitments](#)).

16.3.2.2 On-going Agency Coordination

When federally listed species and/or critical habitat may occur within the action area, informal consultation or formal consultation will be needed with the applicable Service

([Section 16.2.2.1](#)). Any coordination activities with the Service(s) or ETAT members during the informal consultation process should be clearly documented in the project file.

When there is potential for involvement with state listed species, or valuable natural areas, coordination with the FWC ETAT is recommended ([Section 16.2.3](#)). Early coordination with FWC is advantageous to assess potential impacts to these natural resources. Coordination may save time later in the design phase of project development when state or federal permits may be required prior to commencement of work.

When wildlife crossing features are being considered, follow the [FDOT Wildlife Crossing Guidelines](#), which were developed in coordination USFWS and FWC. Wildlife crossing feature locations should be identified as early as possible in the project planning and development processes, and prior to project design. The guidelines note that “wildlife crossing feature(s)” may include, but are not limited to new or modified structures, such as bridges, bridges with shelves, specially designed culverts, enlarged culverts or drainage culverts and/or exclusionary devices such as fencing, walls or other barriers, or some combination of these features. The guidelines were developed for use by FDOT to evaluate the appropriateness of including wildlife crossings (upland or wetland) and associated features for proposed projects on the SHS and establish criteria to be considered during design. In cases where a FDOT District has an off-SHS project, the District will coordinate with the OEM regarding possible inclusion of any wildlife crossing features.

When making commitments to the Services or FWC to address specific protected species and habitat issues of a project, it is critical that appropriate internal coordination efforts within the District (e.g., Design, Permitting, Structures, Construction and Maintenance Offices) are completed before such commitments are made. See [Part 2, Chapter 22, Commitments](#) for more information on commitments.

16.3.2.3 Conduct Protected Species and Habitat Analysis/Impact Assessment

Protected species and habitat analysis begins with determining the potential for species occurrence in the action area, and identifying any designated or proposed critical habitat(s). The potential for species occurrence is derived by comparing the habitat mapping of the project site with known species ranges, habitat preferences, and the locations and proximity of known occurrences. This information is then used to evaluate the type and degree of potential impacts, if any, associated with the project.

The impact assessment includes comparing the species and habitat mapping data and field survey results ([Section 16.3.2.1](#)), with the proposed project footprint from the plan sheets (if available) to evaluate direct, indirect, and in some instances cumulative effects to listed species and habitats (see [Section 16.1.2](#) for definitions). It is also important to consider potential project impacts related to habitat connectivity for all wildlife, not just protected species, as habitat fragmentation can directly or indirectly impact multiple species. Although there are no federal or state requirements to avoid habitat fragmentation for unlisted species, this can be considered in coordination with the

Services and/or FWC. If wildlife crossings are considered they must follow the [**FDOT Wildlife Crossing Guidelines**](#).

Since CEs are generally minor in nature and do not have significant impacts, indirect and cumulative impacts assessments will generally not be warranted. There may be exceptions, which can be evaluated on a case-by-case basis. It is recommended that the District Environmental Office staff coordinate with the District Design and Permitting staff when conducting the impact assessment.

The detailed results of the protected species and habitat analysis and impact assessment are documented in a technical memo or **NRE** and summarized in the Environmental Document. If more than one alternative is proposed, each alternative is then compared based on impacts to protected species and habitat using the analysis performed and documented in the Environmental Document.

If designated or proposed critical habitat is identified within the action area during the ETDM process, the identified habitat(s) must be evaluated for potential impacts. The steps outlined below are taken directly from the **ESA Consultation Handbook (USFWS and NMFS 1998)**, for determining whether a proposed action is likely to destroy or adversely modify critical habitat.

Review the status of the critical habitat as designated and the environmental baseline within the action area. The status and environmental baseline for any constituent elements may have been modified by actions considered in earlier **BOs**.

1. Those **BOs** should be consulted to determine the current baseline.
2. Evaluate the effects of the proposed action on the constituent elements of critical habitat.
3. Evaluate the cumulative effects in the action area on the critical habitat and its constituent elements.
4. Assess whether the aggregate effects of these analyses will appreciably diminish the value of the critical habitat in sustaining its role in both the survival and recovery of the species.

16.3.2.4 Technical Memo

For projects having minimal involvement with protected species and habitat, an abbreviated report in the form of a brief technical memo rather than an **NRE** may be completed and provided to the Service(s) and/or FWC. The technical memo should address the likely effects of the project and document coordination with the Service(s) during informal consultation. Technical memos should briefly discuss potential involvement with protected species or habitat and how this involvement is not significant.

Any technical memo prepared for a project in which OEM serves as the Lead Federal Agency must include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

16.3.2.5 Biological Assessment and Natural Resources Evaluation

A **BA** is a technical report required by the Services if federally listed or proposed species or critical habitat “may be present” in the action area of a major construction activity. A major construction activity is defined as major federal projects significantly affecting the environment; therefore all EISs require the preparation of a **BA**. This interpretation is consistent with that of **FHWA Memo, Management of the ESA Analysis and Consultation Process (FHWA, 2002)**. A **BA** may be requested by the Services for an EA, but is usually not requested for CEs. If a **BA** is required or requested by the Service(s), the District should prepare a protected species and habitat section of a **NRE** to be submitted to the Service(s) as a **BA**. If a **BA** is not required by the Service(s), and **NRE** components can fit into the Environmental Document, then the report is not necessary. The **NRE** includes information on listed, proposed, and candidate species, and associated critical or proposed critical habitat.

A **NRE** documents the protected species and habitat, wetlands, and Essential Fish Habitat (EFH) analysis/impact assessment. The “Protected Species and Habitat” section of the **NRE** is prepared to help make the determination of whether the proposed action is likely to: (1) adversely affect federally listed species or designated critical habitat; (2) jeopardize the continued existence of species that are proposed for listing; or (3) adversely modify proposed critical habitat. During informal consultation the conclusions contained in the **NRE** determine the need for formal consultation or conference.

The District should consider commentary from the Services and FWC ETAT members and consult with them as necessary when preparing the **NRE**. The contents are discretionary, and coordination with the Services and FWC is recommended to determine the depth of detail needed for the **NRE**.

16.3.2.5.1 Content of the Natural Resources Evaluation

If applicable, the **NRE** should include the assessment of impacts to protected species and habitat, wetlands, and EFH as separate sections. The protected species and habitat evaluation should be the first section titled “Protected Species and Habitat.” If the project proposes impacts to wetlands add a section titled “Wetland Evaluation.” Guidance on preparing the wetland evaluation section is in [Part 2, Chapter 9, Wetlands and Other Surface Waters](#). If the project requires an **EFH Assessment**, include a section titled “Essential Fish Habitat Assessment.” Guidance on preparing this section is in [Part 2, Chapter 17, Essential Fish Habitat](#).

The “Protected Species and Habitat” section of the **NRE** includes all state listed, federally listed threatened, endangered, proposed and candidate species and critical habitats, as well as other protected species that may be present within the action area. Information gathered from sources identified in the **Programming Screen Summary Report** should be used to prepare the **NRE**.

An **NRE** prepared for a project in which OEM serves as the Lead Federal Agency must use the **Technical Report Cover Page, Form No. 650-050-38**. See example show in in [Figure 16-7](#).

The content of a **BA** is described in **50 CFR § 402.12(f)**. For examples of **BA** templates and instructions see links in [Figure 16-6](#). Any of these templates may be used for the Protected Species and Habitat section of the **NRE**.

When the Protected Species and Habitat section of the **NRE** is submitted to the Services as a **BA** the following information is included:

1. Describe the proposed project, including project location, and emphasize those activities occurring within the project area inhabited by a federally listed species, and define the action area. The description of the proposed project should include all activities related to construction and emphasize both long-term and short-term anticipated impacts on identified federally listed species and suitable habitat in the action area. Project and design alternatives (including construction methods) should also be addressed. This description should be brief, and not include large amounts of information copied from the Environmental Document, such as purpose and need and project details.
2. Identify the federally listed species, proposed species, candidate species, critical habitat, and proposed critical habitat that occur, or could potentially occur within the action area ([Section 16.3.2.1](#)). Provide brief background information on these species in terms of overall range, population status, habitat needs, and life history requirements. Include only relevant information on the species. Details such as the species description (e.g., size, coloring) and general species information are not needed.
3. Describe the methods used to determine involvement of federally listed species and critical habitat within the action area.
4. Discuss the results of the comprehensive field survey of the project area ([Section 16.3.2.1.4](#)), describe the survey methodology, and provide details on the qualifications of persons doing surveys, what types of surveys were conducted and on what species, when they were done [for how long, what dates, what seasons (breeding, spawning, nesting, fall, spring) and what times of day], weather conditions, how often. Describe the specific area(s) that may be affected by the project. Identify any information pertinent to the comprehensive evaluation of federally listed species and/or critical habitat impacts. Also discuss the reliability

and validity of the survey and assessment and whether future studies may be required to validate and/or update the survey results.

5. Identify any data gaps and discuss any difficulties in obtaining data pertinent to the comprehensive survey. Any data gaps or lack of information should be explained and their effects addressed.
6. Describe the methods and results of studies that contribute information relevant to determining actual and potential impacts of the proposed project or associated activities on a federally listed species or critical habitat. Types of studies include studies of mating, nesting, reproduction, feeding, and migration of those species that may be found in the action area.
7. Evaluate the direct, indirect, and cumulative impacts.

a. The **NRE** should describe:

1. Direct impacts associated with project construction and operation. Direct effects are those that occur in direct association with the construction or operation of the project, such as noise, dust, sedimentation/runoff, wetland disturbance/destruction, reduction in water quality, and changes to vegetative cover/composition.
2. Indirect impacts resulting from project activities, such as development. Indirect effects are “those effects that are caused by or will result from the proposed action and are later in time, but are still reasonably certain to occur” (**USFWS and NMFS 1998**).
3. Cumulative effects of the project on a federally listed species or critical habitat. Cumulative effects are defined as “those effects of future state or private activities, not involving federal activities, that are reasonably certain to occur within the action area of the federal action subject to consultation” (**USFWS and NMFS 1998**). Note: this definition of cumulative effects is different than the Council on Environmental Quality (CEQ) definition. Guidance on evaluation of cumulative impacts to satisfy **NEPA** is provided in FDOT’s [**Cumulative Effects Evaluation Handbook**](#).
8. Discuss efforts that will be taken to avoid, reduce, or compensate for any adverse impacts to a federally listed species or critical habitat. This should include precautionary measures, construction design, conservation measures, and special construction methods that will eliminate or reduce adverse impacts. Special conservation measures and strategies may be appropriate and necessary for the avoidance of impacts. Any planned conservation measures for candidate species should also be described (**FHWA, 2002**).

9. Conclusions of the Services, including recommendations regarding further studies. The final step is to draw conclusions on the significance of impacts to federally listed species and critical habitat within the action area.
10. Any other relevant information.

The above information is used by the District to come to an “effect” determination for each federally listed species or designated critical habitat to be included in the **NRE**. Determinations are “no effect”, “may affect, not likely to adversely affect” (which includes beneficial, insignificant or discountable effects), and “may affect, is likely to adversely affect”. For proposed species or proposed critical habitat, a determination of “is likely to jeopardize/adversely modify proposed species/critical habitat” is possible.

The **NRE** should also discuss potential impacts to state listed species and include effect determinations for those species. The report should include information on other protected species likely to occur in the action area. The presence of natural communities, such as FWC designated SHCAs and FNAI rare natural communities, should also be identified. Any species-specific surveys or permits that may be needed later in the process should also be discussed. This analysis and any coordination with the FWC should be included in the **NRE**.

The District should conduct a quality control review of the document and must submit the draft **NRE** to OEM for review prior to submitting to the appropriate agencies for coordination/consultation.

16.3.2.5.2 Review by Resource Agencies

It is recommended that the **NRE** be provided to the Services before submission of an EA or DEIS for public availability when feasible, especially if they are a Cooperating Agency(ies). After OEM review, the **NRE** can be distributed to the Services and Cooperating Agencies.

If the District receives comments from the Service(s), the **NRE**, should be updated or an addendum addressing the changes can be prepared as an alternative. The Environmental Document also needs to be updated to address comments from the Services.

For projects with “may affect, not likely to adversely affect” determinations, the District must send a letter to the applicable Service requesting concurrence on federal species effect determinations ([Section 16.2.2.1](#)). The Service(s) response letter should be documented in the Environmental Document. For final Environmental Documents these effect determinations are used to state the federal findings on listed species and habitat.

16.3.2.6 PD&E Documentation

Project documentation consists of maintaining the project file, completing the appropriate protected species and habitat section of the Environmental Document, and preparing protected species and habitat information for future commitment compliance.

16.3.2.6.1 Project File

The District Project Manager is responsible for collecting and maintaining the information gathered during the protected species and habitat evaluation as part of the project file. The documentation provides information for the next project phase and contains protected species and habitat commitments. All assessment materials (e.g., maps, analyses, survey reports, FDOT District staff comments) are contained in the project file. All technical reports (**NRE**, technical memo), agreements, and agency coordination should also be included.

16.3.2.6.2 Environmental Document

The results of the protected species and habitat evaluation are documented in the Environmental Document as described below:

1. **Type 2 Categorical Exclusions (CEs)** - Evaluation material should be briefly summarized and included in the Type 2 CE documentation. Documentation includes a concise summary of protected species and habitat impacts and agency coordination. This information should be added to the Protected Species and Habitat section (Section 3.C.8) of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** ([Part 1, Chapter 5, Type 2 Categorical Exclusion](#)). Any protected species and habitat related commitments should be included in the Commitments section of the form (Section 4). The technical memo or **NRE** needs to be summarized, referenced, and placed in the project file. If a concurrence letter was needed from the Services, it should also be referenced in the Type 2 CE documentation and included in the project file. Federal findings should be included in the final Type 2 CE documentation.
2. **Environmental Assessments (EA) and Environmental Impact Statements (EIS)** - The results of the protected species and habitat analysis/listed species impact assessment detailed in the technical memo or **NRE** are summarized for direct inclusion in the Environmental Document.
 - a. EIS Executive Summary – Federally Listed species and habitat information should be included in the Executive Summary of an EIS according to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#). The following standard statement must be used in the Executive Summary for EISs when a “no effect” determination is applicable:

It has been determined by FDOT, that the project, as proposed, will have “no effect” on any federally threatened or endangered species or designated critical habitat.

If disagreements exist they should be identified in the Unresolved Issues and Areas of Controversy section of the FEIS Executive Summary ([Part 1, Chapter 9, Final Environmental Impact Statement](#)).

- b. Environmental Analysis Section - The discussion of protected species and habitat in the Environmental Analysis section should include a description of protected species that may occur in the project area as well as habitat types that may be impacted by the proposed project alternatives. Documentation should also include maps showing the relationship of the project to the protected species identified and the relationship of the project to the habitat types.

This section of an EIS or EA also includes a summary of the Protected Species and Habitat section of the **NRE** and presents the results of the impact assessment, effect determinations, and recommended avoidance, minimization, compensation for impacts, and enhancement measures. This section should provide sufficient information on the impact assessment such that a reviewer can determine the validity of the methodology.

This section must describe the protected species and habitat impacts of the proposed project for each alternative. The information should have sufficient scientific and analytical substance to provide a comparison of alternatives, as well as provide enough information for the decision-maker to determine the alternatives that would have the least and most impact to listed species and habitat resources. This includes impacts to listed species, critical habitat, and may include wildlife habitat connectivity and other protected species. The use of charts, tables, maps, and other graphics to illustrate comparisons between the alternatives and their respective impacts should be used. The results of this section should be used in the Alternatives matrix ([Part 2, Chapter 3, Engineering Analysis](#)).

The following standard statement (findings) must be included in the Environmental Analysis section of an EIS or EA if federally endangered or threatened species or critical habitat are not present in the action area:

This project has been evaluated for impacts on federally threatened and endangered species and designated critical habitat. A review was conducted to determine those possible threatened or endangered species which may inhabit the project area. This search resulted in findings that no federally listed species are likely to be present in the action area and no critical habitat was identified. This was determined after undertaking a listed species and habitat evaluation and a field survey of the project area by a biologist.

The determination was made that the project will not impact any proposed threatened or endangered species, any threatened or endangered species, or affect or modify any critical habitat. A determination of "no effect" has been made, and the project is consistent with the Endangered Species Act, as amended.

Any technical memos or the **NRE** should be summarized, referenced, and placed in the project file.

- c. Comments and Coordination - Correspondence with USFWS, NMFS, FWC, or other resource or regulatory agencies regarding protected species and habitat information (e.g., coordination letters, emails, meeting minutes, comments on technical reports, concurrence letters) should be included in the Comments and Coordination section of an EA or EIS, referenced in the Environmental Analysis section, and added to the project file.
- d. Commitments - Protected species and habitat commitments are documented in the Commitments section of an EA or EIS (see [Section 16.3.2.6.3](#)). See [Part 2, Chapter 22, Commitments](#) for more detail on how to prepare this section of the EIS or EA.

The **NRE** or technical memo is sent to OEM with the Environmental Document, and is added to the project file.

3. **EA with FONSI** - Protected species and habitat information must be updated in an EA after the public hearing, and if there was a question of significance for impacts to federally listed species, the **findings** are documented according to [Part 1, Chapter 7, Finding of No Significant Impact](#).
4. **SEIR** - The results of the protected species and habitat evaluation are included in the Environmental Analysis Section (Section 2.C.7) of the **State Environmental Impact Report Form, Form No. 650-050-43**. Any protected species and habitat related commitments should be included in the Commitments section. See [Part 1, Chapter 10, State, Local or Privately Funded Project Delivery](#) for more detail on how to prepare a SEIR.
5. **Consultation Completion** - Regardless of the COA, there may be some instances when one of the Services does not have enough information to concur with, or not concur with an FDOT effect determination. In these cases, the Protected Species and Habitat section of the Environmental Document will include a summary of the consultation, the reasons why it cannot be completed as described in the Service(s) letter and provide reasonable assurance that the requirements will be fulfilled (see [Section 16.2.2.1.3](#)). Associated commitments must also be provided in the Commitments section of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, EA or EIS. In these instances, the following statement is used:

Based on coordination with (insert U.S. Fish and Wildlife Service and/or National Marine Fisheries Service) to comply with Section 7 of the Endangered Species Act, FDOT commits to reinstate consultation and provide information necessary to complete consultation on the [insert name of specie(s)] prior to advancing the

project to construction. The letter from (insert U.S. Fish and Wildlife Service and/or National Marine Fisheries Service) is intended to provide reasonable assurance, per 23 CFR § 771.133, that requirements of the ESA are able to and will be met prior to construction. The status of this commitment will be updated in any subsequent project re-evaluations.

16.3.2.6.3 Commitments

Protected species and habitat commitments may be permit conditions, **Incidental Take Statement** commitments, or actions/activities required to advance the project and/or require action from the Contractor to implement. Commitments may include the retrofitting of structures to serve as wildlife passages, building of wildlife crossings, wildlife signage, crossing structure monitoring, protected species surveys during later phases, and continued coordination with federal and state resource agencies. Commitments must be coordinated with other FDOT offices to ensure each commitment is feasible.

Commitments related to protected species and habitat made by FDOT over the course of the project study are documented on the **Project Commitment Record, Form No. 700-011-35** according to FDOT [Procedure No. 700-011-035, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information. These commitments are also included in the Commitments section of the Environmental Document. Ensure clear and concise transmittal of the commitments to the subsequent project phases, including Final Design and Construction.

At the conclusion of consultation, the Services may include conservation recommendations, which are non-binding (discretionary) suggestions provided separately from a **BO** or **Incidental Take Statement (USFWS and NMFS, 1998, 4-62)**. The District should consult with District management and OEM prior to making conservation recommendations a commitment.

16.3.3 Design and Construction Phases

16.3.3.1 Re-evaluation

Any change of protected species and listed species or habitat impacts or compensatory mitigation strategies after approval of the Environmental Document must be documented in the appropriate re-evaluation as per [Part 1, Chapter 13, Re-evaluations](#). Commitments and coordination need to be updated and documented in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29**.

16.3.3.2 Commitment Implementation

Protected species and habitat commitments established as a result of the PD&E Study and/or agency coordination must be documented in the Environmental Document and the **Project Commitment Record, Form No. 700-011-35** and transmitted to the Design and Construction Offices to be included in contract documents and/or to be addressed through

permitting. Follow FDOT [Procedure No. 700-011-035, Project Commitment Tracking](#) and [Part 2, Chapter 22, Commitments](#).

Protected species and habitat review during Design and commitment implementation during Construction consists of the following:

1. Review commitments specific to protected species and habitat.
2. Plans Received - Review for completeness; identify/confirm project limits.
3. Field Review - Conduct on-site field review(s) with appropriate professionals to confirm existing protected species and habitat resources within project limits that are addressed in the plans. Coordinate with resource or regulatory agencies to assess the need for any species specific surveys and/or most up to date species survey protocols.
4. Regulatory Agency Coordination and Permitting - The District coordinates with regulatory agencies.
5. Impact Review - Review plans and provides comments on protected species and habitat resources that were identified and resolutions that should be coordinated with appropriate regulatory agencies or incorporated into the contract design plans.
6. Bid Document Review - Subsequently verify that completed final design plans and specifications incorporate required protected species and habitat resolutions into the bid documents or the request for proposals document.
7. Compliance during Construction - Ensure that the Construction Office verifies compliance with protected species and habitat commitments as well as federal and state regulations incorporated into the final design.
8. Construction Final Acceptance - Ensure that the protected species and habitat commitments (different from permit conditions) were addressed as specified in the contract plans, including modifications approved during construction. This is done by the Construction Office, but may require the Environmental Office involvement on occasion ([Construction Project Administration Manual \(CPAM\), Chapter 12, Section 12.1](#)).
9. Coordination with Maintenance Office - In cases where there are long term maintenance requirements (e.g., no-mow zones, weed control) coordinate with the District Maintenance Office. Depending on the nature and scope, a maintenance agreement may be necessary.

The District should verify commitment and regulatory compliance as the project advances. Additional minimization actions can be conducted during the project Design phase.

16.3.3.3 Design Considerations

Project commitments may include construction conditions for protected species, specific design specifications (e.g., the construction of wildlife crossings, or wildlife crossing features that can minimize take) or other project specific treatments (e.g., exclusionary fencing, curb heights, etc.). In some cases, special provisions or modified special provisions may need to be considered. Plan notes are only used when absolutely necessary and must be project-specific and cannot repeat specifications, permit conditions and/or design standards.

16.3.3.4 Permitting

The federal and state permitting processes, as related to protected species and habitat issues, are relatively straightforward if the project team has engaged in “**early, continual, and strategic coordination**” throughout Planning, PD&E, and Design. Through the ETDM process and involvement of ETAT representatives from the resource agencies (for projects that were screened in the EST), species lists and potential issues should have been identified and communicated early in the project. During PD&E these issues should have been addressed with resource agencies and project commitments made, therefore it is important that the Project Manager and Permit Coordinator coordinate during permitting. Prior to permitting, ongoing coordination and thorough documentation of resource agency decisions and commitments (if any) should have produced a well-developed basis for successful permitting.

Federal permitting authority for FDOT projects typically originates from proposed impacts to jurisdictional wetlands and/or other surface waters, or from bridge or causeway construction over navigable waters of the United States. The USACE regulates the discharge of dredged and fill material into waters of the United States, including wetlands, under **Section 404** of the **CWA**. The United States Coast Guard (USCG) administers the permitting program for bridge and causeway construction under a variety of statutes, including **Rivers and Harbors Act of 1899**, the **General Bridge Act of 1946**, and other authorities. Refer to [Part 1, Chapter 12, Environmental Permits](#).

Regardless of whether the USACE and/or USCG function as lead or cooperating agencies for a given federal action, the issuance of federal permits requires coordination with USFWS and/or NMFS as a cooperating agency. USFWS or NMFS works with the permit applicant and the permitting agency to evaluate potential impacts to federally listed species and habitats, following the **ESA Section 7** consultation process outlined previously in [Section 16.2.2.1](#).

As part of the permitting process, the Service(s) may request additional data, including recent species-specific field surveys, confirmation of habitat mapping and characterization, and data on any observed listed species occurrences. This information provides the “facts on the ground” that complement the PD&E Study results.

Issuance of federal permits from USACE and/or USCG is contingent upon approval from the Service(s) that the project has “no effect,” or “may affect, is not likely to adversely

affect” federally listed species, or that the action “may affect, is likely to adversely affect” one or more listed species and incidental take is authorized by an ***Incidental Take Statement*** in a ***BO***.

To ensure that ***ESA Section 7*** consultations do not delay the issuance of federal permits for transportation projects, the Districts are encouraged to conduct “early, continual, and strategic coordination” with the Lead Federal Agency, USFWS, and/or NMFS. This active coordination can be the difference between an efficient federal permitting process and significant permitting delays.

Issuance of a state general, individual, or conceptual Environmental Resource Permit (ERP) from the Florida Department of Environmental Protection (FDEP) or a Water Management District (WMD) 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(d), F.A.C.***). FDOT projects generally require a general or individual ERP. As part of the state permitting procedure for the ERPs, the WMD sends the permit application to the USACE and other agencies (e.g., FWC and the Department of State, Division of Historical Resources). The Project Manager and Permit Coordinator should facilitate the communication of relevant resource agency decisions documented during the PD&E Study and commitments to FDEP or the WMD as part of the state permit application process.

16.3.3.4.1 Federal and State Protected Species Permits

Federal and state permits may be required for unavoidable impacts to or for take of protected species. Species protected by the federal ***ESA*** may require an Incidental Take permit from USFWS or NMFS. The FWC also requires Incidental Take permits for activities that may result in take of state listed species. These species also may be federally listed.

Species such as the American Bald Eagle, Florida burrowing owl, osprey and gopher tortoise are not subject to ***ESA*** review, yet may require species specific permits during project permitting. Detailed guidance on the most common protected species permit types required for transportation projects is provided in [Part 1, Chapter 12, Environmental Permits](#).

16.3.3.5 Contractor Requirements

FDOT developed ***FDOT Contractor Requirements for Unanticipated Interaction with Protected Species*** for use by contractors when interaction with protected species is not anticipated and the following conditions exist: A “no effect” determination has been made, no commitments have been made (as described in FDOT [Procedure No. 700-011-035, Project Commitment Tracking](#)), and/or no permit conditions exist. These requirements address common protected species that may be encountered on FDOT projects and provides guidance in the event that a protected species is encountered during construction activities. The Construction Project Administrator (CPA), Consultant Construction Engineering and Inspection (CCEI), Contractor, Project Manager, and Field

Superintendents should be reminded of these requirements during the pre-construction meeting or at the pre-proposal meeting for Design-Build projects. A link to these requirements is provided in **Section 7-1.4** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#).

16.3.3.6 Off-project Activities

Off-project activities performed by FDOT or Contractor may impact protected species or critical habitat. Examples of such activities are borrow pits, disposal sites, concrete plants, asphalt plants, and material or equipment storage sites also known as staging areas. Stormwater management facilities identified in project plans should be surveyed like the rest of the project during permitting. Off-project activities are not exempt from the requirements of **Section 7** of the **ESA** or state regulations.

A field survey is required for all Contractor activities which might involve federally listed species consideration in accordance with **Section 7-1.4** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#). Survey methods in [Section 16.3.2.1.4](#) also apply to off-project locations and are to be performed by District environmental personnel. A **NRE** should be completed and **Section 7** consultation may be requested by the Services for any activity which, through reduction of habitat or physical presence, would impact a federally listed species or critical habitat. The presence of state listed species, or otherwise protected species must also be determined in off-project impact areas. The procedures for this determination are the same as described in this chapter for the project area. Coordination may be necessary with both the Services and FWC.

16.3.3.6.1 Procedure

At the pre-construction conference, District staff must notify the CPA that it is the Contractor's responsibility to submit a written request for the District to conduct a biological evaluation of any site where off-project activities are proposed. The District Environmental Office must notify the CPA that the Contractor request necessary biological evaluations with sufficient lead time so they may be completed without delaying the related off-project activity.

The written request should include the location of the activity (Section, Township, Range, County, City) with a map identifying haul or access roads. The project description should be identified by Financial Management Number and Contract Number. This will provide District environmental personnel the opportunity to research if any protected species are reported for the specified area. The District environmental personnel will notify the Resident Engineer and CPA of their scheduled arrival (date, time) for the evaluation of the site.

Upon completion of the field evaluation, if no species issues are identified, the District will send a written notice to the CPA stating that the contractor may proceed with the project. The District Materials Engineer and Resident Engineer should be copied. A sample letter is provided in [Figure 16-8](#). The District should notify the CPA if a potential listed species

is identified in the off-project area and if **ESA Section 7** consultation is required. If **ESA Section 7** consultation is required, the District Environmental Office and CPA should coordinate with the Contractor on how to proceed.

16.3.3.7 Maintenance Activities

Maintenance activities such as roadside mowing, culvert repair/replacement, herbicide/fertilizer application, tree/shrub trimming, guardrail repair, bridge maintenance and repair typically are undertaken without impacting protected species or wildlife habitat. District Environmental Office staff should assist the Office of Maintenance when protected species issues arise ([Section 16.3.3.5](#)) or maintenance activities that may affect protected species or wildlife habitats are planned. Examples include:

1. Culvert repair/replacement in areas known to be inhabited by the Panama City Crawfish;
2. Mowing and or herbicide/fertilizer application on roadsides inhabited by listed plant species;
3. Bridge repair/maintenance in bridges that may be roosting sites for protected bat species;
4. Bridge repair/maintenance requiring in water work; and,
5. Tree/shrub trimming in mangrove areas

A field survey is required for maintenance activities which might involve federally listed species consideration in accordance with **Section 7** of the [Florida Department of Transportation Standard Specifications for Road and Bridge Construction](#). Survey methods in [Section 16.3.2.1.4](#) apply to off-project locations as well as the project area and are to be performed by District environmental personnel. A **NRE** or technical memo should be completed and **Section 7** consultation may be requested by the Services for any activity which, through reduction of habitat or physical presence, would impact a federally listed species or critical habitat. Coordination may be necessary with both the Services and FWC.

16.4 EMERGENCY CONSULTATION

In cases where emergency actions may affect federally listed species and/or critical habitats, emergency consultation with the Services is required by **Section 7** of the **ESA**, as amended (**50 CFR § 402.05**). USFWS defines an emergency to include an act of God, disasters, casualties, national defense or security emergencies, and includes response activities that must be taken to prevent imminent loss of human life or property. Consultation may be conducted informally through alternative procedures that the Service(s)'s Director determines to be consistent with the requirements of the **ESA**. Emergency consultation procedures allow federal agencies to incorporate endangered species concerns into their response actions - they are **not** intended to interfere with emergency response efforts.

The key step in emergency consultation is early contact with the appropriate USFWS Ecological Services office. See [Figure 16-4](#). Initial emergency consultation procedures are as follows:

1. The District initiates consultation by contacting the Service(s). Written documentation of the proposed action is preferred by the Service(s) as circumstances allow.
2. The Services should respond as soon as possible (within 48 hours) by written correspondence, with recommendations to minimize the effects of the emergency response action on federally listed species or their critical habitat.

The guidelines for emergency consultation may depend upon whether the actions take place within a Presidentially-declared disaster area. A good example is provided by a USFWS Region 4 letter ([Figure 16-9](#)) addressed to federal agencies following Hurricane Katrina (*USFWS, 2005*):

Within the declared disaster areas, section 7(p) of the ESA should be interpreted to mean that restoring any infrastructure damaged or lost due to the hurricane back into the original footprint does not require ESA consultation with the Service.

For storm related activities outside of the declared disaster areas, Federal agencies should use the emergency consultation procedures covered in **50 CFR Part 402** and in Chapter 8 of the Service's **Section 7 Handbook**. These guidelines indicate that agencies should contact the Service by phone, the Service should offer recommendations verbally to minimize the effects of the emergency response action on listed species or their critical habitat, and the Service should follow up with written correspondence to the action agency documenting the conversation. The guidelines indicate clearly that the Service should not stand in the way of response efforts. After the emergency is under control, the action agency initiates formal consultation if listed species were adversely affected.

Recommendations from the Services may include strategies to avoid and/or minimize incidental take, and conservation recommendations to help protect federally listed species and their habitats within the emergency action area. In their recommendations, the Services should indicate if the emergency actions may result in "jeopardy" or "adverse modification" to federally listed species or critical habitat, and if any means for reducing or avoiding this effect are apparent. [Figure 16-10](#) is an example of recommendations from USFWS concerning an emergency consultation. The District must implement and maintain the on-site protective measures that the Service(s) identified during the emergency **Section 7** consultation.

As soon as possible after the emergency is under control, formal consultation with the Services **must** be initiated if federally listed species or critical habitat have been adversely affected. Procedurally, the emergency formal consultation is treated like any other formal

consultation by the Services, which means consultation must be initiated by OEM.

If OEM must initiate formal consultation after an emergency, the District should request OEM send the following information to the Services:

1. A description of the emergency;
2. A justification for the expedited consultation; and
3. An evaluation of the response to, and the impacts of, the emergency on affected species and their habitats. This includes documentation demonstrating how the Services' recommendations were implemented, and the results of implementation in minimizing take.

After concluding formal consultation, the Service(s) will then issue an emergency **BO** which documents its recommendations and the results of agency implementation of the recommendations on federally listed species. This **BO** also may document the actual or estimated take occurring from the emergency response actions.

The Services' emergency consultation procedures are found in the **USFWS/NMFS Endangered Species Consultation Handbook, Sections 8.1 and 8.2**. For additional information on current emergency coordination procedures, current contact information, executive orders, and best management practices, view the OEM website or the Service(s)' websites.

Coordination with FWC in cases where emergency actions may affect state listed and/or protected species is recommended.

16.5 REFERENCES

Chapter 5B-40, F.A.C., Preservation of Native Flora of Florida

Chapter 68A-27, F.A.C., Rules Relating to Endangered or Threatened Species

CWA of 1972, as amended. <http://www.fws.gov/laws/lawsdigest/fwatrpo.html>

ESA of 1973, as amended 1978, 1979 and 1982. <http://www.fws.gov/endangered/esa-library/pdf/ESAall.pdf>

Fish and Wildlife Coordination Act of 1934, as amended.
<http://www.law.cornell.edu/uscode/text/16/chapter-5A/subchapter-I>

FHWA, 1987. Guidance for Preparing and Processing Environmental and Section 4(f) Documents. <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

FHWA, 2002. Management of the ESA Environmental Analysis and Consultation Process. February 20, 2002 Memorandum to Division Administrators from the

- Director of Office of Natural Environment, FHWA.
http://environment.fhwa.dot.gov/ecosystems/laws_esaguide.asp
- FHWA, 2003. Designation of a Non-Federal Representative to conduct Informal Consultation Under Section 7 of the ESA. March 3, 2003 letter to Sam D. Hamilton, Regional Director of the SE Region USFWS from George Hadley/James E. St. John, Division Administrator of USDOT Federal Highway Administration
- FHWA, 2003. Designation of a Non-Federal Representative to conduct Informal Consultation Under Section 7 of the ESA. February 28, 2003 letter to Roy E. Crabtree, Regional Administrator of the NMFS from George Hadley/James E. St. John, Division Administrator of USDOT Federal Highway Administration
- FHWA, 2005. Endangered Species Act Legal Analysis. February 18, 2005 Memorandum to Division Administrators from the Associate Administrator for Planning, Environment, and Realty, FHWA
- FDOT. 2005. Sociocultural Effects Evaluation Handbook.
<http://www.dot.state.fl.us/emo/pubs/sce/SCE-Handbook-2005.pdf>
- FDOT, Environmental Policy, Topic No. 000-625-001.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=000-625-001>
- FDOT, Florida Department of Transportation Wildlife Crossing Guidelines.
<http://www.dot.state.fl.us/emo/pubs/APPROVED-Wildlife%20Crossing%20Guidelines3-13.pdf>
- FDOT, Project Commitment Tracking, Topic No. 700-011-135.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=700-011-035>
- FDOT, Standard Specifications for Road and Bridge Construction, Florida Department of Transportation, Section 7-1.4.
<http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/default.shtm>
- Marine Mammal Protection Act of 1972, as amended.
<http://www.nmfs.noaa.gov/pr/laws/mmpa/text.htm>
- Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>
- MBTA of 1918, as amended. <http://www.fws.gov/laws/lawsdigest/migtrea.html>

NEPA of 1969, as amended (42 USC § 4321 et seq.).

http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-NEPA.pdf

NMFS, 2013. How to Submit an Endangered Species Act (ESA) Section 7 Consultation Request to National Marine Fisheries Service (NMFS) Southeast Regional Office. http://sero.nmfs.noaa.gov/protected_resources/section_7/consultation_submission/index.html

Section 163 (2), F.S., Growth policy; County and Municipal Planning; Land Development Regulation

Section 379, F.S., Fish and Wildlife Conservation

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 40 CFR §§ 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. <http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2844df1cb4a3af5ebaa699f42d98a60f&mc=true&tpl=/ecfrbrowse/TITLE40/40chapterV.tpl>

Title 50 CFR § 402, Interagency Cooperation – Endangered Species Act of 1973.

<http://www.ecfr.gov/cgi-bin/text-idx?SID=01a705dc1f55bb4fa8236bf90e86822f&mc=true&node=pt50.11.402&rgn=div5USFWS, 2013. Critical Habitat: Frequently Asked Questions. www.fws.gov/endangered/what-we-do/critical-habitats-faq.html>

USFWS and NMFS, 1998. Endangered Species Consultation Handbook. Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act, March 1998 Final. http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

16.6 FORMS

State Environmental Impact Report Form, Form No. 650-050-43

Non-Major State Action Checklist, Form No. 650-050-30*

[Project Commitments Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29*

Technical Report Cover Page, Form No. 650-050-38

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

16.7 HISTORY

10/01/1991, 08/26/2016

Table Error! No text of specified style in document.-1 Effect Determinations

STEP	EFFECT DETERMINATIONS		
	No Effect	May Affect, Not Likely to Adversely Affect	May Affect, Likely to Adversely Affect
1.	No consultation with Services required.	District initiates informal consultation.	NRE is completed. At least one listed species receives a “may affect, likely to adversely affect” determination.
2.	Document the “No Effect” determination in the Environmental Document.	District works with Service(s) to evaluate and reduce potential impacts to species and/or critical habitat.	District sends a written request to OEM, requesting initiation of formal consultation. The request includes an “initiation package” that describes the project and potential impacts.
3.	Process complete.	District reaches determination of “May Affect, Not Likely to Adversely Affect.”	OEM initiates formal consultation with the Service(s).
4.		District sends package to Service(s) for review and concurrence, with the reasons supporting determination, and project modifications and/or commitments to reduce potential impacts.	The Service has 30 working days to review the initiation package for completeness. If incomplete, a request for additional information is issued.
5.		If Service sends a concurrence letter, District documents the concurrence and any associated commitments in the Environmental Document. Process complete.	OEM, District, and Service(s) work together to avoid a listed species jeopardy opinion, and/or avoid destruction or adverse modification of critical habitat, while maintaining the project purpose and viability (if feasible).
6.		If Service sends a non-concurrence letter, District must either a) request that OEM initiate formal consultation; or b) modify the project to obtain concurrence.	Formal consultation must be concluded within 90 days of receiving a complete initiation package. The BO must be delivered to the action agency (OEM) within 45 days after conclusion of formal consultation.
			If a non-jeopardy BO is issued (no jeopardy to listed species and/or no destruction or adverse modification of critical habitat exists), the Service issues an Incidental Take Statement in association with the BO. The Incidental Take Statement conditions are non-discretionary and must be included by FDOT in the Commitments documentation. Process complete.
			If BO reaches a jeopardy or adverse modification conclusion, it will include reasonable and prudent alternatives to avoid jeopardy and/or adverse habitat modification. OEM must notify the Service of its final decision for proceeding with the project.

Note: Please see sections 16.2.2.1.5 and 16.3.2.6.2 if the Service(s) do not have enough information to concur or not concur.

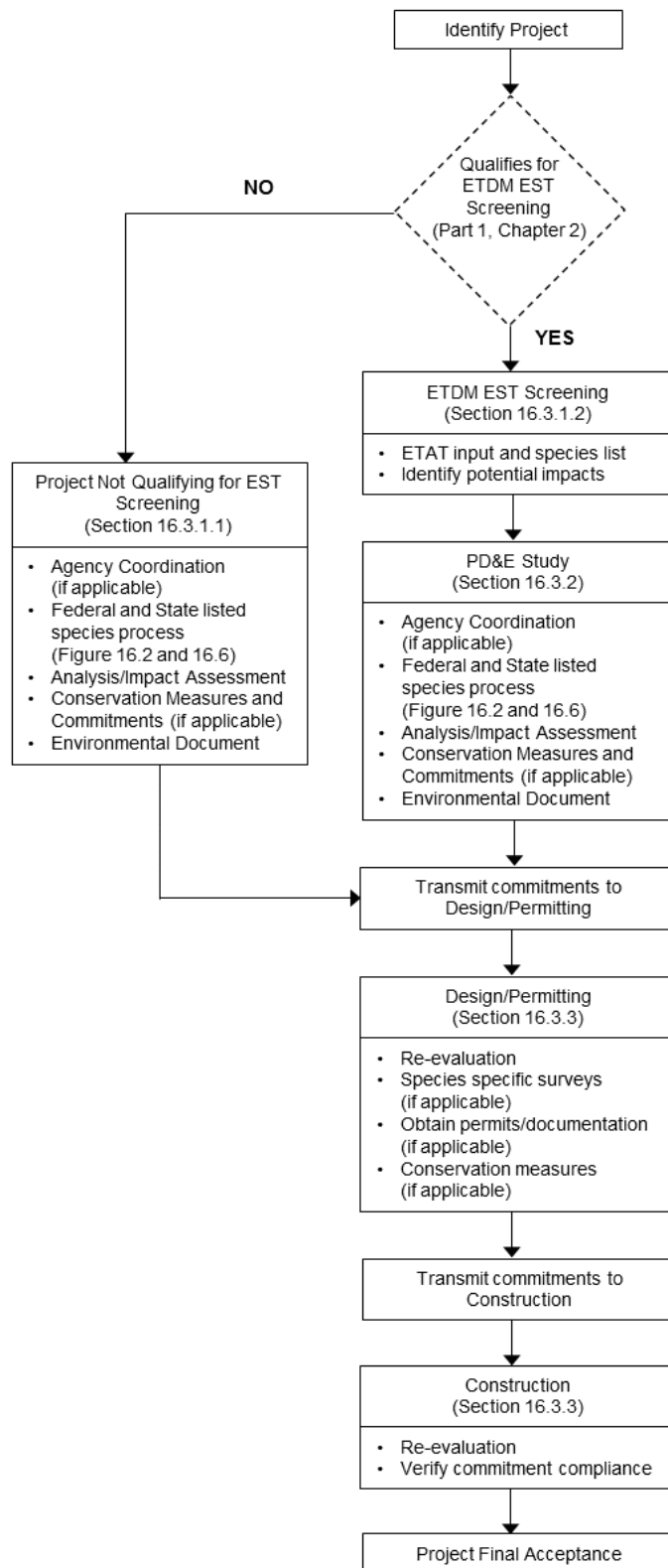
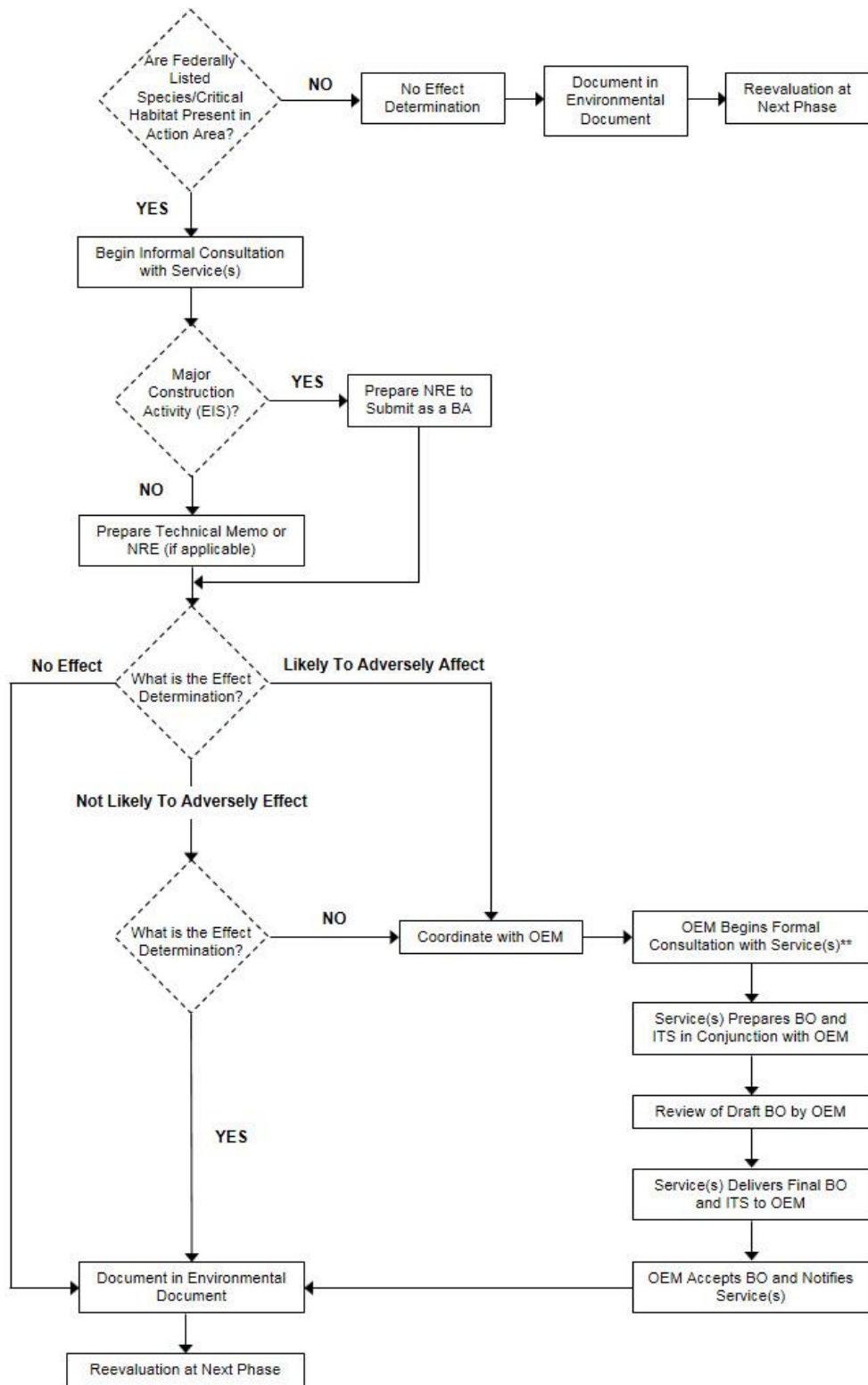


Figure Error! No text of specified style in document.-1 Protected Species and Habitat

Evaluation Process



*The effect determination is performed for each federally listed species and the process is dictated by the "highest" effect determination.

**For guidance on jeopardy determinations, see Section 16.2.2.1.4

Figure Error! No text of specified style in document.-2 Federally Listed Species

Process



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
<http://sero.nmfs.noaa.gov>

7/16/2013

MEMORANDUM FOR DISTRIBUTION

Ref.: How to Submit an Endangered Species Act (ESA) Section 7 Consultation Request to
National Marine Fisheries Service (NMFS) Southeast Regional Office

Dear Action Agency:

NMFS Southeast Regional Office Protected Resource Division (PRD) is updating the procedures for action agencies to submit ESA Section 7 consultation requests. We are receiving a very high volume of consultation requests. To deal with this volume of requests we are trying to take advantage of more electronic processing including a new method of consultation request submittal. We also want to provide additional guidance on how you can make sure your consultation contains complete information so you don't experience further delays during our review. This letter will detail (1) where to submit a consultation request, (2) what to submit, and (3) how to track your submission.

1. Where do I submit my Section 7 consultation request?

We request that all ESA Section 7 consultation requests/packages be submitted electronically to nmfs.ser.esa.consultations@noaa.gov. Electronic submittal to this dedicated e-mail address allows us to quickly log consultation requests received into NMFS's Public Consultation Tracking System (PCTS), to assign and forward them to the appropriate PRD consultation biologist, and to keep an electronic backup of requests received. This e-mail account is capable of receiving messages with attachments up to 25MB. Send the request and all supporting documentation to nmfs.ser.esa.consultations@noaa.gov.

If there are extenuating circumstances that require information be mailed, please send to:

National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Southeast Regional Office
Protected Resources Division
263 13th Avenue South
St. Petersburg, Florida 33701-5505

2. What do I need to submit?

All Section 7 consultation requests must include relevant information for the consulting biologist to clearly understand the project: its location; listed species and/or critical habitat found in the action area; a determination of the project's effects to listed species and/or critical habitat (e.g., no effect; may affect, but not likely to adversely affect; likely to adversely affect); and a clear



Figure Error! No text of specified style in document.-3 National Marine Fisheries Service Memorandum

for Distribution

discussion of the potential routes of effects to listed species and/or their critical habitat. These “biological assessments” should be appropriate to the scope of the proposed project. By regulation, biological assessments are required under Section 7(c) of the ESA of 1973, if listed species or critical habitat may be present in the area affected by any “major construction activity” as defined in 50 CFR § 404.02: “a construction project (or other undertaking having similar physical effects) which is a major federal action significantly affecting the quality of the human environment.”

For projects that are minor (i.e., do not meet the definition of “major federal actions”, as defined in 50 CFR § 404.02), we have created a [Section 7 Checklist](#) and accompanying [Section 7 Checklist Procedures](#) document that lists the essential information needed by our consultation biologists to respond timely to the consultation request. This information allows us to determine the level of direct and indirect impacts a project will have on ESA-listed species and their critical habitats. Examples of direct impacts include those effects directly related to the construction of the project, including loss of foraging or refuge habitat, death of species from construction equipment interactions, impacts from turbidity, and impacts from noise generated during construction. Examples of indirect impacts are things that may happen later in time as a result of the completion of the project, including more vessel traffic that could strike listed species, more fishing that could capture listed species, and more pollution. Any additional information you provide related to the project (including submerged aquatic vegetation surveys, site photographs, engineering project design drawings, historically permitted actions, etc.) will help speed the consultation process.

Please visit our Web site (http://sero.nmfs.noaa.gov/protected_resources/section_7/) to find useful resources to assist you in your consultation request submission. Here you will find the Action Agency Consultation Package links which contain the guidance for submitting an ESA Section 7 consultation request, effects determination guidance, species and critical habitat lists, consultation tracking in PCTS, observer lists, emergency consultations, frequently requested biological opinions, and ESA policies, guidance, and regulations.

3. How do I check the status of my project in PCTS?

All projects that undergo Section 7 consultation with NMFS are entered into PCTS at <https://pcts.nmfs.noaa.gov/> within a few days of receipt by PRD. For U.S. Army Corps of Engineers (USACE) projects, the easiest and quickest way to look up a project’s status, or review completed ESA/EFH consultations, is to click on either the “Corps Permit Query” link (top left); or, below it, click the “Find the status of a consultation based on the Corps Permit number” link in the golden “I Want To...” window. Then, from the “Corps District Office” list pick the appropriate USACE district. In the “Corps Permit #” box, type in the 9-digit USACE permit number identifier, with no hyphens or letters. Simply enter the year and the permit number, joined together, using preceding zeros if necessary after the year to obtain the necessary 9-digit (no more, no less) number. For example, the USACE Jacksonville District’s issued permit number SAJ-2013-0235 (LP-CMW) must be typed in as 201300235 for PCTS to run a proper search and provide complete and accurate results. For querying permit applications submitted for ESA/EFH consultation by other USACE districts, the procedure is the same. For example, an inquiry on Mobile District’s permit SAM201301412 is entered as 201301412 after

Figure 16-3 National Marine Fisheries Service Memorandum for Distribution (Page 2 of 3)

selecting the Mobile District from the “Corps District Office” list. PCTS questions should be directed to Eric Hawk at Eric.Hawk@noaa.gov or (727) 551-5773.

If you have any questions regarding the Section 7 process or our new consultation submittal process, please contact our office at (727) 824-5312 or by e-mail at nmfs.ser.esa.consultations@noaa.gov. Thank you for your continued cooperation in the conservation of listed species.

Sincerely,



David M. Bernhart
Assistant Regional Administrator
for Protected Resources

File: 1514.22.A

**Figure 16-3 National Marine Fisheries Service Memorandum
for Distribution (Page 3 of 3)**

United States Fish and Wildlife Service (USFWS)

Vero Beach

[FDOT Districts 6, 4, 1, 5 (Osceola Co. only)]

Field Supervisor
South Florida Ecological Services Field Office
1339 20th Street
Vero Beach, FL 32960
Phone: (772) 562-3909
Fax: (772) 562-4288
<http://verobeach.fws.gov/>

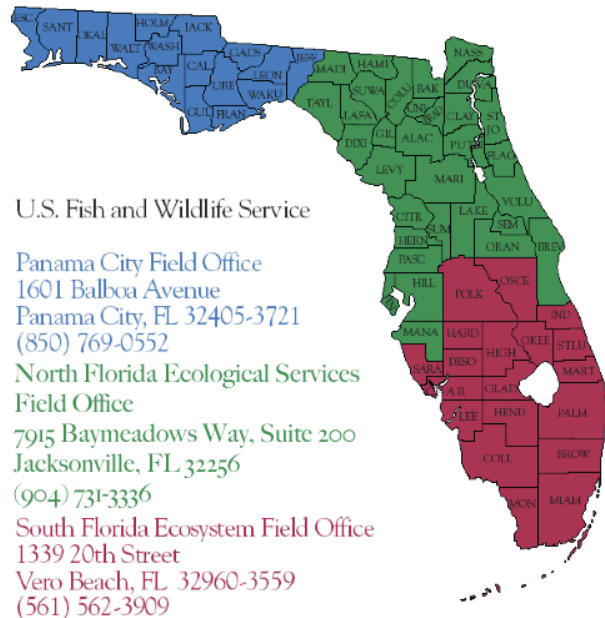
Panama City (FDOT District 3)

Field Supervisor
Panama City Ecological Services Field Office
1601 Balboa Avenue
Panama City, FL 32405
Phone: (850) 769-0552
Fax: (850) 763-2177
<http://panamacity.fws.gov>

Jacksonville

[FDOT Districts 2, 5, 7, 1 (Manatee Co. only)]

Field Supervisor
North Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256
Phone: (904) 731-3336
Fax: (904) 731-3045
<http://northflorida.fws.gov/>



National Marine Fisheries Service (NMFS)

Please notify your NMFS Environmental Technical Advisory Team (ETAT) member of electronic submittal of Section 7 consultation request/packages:

Gulf Coast: (813) 727-5379
Atlantic Coast: (561) 249-1652
Habitat Conservation Division
National Marine Fisheries Service
263 13th Ave. South
St. Petersburg, FL 33701
Phone: (727) 824-5317 Fax: (727) 824-5300

Figure Error! No text of specified style in document.-4 Offices Responsible for

“Section 7” Consultation

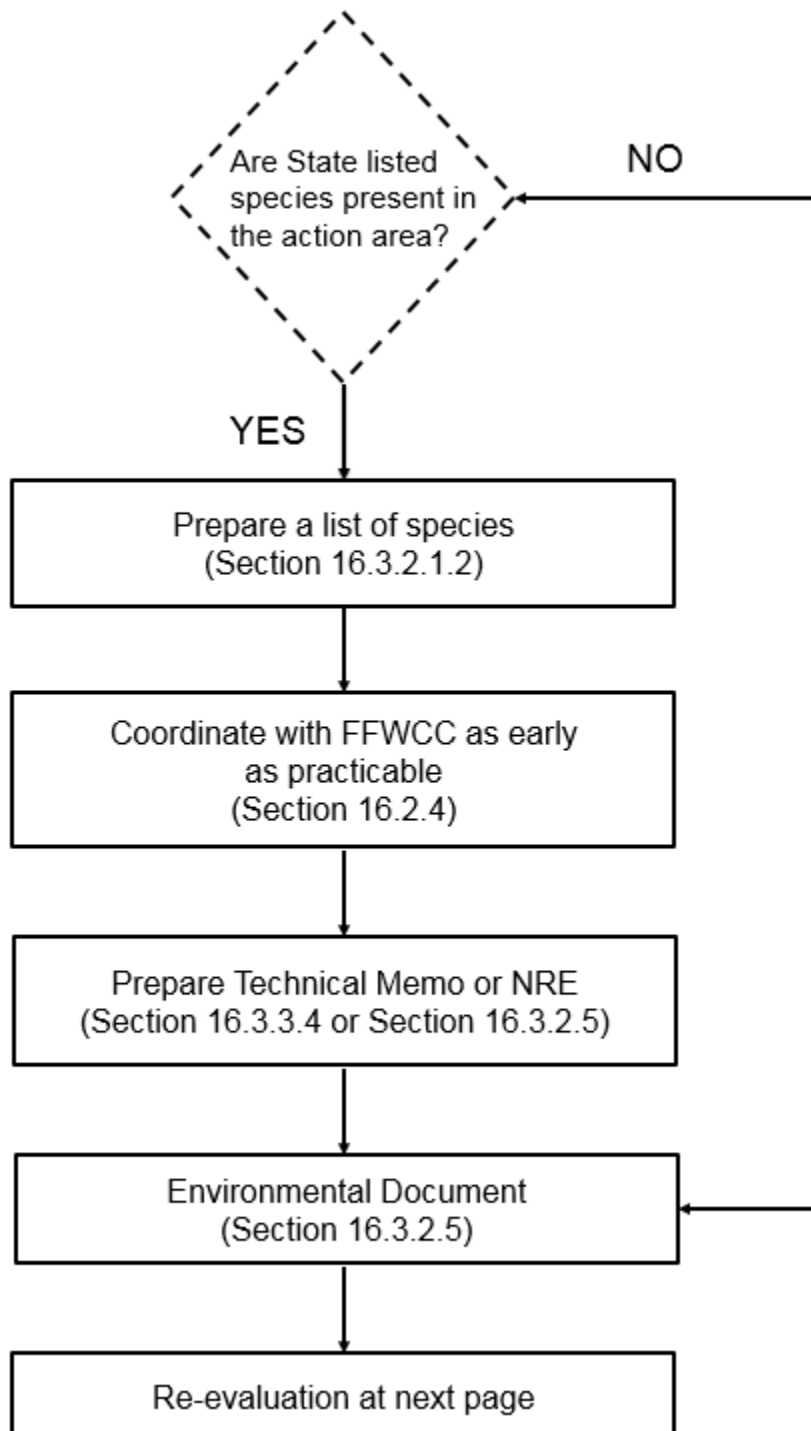


Figure Error! No text of specified style in document.-5 State Listed Species Process

Federally listed species information can be obtained from the following sources:

1) Terrestrial and freshwater species and critical habitat regulated by the United States Fish and Wildlife Service (USFWS)

- Species Lists and Recovery Plans available online at <http://www.fws.gov/endangered/species/recovery-plans.html>
- Federal lists by county:
 - USFWS Ecological Services Field Offices
 - Vero Beach - <http://verobeach.fws.gov/>
 - Panama City - <http://panamacity.fws.gov/>
 - Jacksonville - <http://northflorida.fws.gov/>
 - Contact the applicable USFWS Field Office directly (Figure 27.4) Also available online at: <http://www.fws.gov/endangered/index.html>
- Information, planning, and conservation (IPaC) decision support system at <http://ecos.fws.gov/ipac/>

2) Information on listed marine and anadromous species regulated by the National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS)

- Florida specific list at http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html
- Contact NMFS directly (Figure 27.4)
- NMFS Section 7 checklist and accompanying Section 7 checklist procedure at http://sero.nmfs.noaa.gov/protected_resources/section_7/consultation_submission/index.html
- The following NMFS website provides Action Agency Consultation Package links which contain the guidance for submitting an ESA Section 7 consultation request, effects determination guidance, species and critical habitat lists, consultation tracking in the Public Consultation Tracking System (PCTS), observer lists, emergency consultations, frequently requested biological opinions, and ESA policies, guidance, and regulations: http://sero.nmfs.noaa.gov/protected_resources/section_7/

Figure Error! No text of specified style in document.-6 Listed Species Information

Sources

State listed species lists and additional information can be obtained from the following sources:

1) Animal species regulated by **Florida Fish and Wildlife Conservation Commission (FWC)**

- Contact the FWC for most up to date species lists and species action plans. Regional office contact information available at: <http://myfwc.com/about/inside-fwc#DOs>
- Published lists- see **Florida's Endangered and Threatened Species**, Available online at: http://myfwc.com/media/1515251/threatened_endangered_species.pdf
- View an overview of the FWC's conservation model at: <http://myfwc.com/wildlifehabitats/imperiled>
- Check current listed species profile information on FWC's website: <http://www.myfwc.com/wildlifehabitats/imperiled/profiles/>

2) Plant species regulated by the **Florida Department of Agriculture & Consumer Services (FDACS)**

- **Regulated Plant Index FAC Ch5B-40.0055** is available online at: https://www.flrules.org/gateway/notice_Files.asp?ID=987089
- The **Florida Statewide Endangered and Threatened Plant Conservation Program**, administered via the Florida Forest Service, has information at: http://www.floridastateforestservice.com/forest_management/plant_conservation_index.html
- University of South Florida Herbarium website has distribution maps of rare plants in their Atlas of Florida Vascular Plants at: <http://www.plantatlas.usf.edu>

3) Species lists by County are available from **Florida Natural Areas Inventory (FNAI)**

- County Lists (**County Occurrence Summaries**) online at <http://www.fnai.org/trackinglist.cfm>
- Species and Natural Community Summaries

The following are links to BA templates that may be used to prepare the Listed Species and Habitat section of the NRE:

FHWA: <http://www.environment.fhwa.dot.gov/esawebtool/Site/Template.aspx>

USFWS: www.fws.gov/endangered/esa-library/pdf/attachment-4.pdf

USFWS Pacific Islands: www.fws.gov/pacificislands/publications/templateforba-be.doc

Figure 16-6 Listed Species Information Sources (Page 2 of 5)

NMFS:

<http://www.fpir.noaa.gov/Library/PRD/ESA%20Consultation/Final%20Action%20Agency%20Consultation%20Package%20Files%20for%20website%201-12-09/Template%20for%20BA-BE%20-%201-12-09.pdf>

The multi-agency forest management manual provides comprehensive and useful information for preparing Biological Assessments. :

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0C_CwQFjAA&url=http%3A%2F%2Fwww.blm.gov%2Ffor%2Fesa%2Freports%2FAnalytical_Process_110504.doc&ei=Ze_OUr5Ga3LsQSlwYH4Cw&usq=AFQjCNHIF0GUC_5XUcwO7FkXt-u-8cKllq&bvm=bv.59026428,d.eW0

The following organizations/agencies can be contacted for further species specific information, expert interviews, habitat or GIS data:

Florida Department of Transportation (FDOT)

- Ecological staff at both the District and Central Office levels are experts with specific ecological and transportation experience. Often it is possible to find someone who has dealt with similar projects. Similarly, other states have expert environmental staff which may have similar experience.
- The publication, ***Florida Land Use, Cover and Forms Classification System (FLUCFCS) Handbook. 1999. Dept. of Transportation Surveying and Mapping. Thematic Mapping Section*** can be used to determine land use and existing habitat. It is downloadable at <http://www.dot.state.fl.us/surveyingandmapping/documentsandpubs/flucmanual1999.pdf>

Florida Fish and Wildlife Conservation Commission (FWC)

620 South Meridian Street
Tallahassee, FL 32399
(850) 488-4676

- Profiles and data for imperiled species available at: <http://myfwc.com/wildlifehabitats/imperiled/>
- General information for FWC GIS resources available at: <http://myfwc.com/research/gis/>
- GIS data for terrestrial resources and listed species: <http://ocean.floridamarine.org/CSA/Ancillary/Terrestrial.htm>
- GIS data available for marine listed species and resources: http://ocean.floridamarine.org/mrgis/Description_Layers_Marine.htm
- GIS data available for freshwater and tidal stream habitats: <http://ocean.floridamarine.org/CSA/Ancillary/Freshwater.htm>

Figure 16-6 Listed Species Information Sources (Page 3 of 5)

FWC's Wildlife Research Laboratory
1105 S.W. Williston Road
Gainesville, FL 32601
Phone: 386-758-0525

<http://myfwc.com/research/about/programs/wildlife/>

- A staff of wildlife biologists specializing in wildlife ecology, some with specific transportation-related experience, conduct wildlife research from this facility. Contact individuals for wildlife expertise.

Florida Natural Areas Inventory (FNAI)

1018 Thomasville Road, Suite 200-C
Tallahassee, FL 32303
(850) 224-8207

<http://www.fnai.org/>

- A diverse group of experts that are inventorying Florida's remaining natural areas and wildlife that can be contacted for ecological expertise
- Information available from FNAI includes species lists by county (**County Occurrence Summaries**), descriptions of natural community types (**Natural Communities Inventory**), GIS shapefiles of rare plants, animals, and habitat locations (**Element occurrences**), and information on Florida Managed Areas
- Many of these data can be downloaded from their website at <http://www.fnai.org/gisdata.cfm>
- Available Publications

Florida Water Management Districts

<http://www.dep.state.fl.us/secretary/watman/>

- Regional Florida Water Management Districts or Counties may have **Florida Land Use Cover and Forms Classification System (FLUCFCS)** data layers available in GIS shapefiles

United States Department of Agriculture (USDA)

Natural Resources Conservation Service (NRCS)
State Conservationist
2614 NW 43rd Street P.O. Box 141510
Gainesville, FL 32614
(352) 338-9500

- Online soil maps and data available via the NRCS Web Soil Survey website at: <http://websoilsurvey.sc.egov.usda.gov/app/HomePage.htm>
- Hard copies of **NRCS county soil surveys** are listed at : <http://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=FL>

Figure 16-6 Listed Species Information Sources (Page 4 of 5)

United States Fish and Wildlife Service (USFWS)

Southeast Region
Division of Endangered Species
1875 Century Blvd., Suite 200
Atlanta, GA 30345

<http://www.fws.gov/angered/>
<http://angered.fws.gov/>

- Jacksonville ES Office contacts: <http://www.fws.gov/northflorida/Staff3.htm>
- Vero Beach ES office contacts: <http://www.fws.gov/verobeach/StaffDirectory.html>
- Panama City ES Office contacts: <http://www.fws.gov/panamacity/stafflist.html>

USFWS's National Wetlands Inventory

- GIS data layers for **National Wetlands Inventory (NWI)** are available at:
<http://www.fws.gov/wetlands/>

Universities

- Several State Universities have faculty specializing in different areas of biological and ecological sciences: Florida State University (FSU) Biological Sciences and Marine Sciences departments
- The University of Florida (UF) - Wildlife Ecology program:
http://edis.ifas.ufl.edu/TOPIC_Threatened_and_Endangered_Species

Other Online Data and Information Sources

- Nature Serve: <http://www.natureserve.org/>
- Linking Florida's Natural Heritage Database: <http://palmm.fcla.edu/feol/>

Figure 16-6 Listed Species Information Sources (Page 5 of 5)

Natural Resource Evaluation

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding December 14, 2016 and executed by FHWA and FDOT.

Figure 16-7 Sample Natural Resources Evaluation Cover Sheet

(Date)

CPA (Address)

SUBJECT : New Borrow Pit / Mixture Plant /
Construction Field Office (Name of off-site activity)
Financial Management Number : XXXXXXX
Federal-Aid Project Number : XXXXX-XXXX
Section _____, Township _____, Range _____
_____ County, Florida

Mr./Ms. _____:

A field survey was conducted in accordance with Article 7-1.4 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction and in compliance with the Endangered Species Act of 1973 (amended 1978) and other Wildlife Regulations. No listed species were observed within close proximity of the proposed activities.

It is the opinion of this office that there will be no adverse impacts to federal or state protected, threatened or endangered species, or critical habitat. The contractor may proceed without further action from this office. However, if any federal or state protected, threatened or endangered species are encountered during the course of the activities, please contact our office.

If you have any questions concerning our comments, please do not hesitate to contact us.

Sincerely,

Name
District Environmental Office
Engineer/Manager

cc:
District Materials Engineer
Resident Engineer

Figure 16-8 Sample Letter to Contractor on Species Survey

In Reply Refer To:
FWS/R4/ES

Dear Federal Agencies Affected by Hurricane Katrina Response and Cleanup:

Until further notice, the Fish and Wildlife Service will consider all hurricane related Federal activities in counties and parishes in Presidentially-declared disaster areas to be disaster related (see attached maps). Section 7(p) of the Endangered Species Act (ESA) and the emergency consultation provisions of the regulations that implement the ESA (50 CFR Section 402) will be used.

Section 7 Consultation Under the Endangered Species Act

Within the declared disaster areas, section 7(p) of the ESA should be interpreted to mean that restoring any infrastructure damaged or lost due to the hurricane back into the original footprint **does not require ESA consultation** with the Service.

For storm related activities outside of the declared disaster areas, Federal agencies should use the emergency consultation procedures covered in 50 CFR section 402 and in Chapter 8 of the Service's section 7 Handbook. These guidelines indicate that agencies should contact the Service by phone, the Service should offer recommendations verbally to minimize the effects of the emergency response action on listed species or their critical habitat, and the Service should follow up with written correspondence to the action agency documenting the conversation. The guidelines indicate clearly that the Service should not stand in the way of response efforts. After the emergency is under control, the action agency initiates formal consultation if listed species were adversely affected.

Compliance with the National Historic Preservation Act

For your information and convenience, we are also including here some information regarding compliance with the National Historic Preservation Act (NHPA). The regulations to follow for compliance with section 106 of the NHPA in a disaster declaration are found at 36 CFR 800.12. The following points should be considered in working with these regulations in a disaster situation:

Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provision of section 106 (36 CFR 800.12 (b)(2)(d)).

The following emergency procedures apply within 30 days of the declaration of an emergency (36 CFR.800.12 (b)(2)(d)):

Figure 16-9 Hurricane Katrina Response Letter

Agency officials and staff should contact their regional office to coordinate with their agency Preservation Officers or cultural resources staff; your agency may have a formal agreement on how to handle emergency situations for compliance with section 106 the NHPA, and can give the specific advice you will need for your agency in this recovery effort.

If your agency does not have a existing agreement or its own cultural resources staff, and has no existing agreement on how to carry out section 106 compliance in a emergency situation, follow the procedures given in 36 CFR 800.12 (b) (1) (2). These regulations require the Federal official to request comment from the State Historic Preservation Officer (SHPO), and with the Indian Tribes that may have an interest in your project area. You may contact the State Historic Preservation Office in each state for questions about specific undertakings, or general advice on compliance in this situation; they are the office that works with Federal agencies on a routine basis to assure compliance with the NHPA, and are charged with assisting the public and Federal agencies in preserving historic and cultural resources.

We suggest that you contact the appropriate SHPO for your state:

Alabama: Stacye Hathorn, Section Head, Review and Compliance: 334-230-2649

Florida: Laura Kammerer, Review and Compliance: 850-245-6333 or 1-800-847-7278

Mississippi: Department of Archives and History, 601-576-6940

Louisiana: Division of Historic Preservation, 225-342-8160

If you cannot reach the SHPO in your state, or you have other questions, you may contact us at the number below and we will be happy to assist you in finding answers to your questions.

Single, Regional Point of Contact for Questions

To facilitate and streamline our service to other agencies during the response to Hurricane Katrina, we have designated a Service regional point of contact for all inquiries related to ESA section 7 consultation, NHPA, and National Environmental Policy Act (NEPA) compliance questions. Joe Johnston and Kenneth Graham of the Ecological Services Division will serve as this point of contact. They can be reached at 1-877-485-2235, or at Joe_Johnston@fws.gov or Kenneth_Graham@fws.gov.

If you have any questions about these issues, please contact me at 404-679-4000 or Noreen Walsh, Assistant Regional Director, Ecological Services, at 404-679-7085.

Sam D. Hamilton
Regional Director
Southeast Region

Figure 16-9 Hurricane Katrina Response Letter (Page 2 of 2)



IN REPLY REFER TO:

United States Department of the Interior


FISH AND WILDLIFE SERVICE

Field Office
1601 Balboa Avenue
Panama City, FL 32405-3721

September 29, 2004

Memorandum

To: County and Regional Planning Staff

From: Janet Mizzi, Deputy Project Leader, Panama City, FL 

Subject: Beach Mouse - Post Hurricane Ivan

In the aftermath of Hurricane Ivan, questions have arisen about rebuilding activities in affected areas and compliance with the Endangered Species Act (ESA). Special interest has been directed to possible conflicts between reconstruction projects and endangered beach mice (including Perdido Key, Choctawhatchee, and St. Andrew beach mice) or other imperiled species.

The U.S. Fish and Wildlife Service (Service) has determined that demolition and reconstruction of damaged/destroyed structures should not result in "take" of beach mice if these activities **1) take place within the confines of the pre-storm structure, 2) are completed before dune habitat reclaims the pre-storm structure site, and 3) will not negatively impact dune habitat.** In these situations, it will not be necessary for affected persons to contact the Service or otherwise obtain authorization under section 10 of the ESA before beginning the demolition-reconstruction process.

Attached is guidance for the conservation of beach mice during road repair, debris removal, and reconstruction of damaged property. Please note that these are emergency provisions developed in response to the damage caused by Hurricane Ivan and may be modified as conditions change. Again, these emergency provisions only apply to demolition and reconstruction of damaged/destroyed structures within the confines of the pre-storm structure footprint. Please distribute the attachments to your building permit, road maintenance, and planning departments.

Affected persons should be aware that they are still responsible for obtaining required Federal and State permits if a "take" will occur. People desiring to build new structures, reconstructing damaged/destroyed structures that will include impacting areas outside the confines of the pre-storm structure, or in situations other than those described above, should continue to contact the Service to determine if a section 10 Incidental Take Permit would be necessary. If you are not certain if a permit would be necessary for your demolition and/or reconstruction activities, please contact this office for assistance.

The Service has coordinated this information with the Florida Fish and Wildlife Conservation Commission. The above determination is consistent with the permitting regulations for State Endangered Species. If you have questions regarding state permitting regulations, please contact Karen Lamonte at 850/265-3676.

We are providing similar notifications to Federal agencies. If you have any questions concerning our position on these issues, please contact us at 850/769-0552. For beach related assistance, please contact Janet Mizzi at extension 247. For other areas, please contact Gail Carmody at extension 225.

Attachments

Figure 16-10 Example of Emergency Consultation

Interim Guidance for Post-Ivan Property Stabilization and Reconstruction of Damaged/Destroyed Structures In Areas with Endangered Beach Mice & Other Imperiled Species

U.S. Fish and Wildlife Service

Effective Sept.-Oct. 2004

These guidelines are intended to facilitate emergency structure repair and clean-up post Hurricane Ivan. They do not apply to the construction of new facilities or the expansion of existing structures.

Demolition and reconstruction of damaged/destroyed structures should not result in "take" of beach mice if these activities (1) take place within the confines of the pre-storm structure, (2) are completed before dune habitat reclaims the pre-storm structure site, and (3) will not negatively impact dune habitat.

Persons desiring to build new structures, reconstruct damaged/destroyed structures that will include impacting areas outside the confines of the pre-storm structure, or in situations other than those described above should contact the U.S. Fish & Wildlife Service to determine if Section 10 Incidental Take Permits would be necessary.

All activities should follow the guidance provided in the following document: Florida Department of Environmental Protection Emergency Authorization for Repairs, Replacement, Restoration, and Certain Other Measures Made Necessary by Hurricane Ivan OGC No. 04-1625.

Emergency Cleanup, Debris Removal, and Property Stabilization Activities

- No debris should be buried in place, but should be removed from beaches and dune areas.
- Equipment access to beaches should be limited to pre-Ivan designated beach access ' points. All measures should be taken to avoid impacts, to dune habitats. Avoid driving or operating heavy equipment in dune habitat. Any necessary use of pre-existing pathways or heavily degraded areas for access should be clearly marked. The U.S. Fish and Wildlife Service (USFWS) or Florida Fish and Wildlife Conservation Commission (FWC) should be contacted immediately if there are questions regarding identification of, appropriate beach access points.
- Staging/storage areas should be identified for cleanup and debris removal activities and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate staging areas.
- Parking areas should be identified for cleanup crews and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate parking areas.

9/29/04

Figure 16-10 Example of Emergency Consultation (Page 2 of 4)

- No fill material (i.e., sand) should be deposited on or removed from existing/remaining beach mouse habitat. Fill material must be free of debris, rocks, clay, or other foreign matter and should be similar in color and grain size to pre-storm beach sand.
- No sand should be bulldozed, dredged, or removed from seaward of the mean high water line (MHW) or Coastal Construction Control Line (CCCL) without authorization.

Reconstruction of Damaged/Destroyed Structures within Pre-storm Structure Footprint Activities

The following guidelines are in addition to those listed above for Emergency Clean-up, Debris Removal, and Property Stabilization. Both sets of guidelines apply to Reconstruction Activities.

- Keep reconstruction footprints (i.e., building, parking, ancillary structures, and other amenities) to pre-Ivan footprints.
- Use silt fencing to designate construction areas and keep all equipment and activities inside these areas.
- All trash should be disposed of properly in covered trash receptacles.
- Maintain all non-developed areas within the development in their natural condition. Landscape using only native dune vegetation; turf grass and/or sod should not be used.
- For areas impacted by construction, restore all habitats to their natural configuration and vegetation.
- Install "sea turtle friendly" lighting, glass, and window fixtures that reduce the direct and ambient lighting of dune habitats within and adjacent to the project site.
- Beach access over dunes should be limited to as few access points as possible and should consist of boardwalks, which should be built with top down construction where possible.

Contact Information

U.S. Fish & Wildlife Service (USFWS) - Ms. Janet Mizzi (850) 769-0552
FL Fish & Wildlife Conservation Commission - Ms. Karen Lamonte (850) 265-3676

9/29/04

Figure 16-10 Example of Emergency Consultation (Page 3 of 4)

Interim Guidance for Post-Ivan Road Construction and Maintenance In Areas with Endangered Beach Mice & Other Imperiled Species

U.S. Fish and Wildlife Service

Effective Sept.-Oct. 2004

These guidelines are intended to facilitate emergency road repair and clean-up post Hurricane Ivan. They do not apply to the construction of new roads or the expansion of existing roads.

Emergency Clean-up and Road Repair Activities

All construction should occur within or as close as possible to the footprint of the original road.

- Staging/storage areas should be identified for construction activities and should be located outside of existing/remaining beach mouse habitat or public park properties. The U.S. Fish and Wildlife Service (USFWS) or Florida Fish and Wildlife Conservation Commission (FWC) should be contacted immediately if there are questions regarding identification of appropriate staging areas.
- Parking areas should be identified for construction crews and should be located outside of existing/remaining beach mouse habitat or public park properties. The USFWS or FWC should be contacted immediately if there are questions regarding identification of appropriate parking areas.
- No clay materials should be used in construction, unless approved by the USFWS or FWC.
- No fill material should be deposited on or removed from existing/remaining beach mouse habitat. Fill material and hay bales must be clean of noxious weeds. No fertilizer or lime will be applied.
- Road shoulders should be stabilized only with native vegetation; turf grass and/or sod should not be used.
- All trash should be disposed of properly in covered trash receptacles.
- If aggregate material is needed for shoulder stabilization along the pavement edge, crushed oyster shell is the preferred material. If crushed shell is unavailable, White Bahama Rock is an acceptable material.
- Aggregate material should be placed no further than 3 feet from the pavement.

Contact Information

U.S. Fish & Wildlife Service (USFWS) - Ms. Janet Mizzi (850) 769-0552
FL Fish & Wildlife Conservation Commission (FWC) - Ms. Karen Lamonte (850) 265-3676

9/29/04

Figure 16-10 Example of Emergency Consultation (Page 4 of 4)

PART 2, CHAPTER 17

ESSENTIAL FISH HABITAT

TABLE OF CONTENTS

17.1	OVERVIEW	17-1
17.2	PROCEDURE	17-2
17.2.1	Determination of Level of Assessment	17-2
17.2.1.1	Projects Qualifying for ETDM Screening	17-2
17.2.1.2	Projects Not Qualifying for ETDM Screening.....	17-3
17.2.1.3	Request for Abbreviated Managed Species List.....	17-3
17.2.1.4	Fishery Management Plans	17-3
17.2.2	Actions Taken if no EFH Assessment Needed.....	17-4
17.2.3	Actions Taken if EFH Assessment is Required or NMFS Comments Need to be Addressed.....	17-4
17.2.3.1	Essential Fish Habitat Consultation	17-5
17.2.4	Documentation	17-7
17.2.5	Design and Permitting	17-8
17.2.6	Commitments	17-9
17.2.7	Re-evaluation	17-9
17.2.8	Emergency Consultation	17-9
17.3	REFERENCES.....	17-9
17.4	FORMS.....	17-10
17.5	HISTORY	17-10

LIST OF FIGURES

Figure 17-1 Essential Fish Habitat Process	17-11
Figure 17-2 Fishery Management Councils and NMFS Contact Information	17-12
Figure 17-3 Information Sources and Websites	17-13
Figure 17-4 Habitat Conservation Division Contacts by FDOT District	17-15
Figure 17-5 Sample Letter Request for Abbreviated List.....	17-16
Figure 17-6 Sample Standalone or Technical Memo Essential Fish Habitat Assessment Cover Sheet	17-17
Figure 17-7 Sample Interim Response Letter.....	17-18
Figure 17-8 Sample Response to Conservation Recommendations Letter	17-19
Figure 17-9 Emergency Consultation Procedures.....	17-20

PART 2, CHAPTER 17

ESSENTIAL FISH HABITAT

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

17.1 OVERVIEW

This chapter provides guidelines for Essential Fish Habitat (EFH) consultations with the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS), also referred to as NOAA Fisheries. According to the **Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)**, areas designated as EFH are "...those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." [**16 U.S.C. § 1802(10)**]. The **MSFCMA (16 U.S.C. § 1801 et. seq.)** created regional Fishery Management Councils (FMCs) "responsible for the fisheries that require conservation and management in their region" and are required to "develop and amend Fishery Management Plans" (FMP). FMPs also provide information on Habitat Areas of Particular Concern (HAPC) within EFH areas.

In 1996 the **MSFCMA** was amended and set forth a mandate for NMFS and regional FMCs to identify and protect important marine and anadromous (species born in fresh water that migrate to the ocean to mature, and then return to fresh water to spawn) fish habitat, and to establish means for designating EFH. Rules to implement the EFH provisions of this Act, (**50 CFR §§ 600.805 - 600.930**), specify that FMP amendments be prepared to describe and identify EFH. The rules also establish procedures to promote the protection of EFH through interagency coordination. **Section 305 (b)(2)** of the **MSFCMA [16 U.S.C. § 1855(b)(2)]** states that federal agencies are required to consult with NMFS regarding projects that fund, permit or carry out activities that may adversely affect EFH. An adverse effect "means any impact that reduces quality and/or quantity of EFH" (**Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies. V1, 2004**). EFH consultations are required for federal projects as well as projects requiring a federal action (i.e., a federal permit).

This chapter integrates the EFH coordination and consultation process with the **NEPA** process. NMFS made a finding pursuant to **50 CFR § 600.920(e)** that EFH consultation requirements can be incorporated into the existing **NEPA** document, in this case the

Project Development and Environment (PD&E) process. NMFS has designated FDOT to conduct EFH consultations in Florida pursuant to **50 CFR § 600.920(c)** in a **July 19, 2000 letter to FHWA and FDOT**.

To satisfy the **MSFCMA** FDOT determines potential involvement with designated EFH and HAPCs for the project. If EFH may be adversely affected by the project an **EFH Assessment** will be prepared (see [Section 17.2.3.1.1](#)) and summarized in the Environmental Document.

17.2 PROCEDURE

17.2.1 Determination of Level of Assessment

17.2.1.1 Projects Qualifying for ETDM Screening

Projects that qualify for screening are evaluated through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) (see [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for a list of qualifying projects). Initial EFH information can be found in the **Programming Screen Summary Report**, particularly Environmental Technical Advisory Team (ETAT) comments for the “Coastal and Marine” and “Wetlands and Surface Waters” issues. It may also be helpful to review ETAT comments on “Wildlife and Habitat” and “Water Quality and Quantity” as well as “General Project Recommendations” and “Anticipated Permits”.

Comments provided by NMFS are especially important. The “Technical Studies Anticipated” section of the **Programming Screen Summary Report** should state specifically when an **EFH Assessment** is needed. NMFS should provide a list of the federally-managed species that the assessment should address. Generally, NMFS will assign a “no involvement” degree of effect for projects that do not have a direct or indirect effect. Projects that only have indirect effects will generally be assigned a “minimal” degree of effect in the EST. These two scenarios would not normally require an **EFH Assessment**. If EFH may be adversely affected by a project, the NMFS will request an **EFH Assessment**. Projects qualifying for screening will most likely require a **Natural Resources Evaluation (NRE)** and the District will prepare the **EFH Assessment** as a section of the **NRE** and summarized in the Environmental Document.

Information from FMPs, FMCs, and from literature review and contacts described in [Figure 17-2](#) and [Figure 17-3](#) also serve as reference material for involvement determinations.

As a project advances into PD&E, it is important to address ETAT comments obtained during the EST screening event. FDOT should contact NMFS to discuss ETAT comments and FDOT course of action to address their comments (See [ETDM Manual, Topic No. 650-000-002](#)).

17.2.1.2 Projects Not Qualifying for ETDM Screening

For projects that do not qualify for screening through the EST (see [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for a list of qualifying projects) coordination with NMFS is still required for federal projects or projects requiring a federal action (i.e. a federal permit) that may involve EFH. To determine the level of evaluation for these projects, perform a review of FMPs, FMCs and literature to develop an Abbreviated Managed Species List and coordinate with NMFS as noted in [Section 17.2.1.1](#). If NMFS indicates that an **EFH Assessment** is not required, follow the procedure in [Section 17.2.2](#). If NMFS indicates that an **EFH Assessment** is required, follow the procedure in [Section 17.2.3](#). For projects not qualifying for screening and that will not have an **NRE**, the District will prepare the **EFH Assessment** as a technical memo and include it in the project file.

17.2.1.3 Request for Abbreviated Managed Species List

Generally, NMFS responds during the ETDM process with adequate information about the species involved in the project such that an **EFH Assessment** can begin. In this case the species identified in the **Programming Screen Summary Report** response can be used to begin the **EFH Assessment**, and an abbreviated list may not need to be requested.

For instances where NMFS has not provided adequate information to begin the **EFH Assessment** or for projects that did not go through EST, it is recommended that Districts create their own abbreviated lists using the Managed Species Lists available from the regional FMC and NMFS, as well as identify EFH for those species (see [Section 17.2.1.2](#)). NMFS also has an interactive EFH Mapper (see [Figure 17-3](#) for the link). Once an abbreviated list is compiled, it is recommended the District send a letter to NMFS requesting confirmation of project specific identification of EFH. Requests should be sent to the appropriate Habitat Conservation Division Florida Office listed in [Figure 17-4](#). A sample request letter is included in [Figure 17-5](#). The confirmed abbreviated list can then be used to begin the **EFH Assessment** ([Section 17.2.3.1.1](#)). NMFS confirmation of the abbreviated list will help expedite the **EFH Assessment**.

The request of an abbreviated list is not an official procedure for EFH consultation and NMFS is not required to respond. If NMFS does not respond to the request within 10 days, use the abbreviated list compiled by the District to begin the **EFH Assessment**.

17.2.1.4 Fishery Management Plans

Information on EFH within the project area can be gathered from regional FMCs and NMFS. Two councils cover areas within the State of Florida: the Gulf of Mexico FMC and the South Atlantic FMC. See [Figure 17-2](#) for contact information. Each council has lists of Managed Species and EFH identified within their jurisdictional area and specific FMPs for the species they manage. NMFS' Southeast Regional Office also has FMPs and Managed Species Lists for highly migratory species, which they manage. The NMFS

Southeast Regional Office can be contacted for more site-specific information ([Figure 17-2](#)). EFH information from these organizations is also available online ([Figure 17-3](#)).

FMPs explain the physical, biological, and chemical characteristics of EFH and include information on species life history stages, maps with delineated boundaries of species ranges as well as information on potential threats and recommended conservation and enhancement measures. The amount of information available for EFH determinations will vary depending on the species that may be affected.

FMPs also provide information on HAPC which are habitats or habitat associations that are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. The HAPCs are identified by the FMCs in their respective FMPs and will be specifically discussed and addressed during the EFH consultation process (see [Section 17.2.3.1](#)).

17.2.2 Actions Taken if no EFH Assessment Needed

If the project is located outside of areas where **MSFCMA** applies, an **EFH Assessment** is not required and no consultation with NMFS is required. For projects located in areas where the **MSFCMA** could apply, but the project will have no involvement with EFH or no adverse effect on EFH, it should be addressed in the Environmental Document as follows:

1. For Type 1 Categorical Exclusions (CE) or Non-Major State Actions (NMSA) include supporting information in the project file (i.e. GIS data analysis, technical memo, site visit, knowledge of the area).
2. For Type 2 CEs with no EFH involvement, mark the box “NoInv” in Section 3.C.9 on the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. Add supporting documentation to the project file.
3. For Environmental Assessments (EAs), Environmental Impact Statements (EISs) or State Environmental Impact Reports (SEIRs) add the following statement to the Environmental Analysis section as appropriate:

This project has been coordinated with NMFS and there is no involvement with, or adverse effect on Essential Fish Habitat; therefore, Essential Fish Habitat consultation is not required.

17.2.3 Actions Taken if EFH Assessment is Required or NMFS Comments Need to be Addressed

NMFS will provide comments during the ETDM process for projects with potential direct effects on EFH and may comment regarding indirect effects (e.g. stormwater from a bridge over a river that would flow into a nearby estuary). These comments should be addressed during the PD&E process, but an **EFH Assessment** is only required when specifically requested by NMFS or when FDOT determines that a project may adversely affect EFH.

If the District determines that a project may adversely affect EFH and/or an assessment was requested by NMFS in the **Programming Screen Summary Report**, then:

1. Prepare an **EFH Assessment** as described in [Section 17.2.3.1.1](#).
2. Request consultation with NMFS and provide the **EFH Assessment** in an **NRE**. The District may prepare the **EFH Assessment** as a technical memo for projects not qualifying for screening and that will not have an **NRE**.
3. NMFS will provide FDOT with a written project evaluation which will include EFH Conservation Recommendations, when appropriate.
4. Respond to NMFS Conservation Recommendations, if provided, within the required timeline ([Section 17.2.3.1.2](#)).
5. Document the results in the final Environmental Document.

If NMFS receives information regarding an FDOT project that may adversely affect EFH and FDOT has not initiated EFH consultation, then NMFS may inform FDOT of the **MSFCMA** requirement to consult and ask FDOT to initiate EFH consultation. FDOT is not required to agree to NMFS's request; however, NMFS is required by the **MSFCMA** to provide EFH Conservation Recommendations, and FDOT is required to respond to these recommendations in writing regardless of whether FDOT initiated consultation.

17.2.3.1 Essential Fish Habitat Consultation

Consultation is initiated when NMFS receives an **EFH Assessment** and a written request for consultation. The negotiated procedure for conducting EFH consultations is specified in the **July 19, 2000, finding among NMFS, FHWA, and FDOT**. The key components to the consultation process include preparation of an **EFH Assessment** which is provided to NMFS, proposed conservation recommendations by NMFS, and agency response to conservation recommendations. It is recommended that the Districts refer to the NMFS's document **EFH Consultation Guidance Version 1.1 (April 2004)** for detailed information on consultations.

17.2.3.1.1 Essential Fish Habitat Assessment

An **EFH Assessment** is an analysis of a project's potential adverse effects on EFH and if necessary, measures to counter those effects. An **EFH Assessment** is completed if there are potential adverse effects to EFH on federal projects or for projects that require a federal action (i.e. a federal permit), regardless of Class of Action. An **EFH Assessment** also needs to be completed for a NMSA or a SEIR if a federal action is needed, such as a federal permit. Coordination may be needed with NMFS while preparing the **EFH Assessment**.

The **EFH Assessment** should be included as a section of the **NRE** instead of a stand-alone document. The **NRE** documents protected species and habitat, wetland and EFH issues and can be provided to NMFS as an **EFH Assessment**. For projects not qualifying

for screening and that will not have an **NRE**, the District will prepare the **EFH Assessment** as a standalone document or as a technical memo (depending on the degree the project may adversely impact EFH).

The **EFH Assessment** section of the **NRE** must contain:

1. Identification of EFH, HAPC(s), and managed species that may be affected. An analysis of the effects, including indirect and cumulative effects, of the project on EFH, HAPC(s), the managed species, and associated species by life history stage,
2. Proposed measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH, and
3. FDOT's determination regarding the effects of the project on EFH.

Standalone **EFH Assessments** or technical memos should use the **Technical Report Cover Page, Form No. 650-050-38**. See example shown in in [Figure 17-6](#).

The level of detail required for project specific consultations may vary depending on what degree the project may adversely impact EFH. This level of detail is based on project specific conditions such as ecological importance or sensitivity of the area, type and extent of EFH that would be impacted, and the type of activity proposed. **EFH Assessments** developed for project impacts that are expected to be minor should contain only brief information on EFH.

A detailed **EFH Assessment** should be prepared for projects that are expected to have substantial adverse effects. A detailed assessment should include the results of on-site inspections, the views of experts on the affected species or their habitat, literature review, an analysis of alternatives to the proposed project and other relevant information. More detail on suggested contents and examples of **EFH Assessments** are included in NMFS's document, **Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies (February 2004)**. If FDOT determines that a detailed **EFH Assessment** is not necessary, and NMFS does not concur, then NMFS can request additional information from FDOT in writing.

Information for completion of the **EFH Assessment** should be gathered for species included in the **Programming Screen Summary Report** or on the Abbreviated Managed Species List ([Section 17.2.1.1](#)) using FMPs as explained in [Section 17.2.1.2](#). General information is available from contacts listed on [Figure 17-2](#). It may be useful to include a table of species and EFH that may be affected. The best available information must be used to determine the effects of the proposed project on EFH. FDOT's determination of effects should be clearly stated in the assessment. It is recommended that the **EFH Assessment** be concluded with the use of best management practices, avoidance and minimization measures, and mitigation strategies, if needed.

The District must submit the draft **NRE** including the **EFH Assessment** (or standalone **EFH Assessment** if the project does not have an **NRE**) to OEM for review prior to submitting to the appropriate agencies for coordination/consultation.

The **NRE** may be submitted as a standalone document before public notification for courtesy review, or may be submitted with the Environmental Document. Completed **EFH Assessments** should be sent to the appropriate NMFS Habitat Conservation Division Florida Office ([Figure 17-4](#)) at least 60 days prior to a final decision on the proposed project or at least 90 days if substantial adverse impacts are anticipated.

17.2.3.1.2 Response to EFH Conservation Recommendations

Once the NMFS receives the **EFH Assessment**, it will prepare a written project evaluation (either letter, memo, or e-mail) with EFH conservation recommendations, as appropriate. Conservation recommendations may include measures to avoid, minimize, mitigate, or offset adverse effects on EFH. Unless a shorter timeframe is agreed to, this coordination must comply with the timelines mandated by the **MSFCMA**. Often, NMFS may be satisfied with the **EFH Assessment** and not provide any conservation recommendations, however NMFS will usually send a response. FDOT is required to respond to NMFS conservation recommendations within 30 days of receipt. If the signed Finding of No Significant Impact (FONSI), Record of Decision (ROD), or other final action that includes FDOT's response to conservation recommendations cannot be completed in 30 days and/or FDOT does not yet have a response to the conservation recommendations then an interim response should be sent to NMFS before the specified deadline. Sample letters are shown in [Figures 17-7](#) and [17-8](#). Once an interim response is provided, a detailed written response should be submitted to NMFS at least 10 days prior to taking final action (e.g., signing a FONSI or ROD). The response should include a description of measures proposed by FDOT for avoiding, mitigating or offsetting the impact of the proposed activity on EFH. The response should also include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

If the response is inconsistent with the NMFS EFH conservation recommendations, FDOT must explain its rationale for not following the conservation recommendations, including the scientific justification for the anticipated effects of the project or measures needed to avoid, minimize, mitigate or offset such effects. The NOAA Assistant Administrator for Fisheries can request a meeting with the Director of OEM to discuss the proposed project and the opportunity to resolve disagreements per **50 CFR § 600.920(k)(2)**.

The District will update the **NRE** to reflect agency coordination/consultation.

17.2.4 Documentation

The documentation required for each type of Environmental Document is outlined below:

Type 1 CE - A Type 1 CE may involve EFH as long as the documentation demonstrates the proposed project has no significant effects. For these projects, include a summary of

agency coordination and compensation for impacts (as appropriate) in the project file as supporting information to the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#)). If a technical memo was prepared it should be included in the project file.

NMSA - A NMSA may involve EFH as long as the documentation demonstrates the proposed project has no significant effects. For these projects, include a summary of agency coordination and compensation for impacts (as appropriate) in the project file as supporting information to the **Non-Major State Action Checklist, Form No. 650-050-30** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). If a technical memo was prepared it should be included in the project file.

Type 2 CE, EA, SEIR or EIS - The Environmental Document will be prepared and processed as described in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#); [Chapter 6, Environmental Assessment](#); [Chapter 8, Draft Environmental Impact Statement](#); and [Chapter 10, State, Local, or Privately Funded Project Delivery](#), and should include the following statement in the appropriate section of the Environmental Document (for Type 2 CEs add to the documentation, for EAs, SEIRs, and EISs add to the Environmental Analysis section):

An EFH Assessment has been prepared and consultation has been completed in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). It has been determined that this project [will have] [will not have] adverse effects to Essential Fish Habitat. Should any changes occur during the design and permitting process that affect the consultation, re-initiation of the consultation process will be coordinated with NMFS

The **EFH Assessment** section of the **NRE** and associated consultation correspondence should be summarized in the Environmental Document and the final **NRE** should be retained in the project file. See [Part 2, Chapter 16, Protected Species and Habitat](#) for additional guidance on preparing the **NRE**.

When NMFS provides conservation recommendations these, as well as FDOT's responses, are included in the Appendix of the EA or EIS and attached to the **EFH Assessment** section of the **NRE**. For Type 2 CEs these are attached to the Type 2 CE documentation, if applicable.

17.2.5 Design and Permitting

Projects may have advanced Design or overlapping Design/Permitting and PD&E phases (as part of the Statewide Acceleration Transformation process) where permits may be obtained and consultation completed. At times, there may not be enough information for FDOT, in coordination with NMFS, to make a determination about the effect of a project on EFH and consultation may not be completed during the PD&E phase of a project. If EFH consultation cannot be completed during the PD&E phase it will be carried forward into Design and Permitting.

Also for projects that qualify for a Type 1 CE or a NMSA ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) and [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)), the **EFH Assessment** review and resulting project evaluation and conservation recommendations (when provided) would be handled during the permitting process.

17.2.6 Commitments

At the conclusion of EFH consultation, NMFS may include conservation recommendations which are non-binding (i.e., discretionary). Any conservation recommendations that are being considered to be included as commitments in the Environmental Document must be coordinated with the appropriate FDOT offices to ensure the commitment is feasible. The District should consult with District management prior to making conservation recommendations a commitment. Commitments related to EFH made by FDOT over the course of project development should be documented on the [Project Commitment Record, Form No. 700-011-35](#) according to [Procedure No. 700-011-035, Project Commitment Tracking](#) (see [Part 2, Chapter 22, Commitments](#)). These commitments should also be included in the Commitments section of the Environmental Document. As required by the level of environmental documentation, ensure clear and concise transmittal of the commitments to the subsequent Final Design and Construction phases.

17.2.7 Re-evaluation

Prior to the project advancing to the next phase, for example Design or Construction, or if there are major design changes, the impacts to EFH or mitigation strategies are reevaluated per [Part 1, Chapter 13, Re-evaluations](#). In addition, design changes could re-initiate consultation which would be addressed through the permitting process. Commitments and coordination should be contained in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29** and tracked through [Procedure No. 700-011-035, Project Commitment Tracking](#).

17.2.8 Emergency Consultation

Consultation is required for emergency federal actions that may adversely affect EFH. These actions may include hazardous material clean-up, response to natural disasters, or actions to protect public safety. FDOT should contact NMFS early in emergency response planning, however consultation may occur after-the-fact if not practicable before the emergency action. **NOAA's NMFS Emergency EFH/ESA section 7 Consultation Procedures for FDOT Projects** is provided in [Figure 17-9](#).

17.3 REFERENCES

Essential Fish Habitat Findings. July 19, 2000 letter to George Hadley of FHWA and Joshua Boan of FDOT from NMFS' Rickey Ruebsamen.
<http://www.dot.state.fl.us/emo/pubs/EFH-Finding-Among-NMFS-FHWA-FDOT-2000-0719.pdf>

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)

NMFS. September 2003. EFH: New Marine Fish Habitat Conservation Mandate for Federal Agencies. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

NMFS. February 2004. Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies. V1

NMFS. April 2004. Essential Fish Habitat Consultation Guidance. V1.1 NMFS Office of Habitat Conservation, Silver Spring, MD

<http://www.nmfs.noaa.gov/habitat/habitatprotection/pdf/efh/EFH%20Consultation%20Guidance%20v1-1.pdf>

NMFS web site: http://sero.nmfs.noaa.gov/habitat_conservation/index.html

Title 50 CFR §§ 600.805 - 600.930.

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=967ee340fa53fe110902733f4e30fad7&mc=true&n=pt50.12.600&r=PART&ty=HTML>

17.4 FORMS

Non-Major State Action Checklist, Form No. 650-050-30*

[Project Commitment Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29*

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

Technical Report Cover Page, Form No. 650-050-38

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

17.5 HISTORY

8/19/2004, 11/26/2007, 08/15/2016

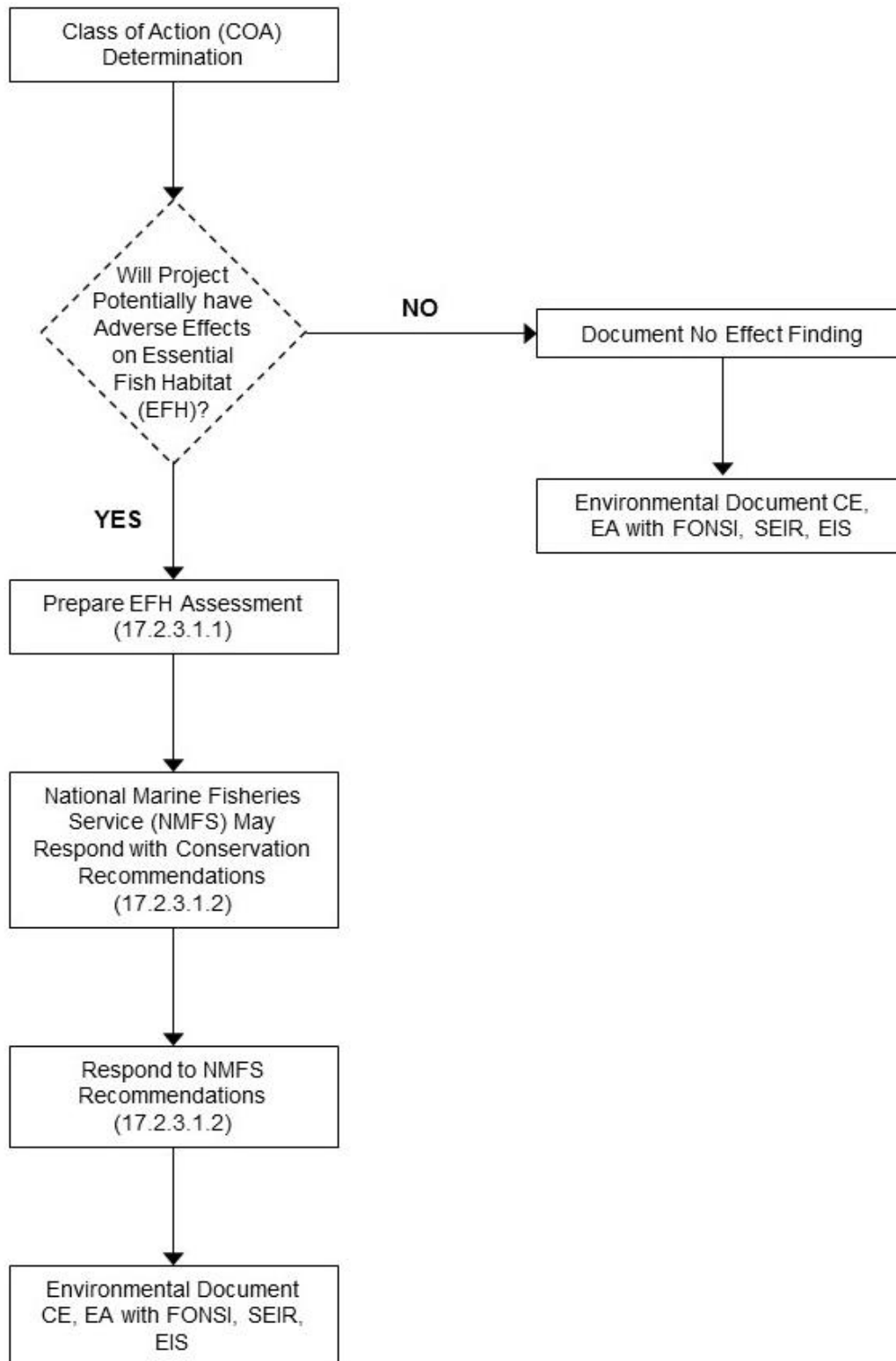


Figure 17-1 Essential Fish Habitat Process

Gulf of Mexico Fishery Management Council

2203 N. Lois Avenue, Suite 1100
Tampa, FL 33607
(813) 348-1630
(888) 833-1844 – Toll Free
Fax (813) 348-1711 <http://www.gulfcouncil.org>

South Atlantic Fishery Management Council

4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
(843) 571-4366
(866) SAFMC-10 – Toll Free
Fax. (843) 769-4520
<http://www.safmc.net>

NMFS Southeast Region

NOAA Fisheries Service Southeast Regional Office (SERO)
263 13th Avenue South
St. Petersburg, FL 33701
(727) 824-5317
<http://sero.nmfs.noaa.gov/>

National Marine Fisheries Service (NMFS)
Southeast Fisheries Science Center (SEFSC)
75 Virginia Beach Drive
Miami, FL 33149
(305) 361-4200
<http://www.sefsc.noaa.gov/>

Figure 17-2 Fishery Management Councils and NMFS Contact Information

EFH information links:

General:

http://sero.nmfs.noaa.gov/habitat_conservation/index.html

NOAA Office of Habitat Conservation

<http://www.habitat.noaa.gov/>

Within this site there are the following helpful links:

<http://www.habitat.noaa.gov/protection/efh/habitatmapper.html>

<http://www.habitat.noaa.gov/protection/efh/consultations.html>

NOAA Fisheries Southeast Regional Office Habitat Conservation Division

http://sero.nmfs.noaa.gov/habitat_conservation/index.html

Gulf of Mexico:

Gulf States Marine Fishery Commission EFH site

<http://www.gsmfc.org/index.php>

EFH Research and EFH maps

<http://www.galvestonlab.sefsc.noaa.gov/>

South Atlantic:

<http://safmc.net/>

***Magnuson-Stevens Fishery Conservation and Management Act. Public Law 94-265
as amended through October 11, 1996***

<http://www.nmfs.noaa.gov/sfa/magact/>

Figure 17-3 Information Sources and Websites

Scientific Literature Review:

Dobrzynski, Tanya and Korie Johnson. May 2001. Regional Council Approaches to the Identification and Protection of Habitat Areas of Particular Concern. NOAA/NMFS Office of Habitat Conservation. Silver Spring, MD

Gulf of Mexico Fishery Management Council. October 1998. Generic Amendment for addressing EFH requirements in the following fishery management plans of the Gulf of Mexico. Tampa, FL

Gulf of Mexico Fishery Management Council. 1998. Public hearing draft generic amendment for addressing EFH requirements in the following fishery management plans of the Gulf of Mexico: Shrimp Fishery of the Gulf of Mexico, United States Waters; Red Drum Fishery of the Gulf of Mexico; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources (Mackerels) in the Gulf of Mexico and South Atlantic; Stone Crab Fishery of the Gulf of Mexico; Spiny Lobster in the Gulf of Mexico and South Atlantic, Coral and Coral Reef of the Gulf of Mexico (includes environmental assessment). Gulf of Mexico Fishery Management Council. Tampa, FL

* Stone Crab is no longer federally managed. Management was transferred to the State of Florida.

National Marine Fisheries Service. 1998. Highly migratory species essential fish habitat pre-draft materials for the highly migratory species fishery management plan amendment. National Marine Fisheries Service. Silver Spring, MD

National Marine Fisheries Service. February 2002. Essential Fish Habitat: A Marine Fish Habitat Conservation mandate for Federal Agencies. Gulf of Mexico Region. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

National Marine Fisheries Service. September 2003. Essential Fish Habitat: New Marine Fish Habitat Conservation Mandate for Federal Agencies. NMFS Habitat Conservation Division, Southeast Regional Office. St. Petersburg, FL

South Atlantic Fishery Management Council. 1998. Final habitat plan for the South Atlantic region: Essential Fish habitat requirements for Fishery Management Plans of the South Atlantic fishery Management Council: The Shrimp Fishery Management Plan, The Red Drum Fishery Management Plan, The Snapper Grouper Fishery Management Plan, The Coastal Migratory Pelagics Fishery Management Plan, The Golden Crab Fishery Management Plan, The Spiny Lobster Fishery Management Plan, The Coral, Coral Reefs, and Live/Hard Bottom Habitat Fishery Management Plan, The Calico Scallop Fishery Management Plan. South Atlantic Fishery Management Council. Charleston, SC

South Atlantic Fishery Management Council. April 2002. Final Essential Habitat Plan. Charleston, SC

Figure 17-3 Information Sources and Websites (Page 2 of 2)

FDOT Districts 1, 2 (Gulf Coast only), 3, and 7

David Rydene
National Marine Fisheries Service
Habitat Conservation Division
263 13th Avenue South
St. Petersburg, Florida 33701
(813) 727-5379
David.Rydene@noaa.gov

FDOT Districts 2 (Atlantic Coast only), 4, 5 and 6

Jen Schull
National Marine Fisheries Service
Habitat Conservation Division
400 N Congress Avenue, Suite 110
West Palm Beach, Florida 33401
(561) 249-1652
Jennifer.Schull@noaa.gov

Turnpike projects should default to project's geographic district location.

Figure 17-4 Habitat Conservation Division Contacts by FDOT District

(Date)

Mr./Ms. _____

Title

National Marine Fisheries Service

Habitat Conservation Division

Address

Dear Mr/Ms. _____:

SUBJECT: Request for EFH Assessment Assistance

Project title and limits

Financial Management Number: xxxxxx xx xx

Federal Project ID: xx-xxx-xxxx-(x)

County: _____

The Florida Department of Transportation (FDOT) is proposing...[Project need and description should be added.]

Attached to this correspondence is an abbreviated list of federally managed species and their EFH, as determined by FDOT as being potentially adversely affected by the proposed project. The list was developed from the _____ Fisheries Management Council and NMFS Federally Managed Species Lists, Fishery Management Plans, and associated habitat maps.

The FDOT requests that you indicate which species should be included in an EFH Assessment for this project and add information on any project specific issues that may need to be addressed in the assessment. Please place a "check mark" next to the appropriate species on the attached list(s), and return to the FDOT so that a complete and accurate EFH Assessment can be prepared. We would appreciate the courtesy of a reply within 10 days.

If you have any questions or concerns, please feel free to contact me at _____. Thank you in advance for your assistance in this matter.

Sincerely,

Name

Title

Attachments: Location Map

Abbreviated species and habitat list

Cc:

Preparer if different from the signee

Project File

Figure 17-5 Sample Letter Request for Abbreviated List

Essential Fish Habitat Assessment

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Figure 17-6 Sample Standalone or Technical Memo Essential Fish Habitat Assessment Cover Sheet

(Date)

Mr./Ms. _____
Title
National Marine Fisheries Service
Address

Dear Mr./Ms. _____:

SUBJECT: Interim Response to Conservation Recommendations
Project title and limits
Financial Management Number: xxxxxx xx xx
Federal Project ID: xx-xxx-xxxx-(x)
County: _____

The Florida Department of Transportation is in receipt of the NMFS Essential Fish Habitat Conservation Recommendations received from (commenter) in a letter dated (date). Please accept this letter as an interim response within the 30 day time period requested by NMFS for Essential Fish Habitat consultation. At this time FDOT is gathering further responsive information regarding your recommendation of the XXX project. FDOT will respond in detail within the final environmental document (CE, EA, EIS), or via a letter to NMFS, at least 10 days before the final agency action.

Sincerely,

Name
Title

Cc:

Preparer if different from signee
Project File

Figure 17-7 Sample Interim Response Letter

(Date)

Mr./Ms. _____
Title
National Marine Fisheries Service
Address

Dear Mr./Ms. _____:

SUBJECT: Response to Conservation Recommendations
Project title and limits
Financial Management Number: xxxxxx xx xx
Federal Project ID: xx-xxx-xxxx-(x)
County: _____

The Florida Department of Transportation is in receipt of the NMFS Essential Fish Habitat Conservation Recommendations received from (commenter) in a letter dated (date). Please accept this letter as a response to NMFS Essential Fish Habitat consultation conservation recommendations.

Please note the environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

[Add project specific responses including a description of measures proposed by FDOT for avoiding, mitigating or offsetting the impact of the proposed activity on EFH.]

If you have any questions please feel free to contact me at_____.

Sincerely,

Name
Title

Cc:

Preparer if different from signee
Project File

Figure 17-8 Sample Response to Conservation Recommendations Letter

**NOAA's National Marine Fisheries Service (NMFS)
Emergency EFH/ESA section 7 Consultation Procedures for FDOT Projects**

Criteria: A bridge or road that has been washed-out and needs to be fixed/built immediately to prevent a life-threatening condition and loss of property.

1. Contact the Gulf or Atlantic NMFS Environmental Technical Advisory Team (ETAT) member representative immediately to get approval. NMFS staff will contact their immediate supervisor in NMFS Habitat Conservation Division (HCD) for approval of an emergency EFH consultation; and either the Protected Species Team Leader (Bob Hoffman) or PRD-Assistant Regional Administrator (David Bernhart) for an emergency section 7 consultation approval.

*Atlantic Coast*¹
(District 2, 5, 4, & 6)

Jen Schull
Habitat Conservation Division
National Marine Fisheries Service
400 North Congress Avenue,
Suite 110
West Palm Beach, FL 33401
561-249-1652 (direct)
561-429-4168 (fax)
Jennifer.Schull@noaa.gov

Gulf Coast
(District 1, 2, 3, & 7)

David Rydene, Ph.D.,
Habitat Conservation Division
National Marine Fisheries Service
263 13th Ave South
St. Petersburg, FL 33701
727-824-5317 (main)
727-824-5300 (fax)
727-824-5379 (direct)
813-992-5730 (cell)
David.Rydene@noaa.gov

Please note: An approval for an emergency EFH consultation does not constitute an approval for emergency section 7 consultation on ESA-listed species and vice versa.

2. If approved, immediately provide the following information via fax or email:
 - Name and phone number of FDOT's Contact person/project manager
 - Complete description of the work
 - Location of the project
 - Pre-construction pictures
 - Date
 - Time

3. If a “take” occurs, immediately contact NMFS Law Enforcement (LE) Hotline: 1-800-853-1964 and provide the following additional information:

- Name and phone number of the contact person
- Date
- Time
- Location
- Brief description of the location
- Brief description of the species
- Water temperature
- Pictures of the species and location

The above information could be documented on NMFS LE Chain of Custody (COC) form in the “Description of Evidence/Property” Box or noted as an attachment to the COC (see attachment).

Note: If a LE Special agent cannot arrive at the scene immediately, take lots of pictures of the species, place the species and/or plug sample of the species in a freezer unless told otherwise by LE dispatcher.

4. After the project is finished, a complete, detailed report must be provided within 30 days to NMFS. The report should include the following:

- Detailed construction activities
- List of BMPs implemented
- List of protective and conservation measures for ESA-listed species implemented
- Pre- and post-construction pictures
- Pre-and post-construction conditions
- Final construction design
- Effects analysis of the construction activities to the habitat and listed species
- An account of impacted EFH, and ESA-listed species
- Post-construction monitoring plan that includes habitat, fish, and water quality surveys/report.
- Mitigation plan to offset unavoidable impacts

CHAIN OF CUSTODY RECORD 3/8/05			CASE CONTROL NO.	
DATE/TIME OF SEIZURE:	DUTY STATION:		EVIDENCE/PROPERTY SEIZED BY:	
SOURCE OF EVIDENCE/PROPERTY (Person and/or Location) () TAKEN FROM; () RECEIVED FROM; () FOUND AT:		DEFENDANT/COMPANY NAME:		
REMARKS:				
ITEM NOs:	DESCRIPTION OF EVIDENCE/PROPERTY (include Seizure Tag Numbers and any serial numbers):			
ITEM NOs:	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE:	DELIVERED VIA: () U.S.MAIL () IN PERSON () OTHER:
	TO: (PRINT NAME, AGENCY)	GAINING SIGNATURE:	DATE :	
ITEM NOs:	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE:	DELIVERED VIA: () U.S.MAIL () IN PERSON () OTHER:
	TO: (PRINT NAME, AGENCY)	GAINING SIGNATURE:	DATE:	

Figure 17-9 Emergency Consultation Procedures (Page 3 of 3)

PART 2, CHAPTER 18

HIGHWAY TRAFFIC NOISE

TABLE OF CONTENTS

18.1	OVERVIEW	18-1
18.1.1	Purpose	18-1
18.1.2	Definitions	18-2
18.1.3	Applicability	18-4
18.1.3.1	Type I Projects	18-4
18.1.3.2	Type II Projects	18-6
18.1.3.3	Type III Projects	18-6
18.2	PROCEDURE	18-7
18.2.1	Traffic Noise	18-7
18.2.1.1	Noise Abatement Criteria Activity Categories	18-7
18.2.1.1.1	Activity Category A	18-7
18.2.1.1.2	Activity Category B	18-7
18.2.1.1.3	Activity Category C	18-8
18.2.1.1.4	Activity Category D	18-8
18.2.1.1.5	Activity Category E	18-9
18.2.1.1.6	Activity Category F	18-9
18.2.1.1.7	Activity Category G	18-9
18.2.1.2	Traffic Noise Impacts	18-9
18.2.1.3	Traffic Noise Prediction	18-10
18.2.1.4	Noise Model Requirements	18-10

18.2.1.5	Traffic Requirements	18-11
18.2.1.6	Receptor Data	18-11
18.2.1.7	Noise Descriptor	18-12
18.2.2	Analysis of Traffic Noise Impacts	18-12
18.2.2.1	Field Measurements for Establishment of Ambient Noise Conditions.....	18-12
18.2.2.2	Field Measurements for Model Validation	18-13
18.1.1.1	Computer Prediction of Existing and Future Traffic Noise Levels...	18-14
18.2.3	Noise Abatement Evaluation	18-15
18.2.3.1	Traffic Noise Abatement Techniques.....	18-15
18.2.3.2	Feasibility Factors.....	18-16
18.2.3.2.1	Noise Reduction Factor	18-16
18.2.3.2.2	Design and Construction Factors	18-16
18.2.3.2.3	Safety Factors	18-17
18.2.3.2.4	Access Factors.....	18-17
18.2.3.2.5	Right of Way (ROW) Factors.....	18-17
18.2.3.2.6	Maintenance Factors.....	18-18
18.2.3.2.7	Drainage Factors.....	18-18
18.2.3.2.8	Utility Factors.....	18-18
18.2.3.3	Reasonableness Factors.....	18-18
18.2.3.3.1	Viewpoint of the Benefited Receptors	18-18
18.2.3.3.2	Cost Effectiveness.....	18-20
18.2.3.3.3	Noise Reduction Design Goal	18-22
18.1.2	Outdoor Advertising Sign Impacts.....	18-22
18.2.5	Community Coordination.....	18-24

18.2.5.1	Community Coordination in PD&E.....	18-24
18.2.5.2	Community Coordination in Final Design	18-24
18.2.6	Noise Study Report	18-25
18.2.6.1	Methodology and Assumptions.....	18-25
18.2.6.2	Coordination Requirements and Documentation	18-26
18.2.6.3	PD&E Phase Commitments.....	18-26
18.2.6.4	Design Phase Commitments	18-28
18.2.6.5	Construction Noise and Vibration Impacts.....	18-28
18.2.7	Noise Study Report Review	18-30
18.2.8	Environmental Document.....	18-30
18.2.8.1	Type 2 Categorical Exclusion	18-31
18.2.8.2	Environmental Assessment with Finding of No Significant Impact .	18-31
18.2.8.3	Environmental Impact Statement.....	18-32
18.2.8.4	State Environmental Impact Report.....	18-32
18.2.9	Re-evaluations	18-32
18.2.10	Design-Build Projects.....	18-33
18.2.11	Accelerated Project Delivery	18-33
18.2.12	Abatement Measure Reporting	18-34
18.3	REFERENCES.....	18-35
18.4	FORMS	18-38
18.5	HISTORY	18-38

LIST OF TABLES

Table 18-1	Viewpoint Weighting Factors.....	18-19
------------	----------------------------------	-------

LIST OF FIGURES

Figure 18-1 Noise Abatement Criteria	18-39
Figure 18-2 Type I Project Matrix	18-40
Figure 18-3 Building Noise Reduction Factors	18-41
Figure 18-4 Example PD&E Noise Study Report (NSR) Outline	18-42
Figure 18–5 Example Design Noise Study Report Addendum (NSRA) Outline	18-43
Figure 18–6 Typical Noise Levels	18-44
Figure 18–7 Sample Noise Contours	18-45
Figure 18–8 Sample Noise Study Report Transmittal Cover Letter.....	18-46
Figure 18-9 Construction Noise and Vibration Sensitive Sites	18-47
Figure 18-10 Noise Study Report Cover Sheet Template	18-48

PART 2 CHAPTER 18

HIGHWAY TRAFFIC NOISE

18.1 OVERVIEW

18.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter is the official FDOT noise policy and procedure for the purpose of meeting the requirements of Title 23 of the Code of Federal Regulations (CFR) Part 772 and applicable state laws. FDOT shall apply these policies and procedures uniformly and consistently statewide.

Roadway traffic is one of the more dominant sources of noise in urban and rural areas of Florida. In an effort to encourage the control of noise, Congress passed the **Noise Control Act of 1972**. Congress further directed the FHWA to develop noise standards associated with traffic. However, effective control of traffic noise requires both the control of land use planning next to highways, and reasonable and feasible abatement associated with highway projects.

The control of land use is a local government responsibility. The control of traffic noise associated with specific highway projects is the responsibility of the transportation agency (or agencies) planning, designing, and constructing a project.

The noise impact and abatement analysis policy and procedures provided in this chapter are based on **23 CFR Part 772: Procedures for Abatement of Highway Traffic Noise and Construction Noise** dated July 13, 2010, and the FHWA guidance document **Highway Traffic Noise: Analysis and Abatement Guidance** dated December 2011. These two documents are incorporated into this chapter by reference. In addition, **Section 335.17, Florida Statutes (F.S.)**, requires FDOT to develop a project in conformity with federal standards contained in **23 CFR Part 772** regardless of funding source and include the noise standards mandated by **23 U.S.C. § 109(1)**. Highway projects developed in conformance with this regulation meet FHWA noise standards.

18.1.2 Definitions

Approach Criteria - Approaching the criteria means within 1 decibel (dB) of the appropriate FHWA Noise Abatement Criteria (NAC) provided in [Figure 18-1](#).

Benefited Receptor - The recipient of an abatement measure that receives a noise reduction at or above the minimum threshold of 5 dB(A).

Common Noise Environment - A group of receptors within the same activity category found in [Figure 18-1](#) that are exposed to similar noise sources and levels; traffic volumes, traffic mix, speed and topographic features. Generally, common noise environments occur between two secondary noise sources, such as interchanges, intersections and/or cross-roads. A common noise environment involves a group of impacted receptors that would benefit from the same noise barrier or noise barrier system (i.e., overlapping/continuous noise barriers).

Date of Public Knowledge - The approval date of the Categorical Exclusion (CE), the Finding of No Significant Impact (FONSI), the Record of Decision (ROD), State Environmental Impact Report (SEIR) or Non-Major State Action (NMSA). For a Type 1 CE and NMSA, this is the approval date of the Type 1 CE or **Non-Major State Action Checklist, Form No. 650-050-30**.

Decibel - A logarithmic expression of a sound level. For traffic noise analysis purposes and as specified by **23 CFR Part 772** the A-weighted scale, which closely approximates the range of frequencies a human ear can hear, is used. The A-weighted decibel is abbreviated dB(A).

Design Year - The future year used to estimate the forecast traffic volume for which a highway is designed.

Existing Noise Levels - The noise levels that occur during the worst noise hour resulting from the combination of natural and mechanical sources and human activity usually present in a particular area.

Feasibility - A combination of acoustical and engineering factors considered in the evaluation of a noise abatement measure.

Impacted Receptor - A receptor with a future design year, build alternative traffic noise level that is predicted to approach, meet, or exceed the Noise Abatement Criterion (NAC) for its respective activity category, or will experience an increase in noise levels of 15 dB(A) or more in the design year over the existing noise levels.

Insertion Loss - The reduction in traffic noise levels as a direct result of a specific type of abatement measure.

Leq - The equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period, with Leq(h) being the hourly value of Leq.

Multifamily Dwelling - A residential structure containing more than one residence.

Noise Abatement Criterion (NAC) - The noise level, depending upon activity category, at which FDOT must consider noise abatement for an impacted receptor. The NAC can be found in [Figure 18-1](#).

Noise Barrier - A physical obstruction that is constructed between the highway noise source and the noise sensitive receptor(s) for the purpose of lowering the noise level, including stand-alone barrier structures, berms (earth or other materials), and combination berm/barrier structure systems.

Noise Reduction Design Goal - The optimum desired dB(A) noise reduction (insertion loss) determined from calculating the difference between future build noise levels with abatement to future build noise levels without abatement. The FDOT has selected 7 dB(A) as the Noise Reduction Design Goal for one (1) or more benefited receptors.

Permitted - Development will be deemed to be permitted if the local agency with jurisdiction has granted a building permit for a specific structure associated with a noise sensitive land use such as residential, school, place of worship, medical facility, institutional, prior to the project's Date of Public Knowledge.

For mobile/manufactured homes, individual building permits might not be issued. In this case, the noise analyst should look for evidence of an occupancy permit, new mobile home permit, or something similar in lieu of a building permit. These types of permits should be treated in the same manner as a building permit as stated above. Contact the District Noise Specialist regarding the application of building permit equivalency.

Predicted Existing Traffic Noise Level - The traffic noise level that is determined through the use of the Traffic Noise Model for existing roadway conditions.

Predicted Future Traffic Noise Level - The traffic noise level that is determined through the use of the Traffic Noise Model for the future design year traffic and roadway geometry, including build and no-build alternatives.

Property Owner - An individual or group of individuals that hold a title, deed, or other form of legal documentation showing ownership of a commercial or residential property.

Reasonableness - The combination of social, economic, and environmental factors considered in the evaluation of a noise abatement measure.

Receptor - A discrete or representative location of a noise sensitive area(s) for any of the land use categories listed in [Figure 18-1](#).

Residence - A dwelling unit. Either a single family residence or each individual dwelling unit in a multifamily dwelling.

Statement of Likelihood - A statement provided in both the **Noise Study Report (NSR)** and Environmental Document based on the feasibility and reasonableness analysis completed at the time the Environmental Document is being approved.

Substantial Noise Increase - For a Type I project, an increase in noise levels of 15 dB(A) or more in the design year over the existing noise level (measured or predicted) as a direct result of the transportation improvement project in question. A substantial increase will normally occur only on new alignment projects.

Traffic Noise Impacts - Design year build condition noise levels that approach, meet or exceed the Noise Abatement Criteria listed in [Figure 18-1](#) for the future build condition; or design year build condition noise levels that create a substantial noise increase over existing noise levels.

Type I Projects - A highway construction project (new location or physical alteration of existing highway) which substantially changes horizontal and vertical alignment, profile or adds number of through lanes. Specific project definitions according to **23 CFR Part 772** are listed in [Section 18.1.3.1](#).

Type II Projects - A federal, federal-aid, or state funded highway project for noise abatement on an existing highway. Type II projects are commonly referred to as retrofit projects and are allowed (but not mandatory) under **23 CFR Part 772**. The development and implementation of Type II projects are not mandatory requirements of **23 U.S.C. § 109(i)**. The FDOT does not have a Type II program.

Type III Projects - A project that does not meet the classifications of a Type I or Type II. Type III projects do not require a noise analysis.

18.1.3 Applicability

18.1.3.1 Type I Projects

This policy applies to all Type I projects authorized under **Title 23 U.S.C.** and **Section 335.17, Florida Statutes**. All FDOT highway projects, regardless of funding source, shall be developed in conformance with federal standards for noise abatement as contained in **23 CFR Part 772**.

The effective date of the revisions to **23 CFR Part 772** is July 13, 2011. The following types of projects are “grandfathered” and will not have to meet the **23 CFR Part 772** final rule (dated July 13, 2010):

1. Federal-aid highway projects for which the CE, FONSI, or ROD has been signed by the effective date of the final rule, which is July 13, 2011.

2. Design phase re-evaluations for which approval has been received prior to July 13, 2011.

If approval of the Environmental Document or the design phase re-evaluation has not been received prior to July 13, 2011, the noise study must follow the requirements of **23 CFR Part 772** dated July 13, 2010. Projects for which the Environmental Document has not been approved after July 13, 2011 shall have their noise studies performed in conformance with **23 CFR Part 772** and this chapter as they exist on that date. The original Date of Public Knowledge remains valid unless a re-evaluation identifying a substantial vertical or horizontal change is completed. State funded highway projects shall be “grandfathered” and will not have to meet the **23 CFR Part 772** final rule if the SEIR document or **Non-Major State Action Checklist, Form No. 650-050-30** has been signed by July 13, 2011.

FDOT shall apply these policies and procedures uniformly and consistently statewide. **Title 23 CFR Part 772** applies to all Type I projects unless the regulation specifically indicates that a section only applies to Type II or Type III projects.

Title 23 CFR Part 772 defines Type I projects as:

1. The construction of a highway on new location;
2. The physical alteration of an existing highway where there is either;
 - i. Substantial Horizontal Alteration – A project that halves the distance between the traffic noise source (edge of the nearest travel lanes) and the closest receptor between the existing condition to the future build condition; or,
 - ii. Substantial Vertical Alteration – A project that removes shielding, [not to include vegetation removal by FDOT within FDOT Right of Way (ROW)] therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography between the highway traffic noise source and the receptor, such as reducing the back slopes of a cut section so that the line of sight is no longer blocked.
3. The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a High-Occupancy Vehicle (HOV) lane, High-Occupancy Toll (HOT) lane, express lane, bus lane, or truck climbing lane;
4. The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane;
5. The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange;
6. Restriping existing pavement for the purpose of adding a through-traffic lane or an auxiliary lane;

7. The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot, or toll plaza. (Note: Reconstruction of an existing rest stop/service plaza in the median of an existing highway that does not cause substantial alteration and does not affect existing traffic patterns on the roadway along with the conversion of a conventional toll plaza to an all-electronic toll plaza do not qualify as Type I projects).
8. If a project is determined to be a Type I project under this definition, then the entire project area as defined in the Environmental Document is a Type I project and would require a noise analysis.

For more detailed descriptions of Type I projects, please refer to the Type I Project Matrix in [Figure 18-2](#).

18.1.3.2 Type II Projects

A Type II Project is a federal, federal-aid, or state funded highway project for noise abatement on an existing highway. Type II projects are commonly referred to as retrofit projects in **23 CFR Part 772**. The development and implementation of Type II projects are not mandatory as described in **23 U.S.C. § 109(i)**. **FDOT does not have a Type II program.**

18.1.3.3 Type III Projects

A Type III Project is a federal, federal-aid, or state funded highway project that does not meet the classifications of a Type I or Type II project. Type III projects do not require a noise analysis or consideration abatement measures.

Examples of Type III projects include:

1. Construction of bicycle and pedestrian lanes, paths, and facilities;
2. Activities included in the FDOT highway safety plan under **23 U.S.C § 402**, provided those activities do not contain elements of Type I projects;
3. Landscaping (including the removal of existing vegetation by FDOT within FDOT ROW);
4. 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;
5. 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;
6. Modernization of a highway by surfacing, restoration, rehabilitation, or

reconstruction, provided the project does not contain elements of Type I projects;
or

7. Placement of overhead gantries on a highway to collect tolls electronically that do not disrupt existing traffic patterns.

18.2 PROCEDURE

During the Efficient Transportation Decision-Making (ETDM) screening and prior to the Project Development and Environment (PD&E) phase, a preliminary review of potential noise impacts associated with a project is conducted. This review should determine if noise sensitive receptors are or may be located within the project area and if there is a possibility that noise sensitive receptors will be impacted because predicted traffic noise levels with a build alternative approach or exceed the NAC. The review will include the assessment of land use plans, aerial photographs, field reviews, modeling, and/or similar efforts. This will allow the District Noise Specialist and the Project Manager to determine whether noise impacts are likely to occur based on the types of land uses present and their proximity to the proposed project.

The procedure for performing a highway traffic noise study during PD&E is described in the following sections.

18.2.1 Traffic Noise

18.2.1.1 Noise Abatement Criteria Activity Categories

[Figure 18-1](#) contains seven categories of activity/land use used to assess the impact of noise on these activities. The following is a description of each Activity Category and the traffic noise impact level at which abatement measures must be considered.

18.2.1.1.1 Activity Category A

Activity Category A focuses on the exterior impact criteria for lands on which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential for the area to continue to serve its intended purpose. The approach NAC level for this activity category is 56 dB(A). An example of this activity category would be the Tomb of the Unknown Soldier. A request with supporting justification shall be submitted to OEM for review and approval to apply this activity category to a noise sensitive receptor I as early in the project as possible, preferably prior to the initiation of modeling activities. OEM uses the guidance from the *FHWA's Noise Policy FAQs – Frequently Asked Questions* to make a determination for Activity Category A.

18.2.1.1.2 Activity Category B

Activity Category B includes the exterior impact criteria for single-family (including mobile home parks) and multifamily residences. This may include units above ground level. The

approach NAC level for this activity category is 66 dB(A). No NAC criteria exist for the interior areas of residential land uses.

18.2.1.1.3 Activity Category C

Activity Category C includes the exterior impact criteria for a variety of land use facilities. The approach NAC level for this activity category is 66 dB(A). Examples of this activity category include active sports areas, amphitheatres, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreation areas, golf courses, **Section 4(f)** resources, schools, television studios, trails, and trail crossings. Note that these criteria apply only to the exterior areas of Activity Category C. Impact assessments will involve the identification of the land use through a field review and determination of whether exterior areas of frequent or potentially frequent human use occur that might be impacted by future traffic noise levels for the build condition that approach or exceed the NAC. If exterior areas of frequent human use for this NAC category are noted during the field review, detailed modeling of the receptor will occur to determine if an exterior noise level impact will occur in the future with the construction of the project.

Where applicable, the FDOT research publication [*A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations \(FL-ER-65-97\)*](#), updated 2009) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category C locations.

18.2.1.1.4 Activity Category D

Activity Category D includes the interior impact criteria for a variety of land use facilities listed in Activity Category C that may have interior uses. The approach NAC level for this activity category is 51 dB(A). Examples of this activity category include auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios. Note that these criteria apply only to the interior areas of this activity category, and will only be analyzed when no exterior activities are impacted by traffic noise or if exterior areas are determined to be impacted but exterior abatement measures are not feasible and reasonable. An interior analysis will only be performed after exhausting all outdoor analysis options. This will involve:

1. The identification of the building envelope for expected noise reduction based on the information found in **Table 6** of the **FHWA Guidance Document** and shown in [*Figure 18-3*](#);
2. Determination of the open window/closed window condition; and
3. If the expected reduction cannot be determined as identified in #1 above, or if #2 above cannot be determined, physical measurements of the amount of noise reduction provided by the building envelope will be conducted consistent with

methodology found in the FHWA publication ***FHWA-PD-046, Measurement of Highway-Related Noise Final Report (1996)*** or superseding or updated documents.

Where applicable, the FDOT research publication [***A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations***](#) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category D locations.

18.2.1.1.5 Activity Category E

Activity Category E includes the exterior impact criteria for developed lands that are less sensitive to highway traffic noise. The approach NAC level for this activity category is 71 dB(A) in exterior areas of frequent human use. Examples of this activity category include hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in Activity Category A-D or F. Since these land uses are specifically excluded from Activity Category D, no analysis of interior noise levels is required. Where applicable, the FDOT research publication [***A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations***](#) shall be used to assess whether noise abatement is feasible and/or reasonable at Activity Category E locations.

18.2.1.1.6 Activity Category F

Activity Category F includes developed lands that are not sensitive to highway traffic noise such as agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing. There is no NAC level for this activity category since these land uses are not sensitive to highway traffic noise and therefore no noise analysis is required for these locations.

18.2.1.1.7 Activity Category G

Activity Category G includes undeveloped lands that are not permitted. There is no NAC level for this activity category. Although consideration of mitigation is not required, FDOT must determine and document highway traffic noise levels and provide this information to local governments. Details on what will be required are found in [**Section 18.2.1.1.7**](#).

18.2.1.2 Traffic Noise Impacts

23 CFR 772 (Table 1 to Part 772 – Noise Abatement Criteria) establishes the NAC that are used to determine whether a highway traffic noise impact occurs. A traffic noise impact occurs when the modeled future highway traffic noise levels for the worst case noise condition [usually Level of Service (LOS) “C”] approach or exceed the NAC. A traffic noise impact also occurs when modeled future highway traffic noise levels substantially exceed the existing highway traffic noise level, even though the modeled levels may not exceed the NAC. FDOT has determined that the NAC is approached when it is within 1 dB(A) of the appropriate NAC and that a substantial increase occurs when the increase

over existing conditions (measured or predicted) is 15 dB(A) or greater. To assess the highway traffic noise impact of a project, FDOT must evaluate both criteria (approach and substantial increase).

Design year traffic noise impacts are based on the modeled future build noise levels or the difference between the future build and existing measured or predicted traffic noise levels. If one or more noise sensitive receptors are impacted by project related traffic noise levels which approach or exceed the NAC or substantially increase when compared to existing (measured or predicted) noise levels, then abatement measures must be considered. If the abatement criteria are not approached or exceeded or if projected traffic noise levels do not substantially exceed existing noise levels, abatement measures will not be considered.

For example, if, assuming a Category B receptor, the difference between the future build and existing condition predictions shows an increase of 1 dB(A), from 66 dB(A) to 67 dB(A), then the project can be stated to have no substantial increase on highway traffic noise. However, since the predicted level approaches or exceeds the FHWA NAC noise abatement must be considered. If the predicted increase went from 42 dB(A) (existing) to 63 dB(A) (build), the project would be considered to have a substantial increase and would require abatement consideration. For an Activity Category B receptor site with a predicted future noise level of 66 dB(A), the approach criterion would be met and abatement must be considered. However, a level of 65.9 dB(A) would not be considered to have approached or exceeded the abatement criterion and abatement consideration would not be required.

18.2.1.3 Traffic Noise Prediction

During a project's PD&E phase, a traffic noise analysis shall be completed for the alternative(s) under detailed study and for each Activity Category of the NAC shown in [Figure 18-1](#) that is present in the study area. Consistent with **23 CFR § 772.11(c)**, noise level predictions will be required for the following project alternatives and study years:

<u>ALTERNATIVE</u>	<u>YEAR</u>
No-build	Existing and design year
Build	Design year only

18.2.1.4 Noise Model Requirements

FDOT will conduct any predictive analysis required by **23 CFR § 772.9** using the FHWA Traffic Noise Model (TNM) as described in FHWA's **Traffic Noise Model (FHWA TNM®), User's Guide (Version 2.5 Addendum)**.

Consistent with **23 CFR § 772.9(b)**, average pavement type shall be used in the FHWA TNM for future noise level predictions. However, in the assessment of existing conditions (including the validation of field measurements); the actual pavement type may be used at the discretion of the District Noise Specialist.

The use of noise contour lines is allowed for project alternative screening or for land use planning to comply with **23 CFR § 772.17**, but noise contours shall not be used for determining highway traffic noise impacts or the determination of the feasibility and reasonableness of providing noise abatement. Additional information on the development and use of noise contours can be found in [Section 18.2.6.2](#).

18.2.1.5 Traffic Requirements

In predicting traffic noise levels and assessing impacts, traffic characteristics that would yield the highest traffic noise impact for the design year shall be used. Experience has shown that the highest traffic volume (also taking into consideration truck percentages) and the highest average speed usually create the noisiest conditions. Maximum peak-hourly traffic representing LOS "C" will be used, unless traffic analysis shows that LOS "C" will not be reached. If LOS "C" will not be reached, demand volumes shall be used. If demand volumes are used in place of LOS "C" volumes, the directional peak traffic should be worst-case for receptors on each side of the roadway.

For ramps, use the following:

1. For interchange ramp traffic, demand traffic volumes shall be used, even if they are higher than the LOS "C" volumes.
2. The vehicle speed to be used in the TNM is the posted speed for existing/no-build alternatives, and the proposed posted speed for the future build alternative. If the proposed posted speed is unknown, then the design speed is to be used. The motor vehicle speed used for ramps will be the posted speed and that speed is applied along the entire ramp unless modified by the flow condition (using TNM flow control if applicable).

Section 1.2 of the [Traffic Noise Modeling and Analysis Practitioners Handbook](#) contains additional guidance on the application of traffic data for noise studies.

18.2.1.6 Receptor Data

In determining traffic noise impacts for properties with Activity Category A, B, C or E, areas of frequent exterior human use should be identified. For those properties with Activity Category D, interior areas of frequent human use should be identified. Interior predictions for Activity Category D (See [Section 18.2.1.1.4](#)) should be coordinated with the District Noise Specialist to ensure proper application. Unless the area of exterior frequent human use is identified elsewhere, residential receptor sites should be placed at the edge of the dwelling unit closest to the major traffic noise source or as dictated by professional judgment.

When more than one unit is clustered together, a single receptor can be analyzed as representative of a group of noise sensitive sites. Each residence in a multifamily dwelling is counted as one receptor when determining impacted and benefited receptors. Noise sensitive receptors may also consist of parks, schools, hospitals, and other sites where

quiet is important for normal activities. The location of the receptor in these cases will be dictated by the location of the noise source and the exterior activity that may be impacted, if any.

Receptor heights for first (ground) floor receptors are always assumed to be 5 feet above ground elevation. Analysts shall increase the height above ground by 10 feet for each additional floor above ground level (i.e., 15 feet for a second floor receptor, 25 feet for a third floor receptor, etc.). The maximum horizontal distance from the edge of pavement that a receptor site will be modeled will vary based on topography and traffic conditions and will be determined on a case by case basis. At a minimum, the horizontal distance should be sufficient to identify all potential impacts consistent with the requirements of **23 CFR Part 772**. If there is any question concerning the modeling of a receptor location, contact the District Noise Specialists for guidance.

18.2.1.7 Noise Descriptor

The noise level descriptor used by FDOT will be Level Equivalent (Leq). Leq is the equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period, with Leq(h) being the hourly value of Leq. **Title 23 CFR Part 772** specifies that either the Leq(h) or L10(h) metric, but not both, may be used on a project. Consistent with this requirement, the FDOT elects to use the Leq(h) metric.

18.2.2 Analysis of Traffic Noise Impacts

Title 23 CFR § 772.11(a) requires that FDOT shall determine and analyze expected traffic noise impacts:

1. For projects on new alignments, determine existing noise levels by field measurements.
2. For projects on existing alignments, predict existing and design year traffic noise levels using the latest version of TNM.

Subsection (b) states that in determining traffic noise impacts, a primary consideration should be given to exterior areas where frequent human use occurs.

18.2.2.1 Field Measurements for Establishment of Ambient Noise Conditions

Field measurements are required along a new alignment to determine the existing noise levels as noted in **23 CFR § 772.11(a)(1)**. This also applies where traffic noise does not exist or is only a minor element in the overall noise. Noise monitoring is to be conducted following the basic FHWA procedures found in **Measurement of Highway-Related Noise** publication. Measurements should be taken 5 feet above ground level and at locations representative of noise sensitive receptors adjacent to the proposed roadway alignment. If possible, a location along the alignment should be chosen that represents a

noise sensitive receptor and that has a noise environment similar to most areas along this section of the alignment. At each measurement location, a minimum of 30 minutes of readings (3 repetitions of 10 minutes each) shall be taken. Use an integrating Sound Level Meter, ANSI Type 1 or 2 as described in **23 CFR § 772.11(d)(3)**, and note the pertinent field conditions. At least two sets of readings (if practical) should be taken at each location. While it may not always be practical, it is recommended that one set of readings be taken during the morning hours and a second set taken during the afternoon hours. If doing so would provide more reliable measurements, it is further recommended that these readings be taken over a period of two or more days. The resultant noise level for each reading shall be noted and an average ambient reading for each site shall be determined. The average ambient reading (from all sources) shall be compared to the predicted future project traffic noise level to determine the increase (if any) in the noise level that can be expected in the area as a result of the proposed project. The entire project corridor should be reviewed under these conditions to determine if any unusual noise sources (e.g., aircraft, industrial, electrical generators, insects or other animals) exist that may influence the ambient readings. If any unusual noise sources are noted during the study, they must be identified in the field documentation. Specific questions regarding ambient noise field measurements should be directed to the District Noise Specialist.

18.2.2.2 Field Measurements for Model Validation

The primary purpose of field measuring existing traffic noise levels along an existing roadway alignment is to ensure that:

1. Traffic noise is the primary source of noise; and
2. To validate the TNM input values and verify that the model accurately predicts the existing traffic noise based on the current conditions.

Traffic noise monitoring is conducted in accordance with the FHWA's measurement procedures found in the FHWA document ***Measurement of Highway-Related Noise*** and supplemented with accepted professional judgment.

Perform monitoring for a minimum of 30 minutes (3 repetitions of 10 minutes each) using an integrating Sound Level Meter, ANSI Type 1 or 2 as described in **23 CFR § 772.11(d)(3)**, noting the following:

1. Average vehicle speed for all classes of vehicles (using a radar unit or equivalent method for measuring speeds, such as electronic portable traffic speed and traffic counters);
2. Vehicle counts and class identification (automobiles, motorcycles, buses, medium trucks, heavy trucks);
3. Unusual noises (e.g., aircraft flyovers, trains, barking dogs, insects or other animals);
4. All input parameters necessary to run the computer model, including:

- a. Distance from the edge of the nearest travel lane of each roadway to the noise monitoring location;
- b. Width of roadway lanes and paved shoulders;
- c. Height of the sound level meter;
- d. Barrier/buffer information including trees, berms, structures;
- e. Type of propagation path (hard versus soft);
- f. Variations in terrain between the sound level meter and the source;
- g. Grade, if any; and
- h. The existing pavement type and condition.

If the field data was gathered without background noise that would influence the overall reading (e.g., a dog that barks continuously throughout the measurement period), the field measurements will be considered complete. If not, and a logical explanation for any unusual readings cannot be made, the field measurements at that location(s) should be repeated in accordance with the FHWA's current measurement procedures. Field measurements may also require repetition if the application of the TNM modeling process does not result in an acceptable level of accuracy as required by **23 CFR § 772.11(d)(2)**. As noted in the FHWA guidance document **Highway Traffic Noise: Analysis and Abatement Guidance**, the model is validated if existing field measured highway traffic noise levels and predicted highway traffic noise levels for the existing condition are within +/- 3.0 dB(A). The application of a pavement type other than "average pavement" in the TNM may be used to validate existing traffic noise conditions.

18.1.1.1 Computer Prediction of Existing and Future Traffic Noise Levels

Using the latest version of TNM, traffic noise levels are predicted for the existing and design year using the appropriate traffic data and roadway configurations. This prediction applies to those receptors selected as specified in **Section 18.2.1.6**. When non-highway transportation noise sources (e.g., airport operations, transit lines, light commuter rail) may impact the feasibility and reasonableness of noise abatement evaluated during the design phase, it is recommended that data from studies conducted in accordance with the respective regulations below be utilized in lieu of separate studies and the outcome should be noted in the **NSR**. Existing aviation noise studies, provided they have been performed consistent with the requirements of **Airport Noise Compatibility Planning, 14 CFR Part 150**, can be used in assessing the contribution to overall noise levels from nearby airports. Assessment of the magnitude of noise impacts from rail and transit facilities must comply with **Railroad Noise Emissions Compliance Regulations, 49 CFR Part 210** and Federal Transit Administration (FTA) **Transit Noise and Vibration Impact Assessment** guidance.

18.2.3 Noise Abatement Evaluation

When traffic noise impacts are identified as part of the analysis conducted consistent with **Section 18.2.2**, noise abatement shall be considered and evaluated for feasibility and reasonableness. FDOT shall determine and analyze alternative noise abatement measures to abate identified impacts by giving weight to the benefits and costs of abatement and the overall social, economic, and environmental effects by using feasible and reasonable noise abatement measures for decision-making. In abating traffic noise impacts, FDOT shall give primary consideration to exterior areas where frequent human use occurs.

The abatement measures listed on **23 CFR § 772.15(c)** are eligible for federal funding. Those measures are listed in [Section 18.2.3.1](#).

At a minimum, FDOT shall consider noise abatement in the form of a noise barrier when a traffic noise impact is identified.

It is not a standard practice for the FDOT to use absorptive treatments on noise barriers. Their use will be considered on a case by case basis under the following conditions:

1. Absorptive surface treatments for the roadway side of a noise barrier shall only be considered in parallel noise barrier situations where a width to height ratio of 10:1 or more cannot be achieved. The width is the distance between the two parallel noise barriers and the height is the average height of the barriers above the roadway. For example, if the average height of two parallel noise barriers is 20 feet, they should be at least 200 feet apart to avoid a reduction in their effectiveness due to reflections. The parallel barrier analysis module within TNM shall be used to evaluate the impact of reflections on the performance of parallel noise barriers.
2. Absorptive surface treatments shall only be considered for the roadway side of single (non-parallel) noise barriers when the distance from the face of the noise barrier to the nearest noise sensitive receptor on the opposite side of the roadway (across from the barrier) is less than 10 times the average height of the noise barrier above the roadway.

18.2.3.1 Traffic Noise Abatement Techniques

The most common type of traffic noise abatement measure is the construction of a noise barrier. As noted in **23 CFR § 772.13(c)(1)**, at a minimum, the FDOT shall consider noise abatement in the form of a noise barrier. Therefore, all impacted receptors will require analysis for traffic noise reduction using a noise barrier. The exception to this is for “isolated impacts” where there is only one impacted receptor that could benefit from a noise barrier, and as such, would not meet minimum feasibility requirements. In these cases, a generalized statement of this nature can be made in the **NSR** stating that noise barriers will not be evaluated for isolated impacted receptors. Traffic management, alteration of horizontal and vertical alignments, acquisition of real property to create a

buffer zone, and noise insulation of Activity Category D land use are also acceptable noise abatement measures.

Federal funds may be used for noise abatement on Type I projects when traffic noise impacts have been identified and abatement measures have been determined to be feasible and reasonable pursuant to **23 CFR § 772.13(d)**. The primary noise abatement measure to be considered by FDOT for incorporation into a Type I project to reduce traffic noise impacts will be the construction of a noise barrier (including acquisition of property rights) that is either within or outside the highway ROW. **Landscaping is not a viable noise abatement measure.**

Traffic noise abatement is considered only if the predicted future build traffic noise level approaches or exceeds abatement levels in the NAC, or if build traffic noise levels substantially increase from existing noise levels (either measured or predicted) as determined in [Section 18.2.2](#) above. If no impacts are identified, see [Section 18.2.6](#).

When considering noise barriers for noise abatement, the feasibility and reasonableness factors discussed in [Sections 18.2.3.2 and 18.2.3.3](#) must be evaluated for each viable alternative under detailed analysis.

Noise abatement will not be required for Activity Category F or Activity Category G uses (See [Sections 18.2.1.1.6 and 18.2.1.1.7](#)).

The document [A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations](#) shall be used to ensure the reasonableness of abatement for Activity Category C, D and E land uses.

18.2.3.2 Feasibility Factors

Feasibility factors for noise abatement measures involve both acoustic (noise reduction) and engineering considerations when considering a potential abatement measure.

18.2.3.2.1 Noise Reduction Factor

The feasibility of providing noise abatement is focused on the ability of the noise barrier to provide a reduction of at least 5 dB(A) to impacted receptors. The more reduction that can be achieved, the better the barrier, as long as the cost, visual impact, and other factors of the barrier are not unreasonable. If a minimum of 5 dB(A) reduction cannot be achieved at a particular receptor, that receptor is not considered benefited. The number of impacted receptors required to achieve a 5 dB(A) reduction or greater in order for a noise barrier to be considered feasible will be two (2) or greater.

18.2.3.2.2 Design and Construction Factors

Consideration should be given to whether a noise barrier can be constructed using standard construction methods and techniques. Factors to be considered include terrain changes, utilities, safety (e.g., lane closures, sight distance), bridges, overpasses, and

similar difficulties. The proposed plan should be reviewed by appropriate personnel to determine if alternative construction methods and techniques will increase the construction costs or time, impact roadway safety, or result in other impacts. Additional costs solely to accommodate construction of a noise barrier should be included in the cost reasonableness evaluation of the noise barrier.

If a noise barrier is expected to be placed on an existing structure, such as a bridge or a Mechanically Stabilized Earth (MSE) wall, because of effectiveness or cost reasons, the ability of this structure to support the additional wind and dead loads safely must be established before a final commitment to build the noise barrier is made. If a new bridge is being designed and a noise barrier is contemplated for placement on the bridge, the ability of the bridge to support the load of the noise barrier and crashworthiness of the proposed barrier within the clear zone should be considered as early as practicable.

18.2.3.2.3 Safety Factors

Safety is a critical factor in determining whether a particular abatement measure is feasible. Noise barriers should be designed in accordance with [Volume 1, Chapter 32 of the Plans Preparation Manual \(PPM\), Topic No. 625-000-007](#). If a conflict between a noise barrier and safety exists, primary consideration should be given to safety. An example of such a conflict would be the loss of a safe sight distance (line of sight) at an intersection or driveway as a result of the placement of a noise barrier. Conflicts are considered during the feasibility assessment of the noise barrier and may result in a determination that a noise barrier is not feasible. Noise barriers cannot exceed the following heights:

1. For ground mounted noise barriers the maximum height will be 22 feet.
2. For noise barriers on bridge and retaining wall structures the maximum height will be 8 feet unless a taller noise barrier is specifically approved in writing by the State Structures Design Engineer.
3. For ground mounted Traffic Railing/Noise Barrier combinations the maximum height will be 14 feet.

Non-crash tested noise barriers within the clear zone require shielding.

18.2.3.2.4 Access Factors

Accessibility to adjacent properties on non-limited access roadways must be given consideration since the placement of a noise barrier may block ingress and egress to these properties. Other access issues to be considered include access to a local sidewalk or normal routes of travel.

18.2.3.2.5 Right of Way (ROW) Factors

ROW needs, including access rights, easements for construction and/or maintenance, and additional land must be considered as part of the feasibility of noise barrier

construction. If necessary, the FDOT can consider the purchase of additional ROW or make a request for the donation of ROW from the adjacent property owners(s) for the purpose of noise barrier construction and/or maintenance. The additional cost to purchase ROW shall be included in the overall cost reasonableness calculations. In the case where purchase of ROW is not possible or if the adjacent property owner(s) do not wish to donate the necessary ROW, the noise barrier or noise barrier system shall be determined not feasible. ROW needs will be determined as early in the process as possible.

18.2.3.2.6 Maintenance Factors

Maintenance of a noise barrier must be considered to ensure that the barrier can be maintained using standard practices. Maintenance crews must have reasonable access on both sides of the barrier for both personnel and equipment. Since graffiti can be a serious problem, consideration should be given as to how it can be reduced.

18.2.3.2.7 Drainage Factors

Drainage is an important element that must be considered in the location and design of a noise barrier. Directing stormwater along, under, or away from a noise barrier can cause construction and maintenance problems and therefore, must be given adequate consideration.

18.2.3.2.8 Utility Factors

Utility issues, including the impact of noise barriers on utilities and the reverse must be assessed early in the process. Both overhead and underground utilities can have a significant impact on design and construction options.

18.2.3.3 Reasonableness Factors

Once a noise abatement measure is determined to be feasible, the reasonableness of noise abatement will then be determined. The following reasonableness factors must collectively be achieved in order for the noise abatement measure to be deemed reasonable:

1. Consideration of the viewpoints of the benefited property owners and residents;
2. Cost effectiveness of the highway traffic noise abatement measure; and
3. Achievement of the FDOT noise reduction design goal;

18.2.3.3.1 Viewpoint of the Benefited Receptors

Through the ETDM screening process, the District Noise Specialist will input traffic noise related concerns received from communities adjacent to the project into the Environmental Screening Tool.

During the PD&E phase, the viewpoints of potentially benefited receptors will be gathered during workshops, public hearing or through other public information mediums, such as project websites.

A more detailed process to solicit the viewpoint of the benefited receptors is invoked during the design phase of the project. Each benefited receptor (owner or resident) will be 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.

During the design phase of the project, FDOT will use either a noise abatement workshop and/or a public survey to determine the wishes of the benefited receptors. The survey effort may include a mailing of information related to the abatement measure along with a survey form to be signed and returned to FDOT. It is the desire of FDOT to obtain a response for or against the noise barrier from a numerical majority (greater than 50%) of the benefited receptors (owners and residents) that provide a response to the survey. Multiple techniques to solicit input may be used, including multiple mailings, door-to-door follow up, and even telephone solicitation (as needed) to provide adequate information to allow FDOT to make an informed decision on whether abatement is desired or not. If, after multiple attempts to gather the input from the benefited receptors, a minimum response rate of 50% is not achieved, the FDOT will determine the abatement measure to be not reasonable. If a numerical majority of the benefited residents and property owners that provide a response to the survey do not favor construction of a noise barrier, FDOT will not provide the noise barrier. It is important to note that the viewpoints of the property owner will be considered as having the greatest weight in the decision as to whether FDOT will provide noise abatement. While the viewpoint of the non-owner resident will be considered, their viewpoint will carry less weight, consistent with the formula shown in the **Table 18-1**.

Table 18-1 Viewpoint Weighting Factors

Property Type	Owner Occupies Property	Owner Does not Occupy Property	
		Owner	Renter
Single Family	100%	90%	10%
Multi-family (duplex, apartments, condominiums)*	100%	90%	10%
Mobile Home Park*	100%	80%	20%
Offices, Businesses	100%	80%	20%

* The weighting factor is for each unit (mobile home, apartments, condominiums), not for the entire mobile home park, apartment complex or condominium building.

For example, if a renter of a single family home wishes to have noise abatement but the owner does not, the opinion of the home owner would prevail. If the owner of the home did not respond for or against the noise abatement measure, then the renter's opinion

would be used to be the equivalent to 10% of the home owner. This means that 10 renters in favor of the noise abatement would equal the vote of 1 owner occupied home.

The input of Homeowners Associations (HOA) should be considered during the survey process, especially if the HOA owns common land adjacent to FDOT ROW where the noise barrier would be located. However, no formal vote shall be made by the HOA and the desires of the HOA cannot preclude those of the benefited receptors behind the noise barrier.

18.2.3.3.2 Cost Effectiveness

FDOT has established cost effectiveness criteria that have been in place for many years. The basis for the cost effectiveness criteria is that FDOT has provided approximately 1,400 square feet of noise barrier per benefited receptor at a reasonable cost. Using the current unit cost of \$30.00 per square foot, a reasonable cost of \$42,000 per benefited receptor is looked upon as the upper limit. Only benefited receptors will be included in the calculation used to determine if a proposed noise abatement measure has a reasonable cost. Cost factor elements are reviewed annually by FDOT and adjusted every five (5) years, with the last adjustment review occurring on April 18, 2013. The relationship between unit costs and the upper limit for cost reasonableness will be based on maintaining a constant upper limit of 1,400 square feet of noise barrier per benefited receptor. FDOT considers the following elements as part of the overall calculation of cost effectiveness of a noise barrier:

1. The cost of materials and labor;
2. The cost of additional ROW (including the cost of construction and/or maintenance easements) needed exclusively to construct the noise barrier (if any);
3. The cost of new or upgraded drainage structures required by the construction of a noise barrier;
4. Relocation of utilities when they are outside of FDOT ROW (these costs are not included in the cost effectiveness calculations for the noise barrier); and
5. On projects where Florida Gas Transmission (FGT) facilities are present within FDOT ROW, the [**FGT Agreement and Global Settlement**](#) controls the responsibilities of both FDOT and FGT. Where a noise barrier is proposed to be located within the below clearances to FGT's facilities, FGT may at its sole discretion decide to move its facilities.
 - a. Single Line:
 1. Nine (9) inch internal diameter or greater: 15 feet unencumbered from the outside edge of the line plus 25 feet additional temporary workspace on one side of the 15-foot unencumbered space.
 2. Less than nine (9) inch internal diameter: 5 feet unencumbered

from the outside edge of the line plus 10 feet additional temporary workspace on one side of the 5-foot unencumbered space.

- b. Two Lines: 60 feet, measured from the center line of the pipelines, with no additional temporary workspace.
- c. Three Lines: 75 feet, measured from the center line of the two outside pipelines, with no additional temporary workspace.

For pipelines at those locations where the width between two pipelines is greater than thirty (30) feet, and for three pipelines where the width between the centerline of the two outermost pipelines is greater than forty five (45) feet, such pipelines shall constitute single pipelines as identified in item number 1 (Single Line) above for the purposes of establishing the Specified Width; provided, however, pipelines that are equal to or less than thirty (30) feet apart measured from the center line of the two pipelines shall be treated as two pipelines consistent with item number 2 above (Two Lines).

If FGT decides to move its facilities, FGT and FDOT may split the cost of ROW acquisition, construction and other project costs in accordance with the **FGT Global Agreement**. Any additional costs incurred by FDOT shall be included in the cost reasonableness calculations for the proposed noise barrier. If FGT decides not to relocate its facilities, alternative locations for noise barrier placement shall be investigated. Any additional costs incurred as a result of the relocated noise barrier shall be included in the cost reasonableness calculations for that noise barrier.

Cost elements do not include the cost of designing the noise barrier, relocation of utilities (above or below ground) that are permitted within FDOT ROW, clearing and grubbing, mobilization, maintenance of traffic, construction engineering and inspection, and related activities that are considered as part of the total construction project. To be considered as a noise abatement cost, the costs must be incurred because of the installation of the noise barrier. An example would be when there is a need to extend a culvert that would not be necessary for roadway construction but is required to construct the noise barrier.

It is important that the cost effectiveness of abatement be determined during the PD&E Study, to the extent possible, to enable FDOT to make a statement of likelihood in the Environmental Document to pursue this mitigation effort in the design phase. The PD&E Noise Study should also note that the reasonableness of providing noise abatement in the form of a noise barrier is subject to a detailed review in design and subsequent re-evaluations.

The primary method of determining the cost for noise abatement by FDOT will involve a review of the cost per benefited receptor for the construction of a noise barrier benefiting a single location (such as a subdivision or contiguous impacted areas) with each area being considered a common noise environment area. A common noise environment implies that a group of receptors of the same NAC activity category are exposed to similar

noise sources and levels, traffic volumes, traffic mix, speed, and topographic features and are benefited by the same noise barrier or noise barrier system. Noise barriers may be provided for common noise environments that contain different Activity Categories of the NAC, provided that the noise barrier for each Activity Category is feasible and cost reasonable on its own. Contact the District Noise Specialist for questions related to the application of the common noise environment criteria.

In the case of RV parks that also serve as a mobile home site, noise abatement will be considered when fifty-one (51) percent of the noise impacted spaces are occupied fifty-one (51) percent of the year or more by “permanent” residents. A permanent resident would be one who occupies the dwelling unit at least fifty-one (51) percent of the calendar year. For these locations where usage is often seasonal and of short duration, the property owner will determine the occupancy rate of that portion of the facility that is impacted by traffic noise. If less than 51 percent of the impacted spaces are occupied less than 51 percent of the year, abatement measures will not be considered. The same occupancy requirements will apply for other forms of temporary housing not identified here and will be considered on a case by case basis in consultation with OEM. The noise abatement measure must be feasible and reasonable before it will be considered further.

Third-party funding is not allowed to subsidize the cost of a noise barrier for the purpose of making the noise barrier feasible or reasonable. Third-party funding as noted in **23 CFR § 772.13(j)** is acceptable on a federal or federal-aid highway Type I project to make functional enhancements as long as the noise abatement measure already has been determined to be feasible and reasonable.

18.2.3.3.3 Noise Reduction Design Goal

As stated in **23 CFR § 772.13(d)(2)(iv)** for an abatement measure to be considered reasonable, it must attain the FDOT noise reduction design goal. To ensure the provision of reasonable traffic noise abatement consideration at the greatest number of impacted locations, FDOT has selected a 7 dB(A) noise level reduction for one (1) or more benefited receptors as the noise reduction design goal. Failure to achieve the noise reduction design goal will result in the noise abatement measure being deemed not reasonable. In setting this goal, FDOT reviewed historic records of noise barrier reduction dating back to 1979. The average noise reduction for these noise barriers was 7.36 dB(A), which would indicate that the noise reduction design goal of 7 dB(A) would be reasonable.

18.1.2 Outdoor Advertising Sign Impacts

Although it is not to be considered as either a feasibility or reasonableness option, Florida Law requires consideration of the potential to construct a noise barrier that might block the motorist’s view of an existing, conforming and legally permitted outdoor advertising sign. As early in the PD&E Study as possible, the District Outdoor Advertising section of the Office of Right of Way must be notified (consistent with the [Right of Way Procedures Manual, Topic No. 575-000-000](#)) in order to identify outdoor advertising signs affected by any proposed noise barrier. At a minimum, the section number and milepost for each noise barrier, along with an estimated construction date, will be given to the Outdoor

Advertising Section so notice of the possible screening of a sign can be provided to the affected sign permit holder(s). (Note: If the latitude and longitude of the sign can be provided; this will assist the Outdoor Advertising section in locating the needed information).

Outdoor advertising signs that are legally permitted, conforming and erected may increase the height of the sign if visibility is blocked due to the construction of “noise attenuation” barriers consistent with **Section 479.25, Florida Statutes**. This statute requires FDOT to notify a local government or local jurisdiction before erecting a noise barrier that will block a lawfully permitted sign. The local government or local jurisdiction is then required to notify FDOT if increasing the height of an outdoor advertising sign will violate any local ordinance or land development regulation of the local government. When the notice has been received from the local government or local jurisdiction, and prior to the erection of the noise barrier, FDOT shall inform all property owners identified as impacted by highway noise, and who may benefit from the proposed noise attenuation barrier, as part of a written survey, that:

1. Erection of a specific noise barrier may block the visibility of an existing outdoor advertising sign;
2. The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the noise barrier; and
3. If a majority of the impacted property owners vote for the construction of the noise barrier, the local government or local jurisdiction will be required to:
 - a. Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;
 - b. Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or
 - c. Pay the fair market value of the sign and its associated interest in the real property.

The statute also requires FDOT to 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 the local ordinances or land development regulations, and to suggest or consider alternatives or modifications to the proposed noise barrier to alleviate or minimize the conflict with the local ordinances or land development regulations, or minimize any costs associated with relocation, reconstructing, or paying for the affected outdoor advertising sign. Alternatives or modifications to proposed noise barriers that will not provide the minimum 5 dB(A) reduction will not be considered.

The written survey materials shall inform the affected property owners of the location, date, and time of the public hearing. The public hearing may be held concurrently with other public hearings scheduled for the project. A general notice of the public hearing

shall also be published in a newspaper in accordance with the notice provision of **Section 335.02(1), F.S.**, and contain the same information provided in the written survey materials. The notice shall not be placed in that portion of a newspaper in which legal notices or classified advertisements appear. Please refer to [Part 1, Chapter 11, Public Involvement](#), for additional details about meeting notification requirements.

FDOT shall not construct a noise barrier that screens or blocks the visibility of a lawfully permitted outdoor advertising sign until after the public hearing is held and the numerical majority of the impacted property owners have approved the construction of the noise barrier. If the construction of the noise barrier is approved, FDOT shall notify the local governments or local jurisdictions. The local governments or local jurisdictions shall then exercise one of the options listed above.

The construction of business names/logos or building addresses on noise barriers is in violation of **23 CFR § 750.709**. For noise barriers in urban and suburban areas, imprinting of subdivision names or logos on the noise barrier may be considered only at the portion of the noise barrier at the legal entrance to the subdivision. FDOT allows consideration of noise barrier aesthetic enhancement that meets FHWA regulations related to this process. Each request for such an application will be handled on a case-by-case basis.

18.2.5 Community Coordination

18.2.5.1 Community Coordination in PD&E

The degree and type of community coordination and participation will vary from project to project. For projects requiring consideration of abatement, the community involvement activities should allow for presentation and discussion of noise impacts related to the project. Opportunities for such involvement should be provided, as appropriate, during the environmental evaluation and documentation phase as part of the public involvement and/or public hearing process. See [Section 18.2.6.2](#) for required coordination with local officials.

18.2.5.2 Community Coordination in Final Design

When noise abatement is anticipated in the final design phase, community coordination will include a survey of benefited property owners and residents to determine their viewpoints regarding abatement. This can be done using any number or combination of techniques (e.g., door-to-door contact, telephone polls, mailed survey form, public workshop).

The viewpoint of the benefited receptors (property owners and residents) related to abatement should be analyzed in the decision-making process. Discussions at public meetings may also include a presentation of material options, physical dimensions, obtainable levels of reduction, and cost factors so public input can be considered in decision making.

In the event that some benefited property owners or residents' desire noise abatement and others do not, further assessment may be necessary in order to determine what impact, if any, this will have on the feasibility and reasonableness as well as the social impacts. Consultation with OEM may be needed. Documentation of noise abatement measures developed during the final design should include letters, public hearing transcripts, and survey results. indicating that the benefited property owners or residents were afforded an opportunity to provide input.

18.2.6 Noise Study Report

The results of the noise analyses shall be reported in a **NSR** and summarized in the appropriate section of the Environmental Document. Viable alternatives will be documented including the no-build alternative.

The **NSR** should have a logical sequence, which adequately describes the procedures used in developing the **NSR**, performing the required analyses, and arriving at the appropriate conclusions. Data in the **NSR** should be well presented by utilizing graphics and references so the report is readily understandable by both technical and non-technical audiences. Noise levels (measured or predicted) should be reported to the nearest 1/10th of a decibel. The report should focus on relevant information. TNM input/output sheets should not be included. The **NSR** should also include: the existing (measured or predicted) as well as the predicted future build and no-build noise levels for each receptor; required field monitoring data and any necessary explanation of the results of this data; a complete set of aerials showing the full project limits and the location of receptor points used in the noise analysis; and the date of the last review of land use that was considered in the **NSR**. [Figure 18-4](#) illustrates a recommended outline for the **NSR**.

The cover page of the **NSR** shall include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

See **Figure 18-10** for the cover page template.

18.2.6.1 Methodology and Assumptions

Include the following information related to methodology and assumptions in the **NSR**:

1. Noise model(s) and methodology used;
2. Alternatives and years considered;
3. Existing and design year vehicle volumes, speeds, and composition data;
4. Receptor locations and descriptions, including land use activity category;

5. Basis for determination of existing and future traffic noise levels; and
6. Noise descriptor used.

Include a comparison of the total traffic noise levels for each build and no-build alternative along with the appropriate NAC and existing (measured or predicted) noise levels. Also include in the **NSR** all abatement considerations and a statement of likelihood (See [Section 18.2.6.3](#)).

Include an illustration similar to [Figure 18-7](#) in the **NSR** to assist the public in understanding how traffic noise levels relate to other sound sources.

18.2.6.2 Coordination Requirements and Documentation

Summarize in the **NSR** any coordination or communications that may have taken place with other agencies and the public and include in the public coordination section. Include comments and any responses to any comments. A statement should also be made that a copy of the final **NSR** will be circulated to the appropriate local planning/zoning officials for their use upon approval of the Environmental Document. The **NSR** should also include a representation of the best estimate of the distances from the proposed edge of the nearest travel lane at which traffic noise levels would approach or exceed the NAC for Activity Categories A through E for each project segment as shown in [Figure 18-6](#).

When the Environmental Document is approved, send copies of the **NSR** to the appropriate local government officials within whose jurisdiction the highway project is located (see [Figure 18-8](#) for a sample **NSR** transmittal letter). The following information should be transmitted along with the **NSR** consistent with **23 CFR § 772.17(a)**:

1. Noise compatible planning concepts;
2. A representation of the estimated distances from the proposed edge of the nearest travel lane at which traffic noise levels would approach or exceed the NAC for Activity Categories A through E for each segment of the project; and
3. After the Date of Public Knowledge, FDOT is no longer responsible for providing noise abatement to new development which occurs adjacent to the proposed highway project.

The above items are intended solely to assist local officials and private developers in promoting compatibility between land development and highways. Upon request, FDOT may provide additional available material and technical guidance which may assist local officials and private developers in this respect.

18.2.6.3 PD&E Phase Commitments

Before approval of a CE, FONSI, ROD, NMSA, or SEIR, FDOT shall identify:

1. A Statement of Likelihood for the noise abatement measures which are potentially

feasible and reasonable, and which are likely to be incorporated in the project; and

2. Noise impacts for which no noise abatement measures are feasible and reasonable.

Title 23 CFR § 772.13(h) states that FHWA will not approve project plans and specifications unless feasible and reasonable noise abatement measures are incorporated into the plans and specifications to reduce the traffic noise impact on existing activities, developed lands, or undeveloped lands for which development is permitted.

Noise abatement will be analyzed two (2) times during the development of a project. The first time will be during the PD&E phase where the Environmental Document is prepared. By then, the noise studies will have progressed to the stage where noise-impacted areas have been identified. At this stage, it is unlikely that exact locations, abatement types, ROW requirements, design and construction feasibility factors, can be determined, although approximate noise barrier location and height information should be determined. The second time will be during final design prior to Plans, Specifications, and Estimates (PS&E) approval. Any noise sensitive receptor that is permitted between the completion of the **NSR** and the Date of Public Knowledge will be analyzed for traffic noise impacts and, if impacts are predicted, abatement considered during the design phase of the project.

For noise impacted areas requiring abatement consideration, in accordance with **23 CFR Part 772**, the Environmental Document shall contain a Statement of Likelihood similar to the following:

The Florida Department of Transportation is committed to the construction of feasible and reasonable noise abatement measures at the noise-impacted locations identified in (insert a table or figure which shows proposed location and physical description of noise abatement measures determined feasible and reasonable) contingent upon the following conditions:

1. Final recommendations on the construction of abatement measures is determined during the project's final design and through the public involvement process;
2. Detailed noise analyses during the final design process support the need, feasibility and reasonableness of providing abatement;
3. Cost analysis indicates that the cost of the noise barrier(s) will not exceed the cost reasonable criterion;
4. Community input supporting types, heights, and locations of the noise barrier(s) is provided to the District Office; and

5. Safety and engineering aspects as related to the roadway user and the adjacent property owner have been reviewed and any conflicts or issues resolved.

Appropriate project specific contingencies may be added to the statement of likelihood.

18.2.6.4 Design Phase Commitments

As noted in [Section 18.2.3.3.3](#), the FDOT noise reduction design goal is 7 dB(A) for one or more benefited receptors. A minimum insertion loss of 5 dB(A) or more is required to be considered a benefited receptor. During the final design phase, the noise abatement locations, noise barrier types, lengths and heights will be determined. The final noise abatement commitments must be documented in the environmental re-evaluation and the **Noise Study Report Addendum (NSRA)** prior to construction advertisement, regardless of project funding sources. It is the responsibility of the District Design Project Manager to collect from the environmental staff all PD&E noise abatement commitments and other noise study information such as copies of the **NSR**, pertinent preliminary design-related information. The Design Project Manager must work with the environmental staff to ensure that the final noise abatement commitments are reflected in the re-evaluation of the Environmental Document before the project moves to construction phase.

If, during the final design phase, abatement is no longer considered feasible or reasonable for a given location(s), such determination(s) will be made in the re-evaluation process prior to requesting approval for construction advertisement ([Part 1, Chapter 13, Re-evaluations](#)). Commitments regarding the exact abatement measure locations, heights, and type (or approved alternatives) will be made during the Design phase and recorded on the **Project Commitments Record (PCR), Form 700-011-035** as required by [Procedure No. 700-011-035, Project Commitment Tracking](#). See [Part 2, Chapter 22, Commitments](#) for more information on commitments.

If abatement is not feasible or reasonable, the following statement (or variation thereof) shall be used:

Based on the noise analyses performed to date, there appears to be no feasible solutions available to mitigate the noise impacts at the locations identified in (insert a table or figure which shows proposed location and physical description of noise abatement measures determined not feasible or reasonable).

18.2.6.5 Construction Noise and Vibration Impacts

The early identification of potential construction noise and/or vibration impacts that may result from the construction of the project is important. The level of consideration for construction noise and vibration is discussed in **Highway Traffic Noise: Analysis and Abatement Guidance (FHWA, December 2011)**. Any potential construction noise or vibration impacts that are identified in the PD&E phase shall be documented in the **NSR**

and in the Environmental Document, along with any identified abatement measures that are potentially feasible and reasonable. A list of example construction noise and vibration sensitive receptors has been developed and can be found in [Figure 18-9](#). This will allow avoidance and/or mitigation options to be developed during the final design phase. These options can then be placed in the construction plans and applied during the construction of the project by the Contractor.

A discussion of construction noise and vibration impacts must be included in the Environmental Document whether the NAC are exceeded or not. It is generally based on site specific conditions and should, at a minimum, include a general reference to the [FDOT Standard Specifications for Road and Bridge Construction](#) to control noise and/or vibration impacts.

Examples of standard specifications that may be applied to a project include:

1. **Section 6-3.1** related to the storage of materials to minimize noise impacts on sensitive receivers;
2. **Section 100-2.1** related to equipment approval requiring the use of factory recommended exhaust mufflers and to remove or repair any equipment that is disapproved by the Engineer;
3. **Section 100-2.2** requires adequate equipment maintenance to minimize noise pollution caused by construction equipment;
4. **Section 100-2.3** suggests that all stationary equipment be screened from noise sensitive receivers beyond normal working hours and, if feasible, screen this equipment during normal working hours to reduce noise impacts;
5. **Section 120-6.4** addresses the concept of establishing haul routes which will direct construction vehicles away from developed areas when feasible and keep noise from hauling operations to a minimum; and
6. **Section 455-1.1** requires that the Contractor take reasonable precautions to prevent structural damage to existing structures by monitoring settlement and vibrations in accordance with the requirements of the specifications.

FHWA's **Highway Construction Noise Handbook** provides guidance for the prediction and mitigation of construction noise. The Roadway Construction Noise Model (RCNM), which is the FHWA's national model for the prediction of construction noise, may be used as needed. The RCNM provides a construction noise screening tool to predict construction noise levels and determine compliance with noise limits for a variety of construction noise projects. The use of the RCNM should be coordinated with OEM prior to application.

Any recommended special construction noise and/or vibration mitigation measures identified during the review of potential construction and/or vibration impacts will be described in the **NSR** and in the Environmental Document, as appropriate. In considering

construction noise and/or vibration mitigation, it should be noted that special provisions may be added as appropriate to the project's construction specifications. Any unique noise and/or vibration control efforts to be considered during construction shall be coordinated with the District Noise Specialist and Project Manager prior to inclusion in the **NSR**.

The following is a sample construction noise and vibration statement for inclusion in the appropriate **NSR/NSRA** and Environmental Document:

Based on the existing land use within the limits of this project, construction of the proposed roadway improvements will (will not) have any noise or vibration impact. Those construction noise and/or vibration impacts that have been identified and for which abatement measures appear to be feasible and reasonable (if any) are noted in the Statement of Likelihood of the **NSR** and in the Environmental Document. If noise-sensitive land uses develop adjacent to the roadway prior to construction, additional impacts could result. It is anticipated that the application of the [FDOT Standard Specifications for Road and Bridge Construction](#) will minimize or eliminate most of the potential construction noise and vibration impacts. However, should unanticipated noise or vibration issues arise during the construction process, the Project Manager, in concert with the District Noise Specialist and the Contractor, will investigate additional methods of controlling these impacts.

18.2.7 Noise Study Report Review

Once the **NSR** is completed, it will be reviewed by the District Project Manager, District Noise Specialist and/or Environmental Manager. Once finalized, it can be summarized in the Environmental Document.

When the District review of the **NSR** is complete, the **NSR** is forwarded to OEM for review along with the Environmental Document.

18.2.8 Environmental Document

The expected level of noise impacts discussion for each type of Environmental Document is provided in the sections below. The Environmental Document shall identify locations where noise impacts are predicted to occur, where noise abatement is feasible and reasonable, and locations with impacts that have no feasible or reasonable noise abatement alternative.

Summaries from the **NSR** should be included in the Environmental Document. The Highway Traffic Noise section of the Environmental Document should contain enough detail to convey the degree of noise impact attributed to the proposed project, along with certain required statements. The Environmental Document must reference the **NSR** for additional details using a statement similar to the following:

"The Noise Study Report for this project is available from the District Office, located at _____."

The Environmental Document will also include information regarding the consideration of noise abatement measures that have or have not been determined to be feasible and reasonable based on the information available at the time the **NSR** was completed.

After OEM grants Location and Design Concept Acceptance (LDCA) for a federal project, or a SEIR has been approved, a copy of the **NSR** is sent to the appropriate local government officials who have jurisdiction where the highway project is located. Other information that will aid these officials in their planning and land use decisions to minimize highway noise impacts in the future may be sent along with the **NSR**. See [Figure 18-8](#) for a sample **NSR** transmittal cover letter to a local planning agency

18.2.8.1 Type 2 Categorical Exclusion

For a Type 2 CE, include the following documentation in the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**:

1. If "**No**" is to be marked for noise, then a brief summary of the **NSR** should be attached with noise values presented in written form, including any noise abatement commitments.
2. If "**No Inv**" is to be marked for noise, this would indicate that there are no noise sensitive land uses of any kind located adjacent to the project corridor.

If noise impacts occur, include noise abatement commitments in the Commitments section of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**. These commitments should be the same as those recorded in the **Project Commitments Record (PCR), Form No. 700-011-35**.

18.2.8.2 Environmental Assessment with Finding of No Significant Impact

The Environmental Analysis section of the EA must reference and summarize the **NSR**. Specific references to the items discussed in [Sections 18.2.2](#) and [18.2.3](#) are included as appropriate. Coordination which occurred during the noise study must be documented. The Comments and Coordination section shall discuss the history of the coordination that occurred and include letters from agencies expressing comments on the **NSR**. Resolution of comments shall also be documented in this section. In the FONSI, provide a summary of all noise impacts resulting from the project. If abatement measures are being recommended for further consideration, identify the sites for which the abatement is proposed. For those locations with impacts where abatement is not feasible and/or reasonable, provide those locations and an explanation as to why the abatement measure(s) considered was determined to not be feasible and/or reasonable.

18.2.8.3 Environmental Impact Statement

The Environmental Analysis section of an EIS should summarize the **NSR** and include the following information:

1. A brief description of noise sensitive areas and their location, including information on the numbers and types of activities which may be impacted. The availability of the **NSR** at the District Office will be noted.
2. The extent of the impact (in decibels). This will include a brief description of the methodology used and identification of the computer model used, along with a comparison of the future predicted noise levels with both FHWA NAC and the existing predicted noise levels.
3. Noise abatement measures which have been considered and those measures that would likely be incorporated into the proposed project.
4. Noise impacts for which no feasible and reasonable abatement is available and the reasons why.

18.2.8.4 State Environmental Impact Report

The Environmental Analysis section of a SEIR should identify the anticipated traffic noise impacts and appropriately reference the basis for decision. The Commitments section should include noise abatement commitments (if any) for the impacts identified in the Environmental Analysis section.

18.2.9 Re-evaluations

The re-evaluation of any Environmental Document that included a **NSR** shall also include an update of the traffic noise analysis. Assumptions made and data used during the original noise analysis and documented in the **NSR** shall be reviewed and updated to ensure the assumptions and any preliminary commitments are still valid. This may include, but not necessarily be limited to, current and future traffic data (volumes, speeds, composition), roadway alignment (horizontal and vertical), land use, propagation path, barriers/buffers (including trees, berms, structures), variation in terrain between noise source and receptors. Changes to the horizontal and vertical roadway alignment should follow the guidance provided in the Type I Projects Matrix provided in [Figure 18-2](#). The re-evaluation may result in no change to the **NSR** or in a completely new **NSR** being required. At a minimum, it must be documented that the original noise study and analysis was reviewed and that the assumptions, project conditions and results are still valid. Computer modeling efforts will be conducted using the latest version of TNM, for any required subsequent noise re-evaluation as a result of a major design change.

Major changes to the noise regulations were made on July 13, 2010, with an effective date of July 13, 2011. Therefore, all noise re-evaluations conducted after July 13, 2011 will be done in accordance with **23 CFR Part 772** dated July 13, 2010. Coordination with

OEM during the re-evaluation process on federal projects is required (See [Part 1, Chapter 13, Re-evaluations](#)).

The final noise abatement commitments must be documented in the environmental re-evaluation and the **NSRA** prior to construction advertisement, regardless of project funding sources. Additionally, the **PCR** must also be updated. If the **NSRA** is substantially modified from the version previously distributed to the affected local governments, a revised version should be sent out to them.

18.2.10 Design-Build Projects

When a Design-Build firm proposes an alternative technical concept to the concept included in the Request for Proposal for the Design-Build project, the District must re-evaluate the noise study in conformance with the provisions of **40 CFR § 1506.5** and **23 CFR § 636.109**. The design-build noise study re-evaluation must follow the analysis procedures outlined in this Chapter.

If changes in the roadway design occur during the Design-Build process, the following guidance shall be considered:

1. If the re-evaluation results in the identification of additional impacted receptors, a change in location of impacted receptors, or an increase in the proposed noise abatement dimensions (height and/or length), the FDOT will construct the proposed abatement as long as it's feasible, reasonable, and desired by the public.
2. If the re-evaluation results in reduced traffic noise impacts due to changes in the project design, or previously predicted noise impacts no longer warrant abatement consideration, the FDOT will consider abatement based on the commitments, public sentiment and consultation with OEM, provided that abatement construction is feasible.
3. The public shall be engaged when modifications to noise abatement commitments and the intent to alter abatement measures are being considered.

18.2.11 Accelerated Project Delivery

FDOT has developed a Statewide Acceleration Transformation (SWAT) process to improve how projects are delivered. The SWAT process allows for an overlap of PD&E activities and design activities to streamline delivery of projects. Additionally, the SWAT process requires increased coordination between all parties involved in project development to ensure that environmental analysis and issues are properly addressed and documented.

Noise studies for projects delivered through the SWAT process are still required to follow the requirements of **23 CFR Part 772** and this chapter. When design activities overlap PD&E activities, only the PD&E phase **NSR** may be prepared because the roadway plans may have enough detail (Phase II design plans) to allow noise abatement commitments

to be made at that time. It is important that subsequent plan sets be reviewed for changes in roadway geometry that could necessitate a change to the noise analysis. Projects developed under the SWAT process will still utilize a DPK based on the date of the approval of the Environmental Document for the project.

Once the final design of the project is completed, the review of the design plans must verify that no changes have occurred relative to what was previously evaluated and documented in the **NSR**. If significant changes have occurred that may alter the results of the original noise study and any noise abatement commitments (if applicable), a re-evaluation is warranted and documented in the **NSRA** before the project is advertised for construction.

18.2.12 Abatement Measure Reporting

Title 23 CFR § 772.13(f) requires that each highway agency maintain an inventory of all constructed noise abatement measures. To comply with the inventory requirement, FDOT maintains an inventory of all noise abatement barriers constructed on the SHS in a GIS layer housed in the University of Florida's GeoPlan Center Florida Geographic Data Library (FGDL). Each District Noise Specialist must annually gather and provide inventory data to the University of Florida's GeoPlan Center.

This inventory data shall include at least the following parameters:

1. Type of abatement;
2. Cost (overall cost, unit cost per/sq. ft.);
3. Average height;
4. Length;
5. Area;
6. Location (state, county, city, route);
7. Year of construction;
8. Average insertion loss/noise reduction as reported by the model in the noise analysis;
9. NAC category(s) protected;
10. Material(s) used (precast concrete, berm, block, cast in place concrete, brick, metal, wood, fiberglass, combination, plastic [transparent, opaque, other]);
11. Features (absorptive, reflective, surface texture);
12. Foundation (ground mounted, on structure); and

13. Project type (Type I, Type II) and optional project types such as state funded, county funded, tollway/turnpike funded, other, unknown. The FHWA will collect this information, in accordance with Office of Management and Budget's Information Collection requirements.

For a complete list of items to be reported by the District Noise Specialists, see the FGDL attributes metadata website ([Section 18.3](#)). Federal submission requirement fields are prefaced with FED in the FGDL database.

The noise abatement barriers data is reported tri-annually to FHWA once a request is received to submit the report. At the request of OEM, the GeoPlan Center will prepare the tri-annual report that submitted by the State Noise Program Coordinator to the FHWA Florida Division Office in the format required by **23 CFR § 772.13(f)**.

18.3 REFERENCES

- FHWA. FHWA's Noise Policy FAQs - Frequently Asked Questions
https://www.fhwa.dot.gov/Environment/noise/regulations_and_guidance/faq_noise.cfm
- FHWA. Report FHWA-HEP-06-015, FHWA Highway Construction Noise Handbook: Final Report," August 2006. <http://ntl.bts.gov/lib/34000/34300/34369/DOT-VNTSC-FHWA-06-02.pdf>
- FHWA. Report FHWA-HEP-05-054, FHWA Roadway Construction Noise Model User's Guide: Final Report," January 2006.
http://www.fhwa.dot.gov/environment/noise/construction_noise/rcnm/rcnm.pdf
- FHWA. Report Number FHWA-PD-96-009, FHWA Traffic Noise Model User's Guide (Version 2.5 Addendum). April 2004.
http://www.fhwa.dot.gov/environment/noise/traffic_noise_model/tnm_v25/users_manual/index.cfm
- FHWA. Report FHWA-HEP-10-025, Highway Traffic Noise: Analysis and Abatement Guidance, December 2011;
https://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/analysis_and_abatement_guidance/revguidance.pdf FHWA. Report Number FHWA-PD-96-046, Measurement of Highway-Related Noise. Cynthia S.Y. Lee and Gregg Fleming; May, 1996.
<http://www.fhwa.dot.gov/environment/noise/measurement/mhrn00.cfm>
- FTA. Report Number FTA-VA-90-1003- 06, Transit Noise and Vibration Impact Assessment. May 2006.
http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf
- FDOT, Plans Preparation (Topic No. 625-000-007) Manual Volume 1, Chapter 32, Noise Walls and Perimeter Walls. January 2016.
<http://www.dot.state.fl.us/rddesign/PPMManual/2016/Volume1/Chap32.pdf>

- FDOT, Project Commitment Tracking, Procedure No. 700-011-035.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=700-011-035>
- FDOT, Right of Way Procedures Manual, Topic No. 575-000-000, Section 7.14, Outdoor Advertising Signs.
<http://www.dot.state.fl.us/rightofway/documents/ROWmanual/ch07s14.pdf>
- FDOT, Standard Specifications for Road and Bridge Construction. January 2016.
<http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/January2016/Files/116eBook.pdf>
- FDOT, Traffic Noise Modeling and Analysis Practitioners Handbook, January 2016.
<http://www.dot.state.fl.us/emo/pubs/Traffic%20Noise%20Modeling%20and%20Analysis%20Practitioners%20Handbook%20-%20January%202016%20Version.pdf>
- Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>
- Section 335.02, F.S., Authority to designate transportation facilities and rights-of-way and establish lanes; procedures for re-designation and relocation; application of local regulations. 20012.
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.02.html
- Section 479.25, F.S., Erection of noise-attenuation barrier blocking view of sign; procedures; application. July 1, 2014.
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0479/Sections/0479.25.html
- Section 335.17, F.S., State highway construction; means of noise abatement. 2012.
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0335/Sections/0335.17.html
- Title 14 CFR § 150, Airport Noise Compatibility Planning. <https://ecfr.io/Title-14/pt14.3.150>
- Title 23 CFR § 636.109, How does the NEPA process relate to the design-build procurement process. <https://ecfr.io/Title-23/pt23.1.772>
- Title 23 CFR § 750.709; On-property or on premise advertising. <https://ecfr.io/Title-23/pt23.1.750>

Title 23 CFR § 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise, Tuesday, July 13, 2010. http://www.ecfr.gov/cgi-bin/textidx?tpl=/ecfrbrowse/Title23/23cfr772_main_02.tpl

Title 40 CFR § 1506.5(c), Environmental Impact Statements, Nov. 29, 1978. http://www.ecfr.gov/cgi-bin/textidx?SID=bbdf2357d9d42328f1467b91ac5f1076&mc=true&node=se40.33.1506_15&rqn=div8

Title 49 CFR § 210, Railroad Noise Emission Compliance Regulations. Federal Railroad Administration; Dec. 23, 1983, unless otherwise noted. <http://www.ecfr.gov/cgi-bin/textidx?SID=3d877285a1ab8843291df7cfc4bb9c71&mc=true&node=pt49.4.210&rqn=div5#sp49.4.210.a>

University of Central Florida, 2009. A Method to Determine Reasonableness and Feasibility of Noise Abatement at Special Use Locations. Roger L. Wayson and John M. MacDonald. July 22, 2009 Update [http://www.dot.state.fl.us/emo/pubs/Reasonableness%20and%20feasibility%20of%20Abatements%20at%20Special%20Use%20Locations%20%20Report%20Update%20-%207-22-09%20\(2\).pdf](http://www.dot.state.fl.us/emo/pubs/Reasonableness%20and%20feasibility%20of%20Abatements%20at%20Special%20Use%20Locations%20%20Report%20Update%20-%207-22-09%20(2).pdf)

University of Florida, GeoPlan Center. Florida Geographic Data Library (FGDL) Metadata Explorer. <http://fgdl.org/metadataexplorer/explorer.jsp>

18.4 FORMS

Non-Major State Action Checklist, Form No. 650-050-30*

[Project Commitments Record, Form No. 700-011-35](#)

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://fdot.gov/procedures/>. Sign in is required.

18.5 HISTORY

10/6/2003, 4/18/2007, 5/24/2011, 7/27/2016

NOISE ABATEMENT CRITERIA (NAC) [Hourly A-Weighted Sound Level-decibels (dB(A))]				
Activity Category	Activity Leq(h) ¹		Evaluation location	Description of activity category
	FHWA	FDOT		
A	57	56	Exterior	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B ²	67	66	Exterior	Residential
C ²	67	66	Exterior	Active sports areas, amphitheatres, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreational areas, Section 4(f) sites, schools, television studios, trails, and trail crossings.
D	52	51	Interior	Auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios.
E ²	72	71	Exterior	Hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in A-D or F.
F	–	–	–	Agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing.
G	–	–	–	Undeveloped lands that are not permitted.

(Based on Table 1 of 23 CFR Part 772)
¹ The Leq(h) Activity Criteria values are for impact determination only, and are not design standards for noise abatement measures.
² Includes undeveloped lands permitted for this activity category.

Note: FDOT defines that a substantial noise increase occurs when the existing noise level is predicted to be exceeded by 15 decibels or more as a result of the transportation improvement project. When this occurs, the requirement for abatement consideration will be followed.

Figure 18-1 Noise Abatement Criteria

Type I Project Activities (Noise Study Required)		<u>Not</u> Type I (No Noise Study Required)
1	Construction of highway on new location	
2	New or relocated interchanges	
3	Addition of new interchange ramps (add a ramp where no ramps existed). Viewed as a new location.	
4	Relocation of an interchange ramp where the edge of the outside lane on any segment of the ramp reduces the distance to the closest receptor by one-half. (See #6 for realignment of ramps)	
5	Increasing capacity to an existing on or off interchange ramp (by adding lanes) including associated merge lanes. Viewed as a new location.	
6	Lengthening an existing interchange ramp's acceleration or deceleration lane and associated merging into the mainline to a total of more than 2500 feet (from the gore to the end of the lane), or re-aligning where any segment of the ramp reduces the distance to the closest receptor by one-half.	Lengthening an existing interchange ramp's acceleration or deceleration lane and associated merging into the mainline (total length less than 2500 feet), or re-aligning where any segment of the ramp DOES NOT REDUCE the distance to the closest receptor by one-half.
7	Alteration of the horizontal alignment of an existing highway such that the edge of the outside lane reduces the distance to the closest receptor by one-half.	Alteration of the horizontal alignment of an existing highway such that the edge of the outside lanes DOES NOT REDUCE the distance to the closest receptor by one-half.
8	Alteration of the vertical alignment, or the surrounding topography, where existing shielding is removed and the line of sight between the noise source and the receptor is now direct. (Activity does not include removal of vegetation).	
9	Addition of new through-lanes that increase capacity to an existing highway. (Noise analysis required on both sides of the highway whether the lanes are all in one direction or both directions of travel.)	
10	Restriping existing pavement to add a through-lane or auxiliary lane (See #13, #14 and #15 for auxiliary lanes).	
11	Addition of new or substantially altered weight station, rest stop, ride share lot or toll plaza.	
12	Addition of ramps or new lanes serving as climbing lanes for buses and trucks.	
13	Addition of auxiliary lanes used as through lanes on local roads.	
14	Auxiliary lanes on freeways and expressways connecting two or more interchanges (continuous lanes longer than 2500 feet from gore to gore).	Auxiliary lanes on freeways and expressways connecting two closely spaced interchanges (less than 2500 feet from gore to gore) to accommodate weaving traffic.
15		Turn lanes at intersections associated with arterial highways
16		Bicycle and Pedestrian paths
17		Safety activities (23 USC §402)
18		Landscaping
19		Installation of fencing, signs, pavement marking, small passenger shelters, traffic signals, railroad warning signals (that don't disrupt traffic patterns)
20		Deployment of electronics, photonics, communications, information processing to improve safety and security
21		Re-surfacing, restoration, rehabilitation or reconstruction of an existing facility (unless there is a change in horizontal or vertical alignment per 7 & 8 above).
22		Electronic toll collection facilities that do not disrupt traffic patterns.

Figure 18-2 Type I Project Matrix

Building Type	Window Condition*	Noise Reduction Due to Exterior of the Structure
All	Open	10 dB
Light Frame	Ordinary Sash (closed)	20 dB
	Storm Windows	25 dB
Masonry	Single Glazed	25 dB
	Double Glazed	35 dB
<p>*The windows shall be considered open unless there is firm knowledge that the windows are in fact kept closed almost every day of the year.</p> <p>Source: FHWA Highway Traffic Noise: Analysis and Abatement Guidance. August 11, 2010.</p>		

Figure 18-3 Building Noise Reduction Factors

EXAMPLE PD&E NOISE STUDY REPORT (NSR) OUTLINE

EXECUTIVE SUMMARY

TABLE OF CONTENTS

List of Tables
List of Figures
List of Appendices

1.0 INTRODUCTION

- 1.1 Project Description (includes Project Location Map)
- 1.2 Proposed Improvements (includes conceptual typical section(s))

2.0 METHODOLOGY (opening paragraph references regulation, policy and TNM version)

- 2.1 Noise Metrics
- 2.2 Traffic Data
- 2.3 Noise Abatement Criteria (includes general discussion and application specific to the project)
- 2.4 Noise Abatement Measures (General Discussion)
 - 2.4.1 Traffic Management
 - 2.4.2 Alignment Modifications
 - 2.4.3 Buffer Zones (includes noise contours and intended application of contours)
 - 2.4.4 Noise Barriers (includes discussion of minimum reduction requirements and cost reasonable limit)

3.0 TRAFFIC NOISE ANALYSIS

- 3.1 Model Validation
- 3.2 Existing Noise Levels (documents noise monitoring to establish existing noise levels; usually only included for new alignment projects)
- 3.3 Predicted Noise Levels and Abatement Analysis (includes discussion of impacts and noise barrier analysis with each noise sensitive area addressed as a separate report section)

4.0 CONCLUSIONS (includes Statement of Likelihood)

5.0 CONSTRUCTION NOISE AND VIBRATION

6.0 COMMUNITY COORDINATION (documents any public comments specific to traffic noise, transmittal of the Noise Study Report to local officials and references noise contours discussed above)

7.0 REFERENCES

APPENDICES

- Appendix A** Traffic Data
- Appendix B** Predicted Noise Levels
- Appendix C** Aerials (showing receptor points)
- Appendix D** TNM Modeling Files and PDF of the NSR (on disc, including "Read Me" file)

Figure 18-4 Example PD&E Noise Study Report (NSR) Outline

EXAMPLE DESIGN NOISE STUDY REPORT (NSR) ADDENDUM OUTLINE

EXECUTIVE SUMMARY

TABLE OF CONTENTS

List of Tables
List of Figures
List of Appendices

1.0 INTRODUCTION

- 1.1 Project Description (includes Project Location Map)
- 1.2 Summary of PD&E Results and Commitments
- 1.3 Design Improvements (includes comparison to PD&E conceptual design and design typical section(s))

2.0 METHODOLOGY (opening paragraph references regulation, policy and TNM version)

- 2.1 Noise Metrics
 - 2.1.1.1 Traffic Data
- 2.2 Noise Abatement Criteria (includes general discussion and application specific to the project; includes discussion that the PD&E noise analysis determined no substantial increase)
- 2.3 Noise Abatement Measures (General discussion identifying noise barriers as only viable abatement measure based on PD&E noise study; includes discussion of minimum reduction requirements and cost reasonable limit)

3.0 TRAFFIC NOISE ANALYSIS

- 3.1 Model Validation (Only if validation update from PD&E noise study is needed)
- 3.2 Predicted Noise Levels and Abatement Analysis (includes discussion of impacts and noise barrier analysis with each noise sensitive area addressed as a separate report section; includes selection of recommended noise barrier length and height)
- 3.3 Engineering Feasibility Review (includes discussion on noise barrier modifications to resolve construction conflicts)

4.0 Outdoor Advertising (if applicable, discusses conflicts with outdoor advertising, resolution of conflicts and fulfillment of FDOT responsibilities in accordance with F.S. 479.25)

5.0 CONCLUSIONS (includes discussion on fulfillment of PD&E commitments and tabulates specifics for each recommended noise barrier to be included in the design plans and constructed with the project)

6.0 CONSTRUCTION NOISE AND VIBRATION

7.0 COMMUNITY COORDINATION (includes results of noise barrier survey specific to each noise barrier or noise barrier system)

8.0 REFERENCES

APPENDICES

- Appendix A Traffic Data
- Appendix B Predicted Noise Levels
- Appendix C Aerials (showing receptor points and noise barriers to be included in design plans)
- Appendix D Noise Barrier Survey Package
- Appendix E TNM Modeling Files and PDF of the NSR Addendum (on disc, including "Read Me" file)

Figure 18–5 Example Design Noise Study Report Addendum (NSRA) Outline

COMMON OUTDOOR ACTIVITIES	NOISE LEVEL dB(A)	COMMON INDOOR ACTIVITIES
Jet Fly-over at 1000 ft	---110---	Rock Band
Gas Lawn Mower at 3 ft	---100---	
Diesel Truck at 50 ft, at 50 mph	---90---	Food Blender at 1 m (3 ft)
Noise Urban Area (Daytime)	---80---	Garbage Disposal at 1 m (3 ft)
Gas Lawn Mower at 100 ft	---70---	Vacuum Cleaner at 10 ft
Commercial Area	---60---	Normal Speech at 3 ft
Heavy Traffic at 300 ft	---50---	Large Business Office
Quiet Urban Daytime	---40---	Dishwasher Next Room
Quiet Urban Nighttime	---30---	Theater, Large Conference Room (Background)
Quiet Suburban Nighttime	---20---	Library
Quiet Rural Nighttime	---10---	Bedroom at Night, Concert Hall (Background)
	---0---	
Lowest Threshold of Human Hearing		Lowest Threshold of Human Hearing

Source: California Dept. of Transportation Technical Noise Supplement, Oct. 1998, Page 18.

Figure 18–6 Typical Noise Levels

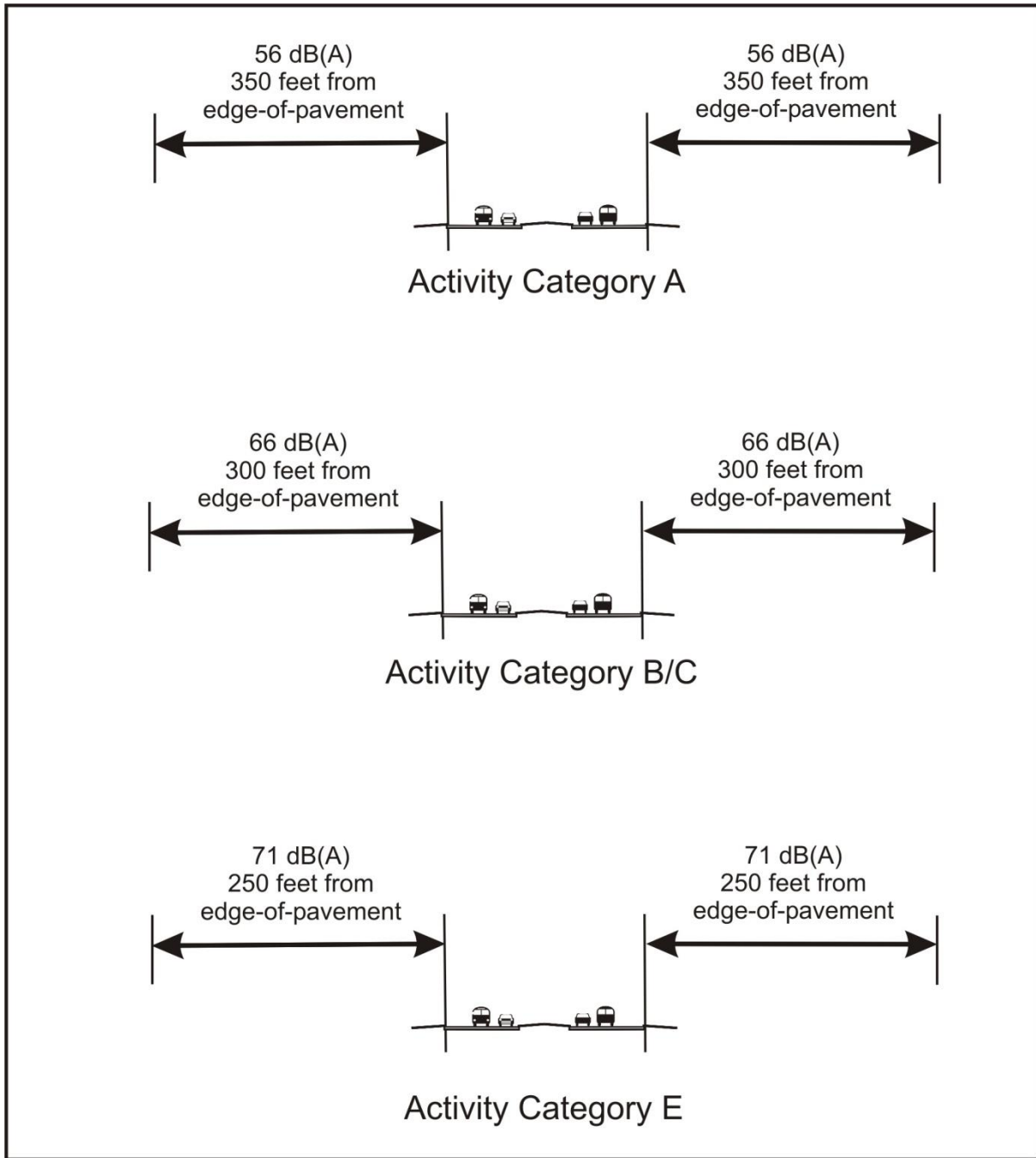


Figure 18-7 Sample Noise Contours

Date

Addressee
Appropriate Growth Management Office
Local Government
City, Florida Zip Code

The Florida Department of Transportation (FDOT) has received approval of **(INSERT LDCA or SEIR APPROVAL HERE)** for the Project Development and Environment (PD&E) Study for **(INSERT PROJECT NAME HERE)**. As part of the PD&E Study, a traffic noise study was performed. Consistent with applicable federal regulations and state policies, attached is a copy of the Final Noise Study Report/Noise Study Report Addendum (Choose one as appropriate). **(INSERT APPROPRIATE SECTION/TABLE/FIGURE HERE)** contains information related to the estimated distance from the edge of the nearest travel lane for the improved roadway where traffic noise impacts are predicted to occur in the future design year for the project for the different land use categories contained in the Federal Highway Administration (FHWA) and FDOT Noise Abatement Criteria (NAC).

This information is being provided to assist the local planning agency and developers in the prevention of future traffic noise impacts on lands which are currently undeveloped. The Date of Public Knowledge, or DPK, for the project is the date of approval of the Environmental Document for the project. The FDOT is not responsible for providing noise abatement for noise sensitive land uses that are permitted for construction after that date. Upon request, the FDOT may provide additional available materials and technical guidance related to noise compatible land use planning to assist the local agencies and developers in this regard.

Sincerely,

(INSERT DISTRICT NOISE SPECIALIST/FDOT PM NAME HERE)

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Figure 18–8 Sample Noise Study Report Transmittal Cover Letter

Noise	Vibration
Eye Centers/Clinics Medical Centers Hospitals Geriatric Centers Sound Recording Studios TV/Radio Stations Residences Technical Laboratories Hearing Testing Centers Theaters Schools Motels/Hotels Funeral Homes Libraries Meditation Centers Churches/Shrines Parks Day Care Centers Outdoor Theaters	Eye Centers/Clinics Medical Centers Hospitals Geriatric Centers Sound Recording Studios TV/Radio Stations Residences Technical Laboratories Antiques Shops Museums Historic Buildings
Note: This list is not meant to be all inclusive or exclusive, but rather an indication of the type of sites likely to be sensitive to construction noise and/or vibration.	
Source: FDOT Noise and Vibration Task Team; August 17, 1999.	

Figure 18-9 Construction Noise and Vibration Sensitive Sites

Noise Study Report

Florida Department of Transportation

District X

Project Title

Limits of Project

County, Florida

Financial Management Number: XXXXX-X

ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

(Signature Block as Needed)

Figure 18-10 Noise Study Report Cover Sheet Template

PART 2, CHAPTER 19

AIR QUALITY

TABLE OF CONTENTS

19.1	OVERVIEW	19-1
19.1.1	Purpose.....	19-1
19.1.2	Definitions	19-1
19.1.3	Clean Air Act	19-2
19.1.3.1	National Ambient Air Quality Standards.....	19-2
19.1.3.1.1	Ozone	19-2
19.1.3.1.2	Nitrogen Dioxide.....	19-3
19.1.3.1.3	Particulate Matter	19-3
19.1.3.1.4	Sulfur Dioxide.....	19-3
19.1.3.1.5	Carbon Monoxide.....	19-3
19.1.3.1.6	Lead.....	19-3
19.1.3.1.7	National Ambient Air Quality Standards Designations	19-4
19.1.3.2	State Implementation Plans.....	19-5
19.1.3.3	Transportation Conformity	19-5
19.1.3.4	National Environmental Policy Act.....	19-6
19.2	PROCEDURE.....	19-6
19.2.1	ETDM Screening.....	19-6
19.2.2	Air Quality Analysis	19-7
19.2.2.1	Categorical Exclusions	19-7

19.2.2.2	Environmental Assessment	19-7
19.2.2.3	Environmental Impact Statement.....	19-7
19.2.2.3.1	Carbon Monoxide.....	19-8
19.2.2.3.2	Particulate Matter Associated with Construction	19-9
19.2.2.3.3	Greenhouse Gases	19-9
19.3	DOCUMENTATION	19-10
19.3.1	Technical Memorandum.....	19-10
19.3.2	Environmental Document	19-11
19.4	REFERENCES	19-11
19.5	FORMS.....	19-13
19.6	HISTORY.....	19-13

LIST OF TABLES

Table 19-1	National Ambient Air Quality Standards (NAAQS)	19-4
------------	--	------

LIST OF FIGURES

Figure 19-1	Air Quality Information Sources	19-14
Figure 19-2	Air Quality Analysis Process (for Carbon Monoxide)	19-15
Figure 19-3	Example Traffic Data Input Sheet	19-16
Figure 19-4	Greenhouse Gases (GHG) Standard Text.....	19-17
Figure 19-5	Sample Air Quality Technical Memorandum	19-18

PART 2, CHAPTER 19

AIR QUALITY

19.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

19.1.1 Purpose

This chapter describes how to evaluate the air quality effects of transportation projects. The chapter explains FDOT's process to address existing air quality conditions within the region where a project is located; how to evaluate project specific air quality effects; and, if necessary, how to address those effects.

Motor vehicle pollutant emissions from the combustion of fossil fuels have long been tied to Air Quality. The primary air pollutants associated with highway motor vehicles are Carbon Monoxide (CO), Nitrogen Oxides (NOX), Volatile Organic Compounds (VOC), and to a lesser degree Particulate Matter (PM₁₀ and PM_{2.5}). Emissions of NOX and VOC also contribute to the formation of ozone, the primary component of what is commonly referred to as smog. Vehicle emission standards and continued improvement in traffic flow have reduced fleet-wide pollutant emissions over the past several decades.

FDOT's analysis of air quality effects is based on the local area's attainment status for each **National Ambient Air Quality Standards (NAAQS)** as detailed in [Section 19.1.3.1](#). It is not necessary to prepare an extensive report to document potential impacts to air quality. Rather, a brief **Air Quality Technical Memorandum** is prepared and placed in the project file, and the results documented in the Environmental Document for the project as well.

19.1.2 Definitions

Averaging Time – The time increments over which pollutant concentrations are measured and on which pollutant standards are based. Ambient air quality standards are

specified based on the concentration of a pollutant over specific time periods, such as 1-hour, 8-hour, 24-hour, or one year. The different averaging times and concentrations are designed to protect against different exposure effects.

Budget – The estimated amount of air pollution that can occur in a particular area within a specific amount of time without causing a violation of the ambient air quality standards.

Project Level (Hot Spots) Analysis – Refers to a modeling analysis used to estimate localized concentrations of one or more criteria pollutants that may exceed the national ambient air quality standards.

Primary Standards – Ambient air pollution standards set to protect public health.

Secondary Standards – Ambient air pollution standards set to protect public welfare, such as protecting against visibility degradation and damage to animals, crops, vegetation, and buildings.

19.1.3 Clean Air Act

The **Clean Air Act (CAA)** as enacted in 1967, focused on technical information associated with air pollution, including research, grants, and the abatement of interstate air pollution issues. In 1970, the **CAA** was amended and the **NAAQS** were established to protect public health and welfare. The 1970 Amendments also required states to prepare and implement control plans to achieve the **NAAQS**. In 1990, the **CAA** was amended to include strategies to achieve and maintain the criteria air pollutant **NAAQS**, to reduce air pollutant and pollutant precursor emissions from mobile sources, and to provide enforcement sanctions for not achieving and maintaining the **NAAQS**.

19.1.3.1 National Ambient Air Quality Standards

In 1970, the Environmental Protection Agency (EPA) Office of Air Quality Planning and Standards (AQPS) established primary (to protect public health) and secondary (to protect public welfare) **NAAQS** for six pollutants. These pollutants are referred to as the **criteria air pollutants**: ozone, nitrogen dioxide, particulate matter, sulfur oxides, carbon monoxide, and lead. The current standards are provided in [Table 19-1](#). The **NAAQS** show the maximum allowable concentration of a pollutant by averaging time. For example, the maximum allowable primary and secondary ambient concentration of ozone is 0.070 parts per million (ppm), averaged over an 8-hour period. The **criteria air pollutants** are described below (see [Figure 19-1](#) for more information):

19.1.3.1.1 Ozone

Ozone is not usually emitted directly into the air. At ground level, ozone is created by a chemical reaction between oxides of nitrogen and volatile organic compounds in the presence of sunlight. Motor vehicle exhaust and industrial emissions, gasoline vapors, and chemical solvents as well as natural sources emit oxides of nitrogen and volatile

organic compounds. While ozone typically occurs at a regional level, no methodology currently exists to determine ozone emissions at the project level.

19.1.3.1.2 Nitrogen Dioxide

Nitrogen oxides are a group of highly reactive gases. One of these gases, nitrogen dioxide, along with particles in the air, is often seen as a reddish brown layer over urban areas. The primary sources of nitrogen oxides are motor vehicles, electric utilities, and other industrial, commercial, and residential sources that burn fuel. Motor vehicles emit approximately 49 percent of the national level of nitrogen oxides (*EPA-456/F-98-005, 1998*).

19.1.3.1.3 Particulate Matter

Particulate matter is a term used to describe particles in the air including dust, dirt, soot, smoke, and liquid droplets. Sources that directly emit particulate matter include motor vehicles, construction activities, and unpaved roads. Particles that form in the air from chemical processes involving sunlight and water vapor include fuel combustion in motor vehicles and at power plants, and industrial processes. Particulate matter is of interest because diesel vehicles emit high levels of the pollutant and diesel particulate has been identified as a probable carcinogen (cancer causing substance) by the EPA.

There are two standards for particulate matter – one for “coarse” particles (those 10 microns or less in size – PM₁₀) and one for “fine” particles (those 2.5 microns or less in size – PM_{2.5}). Coarse particles are typically formed by earth-based materials (brake and tire wear) that contribute to particles of this size. Fine particles are a product of combustion.

19.1.3.1.4 Sulfur Dioxide

Sulfur dioxide belongs to a family of Sulfur Oxide gases. Approximately 65 percent of the sulfur dioxide released in to the air comes from electric utilities. Locomotives, large ships, and some non-road diesel equipment currently burn high sulfur fuel and emit sulfur dioxide. Overall, on-road motor vehicles are not considered a significant source of sulfur dioxide.

19.1.3.1.5 Carbon Monoxide

Carbon monoxide is a colorless, odorless gas that is formed when carbon in fossil fuels is not burned completely. It is a component of motor vehicle exhaust, which contributes approximately 56 percent of carbon monoxide emissions nationally.

19.1.3.1.6 Lead

Although lead is a naturally occurring metal, motor vehicles were historically the major source of lead emissions. However, due to a phase out of leaded gasoline in the 1970s, metals processing is currently the major source of lead emissions.

19.1.3.1.7 National Ambient Air Quality Standards Designations

In accordance with the **CAA**, all areas within the United States are designated with respect to the **NAAQS** as being “attainment,” “non-attainment,” “maintenance,” or “unclassifiable.” An area with air quality better than the **NAAQS** is designated attainment; an area with air quality conditions worse than the **NAAQS** is designated non-attainment. Maintenance areas are non-attainment areas that have been re-designated to attainment status. Current information on the status of non-attainment areas with respect to the **NAAQS** is available within **EPA’s Green Book (U.S. EPA, 2016)**.

Table 19-1 National Ambient Air Quality Standards (NAAQS)

Pollutant		Averaging Time	Primary ^e	Secondary ^f
Ozone		8-hour ^a	0.070 ppm ^g	0.070 ppm
Nitrogen Dioxide		1-hour ^b	100 ppb ^h	NA
		Annual Arithmetic Mean	0.053 ppm	0.053 ppm
Particulate Matter	2.5 microns or less in size	24-hour	35 µg/m ³	35 µg/m ³
		Annual Arithmetic Mean ^c	12.0 µg/m ³	15.0 µg/m ³
	10 microns or less in size	24-hour	150 µg/m ³	NA
Sulfur Oxides ^d		1-hour	75 ppb	NA
		3-hour	NA	0.5 ppm
		24-hour	0.14 ppm	NA
		Annual Arithmetic Mean	0.030 ppm	NA
Carbon Monoxide		1-hour ^a	35 ppm	NA
		8-hour ^a	9 ppm	NA
Lead		Calendar Quarter	1.5 µg/m ³	1.5 µg/m ³
		Rolling 3-Month Average	0.15 µg/m ³	0.15 µg/m ³

^a The ozone standard is attained when the fourth highest 8-hour concentration measured at each site in a year, averaged over three years, is equal to or less than the standard.

^b To attain the 1-hour standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 ppb.

^c To attain this primary standard, the 3-year average of the annual arithmetic mean concentrations from single or multiple community-oriented monitors must not exceed 12.0 µg/m³.

^d To attain the 1-hour standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75ppb.

^e Primary standards are designed to establish limits to protect public health, including the health of “sensitive” individuals such as asthmatics, children, and the elderly.

^f Secondary standards set limits to protect public welfare including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

^g ppm = parts per million

^h ppb = parts per billion

NA = Not applicable

ppm = parts per million

ppb = parts per billion

µg/m³ = microgram per cubic meter

Source: United States Environmental Protection Agency, 2016

19.1.3.2 State Implementation Plans

The control plans that States prepare to address how they will achieve the **NAAQS** are known as **State Implementation Plans (SIPs)**. **SIPs** are prepared for all areas designated non-attainment for the **NAAQS**. They are **not prepared** for areas **designated attainment or unclassifiable**. Maintenance plans detail how an area will maintain ambient levels of pollutants below the **NAAQS** once attaining a standard. **SIPs** (which can include maintenance plans) for the EPA's Region 4 (in which the state of Florida is located) that are or have been designated non-attainment for any of the **NAAQS** can be found on the EPA's website. A web link to these documents is provided in [Figure 19-1](#).

Pursuant to **Section 176** of the **CAA (42 USC § 7506)** no department, agency, or instrumentality of the federal government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity that does not conform to an approved **SIP**.

Conformity to a **SIP** means conforming to a **SIPs** purpose of eliminating or reducing the severity and number of violations of and achieving expeditious attainment of the **NAAQS**. FDOT complies with the **CAA** and **SIPs** by requiring that projects meet the standards described in this chapter and the EPA's transportation conformity requirements.

19.1.3.3 Transportation Conformity

In 1993, the EPA promulgated two sets of regulations to implement **Section 176 of the CAA**. These are referred to as the **Transportation Conformity and General Conformity Regulations**. **The Transportation Conformity Regulations [40 Code of Federal Regulations (CFR) Part 93A]** apply to transportation (highway) plans, programs, and projects within non-attainment or maintenance areas that are developed, funded, or approved under either **Title 23** or **Title 49 United States Code**. **The General Conformity Regulations** are applicable to all other federal actions (**40 CFR Part 93B**).

A transportation conformity determination shows that the estimated pollutant/precursor emissions associated with highway plans or programs are within the emission budgets specified in a **SIP** or Maintenance Plan. Metropolitan Planning Organizations (MPOs) typically perform and make the initial conformity determinations in metropolitan areas while state Departments of Transportation (DOTs) typically do so in rural areas. The initial conformity determinations become final upon approval by either FHWA or the Federal Transit Administration (FTA). Under the **NEPA MOU**, final conformity determinations continue to be the responsibility of FHWA and FTA.

Transportation conformity determinations are made at least every three years or, when Long-Range Transportation Plans (LRTPs) and Transportation Improvement Plans (TIPs) are updated. Transportation conformity determinations are made using estimates of the regional amount of an applicable pollutant/precursor emission for a TIP (the entire transportation network within a non-attainment or maintenance area) and forecast highway/transit operating conditions (volume and speed). If the projected emissions for a

TIP do not exceed the emission budget for this type of activity, the TIP can be found to conform to a **SIP**.

In areas designated non-attainment or maintenance for carbon monoxide and/or particulate matter, additional project level (hot spot) analysis may be necessary to determine project-level conformity. These projects must also come from a currently conforming TIP. There have been no areas within the State of Florida designated non-attainment for either carbon monoxide or the current particulate matter standards (for PM₁₀ or less in size or PM_{2.5} or less in size).

19.1.3.4 National Environmental Policy Act

Project-level air quality analysis is performed as part of the **NEPA** process to identify project-related impacts, and to evaluate possible mitigation, if appropriate. The analysis performed as part of the environmental review process in **NEPA** is not required in order to determine conformance in an area designated as non-attainment or maintenance for any of the **NAAQS**.

The main difference between the analysis performed for the **CAA** (conformity) and the analysis performed for **NEPA** is that the analysis for the **CAA** is based on a comparison of predicted levels (with and without proposed improvements) while the analysis for **NEPA** estimates pollutant emissions/concentrations in the vicinity of a proposed project for direct comparison with the **NAAQS**.

Another key difference between analysis performed for the **CAA** (conformity) and the analysis performed for **NEPA** is that the **NEPA MOU** requires that final conformity determinations under the **CAA** continue to be the responsibility of FHWA and FTA. If no conformity determination is necessary for the project, the **NEPA** analysis for the **CAA** is the responsibility of FDOT.

19.2 PROCEDURE

Both the **CAA** and **NEPA** require that air quality be considered in the preparation of Environmental Documents. The **CAA** requires that transportation (motor vehicle-related) projects proposed in non-attainment areas that require federal participation (e.g., approval, licensing, funding) conform to a **SIP**, if there are provisions in the **SIP** for transportation conformity. Both the **SIP** and **NEPA** require that project-related (hot-spot) impacts in all areas (attainment and non-attainment) be discussed, and if applicable, mitigation measures considered.

19.2.1 ETDM Screening

Evaluation of project effects on air quality starts during the Efficient Transportation Decision Making (ETDM) screening for qualifying projects. As part of the Preliminary Environmental Discussion (PED), the Project Manager works with the District Air Quality Specialist to identify air quality issues within the project area to determine if an air quality screening will occur. During the Planning and Programming Screens of the ETDM

process, the EPA, which is a Technical Advisory Team (ETAT) member, provides comments on air quality issues. The ETAT comments are summarized in the **Programming Screen Summary Report** for the ETDM process. For more information, refer to FDOT's [ETDM Manual, Topic No. 650-000-002](#). The air quality screening results that are summarized in the Programming Screen help support the development of scope of air quality analysis for a Project Development and Environment (PD&E) Study.

19.2.2 Air Quality Analysis

The level of air quality analysis during the PD&E Study varies according to the size of the project, existing air quality issues, and the degree of controversy regarding the project.

19.2.2.1 Categorical Exclusions

Projects evaluated as Categorical Exclusions (CEs) are projects that do not involve significant environmental impacts. These types of projects typically have no effect on area-wide air quality levels, but may provide some air quality benefits on a local basis. For projects evaluated as CEs, an air quality analysis is generally not necessary. (See the *FHWA Discussion Paper: Appropriate Level of Highway Air Quality Analysis for a CE, EA/FONSI, and EIS*). See [Figure 19-1](#) for links to latest models [Motor Vehicle Emission Simulator (MOVES) and CAL3QHC], tools, and **NAAQS**.

If there is some question as to whether a particular project normally processed as a CE would have an air quality impact, a screening test should be performed in accordance with [Section 19.2.2.3.1](#). If the analysis indicates that the project will not create a new violation or exacerbate an existing exceedance of the carbon monoxide standard, the project may be processed as a CE.

19.2.2.2 Environmental Assessment

Environmental Assessments (EAs) are prepared when the significance of environmental impacts associated with a project are unknown. In general a simplified analysis procedure is adequate for most EA projects. **Low volume roads in rural areas do not require any analysis to determine air quality impacts.** Air quality analysis for EAs for other roads are done qualitatively using a knowledge of similar projects. However, if the predicted CO concentrations exceed the standard noted in [Table 19-1](#), a more detailed analysis using computer modeling techniques should be used.

If it is not certain whether there is an air quality impact on an EA, the procedures for an Environmental Impact Statement (EIS) outlined in [Section 19.2.2.3](#) should be followed.

19.2.2.3 Environmental Impact Statement

The air quality analysis in an EIS should normally include at least the results of a screening level analysis. Each alternative, including the no-build alternative, should be analyzed. In most circumstances, the build alternatives will indicate an improvement in

carbon monoxide concentrations. A flow chart illustrating the project evaluation process is provided in [Figure 19-2](#).

Ozone, nitrogen dioxide, particulate matter (not associated with construction), sulfur dioxide and lead are regional pollutants. It is not possible to estimate the individual effects of a project on these regional pollutants. Therefore, project level analyses are not required for these pollutants in either attainment or non-attainment areas.

The following sections describe the type of analysis required on a project level for attainment areas and non-attainment/maintenance areas for carbon monoxide, particulate matter criteria pollutants, and greenhouse gases, as appropriate.

19.2.2.3.1 Carbon Monoxide

Attainment/Non-attainment/Maintenance Areas – Levels of carbon monoxide (CO) tend to be the highest adjacent to intersections. Application of a screening test is typically not required for smaller projects with no potential to result in CO hotspots.

[Figure 19-2](#) documents the process for determining whether carbon monoxide screening is required on a project. When a project carbon monoxide screening test is required, intersections within the project corridor should be reviewed to evaluate the potential for a violation of the carbon monoxide **NAAQS**. At a minimum, the intersection with a combination of the highest intersection approach volume and lowest approach speed should be screened for carbon monoxide using the latest FDOT's carbon monoxide Screening Model (**CO Florida 2012**). The screening test should be performed for future (opening year and design year) conditions with and without the proposed roadway improvements. For additional information on data requirements for the carbon monoxide screening model, see [User's Guide to CO Florida 2012](#) for the screening methodology and the Environmental Office Software Download web page ([Section 19.4](#)) for a link to download the free screening model. [Figure 19-3](#) includes the **Traffic Data for Air Quality Analysis Form, Form No. 650-050-36** to be used for entering traffic data in the Screening Model.

CO Florida 2012 incorporates both the EPA's emission rates model, MOVES, and dispersion model, CAL3QHC. MOVES is a state-of-the-science emission modeling system that estimates emissions for mobile sources at the national, county, and project level for criteria pollutants and greenhouse gases. CAL3QHC is a steady-state software model designed to estimate air pollution concentrations at receptors downwind of highways. **CO Florida 2012** quickly and easily screens intersections for the ambient CO **NAAQS**. **CO Florida 2012** incorporates worst case conservative assumptions including peak hour traffic, January time-frame temperatures, meteorology (wind speed, stability class, and wind angle search), and close-in receptors. If the CO **NAAQS** are not exceeded during screening, using the worst-case assumptions, the intersection passes the screening test and no detailed modeling has to be performed. **CO Florida 2012** has built in different intersection configurations that are analyzed by the screening model after certain specific inputs are entered by the user.

Should the project fail the screening test, a detailed microscale emissions rates and dispersion analysis should be performed on the intersection failing the test to insure there are no violations of the CO **NAAQS**. The detailed microscale emissions rates and dispersion analysis should be performed using the latest versions of the EPA's MOVES and CAL3QHC models.

If the detailed microscale analysis shows that the intersection still violates the CO **NAAQS**, mitigation should be done through changes in lanes configuration, signal timing, exclusive vehicle allowances per lane, or other techniques. Once this is done the analysis should be redone for the adjusted scenarios. Compliance with the **NAAQS** standards shall be achieved in order for the proposed project to proceed.

19.2.2.3.2 Particulate Matter Associated with Construction

Attainment Areas - Particulate emissions associated with construction activity (e.g. dust) should be evaluated in a project. The following statement should be included in the **Air Quality Technical Memorandum** for the project:

Construction activities will cause short-term air quality impacts in the form of dust from earthwork and unpaved roads. These impacts will be minimized by adherence to applicable state regulations and to the FDOT Standard Specifications for Road and Bridge Construction.

Non-attainment/Maintenance Areas - The EPA has developed guidance describing how to perform a quantitative hot spots analysis for PM₁₀ and PM_{2.5} (a link can be found in [Figure 19-1](#)). The EPA guidance applies to new or expanded highway or transit projects with significant increases in diesel traffic. Consequently, if any area within the State of Florida is ever designated non-attainment with respect to PM₁₀ or PM_{2.5}, then the PM₁₀/PM_{2.5} guidance would apply. First, a determination would need to be made as to whether a project would significantly increase diesel traffic. If it would, then a quantitative PM₁₀/PM_{2.5} analysis would be required.

19.2.2.3.3 Greenhouse Gases

No national standards have been established regarding Greenhouse Gases (GHG), nor has the EPA established criteria or thresholds for GHG emissions. In 2007, the U.S. Supreme Court ruled that GHG (specifically CO₂) should be considered as pollutants under the **CAA**. The EPA is currently determining the implications to national policies and programs as a result of the U.S. Supreme Court decision.

In the interim, FHWA has encouraged the Division Offices to develop standard qualitative language related to GHG for inclusion in Environmental Documents. Standard language to qualitatively address GHG in Environmental Documents is provided in [Figure 19-4](#).

19.3 DOCUMENTATION

19.3.1 Technical Memorandum

It is not necessary to prepare an extensive report to document the status of the project with respect to air quality. Rather, a brief ***Air Quality Technical Memorandum*** should be prepared. When final, the memorandum should be placed in the project file. The ***Air Quality Technical Memorandum*** should include:

1. A disclosure that the review and evaluation was conducted by FDOT under ***NEPA*** assignment, see standard language included in the first paragraph of the ***Sample Air Quality Technical Memorandum (Figure 19-5)***.
2. A brief description of the project and the area in which the project is located (e.g., is the area primarily residential, commercial, industrial).
3. A brief description of air quality conditions within the area with respect to the ***NAAQS*** [the current EPA designation (attainment, non-attainment, maintenance, or unclassifiable) for the area (for each of the criteria air pollutants)]. It may be appropriate to cite published information regarding regional or local trend data, when such data is available and relevant to the project.
4. Confirm the project was reviewed for air quality impacts consistent with the ***FHWA Discussion Paper: Appropriate Level of Highway Air Quality Analysis for a CE, EA/FONSI, and EIS*** and provide the results of the analysis for the project alternatives (Build and No-Build). See [Section 19.2.2.3.1](#) for carbon monoxide screening requirements.
5. In attainment areas: The ***Air Quality Technical Memorandum*** should include the following statements:

The project is located in an area which is designated attainment for all of the National Ambient Air Quality Standards under the criteria provided in the Clean Air Act. Therefore, the Clean Air Act conformity requirements do not apply to the project.

6. In non-attainment/maintenance areas: The ***Air Quality Technical Memorandum*** should identify the specific LRTP/TIP in which the project is included (e.g., Fiscal Year 2015), the project identification number, and date the conformity determination for the LRTP/TIP was approved. This and other required information can be provided by inserting the following statements in to the memorandum:

The project is located in an area that has been designated as non-attainment/maintenance for the averaging time National Ambient Air Quality Standard for pollutant under the criteria

provided in the Clean Air Act. This project is included in the urban area's current approved conforming Transportation Improvement Plan (TIP), the area's conforming long-range plan, and the area's Conformity Determination Report. The project's design concept and scope are the same as that which were evaluated in the conforming TIP and long-range plan.

7. Text addressing GHG emissions (see text provided in [Figure 19-4](#)).

An example *Air Quality Technical Memorandum* is provided as [Figure 19-5](#).

19.3.2 Environmental Document

The results documented in the *Air Quality Technical Memorandum* are documented in the Environmental Document as described below:

1. Type 2 CEs - For Type 2 CEs, air quality analysis results documented in the *Air Quality Technical Memorandum* must be addressed in Section 3 Environmental Analysis, Item D.2 Physical/Air Quality of the *Type 2 Categorical Exclusion Determination Form, Form No. 650-000-01* and demonstrate whether the proposed project's impacts are significant: Yes (Significant Impact), No (No Significant Impact), Enhance (Enhancement) or No Involvement (Issue absent, no involvement). The purpose of this form is to provide focused documentation. Supporting information is documented in the referenced *Air Quality Technical Memorandum*. Also include GHG text provided in [Figure 19-4](#).
2. EAs - The air quality analysis results documented in the *Air Quality Technical Memorandum* are summarized under the Environmental Analysis section of the EA, including GHG text provided in [Figure 19-4](#).
3. EISs - The Environmental Analysis section includes a brief summary statement on air quality related issues, including a statement that indicates that there will not be any violations of the **NAAQS** for carbon monoxide. This section should summarize results of the air quality analysis documented in the *Air Quality Technical Memorandum* including the text for GHG ([Figure 19-4](#)).
4. State Environmental Impact Report (SEIR) – If an analysis is performed, the results are included in the Environmental Analysis section of the *State Environmental Impact Report Form, Form No. 650-050-43*. See ([Part 1, Chapter 10, State, Local and Privately Funded Project Delivery](#)) for more detail on how to prepare a SEIR.

19.4 REFERENCES

Chapter 62-204, F.S., Air Pollution Control – General Provisions.

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=62-204>

- CEQ, Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews. August 1, 2016 Memorandum.
<https://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/ghg-guidance>
- EPA, 1998. NO_x, How Nitrogen Oxides Affect the Way We Live and Breathe. EPA – 456/F-98-005.
- EPA, 2016. The Green Book Nonattainment Areas for Criteria Pollutants.
<https://www.epa.gov/green-book>
- FDOT, CO FDOT Florida 2012 User's Guide and Screening Model.
<http://www.dot.state.fl.us/emo/software/software.shtm>
- FHWA, Advisory T6640.8A, Guidance for Preparing and Processing Environmental and Section 4(F) Documents, October 30, 1987; available from the FHWA Environmental Guidebook.
<https://www.environment.fhwa.dot.gov/projdev/impta6640.asp>
- FHWA, Discussion Paper: Appropriate Level of Highway Air Quality Analysis for a CE, EA/FONSI, and EIS, March 1986.
<http://www.environment.fhwa.dot.gov/guidebook/vol1/doc1r.pdf>
- FHWA, Memo from Gloria Shepherd, August 4, 2016, Transmittal of CEQ Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews.
http://www.fhwa.dot.gov/environment/climate_change/adaptation/policy_and_guidance/ghgnepa.cfm
- Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>
- Title 40 CFR Part 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans.
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr93_main_02.tpl
- Title 42 U.S.C. § 85, Subchapter I (Programs and Activities), Part A (Air Quality and Emission Limitations).
<http://uscode.house.gov/browse/prelim@title42/chapter85/subchapter1/partA&edition=prelim>

19.5 FORMS

State Environmental Impact Report Form, Form No. 650-050-43*

Traffic Data for Air Quality Analysis Form, Form No. 650-050-36

Type 2 Categorical Exclusion Determination Form, Form No. 650-000-01*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

19.6 HISTORY

8/18/1999, 9/13/2006, 8/24/2016

Federal Highway Administration

Policies and Guidance Papers.

http://www.fhwa.dot.gov/environment/air_quality/conformity/policy_and_guidance

Air Quality.

http://www.fhwa.dot.gov/environment/air_quality/

Transportation conformity.

<http://www.fhwa.dot.gov/environment/conform.htm>

Florida Department of Environmental Protection

Current air quality rules (Chapter 62-4, F.A.C.) –.

<http://www.dep.state.fl.us/air/rules/current.htm>

General Air Quality Publications.

<http://www.dep.state.fl.us/air/publication/general.htm>

U.S. Environmental Protection Agency

Tier 3 Vehicle Emission and Fuel Standards Program.

<http://www3.epa.gov/otaq/tier3.htm>

What Are the Six Common Air Pollutants?

<https://www.epa.gov/criteria-air-pollutants>

National Ambient Air Quality Standards (NAAQS). <https://www.epa.gov/criteria-air-pollutants/naaqs-table>

CAL3QHC Model.

http://www3.epa.gov/ttn/scram/dispersion_prefrec.htm#cal3qhc

Guidance on Hot Spots Analysis for PM₁₀ and PM_{2.5}.

<http://www.epa.gov/otaq/stateresources/transconf/projectlevel-hotspot.htm>

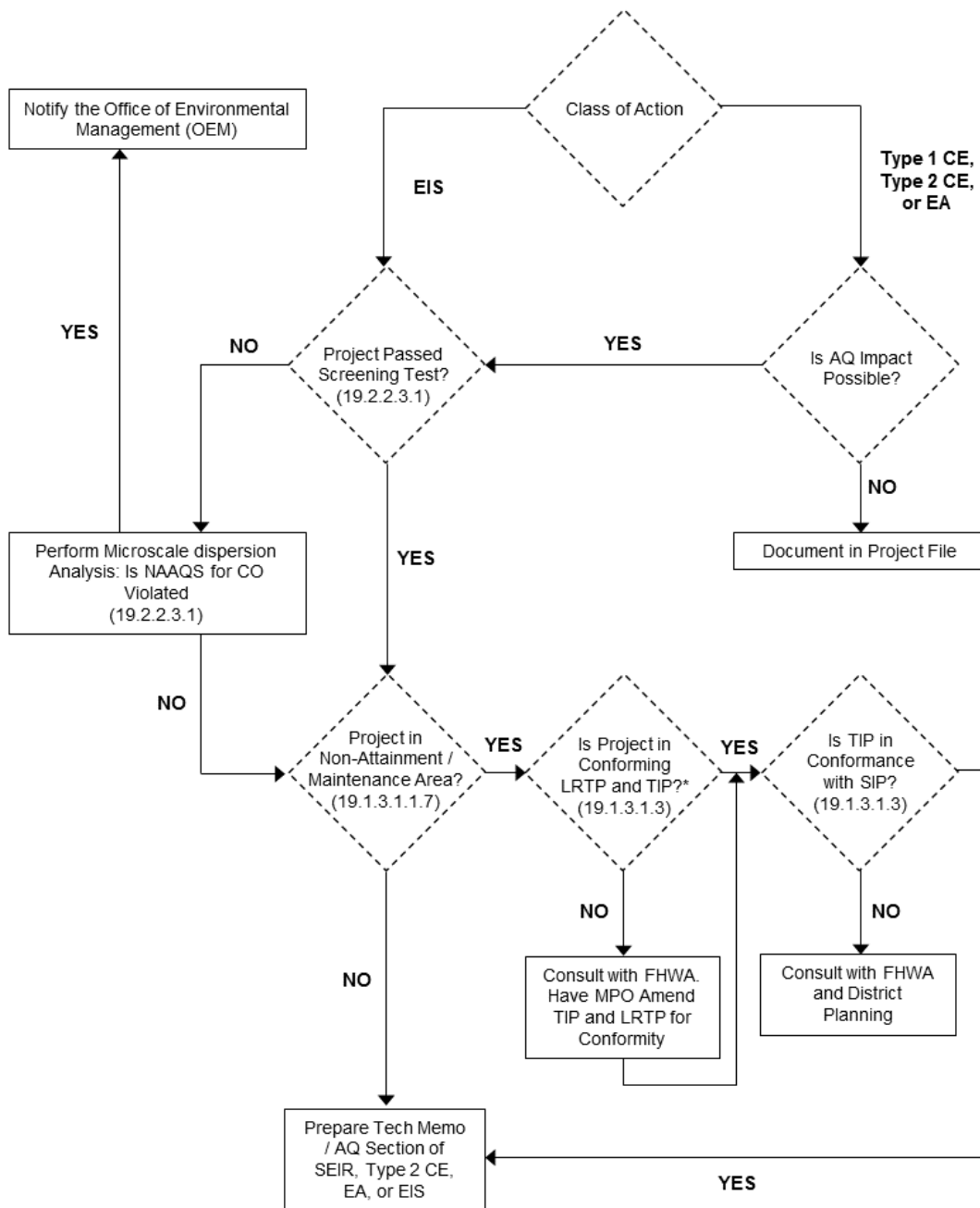
Motor Vehicle Emission Simulator (MOVES) Model.

<http://www.epa.gov/otaq/models/moves/>

State Implementation Plans (Region 4).

<http://www3.epa.gov/region4/air/sips/>

Figure 19-1 Air Quality Information Sources



*Assumes that the project scope (concept and design) have not changed significantly from what is identified in the L RTP/TIP. If the scope has changed significantly, the MPO must reevaluate and re-conform their TIP.

**Figure 19-2 Air Quality Analysis Process (for Carbon Monoxide)
 Air Quality Technical Memorandum**

TRAFFIC DATA FOR AIR QUALITY ANALYSIS

Date: _____ Prepared by: _____

Financial Management Number(s): _____

Federal Aid Number(s): _____

Project Description: _____

NOTE: Traffic data should be provided for the intersection that is forecast to have the highest total approach traffic volume. Notably, the intersection may not be the same for the Build and No-Build alternatives. The number of lanes should be the number of intersection approach through lanes. The traffic volumes should be representative of vehicles per hour (vph) and vehicle speeds should be representative of posted speeds if intersection cruise approach speeds are unknown. This traffic data sheet was prepared to assist in obtaining appropriate traffic data for the FDOT CO Florida 2004 Intersection Screening Model. Notably, additional traffic data is required for diamond interchanges (see User's Guide).

=====
Opening Year: _____

Intersections: Build _____ No-Build _____

Land Use: Urban _____, Suburban _____, or Rural _____

Build/ No-Build	EB		WB		NB		SB	
	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd
Build								
No-Build								

=====
Design Year: _____

Intersections: Build _____ No-Build _____

Land Use: Urban _____, Suburban _____, or Rural _____

Build/ No-Build	EB		WB		NB		SB	
	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd	No. of Lanes	VPH Spd
Build								
No-Build								

Figure 19-3 Example Traffic Data Input Sheet

Greenhouse Gases

[USE THIS STATEMENT FOR TYPE 2 CEs]

The project is expected to improve traffic flow [describe in one sentence how; for example, adding lane to relieve congestion], which should reduce operational greenhouse gas emissions.

[USE THIS STATEMENT FOR EAs and EISs]

No national standards have been established for GHGs. Similarly, the United States Environmental Protection Agency has not established criteria or thresholds for ambient GHG emissions pursuant to its authority to establish motor vehicle emission standards for CO₂ under the Clean Air Act. GHGs are different from other air pollutants evaluated in federal environmental reviews because impacts are not localized or regional due to their rapid dispersion into the global atmosphere. In addition, climate change is the cumulative result of numerous and varied emissions sources, each of which makes a relatively small contribution to atmospheric GHG concentrations. It is difficult to isolate and understand the GHG emissions impacts for a particular transportation project given there is no scientific methodology for attributing specific climatological changes to that transportation project's emissions.

FDOT concluded, based on the nature of GHG emissions and the exceedingly small potential for GHG impacts from the proposed project, that the GHG emissions from the proposed action will not play a meaningful role in a determination of an environmentally preferable alternative or the selection of the preferred alternative.

No alternatives-level GHG analysis has been performed for this project since GHG emissions is very small in the context of the affected environment.

Figure 19-4 Greenhouse Gases (GHG) Standard Text

Date:

To: Name, Title

From: Name, Title

Subject: Financial Management Number(s) _____
Air Quality Screening Test
Project Description,
_____ County

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

The proposed project is located in _____ County, an area currently designated as being attainment/non-attainment/maintenance for the following criteria air pollutant(s) ozone/nitrogen dioxide/particulate matter (2.5 microns in size and 10 microns in size)/sulfur dioxide/carbon monoxide/lead.

The project alternatives were subjected to a carbon monoxide (CO) screening model that makes various conservative worst-case assumptions related to site conditions, meteorology and traffic. The Florida Department of Transportation's (FDOT's) screening model for CO uses the latest United States Environmental Protection Agency (EPA)-approved software to produce estimates of one-hour and eight-hour CO at default air quality receptor locations. The one-hour and eight-hour estimates can be directly compared to the current one- and eight-hour **National Ambient Air Quality Standards (NAAQS)** for CO.

The roadway intersection forecast to have the highest total approach traffic volume was name of intersection. The Build and No-Build scenarios for both the opening year (year) and the design year (year) were evaluated. The traffic data input used in the evaluation is attached to this memorandum.

Estimates of CO were predicted for the default receptors which are located 10 feet to 150 feet from the edge of the roadway. Based on the results from the screening model, the highest project-related CO one- and eight-hour levels are not predicted to meet or exceed the one- or eight-hour **National Ambient Air Quality Standards (NAAQS)** for this pollutant with either the No-Build or Build alternatives. As such, the project "passes" the screening model. The results of the screening model are attached to this memorandum.

[For projects in non-attainment or maintenance areas also include the following paragraph]

The project is located in an area that has been designated as non-attainment/maintenance for the averaging time National Ambient Air Quality Standard for pollutant under the criteria provided in the Clean Air Act. This project is included in the urban area's current approved conforming **Transportation Improvement Plan (TIP)**, the area's conforming long-range plan, and the area's **Conformity Determination Report**. The project's design concept and scope are the same as that which were evaluated in the conforming **TIP** and long-range plan. A copy of FDOT's memorandum documenting conformity for the project is attached.

[Insert text from Figure 19-4 to address greenhouse gas (GHG) emissions]

Figure 19-5 Sample Air Quality Technical Memorandum

PART 2, CHAPTER 20

CONTAMINATION

TABLE OF CONTENTS

20.1	OVERVIEW	20-1
20.1.1	Purpose	20-1
20.1.2	Definitions	20-3
20.2	PROCEDURE.....	20-6
20.2.1	Contamination in the Project Development Process.....	20-7
20.2.1.1	ETDM Screening and Project Scope Development.....	20-7
20.2.1.2	Project Development and Environment.....	20-8
20.2.1.3	Design	20-9
20.2.1.4	Construction	20-9
20.2.2	Level I / Contamination Screening Evaluation	20-10
20.2.2.1	Desktop Review	20-10
20.2.2.2	Site Reconnaissance/Field Review	20-12
20.2.2.3	Interviews	20-13
20.2.2.4	Contamination Risk Rating.....	20-13
20.2.2.5	Contamination Screening Evaluation Report.....	20-14
20.2.2.6	Environmental Document.....	20-16
20.2.2.6.1	Type 1 Categorical Exclusions and Non-Major State Actions	20-16
20.2.2.6.2	Type 2 Categorical Exclusions	20-17
20.2.2.6.3	Environmental Assessment and Environmental Impact Statement.....	20-17
20.2.2.6.4	State Environmental Impact Reports.....	20-18

20.2.2.6.5	Re-evaluations	20-19
20.2.3	Level II Assessment.....	20-19
20.2.3.1	District Contamination Impact Coordinator Role during the Design Phase.....	20-20
20.2.3.2	Right of Way Support	20-21
20.2.3.3	Contamination Plan Markings and Special Provisions	20-21
20.2.4	Level III Assessment - Contamination Remedial Action	20-22
20.2.5	Additional Considerations	20-22
20.2.5.1	2014 MOU between FDEP and FDOT	20-22
20.2.5.2	CERCLA / Superfund Sites	20-23
20.2.5.3	Asbestos Containing Materials and Metal Based Coating Surveys.. ..	20-23
20.2.5.4	Use of Bridge Debris as an Artificial Reef	20-23
20.2.5.5	Dewatering During Construction	20-23
20.3	REFERENCES.....	20-24
20.4	FORMS	20-25
20.5	HISTORY	20-26

LIST OF FIGURES

Figure 20–1	Key Points to Consider.....	20-27
Figure 20–2	Sample Contamination Screening Evaluation Report Cover Page.....	20-30
Figure 20–3	Contamination Screening Evaluation Report Outline	20-31

PART 2 CHAPTER 20

CONTAMINATION

20.1 OVERVIEW

20.1.1 Purpose

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance on identifying, evaluating, and remediating potential contamination issues associated with FDOT projects in all phases of the project development process [Planning, Project Development and Environment (PD&E), Design and Construction] to comply with federal and state laws and regulations. Petroleum related contamination requirements are outlined in **Chapters 376 and 403 Florida Statutes (F.S.)**, and requirements for dealing with hazardous wastes, and rehabilitation of contaminated sites are outlined in **Chapters 62-730 and 62-780 Florida Administrative Code (F.A.C.)**, respectively. Federal requirements for contamination evaluation are contained in the **Resource Conservation and Recovery Act (RCRA)** as amended by **Hazardous and Solid Waste Amendments (HSWA)** and the **Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)** as amended by **Superfund Amendment and Reauthorization Act (SARA)**. **RCRA** deals with waste management for protecting human health and the environment from the potential hazards of waste disposal. **CERCLA** (also known as Superfund) sets federal requirements for responding to spills of hazardous substances and establishes liability for cleanup cost to responsible parties.

The 1988 FHWA Memorandum titled **Interim Guidance – Hazardous Waste Sites Affecting Highway Project Development** provides guidance on dealing with contamination materials during project development and construction of federal-aid transportation projects. The FHWA interim guidance emphasizes the need to identify and assess potentially contaminated sites early in the project development process and to use measures to avoid or minimize project involvement with substantially contaminated sites. In 1998, FHWA issued a **Policy Revision to Support the Brownfields Economic**

Redevelopment Initiative which encourages acquisition and/or clean-up of land within brownfields for transportation purposes in certain instances: 1) where such actions are feasible, reasonable, within acceptable limits of liability exposure, 2) when cooperating partners are available, and 3) when parties legally responsible for the contamination are pursued to the maximum extent practicable.

Contamination within or adjacent to FDOT right of way (ROW) has the potential for liability (to FDOT through property ownership and due to contaminated/hazardous material exposure, handling and disposal) and may require assessment, remediation/mitigation, or special handling. Therefore, FDOT must consider the potential for encountering contamination within the limits of every project, including excavation, acquiring new ROW or easements, proposed stormwater management sites, utility work, structure demolition/modifications, and similar off-site construction activities. To avoid or minimize impacts, evaluation for potential contamination impacts begins during the earliest phase of the project development process and continues through construction. The level of contamination evaluation increases as the project moves from the Planning phase to the Construction phase.

Contamination of soil, groundwater, surface water, sediments, and structures may have the following impacts to an FDOT project:

- Human exposure;
- Potential or actual human health concerns;
- Exacerbation of the contamination by construction activities;
- Design modifications or special construction provisions for work within contaminated areas;
- Requirements for the proper handling and disposal of contaminated material; and,
- Potential cost and/or schedule impacts.

Thus, understanding the type and extent of contamination issues and addressing them early and properly can reduce costs and risks to FDOT. FDOT must utilize the best available information to identify, screen, and evaluate potential contamination impacts.

If areas with the potential for contamination are identified within or adjacent to an FDOT project, the Project Manager (PM) and District Contamination Impact Coordinator (DCIC) should work together to determine actions to address contamination issues. The PM and DCIC should provide this information in a timely manner to the District management and appropriate technical offices (such as ROW, Design, Construction and Maintenance) and the Office of General Counsel (OGC), as appropriate, to allow for informed project-related decisions to be made.

20.1.2 Definitions

Asbestos – A naturally occurring, fibrous silicate mineral, including chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered. All types of asbestos are known to cause serious health hazards. For purposes of this definition "asbestos" includes Presumed Asbestos Containing Materials (PACM) and Regulated Asbestos Containing Materials (RACM).

Asbestos Containing Materials (ACM) - Means any material containing more than one percent (1%) asbestos as defined in **29 Code of Federal Regulations (CFR) § 1926.1101, Occupational Health & Safety Administration (OSHA)**.

Brownfield – As per **Section 376.79(3), F.S.**, Brownfield means real property, the expansion, redevelopment or reuse of which may be complicated by actual or perceived environmental contamination.

Cleanup Target Level – The concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.

Contamination Assessment and Remediation (CAR) Contractor – A vendor selected by FDOT that provides services related to hazardous and contaminated materials, emergency response services, site assessment, source removal services, and other environmental services as required by the contract.

Contamination - The presence of any contaminant in surface water, groundwater, soil, sediment, or upon the land, in concentrations that exceed the applicable Cleanup Target Levels (CTLs) or water quality standards and/or may result in contaminated sediment.

Contaminant - Any substance which is harmful to plant, animal, or human life.

Contaminated Site - Any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.

Contamination Screening Buffer – An area within and adjacent to the project that should be evaluated for possible additional contamination assessment.

Contamination Source - The place of origin or major concentration of contaminants from which contamination migrates to surrounding areas through the soil or groundwater.

Hazardous Material - A general term that includes all materials and substances which are now designated or defined as hazardous by federal or state law or by the rules or regulations of the state or any federal agency: **40 CFR § 261.30, 40 CFR § 261.4, 40 CFR §§ 261.21-261.24, Section 376.301, F.S.**, and **Section 403.74, F.S.**

Hazardous Waste Site - A site at which wastes as defined in *Rule Chapter 62-730, Florida Administrative Code*, and *40 CFR §§ 260-272*, have been disposed, treated, or stored.

Lead-Based Paint (LBP)- Paint or other surface coatings as defined in *Section 381.983, F.S.* that contain lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, 5,000 parts per million (ppm) by weight or 5,000 milligrams per kilogram.

Level of Investigation - To standardize contamination evaluations on transportation projects, FDOT broadly uses the following levels of contamination investigation:

Level I – Contamination screening evaluation consists of desktop review, site reconnaissance, and review of historical records to identify all past and present potentially contaminating activities within or adjacent to the project and to determine the need for further assessments. Level I evaluation is completed during the PD&E phase or at Phase I (30%) design plans for projects which do not have a PD&E Study.

Level II – Level II assessment [also known as Impact to Construction Assessment (ICA)] consists of a detailed evaluation of potential project involvement with contamination in considering the project scope of work as well as the potential for either handling or exacerbation of existing soil or groundwater contamination, as well as consideration of acquisition of potentially contaminated parcels when applicable. When applicable, a Level II assessment may include soil sampling, laboratory testing and/or installation of groundwater monitoring wells for sites with known or potentially contaminated materials. This is done to assess the type and extent of contamination in the project area and to develop recommendations for Level III activities or avoidance measures as warranted. Level II assessment is typically performed during the Design phase. However, it may be performed during the PD&E phase for projects with advanced design activities or when it is required to substantiate the impact of potentially contaminated sites on the preferred alternative.

Level III – Level III refers to additional evaluation from the Level II assessment and as warranted, remediation of contamination or a detailed plan for the removal and disposal of contaminated soil and/or groundwater, underground storage tank removal or other similarly related activities that may directly impact construction activities or right of way acquisition and clearance. Level III activities can take place during design, ROW acquisition, or construction.

Metal-Based Coatings (MBC) – Surface coatings containing metals that could be considered hazardous including cadmium, arsenic, lead, zinc, and hexavalent chromium.

Modified Special Provision (MSP) - A specification, prepared, signed, and sealed in accordance with *Chapters 471 and/or 481, F.S.*, that revises an implemented specification (Standard Specification, Supplemental Specification, or Special Provision)

to address a project specific need and is approved for use by the State Specifications Engineer.

Municipal Separate Storm Sewer System (MS4) - A MS-4 system is a storm water conveyance system owned by a state, city, town or other public entity which discharges to waters of the United States but is not combined with a sewer system or part of a publicly owned treatment works.

National Pollutant Discharge Elimination System (NPDES) - the NPDES Stormwater Program is a comprehensive two-phased national program (established by the **Clean Water Act**) for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. The program uses the NPDES permitting mechanism to require the implementation of controls designed to prevent harmful pollutants from being washed by stormwater runoff into local water bodies.

Potentially Contaminated Site - Any undocumented suspect site that has the potential for containing existing contamination or has the capacity to become contaminated in the future due to onsite activities.

Presumed Asbestos Containing Material (PACM) - Thermal system insulation and surfacing material found in buildings and bridges with the potential to have ACM constructed no later than 1980. PACM may be noted as present in other materials that cannot be adequately sampled. Sampling of these materials may be prohibited due to access, safety, and compromising the building's structural integrity.

Remediation - Those activities necessary to remove, treat, or otherwise reduce contamination to a level acceptable to the regulatory agency having jurisdiction in accordance with **Chapter 62-780, F.A.C.**

Regulated Asbestos Containing Material (RACM) – According to the Environmental Protection Agency (EPA), RACM is (a) friable asbestos material, (b) Category I non-friable ACM that has become friable, (c) Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

Solid Waste - RCRA defines a solid waste as: “any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial or mining and agricultural operations, and from community activities . . . [excluding] . . . solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under **Section 402 of the Federal Water Pollution Control Act.**”

Superfund Site - A site on the National Priorities List as adopted by the United States Environmental Protection Agency.

Technical Special Provisions (TSPs) - Specifications of a technical nature, prepared, signed, and sealed in accordance with **Chapters 471, 481, or 481 Part 2, F.S.**, that are made part of the contract as an attachment to the contract documents. TSPs describe work that is not covered by the **Standard Specifications** or Workbook and are included as Appendices in a Specifications Package.

20.2 Procedure

Project involvement with contamination must be evaluated for all FDOT projects to minimize potential risks, liabilities, health and safety concerns, project delays and cost overruns. The scope of the project as it relates to potential involvement with contaminated soil or groundwater is a key consideration. Involvement with contamination can be in the form of potential exposure to contaminated soil, groundwater, other surface debris, or ACM/MBC during construction; as well as the potential for plume disturbance during construction; or the consideration of contaminants or undergrounds storage tanks present on parcels identified for ROW acquisition. These levels of investigation evaluates or assess the sites along the project corridor for the potential presence of contamination and provide the appropriate information needed to address contamination concerns at each phase of the project development process. Typically, Level I supports the PD&E Study, Level II supports Design activities and Level III supports construction; see **Definitions Section 20.1.2**. However, Level II assessment may be conducted during the PD&E Study as warranted DCIC and District Environmental Office staff assist the PM in making this determination.

Efforts to conduct coordination as described in [2014 MOU between Florida Department of Environmental Protection \(FDEP\) and FDOT](#) when addressing for petroleum contamination should be considered and advanced as appropriate at each Level of Investigation, see **Section 20.2.5.1**. Ideally, petroleum contaminated sites identified during PD&E will be addressed and remediated by FDEP through the provisions of the **2014 MOU** prior to acquisition or construction. As project environmental review advances from PD&E to construction, the contamination portion of the original **NEPA** document and subsequent re-evaluations provide a summary of results of the associated Level of Investigation at each phase. The Construction Advertisement re-evaluation should contain a final summary of contamination investigations completed and reflect resolution of contamination related issues to accommodate advancement of construction.

The DCIC is the District's point of contact for all issues related to contamination impacts within existing or proposed FDOT ROW. The DCIC is responsible for administration of the District's contamination program, which may include management of the Contamination Assessment and Remediation (CAR) contract(s); coordination of contamination activities in all phases of the project development process; emergency response activities as they relate to contamination discharges on FDOT ROW or facilities and maintenance and retention of documentation for contamination work performed within the District. Additional duties may include coordination of hazardous materials and

petroleum compliance issues with appropriate personnel for FDOT facilities and maintenance yards.

20.2.1 Contamination in the Project Development Process

Contamination issues can be avoided or minimized by changing the project's design, or remediated if they are identified early in the project development process. The benefit of early identification of contamination is to minimize unanticipated contamination encountered during construction of a project. Contamination issues on FDOT projects can be early identified during work program development, Statewide Acceleration Transformation (SWAT) kick-off meetings, scope of services development, Efficient Transportation Decision Making (ETDM) screening, and the PD&E Study. Many options are available to effectively manage or remediate contamination issues that are discovered early in the project development process. These options include assessing and remediating the contaminated site using the **2014 MOU** provisions, conducting Level II assessment, design modifications, using Modified Special Provisions (MSPs), or using the CAR Contractor, as appropriate.

Since contamination issues can vary with projects, the DCIC and PM should be both flexible and innovative in addressing the issues. **Figure 20-1** summarizes general considerations related to contamination impacts on projects that the DCIC, PM, and project analysts should consider when evaluating contamination issues.

20.2.1.1 ETDM Screening and Project Scope Development

Evaluation of potential contamination impacts on PD&E projects begins when the District prepares Preliminary Environmental Discussion (PED) for projects that are screened through the ETDM process (See [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). The ETDM process provides an opportunity for regulatory agencies [FDEP, EPA, and Water Management Districts (WMDs)] to comment on sites or properties that have or had regulated activities. Evaluation of potential contamination impacts is limited to the broad impact that known or suspected contaminated sites may have on the project scope. The District can use FDOT records and/or other online resources maintained by the FDEP, local agencies and WMDs to obtain data for evaluation. Additional data can be obtained from commercial environmental data service companies.

The PM, DCIC and ETDM Coordinator should coordinate continuously with regulatory agencies and other appropriate local agencies throughout the ETDM screening process. Coordination should also include District staff such as the District Drainage Engineer, Permit Coordinator, District Design Engineer, Design PM, District Structures Engineer, OEM, and others who might be involved in future phases of the project.

The following project activities occur during the ETDM process:

- **Planning Screen** – Specific information identified in the Planning screen includes information about known or potential contaminated sites located within or adjacent

to project alternatives. The District may begin to coordinate with the FDEP for potential assessment or remediation of petroleum contaminated facilities within or adjacent to the project ROW, pursuant to the [2014 MOU between FDEP and FDOT \(Section 20.2.5.1\)](#).

- **Programming Screen** – The PED should include discussion about known or potential project involvement with contamination based on the District’s familiarity with the project area and anticipated project activities. The PED should also list all known and potential contamination issues located within the project area using available data and District staff familiarity with the project area. Based on the effect of the project, the PED should indicate whether a Level I evaluation is anticipated. The District must begin to coordinate or update the status of coordination with the FDEP on potential assessment or remediation of petroleum contaminated sites within or adjacent to the project ROW, pursuant to the [2014 MOU between FDEP and FDOT](#).

After the ETDM screening, the PM and DCIC review the Environmental Technical Advisory Team (ETAT) comments related to contamination issues published in the **Programming Screen Summary Report** for the project. While reviewing the report, the PM and DCIC should pay close attention to any list of potential contamination sources and/or sites that warrant further investigation.

The results of the ETDM screening and the District’s familiarity with the potential contamination issues in the project area are used to estimate the level of effort for contamination evaluation in the scope of the PD&E Study. The PM should work with the DCIC to determine contamination evaluation needs and the level of evaluation effort for contamination to be included in the scope of services for the PD&E Study or CAR contract. A thorough scope of services for the PD&E Study is important to ensure all contamination issues are identified early in the project development. For projects that overlap the PD&E and Design phases, the **Contamination Screening Evaluation Report (CSER)** / Level I evaluation and Level II assessment may be combined or completed consecutively

Evaluation of potential contamination impacts for projects that do not have a PD&E phase begins during the scope development stage for the project. Depending on the type of construction activity, these projects generally require contamination evaluation that is not as extensive as projects that have a PD&E phase.

20.2.1.2 Project Development and Environment

During PD&E, a Level I evaluation (contamination screening) is performed to screen known and/or potentially contaminated sites that may impact project alternatives. The identified potential contaminated sites are evaluated for impact to each project alternative and each site is assigned a “risk rating”. Based on the assigned risk rating and the proposed construction activities in the area of potential contamination, the PM and the DCIC coordinate actions that should be taken to address contamination issues.

Level I evaluation is documented in the **CSER**. The findings of the **CSER** should be summarized in the appropriate Environmental Document prepared for each PD&E project (See **Section 20.2.2.6**).

The proposed project scope of work should be considered in qualifying the effort and detail invested in the Level 1 assessment. Project construction activities which expose potentially contaminated soils and groundwater, propose activities which could exacerbate an existing contaminated groundwater plume and projects with ROW acquisition, warrant more detailed evaluation as outlined in this Chapter. Contamination evaluation for Projects with no soil excavation or groundwater disturbance, and no ROW acquisition, may be documented by technical memorandum with identification of potentially contaminated sites within the project vicinity and a notations regarding results of a visual inspection of the corridor. Contaminated sites, primarily those assigned Medium or High risk ratings, should continue to be evaluated in the next project phase.

20.2.1.3 Design

During Design phase, planned ROW acquisition and project design features should be considered in determining the potential contamination impacts. There may be instances when contamination involvement can be avoided with minor design changes; for example, moving drainage structures or redesigning french drains to solid pipes in areas identified as having potential for soil or groundwater contamination. In addition, the potential pond sites and floodplain compensation (FPC) areas should be evaluated during the Level I/contamination screening evaluation.

A Level II assessment, if warranted, is typically performed during the Design phase. The DCIC should continue to coordinate with the Design Project Manager and ROW staff as appropriate. Design plans and their revisions should be reviewed by the DCIC to ensure that design features are not impacted by or exacerbate, contamination issues. Additionally, drainage easements should be evaluated if there is a potential for contamination impacts to construction activities. The DCIC should also coordinate with regulatory agencies as necessary, such as coordinating with FDEP for projects that may require remediation through the [2014 MOU between FDEP and FDOT](#), solid waste removal, or dewatering permits.

20.2.1.4 Construction

For projects with identified contamination issues, the DCIC should attend the pre-construction meeting and coordinate closely with the construction PM to ensure the contractor is fully aware of potential involvement, commitments, remediation activities, avoidance measures, or any further coordination or measures as needed. During the Construction phase, the DCIC should support the Engineer on contamination-related matters and verify completion of any necessary Level III activities.

20.2.2 Level I / Contamination Screening Evaluation

The Level I evaluation is performed (during the PD&E phase or development of Phase I design plans for projects which do not have a PD&E phase) to screen potentially contaminated sites that are within or adjacent to the project. Level I evaluation does not typically involve sampling and testing soil or groundwater. The information obtained from the Level I evaluation should be sufficient enough to determine potential contamination risk on each project alternative. The Level I evaluation consists of desktop review of the proposed project scope of work; contamination-related records; site reconnaissance/field review, interviews; estimating risk ratings; and preparation of a report or technical memorandum.

If the Level I evaluation clearly finds no contamination issues in the project area, there is no need for further investigation providing there are no new discharges causing contamination; or no changes in design or construction activities on the site that can exacerbate contamination issues. If sites (ranked medium or high) are identified during the Level I evaluation that, the sites are further considered for a Level II evaluation.

20.2.2.1 Desktop Review

The purpose of the desktop review is to identify potential contaminated sites and to evaluate the potential for encountering contamination from current and/or previous land uses. Desktop reviews should be performed prior to the field review. The desktop review should include consideration of land use adjacent to the transportation project when screening for contamination issues.

Desktop review may identify any land-filling or other earth disturbing activities, historic non-regulated gasoline service stations, past agricultural uses, trucking facilities, possible cattle ranching activities (cattle dip vats), and heavy industrial uses (e.g. ship yards). Databases maintained by federal, state, or local governments or regulatory agencies are the most reliable sources of data for desktop review. Desktop review may also include review of available historical aerial photographs and Sanborn fire insurance maps to evaluate the potential for contaminated materials to exist from the earliest date of development/use of the property.

Sources of data for desktop review are the Environmental Screening Tool (EST), publicly available databases, or databases from commercial environmental data service companies. Commercial environmental databases have limitations, thus the project analyst should supplement information from field review and thorough file review or other sources of identification as readily available.

Desktop review should include review of topographic and hydrologic conditions of the site to evaluate the potential for migration of contaminants above or below ground. Sources for hydrologic information include individual site information in FDEP's Oculus database, United States Geological Survey (USGS) maps and States Department of Agriculture (USDA) soil survey and reports.

Search distances (contamination screening buffers) used for the desktop review vary depending on the context of the project and type of contamination source. The project analyst (or consultant) performing Level I investigation should coordinate with the DCIC if the buffer distance is to be modified to reflect project context. The following buffer distance are recommended on FDOT projects:

1. 500 feet from the ROW line for petroleum, drycleaners, and non-petroleum sites. Corridor projects in heavily industrialized or urbanized areas with dewatering planned near the contaminated sites need to be addressed with FDEP or the local delegated program lead.
2. 1000 feet from the ROW line for non-landfill solid waste sites (such as recycling facilities, transfer stations and debris placement areas).
3. 1/2 mile from the ROW line for **CERCLA**, National Priorities List (NPL), or Landfill sites. Include a detailed discussion of these sites if they are expected to potentially impact the project. Coordinate with OGC and environmental permitting agencies, as appropriate.

The following sources available in EST should be considered in evaluating contamination on a project.

1. FDEP Map Direct Geographic Information Services (GIS) Application
2. FDEP Contamination Locator Map
3. FDEP Institutional Control Registry
4. National Priorities List
5. Proposed National Priority List
6. Superfund Enterprise Management System (SEMS)
7. Historical/Current Aerial Photos

Other sources that should be considered include:

1. FDEP OCULUS database
2. FDOT ROW map notes
3. Sanborn Maps
4. County/City/Municipals Directories and Registries
5. District GIS databases

6. Other state and local data resources that may be applicable and available

20.2.2.2 Site Reconnaissance/Field Review

A field review or site reconnaissance is required to identify potential/suspect and known contaminated sites within or adjacent to the project area. The field review is an opportunity to verify the locations of potentially contaminated sites identified during the desktop review. The DCIC or representative should participate in the field reviews. Field review is typically conducted from existing FDOT or public ROW and should not require reviewers to enter a property suspected to have contamination issues.

Field reviews can include observations of apparent changes in topography such as depressions or mounds indicative of subsurface concerns. Through field reviews, visual indications of surface spills, surface staining, areas of suspect liquids, tanks, suspicious odors, apparent sink holes, distressed vegetation, ventilation pipes, drums, or chemical storage containers can be used to screen potentially contaminated media. Photographs should be taken of each site reviewed and any specific areas of concern should be noted during the site visit. Information about current and former uses of the site (ascertained through visual inspection or interviews) should be noted. Above ground utilities, and any evidence of below ground utilities should be documented on field notes.

The lack of visual characteristics for contamination does not imply the media is not contaminated. Based on the results of desktop review and interviews with the operators of the site, it may be necessary to conduct a Level II assessment to sample and test soil, groundwater, and/or surface water. **Property Access Agreements** may be needed to access properties that have not been acquired or that currently have tenants. The District Office of General Counsel, District ROW Office and PM should be contacted when a **Property Access Agreement** is required. The notification requirements to enter the property of others to conduct a survey, drill a test well, and collect samples are contained in **Section 337.274, Florida Statutes**. Any testing should be conducted in accordance with existing **FDEP Standard Operating Procedures** contained in **Chapter 62-160, Florida Administrative Code (F.A.C)**.

For projects involving existing bridges, building structures, and existing or abandoned utilities (which will be moved or demolished), physical samples may be collected to determine the presence and quantities of potential Asbestos Containing Materials (ACM), Lead-Based Paint (LBP), or Metal Based Coatings (MBC). Evaluation should also be performed for any bridge timbers, fender systems, or railroad ties that may have the potential to contain wood preservatives. The DCIC should be involved to determine District preferences for the extent and timing of the sampling.

The DCIC should coordinate with the District Structures Engineer, District Bridge Engineer, District Maintenance Engineer, or District Facilities Engineer, as appropriate, when survey or abatement actions are required for facilities or structures that have or may

have ACM, LBP, or MBC. The District Structures Engineer, District Bridge Engineer, District Maintenance Engineer, or District Facilities Engineer may have additional information acquired during surveys or previous maintenance activities regarding ACM and MBC on structures/bridges within the project. The District Maintenance Office and District Construction Office may also have information about existing contamination from previous projects.

20.2.2.3 Interviews

Interviews with present and past owners, operators, and/or occupants of the properties with contamination concerns, and local government officials such as fire department staff, may be used to verify or supplement the results of desktop and field reviews.

20.2.2.4 Contamination Risk Rating

FDOT uses a contamination risk rating system to evaluate the likelihood that a contaminated site may have impact on the project. The rating system provides information needed to plan proper handling of contamination through avoidance, remediation, or mitigation. The presence of a contaminated site adjacent to the project area does not always mean a high risk is present on the project. The analyst should consider proposed construction activities and determine if the scope of work may cause direct contact with the contaminant. In some cases, a regulatory agency may also be performing corrective actions to known contamination issues, which may fully remediate or substantially reduce the level of contamination issues prior to project construction.

There are four contamination risk rating categories (No, Low, Medium or High) that are appropriately assigned to each property or site evaluated for potential contamination impacts to the project. These are explained as follows:

1. **No** - A review of available information on the property and a review of the conceptual or design plans indicates there is no potential contamination impact to the project. It is possible that contaminants had been handled on the property. However, findings from the contamination screening evaluation or sampling and testing results indicate that contamination impacts are not expected.
2. **Low** - A review of available information indicates that former or current activities on the property have an ongoing contamination issue, has a hazardous waste generator identification (ID) number, or handles hazardous materials in some capacity. However, based on the review of conceptual or design plans and/or findings from the contamination screening evaluation or sampling and testing results, it is not likely that there would be any contamination impacts to the project.
3. **Medium** - After a review of conceptual or design plans and findings from a contamination screening evaluation or sampling and testing results, a potential contamination impact to the project has been identified. If there is insufficient information (such as regulatory records or site historical documents) to make a determination as to the potential for contamination impact, and there is reasonable

suspicion that contamination may exist, the property should be rated at least as a "Medium". Properties used historically as gasoline stations and which have not been evaluated or assessed by regulatory agencies, sites with abandoned in place underground petroleum storage tanks or currently operating gasoline stations should receive this rating.

4. **High** - After a review of all available information and conceptual or design plans, there is appropriate analytical data that shows contamination will substantially impact construction activities, have implications to ROW acquisition or have other potential transfer of contamination related liability to the FDOT.

A recommendation for each site with a rating of medium or high should include a listing of the analytical parameters of concern and media (e.g., soil, groundwater), a discussion of potential involvement with ROW acquisition and/or construction and if the site is anticipated to warrant additional (Level II or III) assessment.

The rating can also change based on changes in design, construction activities, construction methods, ROW needs, or other factors when the project progresses from design to construction. Where anticipated involvement with ROW acquisition exists, the DCIC should inform and coordinate further related activities with PM, the assigned ROW agent and/or Office of General Counsel as appropriate. If construction involvement is anticipated, further delineation during final design, remediation or a Modified Special Provision (MSP) may be needed.

Documentation of contamination evaluations and recommendations are summarized in the **NEPA** document and progressively updated with subsequent re-evaluations as described in **Section 20.2**.

20.2.2.5 Contamination Screening Evaluation Report

Documentation of the contamination screening evaluation is required to demonstrate that contamination involvement in the project was considered and addressed as appropriate. The documentation of the Level I evaluation is a **CSER** for PD&E projects, and a **Level I Evaluation Report** for projects that do not have a PD&E Study. A Technical Memorandum is prepared for project with no contamination impacts or with minimal involvement with contamination. The decision to prepare a Technical Memorandum should be made in consultation with DCIC during development of the scope of services for the project after ETDM screening is completed.

The **CSER** or **Level I Evaluation Report** documents methodology and contamination screening results. The report also includes data reviewed; findings; previous remedial actions; a risk rating for each potentially contaminated site; conclusions about the findings of the evaluation; and recommendations for additional actions. Risk ratings, conclusions and recommendations presented in the report must be supported by data. If known or potentially contaminated sites are identified, their locations should be clearly marked on the map that show project alternatives. The level of detail of the CSER depends on the complexity and scope of the project; severity of potential contaminated material; and

number of potential contaminated sites. The report should be reviewed for technical accuracy, clarity of presentation and quality. Sources of all information and supporting documentation should be included in the report.

The **CSER** report should have headings and subheadings to effectively delineate the sections appropriate to the level of analysis. See **Figure 20-2** and **Figure 20-3** for a sample **CSER** cover page and examples of section details, respectively. The cover page of the **CSER** should use the **Technical Report Cover Page, Form No. 650-050-38** The cover page of the **CSER** or Technical Memorandum should contain the following standard statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

The following is a suggested outline for the **CSER**:

- **Cover page**—See **Figure 20-2** for sample cover page
- **Table of Contents**
- **Introduction**— Briefly state the purpose of the report.
- **Project Description**— Briefly describe the proposed improvements and define the project limits and construction activities. The description should state if the project is anticipated to acquire new ROW. Include project location map.
- **Project Alternatives**—Briefly describe each viable alternative that is analyzed in detail. Illustrate project alternatives using maps (overlaid on the aerial photographs) or other relevant figures. The maps should include commercial, industrial, or any other properties within the vicinity of the project which may pose contamination concerns.
- **Methodology**—Summarize the method used to evaluate contamination impacts on the project including all sources of information used and all individuals interviewed. Describe how contaminated sites were screened and evaluated for each project alternative.
- **Land Uses**—Briefly describe existing land uses. Include land use maps. Identify the current and previous users of each potentially contaminated property and the type of business conducted. Review historical aerial photos and indicate any historic land uses that may have resulted in contamination impacts to the subject properties.

- **Hydrologic Features**—Briefly describe of the hydrologic features within and adjacent to the project limits.
- **Interviews**—Summarize the outcome of interviews with site owners, operators, managers, regulatory agency staff, and others. To streamline preparation of **CSER**, this may be included in Project Impacts section
- **Project Impacts**—Based on the outcome of desktop review and field review: 1) Describe the source(s) of hazardous material; 2) Describe pertinent activities taken by regulatory agencies (regulatory status); and 3) Provide a narrative of potential contamination impacts on each project alternative, for each site with known or potential contamination issues. Locate known and/or potentially contaminated sites on the alternative concept plans. Summarize the number of potentially contaminated sites and their respective risk ratings as described in **Section 20.2.2.4** for each alternative in a matrix format.
- **Conclusion and Recommendations**—Discuss the findings of the contamination evaluation and recommendations for potentially or known contaminated sites identified including recommendations for Level II assessments, and why, where applicable. Provide a conclusion regarding anticipated level of involvement as described in **Section 20.2.2.6.2**. As noted, a recommendation for each site with a rating of medium or high should include a listing of the analytical parameters of concern and media (e.g., soil, groundwater), a discussion of potential involvement with ROW acquisition and/or construction and if the site is anticipated to warrant additional (Level II or III) assessment. Petroleum contaminated sites adjacent to a project corridor should be coordinated in accordance with the **2014 MOU between FDEP and FDOT**.
- **Appendices**—Include, site maps, relevant project plan sheets, site photographs with captions, historical research documentation, regulatory records documentation, interview documentation, site review checklists, field notes, topographic maps, project alternatives concept plans, and any letters, emails, or memos that document coordination with regulatory agencies.

20.2.2.6 Environmental Document

Documentation of contamination should be included in the Environmental Document as outlined in this section.

20.2.2.6.1 Type 1 Categorical Exclusions and Non-Major State Actions

Type 1 Categorical Exclusions (CEs) – Contamination involvement is considered and a brief summary of evaluation is included in the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12 ([Part 1, Chapter 2, Class of Action Determination for Highway Projects](#))**. Include **Level I Report** or technical memorandum as well as subsequent evaluation, as appropriate in the project file.

Non-Major State Actions (NMSAs) – Contamination involvement is considered and a brief summary of evaluation is included in the ***Non-Major State Action Checklist, Form No. 650-050-30*** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). For these projects, include the ***Level I Evaluation Report*** as well as subsequent evaluation or a technical memorandum, as appropriate, in the project file.

20.2.2.6.2 Type 2 Categorical Exclusions

Projects which are Type 2 CEs may have an involvement with contamination provided that the involvement is determined not to be significant. The determination of significance should be supported by findings from the ***CSER*** and the guidance in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#).

Check contamination resource in the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11***, as follows:

1. Mark the column indicating “**NoInv**” on the form if there are no contamination issues on the preferred alternative. A technical memorandum that supports that determination should be included in the project file and referenced on the form.
2. Mark the column indicating “**No**” on the form if there are no contamination impacts to the project from contaminated sites that are located within or adjacent to the preferred alternative. Provide a brief summary of the results of the ***CSER*** or a Technical Memorandum to support the decision. Include the ***CSER*** or Technical Memorandum in the project file and reference it on the form.
3. Mark the column indicating “**No**” on the form if contamination involvement is present and the impact from the contaminated site is not significant. Provide a brief summary of the results of the ***CSER*** to support the decision. Include the ***CSER*** in the project file and reference it on the form.
4. Mark the column indicating “**Yes**” if contamination involvement is anticipated to be of a manner which cannot be avoided and could result in substantial consequences. Note that a determination of significance for contamination involvement is rare and can generally be resolved through application of procedure described in this Chapter. Any potential significant involvement should be coordinated with OEM and OGC.

20.2.2.6.3 Environmental Assessment and Environmental Impact Statement

The findings from the ***CSER*** are summarized in the in Environmental Analysis section of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). A summary table of impacts for each alternative should also be provided. Coordination which occurred during the contamination impact assessment is summarized in the Environmental Analysis section. Where applicable, the following statement should be provided:

The State of Florida has evaluated the proposed project corridor and has identified potentially contaminated sites for the various proposed alternatives. Results of this evaluation will be utilized in the selection of a preferred alternative. When a specific alternative is selected for implementation, a site assessment will be performed to the degree necessary to determine levels of contamination and, if necessary, evaluate the options to remediate along with the associated costs.

The Comments and Coordination section should discuss and include letters from agencies expressing comments on the Level I evaluation. Resolution of comments shall also be documented in this section.

For an EA with Finding of No Significant Impact (FONSI), the document will include a brief statement indicating the effect of the project. The availability of the **CSER**/Level I Evaluation in the District Office should be noted. If known or potentially contaminated sites may affect the preferred alternative, the final Environmental Document [Final Environmental Impact Statement (FEIS)/Record of Decision (ROD), FEIS, or EA with FONSI] should briefly discuss these impacts and remediation/mitigation measures to eliminate or minimize the impacts. The following is an example statement that can also be included:

Based upon the above considerations, it is determined that there is no practical alternative to the proposed action, and that all practical measures have been included to eliminate or minimize all possible impacts from contamination involvement.

20.2.2.6.4 State Environmental Impact Reports

SEIRs should include the results of the contamination screening evaluation in the Environmental Analysis section of the **State Environmental Impact Report Form, Form No. 650-050-43** by placing an "X" in the appropriate column indicating the level of contamination impact:

1. If there are no contamination sites within the project area, mark the column indicating "NOINV."
2. If the project will benefit from cleanup of adjacent contamination sites, mark the column indicating "ENHANCE."
3. If there are contamination sites in the project area but there is no impact, or the impact is not substantial, mark the column indicating "NO."
4. If there is a potential for substantial impact, mark the column indicating "YES."

Provide justification of decision in the Supporting Information column by summarizing the findings and recommendations from the **CSER**. Include the **CSER** or Technical Memorandum, as appropriate, in the project file. All commitments made through coordination efforts should be documented in the Commitments section of the **State**

Environmental Impact Report Form, Form No. 650-050-43 and Project Commitment Record (PCR) Form No. 700-011-35.

20.2.2.6.5 Re-evaluations

Any change to contamination impacts after approval of the Environmental Document must be re-evaluated during design change or construction advertisement consistent with [Part 1, Chapter 13, Re-evaluations](#). Design changes on the approved PD&E concept should be evaluated for potential contamination concerns. Updates to contamination status, anticipated or actual activities taken to resolve contamination issues should be discussed in the ***Re-evaluation Form, Form No. 650-050-29***. A construction advertisement Re-evaluation should reflect resolution of previously identified contamination issues. Resolution may include a description of how the issue will be handled if it will be addressed just prior to or during construction. Sites identified in the ***CSER*** with a Medium or High Risk Rating are addressed as warranted and results are progressively updated with subsequent re-evaluations. Final resolution on the disposition and method of addressing potentially contaminated sites during construction should be summarized in the re-evaluation.

20.2.3 Level II Assessment

A Level II assessment, also referred to as an ***Impact to Construction Assessment (ICA)***, is usually performed during the Design phase to assess the type and extent of potential contamination impacts to construction activities on the project or ROW acquisition. Level II assessment is also used to establish a basis for developing remediation goals. Level II assessment should normally be performed only on projects identified for property acquisition or construction in FDOT's 5-year work program. The DCIC may use the District CAR contractor to perform Level II assessments. In some instances, a Level I evaluation and Level II assessment may be performed during the PD&E phase for a project with advanced design activities, or to help FDOT make a decision regarding the preferred alternative.

Level II assessment is required on all Medium to High ranked contaminated sites identified during Level I evaluation. The Level II assessment should consist of further evaluation with consideration of updated information, changes in design, review of design details, and/or ROW acquisition status. A Level II assessment may include site access, and sampling and testing of soil and groundwater, if appropriate. Soil and/or groundwater sampling would be conducted to further ascertain, the type, location and potential involvement with contamination as well to aid in further development of approaches to address contamination when found. Additionally, depending on the results of the Level I evaluation, sampling may also be required for asbestos, metal based coatings, surface water, sediments, or air quality.

The scope of Level II assessment depends on the potential for contamination impacts and the type of construction contracting method for the project. Design Build (DB) and Public, Private Partnership (P3) projects often require an increased level of effort much earlier in the Design phase to identify potential impacts and to ensure contamination

issues are given full consideration in the DB or P3 process. For these projects, the FDOT can adjust the assessment requirements (e.g., performing two levels of investigation concurrently), based on additional information and the plans that are made available for review during the process.

The assessment methodology should be developed and coordinated between the project analyst, PM, and DCIC before beginning assessment. For guidance on assessment methods and cleanup target levels, refer to the FDEP's website, as well as **Chapters 62-780 and 62-777, Florida Administrative Code.**

If the Level II assessment indicates contamination issues are not present in the project area (including the sites identified in the Level I Report), or if no involvement with contaminated soil or groundwater will occur as part of ROW acquisition or due to the nature of construction activities, no further assessment should be required unless there is a record of new discharges of a contaminant which occurred after the assessment was completed.

If the Level II assessment indicates that contamination is present at a site, and involvement is anticipated, further assessment is warranted to define the how contaminants will be avoided, removed or handled in the project area.

20.2.3.1 District Contamination Impact Coordinator Role during the Design Phase

The DCIC should perform the following activities during Level II assessment phase:

- Review the status of known or identified contaminated sites undergoing regulatory review or remedial action for baseline information.
- Coordinate Level II assessments, if warranted for the project, and coordinate with the assigned ROW agent and design PM, as appropriate.
- Review design plans and identify if there are activities which could cause exposure to, excavation of, or exacerbation of, existing soil or groundwater contamination.
- Review inclusion of plume identification and dewatering plan in the design plans, when appropriate, or preparation of specifications related to contamination.
- Coordinate with regulatory agencies, as necessary, such as coordination with FDEP for projects that require use of the [2014 MOU between FDEP and FDOT](#), or projects require dewatering permits.
- As needed, update contamination status for contaminated sites adjacent to the project that are remediated by FDEP under the [2014 MOU between FDEP and FDOT](#).
- Verify commitments included in the final Environmental Document are addressed during Design.
- Coordinate with the CAR Contractor during remediation.

Contaminants in the soil, sediment, groundwater and/or structures, within or adjacent to the ROW, may affect the schedules for ROW acquisition and project construction. The schedule for Level II activities should allow sufficient time for FDOT to complete related activities required for the project. Thus, coordination between FDOT, regulatory agencies, current tenants, and property owners is necessary to complete the assessment in a timely manner. It is possible that FDOT's production schedule will progress much faster than the regulatory agency and current property owner's assessment and remediation schedule. Where the agency or property owner assessment and remediation schedule might affect FDOT's construction schedule, it may be necessary for FDOT to assume the responsibility for conducting the assessment within the ROW and complete remediation activities sufficient to accommodate construction activities, either in advance of, or concurrent with construction. A final report related to the type and level of assessment or remediation that was conducted should be provided to the FDOT PM and DCIC once the work has been completed. Interim reports or other report types may also be requested, based on the project needs and context.

20.2.3.2 Right of Way Support

For parcels with building structures that might be purchased as part of the ROW acquisition, Level II Assessment should include review of building interiors, if possible. This should include a search for the potential for ACM and/or MBC (if not addressed by a separate District ROW contract), hazardous materials storage, staining, or other conditions that may indicate that potential/suspect contamination is or may be present. If contamination issues are identified on parcels to be acquired by FDOT, the DCIC should coordinate with the District ROW Office and provide contamination-related information to support the appraisal of the parcel.

When possible, a decision should be made by the District (Environmental, ROW, and Construction Offices) for advance parcel acquisition as early as possible during the final design of the project to allow sufficient time for remediation of contamination to meet the production schedule.

20.2.3.3 Contamination Plan Markings and Special Provisions

If contamination is not avoided in the project, locations of known or potential contamination issues should be shown and labelled on the design plans. Examples of contamination issues that can be shown on the design plans are limits of contaminated soil, landfills, underground storage tanks, above-ground storage tanks, pump islands, monitoring wells, and groundwater contamination plumes.

Project notes (such as "General Notes Concerning Contamination") that explain how the contractor will handle cleanup activities during construction are prohibited in the design plans. Instead, the PM and DCIC should rely on applicable implemented specifications to define how contamination remediation plans will be executed during construction. If the implemented specifications do not adequately address contamination needs for the project, the DCIC should work with the project's Engineer of Record to develop MSPs, or Technical Special Provisions (TSPs), as appropriate to ensure contaminated materials

are handled and disposed properly. Development of MSPs and TSPs requires coordination with the District and State Specifications Engineers as outlined in [Specifications Package Preparation Procedure, Topic No, 630-010-005](#).

20.2.4 Level III Assessment - Contamination Remedial Action

Level III Assessment activities can take place during the Design phase, when acquiring ROW (if advanced acquisition has been completed), prior to the start of construction or during construction. These activities require coordination for appropriate funding allocation prior to construction letting.

Each site with potential contamination impacts should have a clearly defined scope of work for remediation activities, which conforms to the requirements of the appropriate regulatory agency. Generally, the provisions published by the FDEP for assessment and remediation of contaminated sites will be adequate for most regulatory agencies. The liability provisions in **Section 337.27, F.S.**, should always be considered when identifying the need for regulatory involvement and the extent of remedial activities.

The Level III scope of work should include a summary of the Level II assessment with recommendations on the limits of contamination and recommended remediation. If soil or groundwater remediation is necessary, the procedures should follow the applicable standards of the appropriate regulatory agency. Petroleum related Level III activities should be coordinated with the FDEP consistent with the [2014 MOU between FDEP and FDOT](#), see **Section 20.2.5.1**.

20.2.5 Additional Considerations

20.2.5.1 2014 MOU between FDEP and FDOT

In June 2014, FDEP and FDOT entered into a Memorandum of Understanding ([2014 MOU between FDEP and FDOT](#)) to address discharges of petroleum pollutants in the FDOT transportation facilities. The MOU provides a process where FDEP can prioritize funding for assessment and remediation of petroleum pollutants from trust fund-eligible source sites into the SHS. Additionally, the MOU provides the procedure for dealing with inactive sites that have contaminant plumes extending beneath the FDOT ROW where FDOT adds a map note on the roadway ROW map as an institutional control to provide notice of existing contamination.

Based on the MOU, FDEP may conduct cleanup or provide funding to a third party contractor to assist with cleanup activities for petroleum contaminated sites. Projects covered under the [2014 MOU between FDEP and FDOT](#) should continue to be tracked throughout the project life cycle. If costs are incurred by FDOT, they may be recoverable under the [2014 MOU between FDEP and FDOT](#).

20.2.5.2 CERCLA / Superfund Sites

When a **CERCLA** or abandoned Superfund site is located within the project limits, the Office of General Counsel should be contacted if the contamination has the potential to be exacerbated by project activities. The DCIC should also coordinate with the EPA (and/or FDEP if they have been given delegation) for any remedial action decisions that are made for that site.

20.2.5.3 Asbestos Containing Materials and Metal Based Coating Surveys

It is FDOT's responsibility to protect the health and safety of its employees, contractors, consultants and the traveling public through inspections and proper handling, management and removal of ACM or MBC. Therefore, ACM and MBC surveys should be performed as early as possible in the Design phase, possibly as early as the PD&E phase, to allow for an evaluation of the impacts prior to the Construction phase. The asbestos and coatings surveys must be conducted according to the Asbestos Management Procedure in the [*Right of Way Procedures Manual, Topic No. 575-000-000*](#).

If an ACM or MBC survey has not been previously conducted, the DCIC should make sure a survey is performed on all bridges and other structures prior to demolition and any required abatement performed prior to construction.

20.2.5.4 Use of Bridge Debris as an Artificial Reef

For coastal bridge replacement projects, consideration may be given to using clean bridge debris material for use as an artificial reef. This is coordinated with regulatory and resource agencies (FDEP, U.S. Army Corps of Engineers, and Florida Fish and Wildlife Conservation Commission), as well as other stakeholders, once it is determined that demolition is the preferred alternative for the project. This work should be coordinated as appropriate among the Design PM, Project Engineer of Record, Environmental Manager, District Permits Coordinator, the Construction Project Manager and the DCIC, and it should occur as early in the design phase as possible. Consideration for use of debris as an artificial reef 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.

20.2.5.5 Dewatering During Construction

Construction activities may require dewatering. As part of the process for obtaining a FDEP National Pollutant Discharge Elimination System (NPDES) Generic Permit for Discharge of Groundwater from Dewatering Operations, an evaluation of potential contamination impacts to the dewatering operations must be completed. This evaluation should include sampling for the appropriate contaminants of concern to determine if groundwater treatment is necessary prior to discharge and defining the extent of the contamination within the ROW, if possible. When dewatering treatment is required, requisite sampling and reporting is required per the associated permit(s).

20.3 REFERENCES

Chapter 62-520, F.A.C., Ground Water Classes, Standards, and Exemptions

Chapter 62-528, F.A.C., Underground Injection Control

Chapter 62-610, F.A.C., FDEP Standard Operating Procedures

Chapter 62-621, F.A.C., Generic Permits

Chapter 62-701, F.A.C., Solid Waste Management Facilities

Chapter 62-730, F.A.C., Hazardous Waste

Chapter 62-761, F.A.C., Contaminated Site Cleanup Criteria

Chapter 62-761, F.A.C., Underground Storage Tank Systems

Chapter 62-762, F.A.C., Aboveground Storage Tank Systems

Chapter 62-777, F.A.C., Contaminant Cleanup Target Levels

Chapter 62-780, F.A.C., Contaminated Site Cleanup Criteria

FDEP OCULUS website. <http://depdms.dep.state.fl.us/Oculus/servlet/login>

FHWA, Technical Advisory T6640.8A, "Guidance for Preparing and Processing Environmental and Section 4(f) Documents," October 30, 1987. Florida Administrative Code, Chapter 62-302, Surface Water Quality Standards

FDOT, Efficient Transportation Decision Making Manual, Topic No. 650-000-002.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT, Local Agency Program Manual, Topic No. 525-010-300.
http://www.fdot.gov/programmanagement/LAP/LAP_TOC.shtm

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

FDOT, Standard Specifications for Road and Bridge Construction.
<http://www.fdot.gov/programmanagement/Specs.shtm>

FDOT, 2012. Statewide Stormwater Management.
<http://www.fdot.gov/maintenance/FDOTStormWaterMgmtPlan2012.pdf>

Memorandum of Agreement 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, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Memorandum of Understanding between FDOT and FDEP, June 16, 2014

Section 334.27, F.S. Soil or Groundwater Contamination Liability

Sections 337.27 and 337.274, F.S. Exercise of Power and Entering Land

Sections 376.031 and 376.301, F.S. Definitions

Section 381.983, F.S. Definitions

Section 403.031, F.S. Definitions

Title 23 Code of Federal Regulations (CFR) Part 771, Environmental Impact and Related Procedures. http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr771_main_02.tpl

Title 40 CFR §§ 230-300, Ocean Dumping and Solid Wastes. <http://www.ecfr.gov/cgi-bin/text-idx?SID=9e41e4fb951c2baf6b8d495cfacbf88f&mc=true&node=pt40.27.230&rgn=div5>

Title 40 CFR §§ 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. <http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2844df1cb4a3af5ebaa699f42d98a60f&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

Title 49 CFR §§ 171-172, Hazardous Materials Regulations. http://www.ecfr.gov/cgi-bin/text-idx?SID=d97de10c4a7811818a0e8c2ce2169a55&mc=true&tpl=/ecfrbrowse/Title49/49cfrv2_02.tpl#0

United States Code, Title 29, Parts 1910 and 1926, U.S. Department of Labor, Occupational Health and Safety Administration (OSHA).

20.4 FORMS

Non-Major State Action Checklist, Form No.650-050-30*

[Project Commitment Record, Form No. 700-011-35](#)

Re-evaluation Form, Form No. 650-050-29*

State Environmental Impact Report Form, Form No. 650-050-43

Technical Report Cover Page, Form No. 650-050-38

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures>. Sign in is required.

20.5 HISTORY

12/10/2003, 9/1/2016

Examples of issues or questions that may be considered for a project.

1. Pre-existing contamination within or immediately adjacent to the existing or proposed ROW
 - a. If contamination is present, what is the current status of the assessment or remediation by the Florida Department of Environmental Protection (FDEP) or third party?
 - b. What is the size / extent of the contamination plume and what planned construction activities does it affect? Should FDOT conduct further assessment (Level II) to better define extent or potential involvement?
 - c. If not petroleum, what is the contaminant? What other regulatory considerations exist for the contaminant?
 - d. If contamination exists, is it only petroleum or are there non-petroleum components?
 - e. If the contaminant is petroleum, has there been coordination with FDEP and/or is it eligible for remediation in accordance with the [2014 MOU between FDEP and FDOT?](#)
2. Contamination Related Structures in the ROW
 - a. Are there known or suspected Underground Storage Tanks (USTs), Above Ground Storage Tanks (ASTs), soakage pits, hydraulic lifts, or other potential contamination-related structures and/or ACM/LBP issues within the existing or proposed ROW that could impact construction?
 - b. Are there known or suspected contamination related structures and/or ACM/LBP issues within areas of proposed ROW acquisition which could impact ROW clearance and demolition?
 - c. What must be done to address them?
 - d. Should removal occur prior to construction?
 - e. Is UST removal appropriate for consideration under the [2014 MOU between FDEP and FDOT?](#)

Figure 20–1 Key Points to Consider

3. Impacts to the Design

- a. How will the known or potential contamination impact the design?
- b. Is there a viable avoidance alternative, design modification, mitigation measure, or notation?
- c. Are there remediation or construction costs to be considered in coordination with the Work Program Office?
- d. Are areas of contamination marked on the design plans?

4. Impacts to Construction

- a. How will the potential contamination impact the planned construction?
- b. Have the design and construction PMs been advised and coordinated with?
- c. What notifications need to be made to the construction contractor?
- d. Will remediation or removal of contaminated soil be completed prior to construction?
- e. Are there anticipated additional time or costs to construction?
- f. How will impacts to the construction contractor's planned activities be minimized?
- g. Do the contamination impacts pose an exposure or health & safety concern for the construction contractor?
- h. How will FDOT address these issues?
- i. Will the CAR contractor be involved during construction?

5. Exacerbation Potential

- a. The DCIC should ensure that the known or potential contamination is not made worse, by the FDOT project through activities such as dewatering, sheet piling, pond construction, etc.
- b. What actions need to be taken to ensure this?
- c. Will dewatering *impact* a ground water contamination plume?

Figure 20–1 Key Points to Consider (Page 2 of 3)

- d. Will stormwater proposed drainage measures (e.g. ponds, french drains) impact a groundwater plume?
6. **CERCLA**/Superfund, NPL Sites
- a. Are there known **CERCLA**/Superfund Sites within a ½ mile radius of the project limits?
 - b. What impact do these sites have on the project?
 - c. Is there potential of project activities to exacerbate, encounter contamination from, or acquire any portion of a **CERCLA** Site?
 - d. Has the District Office of General Counsel been advised of potential **CERCLA** involvement when identified?
7. Site Contamination Removal and Remediation
- a. If removed, how will the contaminant be transported?
 - b. What type of documents will be required for transporting waste from the site?
 - c. What is the status of the current site assessment and remediation on the FDEP's OCULUS website?
 - d. Have contractual and funding mechanisms been established for the costs of remediation and disposal?
 - e. Can the contamination-impacted soils (with levels less than Commercial/Industrial criteria) be reused on the project?

Figure 20–1 Key Points to Consider (Page 3 of 3)

CONTAMINATION SCREENING EVALUATION REPORT

Florida Department of Transportation
District X
Project Title
Limits of Project
County, Florida
Financial Management Number: XXXXX-X
ETDM Number: XXXXXX

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

Figure 20–2 Sample Contamination Screening Evaluation Report Cover Page

Cover Page—See *Figure 20-2* for sample cover page.

Table of Contents

1. **Introduction**—Briefly state the purpose of the report and provide details on the basics of the project. An example introduction could be:

"The purpose of this report is to present the findings of a contamination screening evaluation for <<Insert Project Title>>. This report identifies and evaluates known or potential contamination problems, issues, presents testing or remedial recommendations concerning these problems, and discusses possible project impacts or impacts to the proposed project."

2. **Project Description**—Briefly describe the proposed improvements and define the project limits and construction activities. The description should state if the project is anticipated to acquire new ROW. Include project location map. An example of a project description would be:

"The Florida Department of Transportation is proposing improvements to _____ miles of _____ Road to accommodate present and future traffic demands. These improvements include widening the existing two-lane road to five lanes configured as four traffic lanes and a center two-way continuous left-turn lane. The project begins at _____ Street and terminates at _____ Highway. Beyond the traffic lanes, improvements include shallow swales for surface drainage, grass side strips, and sidewalks."

3. **Project Alternatives** —Briefly describe each viable alternative that is analyzed in detail. Illustrate project alternatives using maps or other relevant figures.
4. **Methodology**—Summarize the method used to evaluate contamination impacts on the project including all sources of information used and individuals interviewed. Describe how contamination was screened and evaluated for project alternatives. An example for a preliminary CSER or Level I Evaluation Report may be:

"A preliminary evaluation of _____ Road was conducted to determine potential contamination issues within the proposed project limits from properties or operations located within the vicinity of the project. This evaluation consisted of the following tasks:

- a. A description of the coordination with agencies contacted (such as the DCIC, FDOT PM, local government agencies, WMDs, etc.).

Figure 20–3 Contamination Screening Evaluation Report Outline

- b. A detailed description of data collected and their sources (such as database names, environmental database providers, local regulatory agencies, information on hazard classes obtained from generators, transporters, etc., stationary tanks, and known leaks and spills).
 - c. A review of the aerial photographs (including historical aerials) used to determine the potential contamination problem areas.
 - d. A summary of field observations performed to verify information provided and to identify other potential sources within the vicinity of the project. Clearly state the number of sites evaluated within the proposed project limits and the results of the evaluation.
 - e. A determination of the potential contamination risk rating (i.e., No, Low, Medium or High) for each potential contaminated site or property within the proposed project limits.
5. **Land Uses**—Briefly describe existing land uses. Include land use maps. Identify the current and previous users of each potentially contaminated property and the type of business conducted. Review historical aerial photos and indicate any historic land uses that may have resulted in contamination impacts to the subject properties. An example of a land use description would be:

“ _____ Street, development has been in strip form fronting on _____ Road. The depth of commercial development is very shallow with residential apartments and single-family homes immediately behind the commercial property. A 23-acre shopping mall is located at the intersection of _____ Street. The area is fully developed with no open spaces remaining.”

Identify the current property owner and previous land use or previous business types of every suspect property on each project alternative (this is not intended to be a "Title Search"). This information should be available from the District ROW Survey and Mapping Office or from the County Property Appraisers office.

Identify the current and previous users of each property and the type of business conducted. This information should be available through county records (most are now online), city directories, Sanborn Insurance maps, plat maps and in the local public library. (To streamline report preparation, specific former and current land uses at each site can be included in the narratives in Section 8 – Project Impacts.)

Photographs of each potentially impacted sites should be taken, as well as any specific areas of concern noted during the field review. A photographic log should be prepared and include a caption indicating site location, potential impact, the photographer position, and camera direction.

Figure 20–3 Contamination Screening Evaluation Report Outline (Page 2 of 6)

6. **Hydrologic Features**—Briefly describe of the hydrologic features within and adjacent to the project limits. This should be no longer than one page in length, unless there is a specific reason to provide more extensive detail. An example of a hydrologic features description would be:

"This County is generally underlain by the _____ aquifer, which is characterized by high porosity sands and limestone which typically allows rapid infiltration of rain-fall and surface runoff. The groundwater surface generally follows the ground surface with a North to South gradient at a depth of _____ feet below ground surface. Flow rates are estimated to be _____ feet per day. There are no surface water features (lakes, canals, etc.) or wells within the immediate project area. The _____ is located _____ from the project area and is considered outside any possible zone of influence. Existing surface drainage is flat, relying primarily on infiltration for removal."

7. **Interviews**—Summarize the outcome of interviews with site owners, operators, managers, regulatory agency staff, and others. Examples of officials and utility personnel that should be interviewed include, but are not limited to, the following:
- a. City / County engineers.
 - b. WMD personnel.
 - c. Fire department staff.
 - d. Telephone, cable, other utility and waste management company personnel.

The City/County engineer should be able to provide current or historical permit information. The local WMD personnel can provide information on water wells in the area, problems associated with water quality, and discharge requests that have been approved, disapproved, or are under consideration.

Utility companies may be able to provide additional information concerning the services provided to the site, such as a sewer connection or septic system, how much electrical capacity is provided to the facility, (e.g., large electrical capacity could mean large equipment for manufacturing) or any documentation of prior polychlorinated biphenyl (PCB) use, if present. Utility companies may also have information on materials used to construct their utility lines (i.e., transite asbestos-containing pipes).

(To streamline report preparation, outcome of interviews can be included in the narratives in Section 8 – Project Impacts.)

Figure 20–3 Contamination Screening Evaluation Report Outline (Page 3 of 6)

8. **Project Impacts**—Based on the outcome of desktop review and field review: 1) Describe the source(s) of hazardous material; 2) Describe pertinent activities taken by regulatory agencies (regulatory status); and 3) Provide a narrative of contamination impacts on each project alternative, for each site with known or potential contamination issues. The narrative can include a table with details of each site or property by alternative that would be impacted. This table should include, at a minimum, the following information:
- a. Property description - Including facility name, physical address, and former site names, etc.
 - b. Permit or ID numbers - Include FDEP program identification numbers or other permit numbers.
 - c. Type of Contamination Impact - List each hazardous material or potential hazard.
 - d. Contamination sources for each site with known or potential contamination issues
 - e. Regulatory status of contaminated sites summarizing pertinent activities taken by regulatory agencies for each site or property and briefly outline the potential contamination issue(s) that would have an impact on the proposed project or alternative
 - f. List of potential contamination-related structures - Located within the property boundaries as well as information on whether they are above ground tanks (ASTs) or USTs, along with tank size(s), contents, age, if they remain in place, etc. Other structures such as hydraulic lifts, soakage pits, and potential ACM/LBP structures, should also be documented.
 - g. Distance of known contamination plumes (or storage tank) from ROW (existing and/or proposed).
 - h. Identify the contamination risk rating for each site and alternative and present the number of known or potentially contaminated sites with risk rating for each of the alternatives being considered

Locate known and/or potentially contaminated sites on the alternative concept plans. Summarize the number of potentially contaminated sites and their respective risk ratings for each alternative in a matrix format.

Figure 20–3 Contamination Screening Evaluation Report Outline (Page 4 of 6)

9. **Conclusions and Recommendations** - Provide conclusions and recommendations related to the contamination impacts on the project. If a Level II assessment is required, provide discussion of the sites recommended for testing and the contaminants to be tested for at each site. This should include recommendations for further assessment that may be required for each Medium- or High-rated site or property within the proposed project corridor and each alternative as warranted. When ascertainable, this section should note if the contamination impacts identified relate to ROW acquisition as well as potential involvement with construction. Unusual or notable impacts, such as **CERCLA** sites should be noted. Pertinent agency or stakeholder comments, coordination or commitments should be summarized. If this report is intended to be shared with other agencies or stakeholders for additional coordination, it can be stated in this section.

This section should also include a statement regarding potential for dewatering during construction.

This section should also include a very brief discussion of estimated costs for assessment and remediation, if known.

Figures

- a. Project Location Map: An area map (region, county, state, etc.) showing the general location of the proposed project, including project limits with a detailed map of the immediate project area.
- b. Land Use Map: A map or maps of the proposed project corridor and surrounding area showing current or future land uses (i.e., commercial, multi and single-family residential, schools, malls, parks,) if the map adds value to the evaluation.
- c. Contaminated Site(s) Location Map: A detailed map of the proposed project, including project limits, showing the locations of all potentially contaminated sites for each alternative.
- d. Maps should be scaled appropriately to provide useful information and discern features or structures, if warranted and should be consistent. Multiple maps and enlarged sub-maps may also be utilized.

Figure 20–3 Contamination Screening Evaluation Report Outline (Page 5 of 6)

Tables

- a. Potentially Contaminated Sites: This table should present information on each contaminated site or property that was evaluated as part of this document.
- b. Number of Potentially Contaminated Sites per Alternative: This table should present the number of known or potentially contaminated sites or properties with risk rating for each viable alternative. An example of this table would be:

Project Alternative	Contamination Risk			
	No	Low	Medium	High
A	#	#	#	#
B	#	#	#	#
C	#	#	#	#

= number of contaminated sites per risk rating for each viable alternative

10. Appendices - The document should include appendices that provide additional information required to support the risk rating, as well as provide information on current regulatory status. Examples of the information that could be included are as follows:

- a. Electronic regulatory database radius search documents.
- b. Potential Hazardous Waste Generator documentation and permits.
- c. Other Permit information.
- d. Tank registration data.
- e. Regulatory agency assessment documents including maps, diagrams, etc.
- f. Regulatory compliance reports.
- g. Copies of historical aerial photographs.
- h. Field notes, Site review checklists, Site review photo logs with captions

Figure 20–3 Contamination Screening Evaluation Report Outline (Page 6 of 6)

PART 2, CHAPTER 21

UTILITIES AND RAILROADS

TABLE OF CONTENTS

21.1	OVERVIEW	21-1
21.2	PROCEDURE.....	21-2
21.2.1	PD&E Project Scoping.....	21-2
21.2.2	Utility Procedure	21-3
21.2.2.1	PD&E Request Package	21-3
21.2.2.2	Utility Coordination.....	21-4
21.2.2.3	Utility Assessment Package.....	21-5
21.2.3	Railroad Procedure.....	21-6
21.3	ENVIRONMENTAL DOCUMENT	21-7
21.3.1	Type 2 Categorical Exclusions.....	21-7
21.3.2	Environmental Assessments and Environmental Impact Statements ...	21-8
21.3.3	State-Funded Projects	21-8
21.4	RE-EVALUATION OF UTILITY AND RAIL IMPACTS.....	21-9
21.5	REFERENCES.....	21-9
21.6	FORMS	21-10
21.7	HISTORY	21-10

PART 2, CHAPTER 21

UTILITIES AND RAILROADS

21.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance to the District Project Development and Environment (PD&E) Project Managers (PM), the District Utility Offices (DUO), and the District Railroad Coordinators (DRC) for identifying and documenting utility and/or railroad conflicts during the PD&E phase. A utility, as defined in FDOT's [Utility Accommodation Manual \(UAM\), Topic No. 710-020-001](#), is all active, deactivated or out-of-service electric transmission lines, telephone lines, telegraph lines, other communication services lines, pole lines, ditches, sewers, water mains, heat mains, gas mains, pipelines, gasoline tanks, and pumps owned by the Utility Agency/Owner (UAO).

Conflicts with utilities as well as railroad crossings affect both the cost and schedule of a project, and also have the ability to influence the selection of the preferred alternative. FDOT must consider the potential for encountering utilities and rail lines within the limits of every project, including associated pond sites and other off-site improvements. Coordination between the District, the Railroads, and/or the UAOs should begin early and continue throughout the project development process to plan for the cost and time required for utility conflict resolution and/or relocations and railroad crossings.

For projects that do not have a PD&E phase, coordination with UAOs will be done by the DUO and the District's Design PM in accordance with the [Plans Preparation Manual \(PPM\), Topic No. 625-000-007](#) and the [Utility Accommodation Manual \(UAM\), Topic No. 710-020-001](#).

21.2 PROCEDURE

Coordination, cooperation, and communication to eliminate, minimize, or mitigate utility or railroad related issues should be practiced throughout the PD&E phase. The District, through the PM, the DRC and the DUO, should coordinate often with UAOs and Railroads and provide project information as early as possible.

Identification of Utilities and Railroads in a project area should begin prior to the PD&E phase. During planning or corridor development, a Sunshine 811 call can help locate existing utilities. This information can be used to avoid major utility or railroad conflicts in choosing corridors or alternatives to carry forward to the PD&E phase. Existing utilities information will also be used in preparing the PD&E Scope of Service.

During alternatives development, the DUO and PM should hold informational meetings with UAOs to discuss the PD&E Study as it relates to their existing and any proposed facilities. The goal of this early coordination is to assist with the development of concept plans that avoid conflicts with major utility facilities in the next phase of project development. All stakeholders will benefit from early coordination that identify opportunities to reduce utility impacts, as well as impacts to the project schedule and cost. Similarly, early coordination with the DRC and any Railroads impacted by PD&E projects is required to accommodate design changes and minimize delays.

UAOs and Railroads are project stakeholders and should be invited to public meetings and hearings, which will help them to receive direct feedback from customers on potential issues. Attendance of UAOs and Railroads at public meetings also helps them to identify and resolve issues related to their facilities early in the process when adjustments to the project are more easily facilitated.

21.2.1 PD&E Project Scoping

The PM needs to coordinate with the DUO in preparing the Scope of Services for the PD&E Study. Information needed to prepare the scope is: (a) the anticipated number of UAOs that may be within the PD&E Study limits; and, (b) the anticipated complexity of coordination with each UAO during the PD&E Study. The UAOs in the project area may be identified using the Sunshine 811 call. When preparing the Scope of Services, requirements for UAO coordination and documentation in the **Utility Assessment Package** and Environmental Document will be determined. The **Utility Assessment Package** (See [Section 21.2.2.3](#)) is prepared either in-house by the DUO or by the PD&E Consultant during the PD&E phase. Ultimately, the DUO is responsible for the **Utility Assessment Package** regardless of who prepares the package. Therefore, the DUO must review and approve the Consultant's prepared **Utility Assessment Package**.

PD&E projects with advanced preliminary design or where the Design phase is concurrent with the PD&E phase will require a higher level of coordination with UAOs than projects with a standard PD&E Study. This coordination will typically follow the Statewide

Acceleration Transformation (SWAT) process described in [Part 1, Chapter 4, Project Development Process](#).

While it is important to know the location of all utility facilities within the PD&E Study limits, the PD&E team should focus their efforts on utility facilities that could: (a) impact development of the preferred alternative, (b) entail lengthy or drawn out coordination efforts, (c) may be cost prohibitive to relocate, or (d) rise beyond the level of ordinary utility coordination. These utility facilities may include substations and electrical transmission lines for power companies, large “hubs” for telecommunication lines, large gas or oil transmission mains, military communication lines, and other underground lines. Some UAOs have special agreements with FDOT [e.g., the Florida Gas Transmission (FGT) Global Agreement], some utility facilities are fragile (e.g., large clay pipes and pipes that have been underground for decades). Therefore, the level of engineering detail required for the PD&E Study should be discussed in depth with the DUO during PD&E scoping. Projects with substantial utility concerns or accelerated schedules may require detailed locations of utilities. Therefore, the DUO may request the PD&E Study to include detail survey and/or Subsurface Utility Engineering (SUE) services for these projects.

21.2.2 Utility Procedure

The process to address utilities during the PD&E phase consists of three stages: **PD&E Request Package**; UAO Coordination; and **Utility Assessment Package**. Each stage is discussed in the following sections.

21.2.2.1 PD&E Request Package

The PD&E PM is responsible for developing and submitting a **PD&E Request Package** to the DUO soon after the project alternatives are developed. The **PD&E Request Package** should consist of the project typical section(s) and concept plans for each alternative under evaluation. The typical section data should include, as appropriate, roadway and shoulder width, median width, sidewalks, border widths, and Right of Way (ROW) lines.

The concept plans should overlay viable project alternatives on an aerial photograph. At a minimum, the concept plans must contain the following information:

1. Travel lanes, shoulders, curb and gutter, sidewalk, barriers;
2. Bridges;
3. Drainage structures;
4. ROW lines and width;
5. Access control lines;

6. Horizontal alignment stationing; and
7. Special landscaping or mitigation areas.

21.2.2.2 Utility Coordination

Once the ***PD&E Request Package*** has been developed and submitted to the DUO, the DUO will notify the UAOs within the project area by forwarding them the ***PD&E Request Package***. This transmittal should request that the UAOs provide information for above ground and below ground utilities within the PD&E project area, and request information for both existing and planned utility facilities. The transmittal should also request that the UAOs provide information pertaining to any existing easements or other property interests that may be affected by the project. The UAOs contacted by the DUO should review the concept plans and typical section(s) to identify all major facilities, buildings, and other obstructions or encroachments of UAOs within or adjacent to the project. Each UAO should identify both existing and planned utility corridors and installations in, or adjacent to, each project alternative. Generally, the UAOs should respond in writing and delineate their facilities and any property interests on the concept plans, in accordance with ***Chapter 14-46, Florida Administrative Code (F.A.C.)*** and the ***Utility Accommodation Manual (UAM)***.

A meeting to discuss utility impacts related to the project alternatives should be held with each UAO approximately 30 days after sending the ***PD&E Request Package***. In the meeting, the UAO, DUO, and PM should discuss alternatives that may minimize or avoid conflicts, evaluate and consider recommended mitigation/avoidance strategies, discuss timelines for new installations or relocations that are anticipated to be unavoidable, as well as possible potential amounts of relocation costs, and schedule impacts for those relocations. If a UAO's easements or property interests could be affected, the DUO will need to discuss potential conflicts and encroachments, as well as potential subordination of those interests to FDOT's ROW interest. However, no determinations should be made at this stage as to any compensation for a UAO's easement or property interest. The DUO shall take any inquiries or requests for compensation to the Office of General Counsel (OGC) for guidance. The possibility of a UAO entering into a Utility Work Agreement, should also be discussed with OGC.

The DUO may have additional meetings with any individual UAO that have the potential for major conflicts with the project to better understand those conflicts and discuss mitigation strategies.

If applicable, the PM and the DUO in conjunction with the District ROW Office, should consider the feasibility of joint ROW acquisition to minimize any utility ROW replacement costs. This should be discussed in the Utilities and Railroads section and in the Relocation Potential section of the Environmental Document. In addition, if FGT is anticipated to require ROW per the ***Agreement and Global Settlement (August 21, 2013)***, this must be discussed with the OGC and documented in the Environmental Document in the same fashion as joint ROW acquisitions.

A listing of agreements made between FDOT and UAOs, including the **August 21, 2013 Florida Gas Transmission Agreement and Global Settlement**, can be found on the FDOT Utility Office website on the [Utility Agreements, Resolutions and Certificate of Incumbency](#) Table.

21.2.2.3 Utility Assessment Package

The information provided by the UAOs through coordination shall be used by the DUO in preparing the **Utility Assessment Package**. A **Utility Assessment Package** should be generated for each proposed alternative and include the following information:

1. Names of all identified UAOs;
2. One set of aerials denoting the location of major existing and planned utility facilities. Aerials should be developed in such a way that information regarding the major utility facilities is easily discernable. For example, in order for the PM to understand the total impacts to the affected utilities, aerials should show multiple UAO facilities instead of each UAO being depicted on separate sets of aerials;
3. A description of all existing and planned utilities;
4. A discussion of mitigation/avoidance recommendations to reduce utility conflicts;
5. A cost estimate and anticipated time frames for relocation of major facilities where conflicts are anticipated to be unavoidable;
6. A discussion of joint ROW acquisition;
7. A discussion of ROW needs for FGT, if applicable;
8. A discussion of which UAOs are likely to enter into a **UWHCA**, including whether existing facilities are affected by the project or are proposed installations. Include cost and schedule impacts;
9. A description of existing or proposed encroachments onto any UAO easement or property interest as well as any subordinations; and
10. Information concerning the UAO disposition if it is determined that a UAO will not be affected by the project.

Any discussion in the **Utility Assessment Package** regarding conversations with the UAO concerning compensation or legal determinations should be reviewed and approved by the District OGC before being included.

The **Utility Assessment Package** shall be provided to the PM for consideration in comparing alternatives and selecting a preferred alternative. The Environmental Document will include a summary of this package. If it is determined that a utility will not be affected by the project, information concerning the disposition shall be included in the appropriate Environmental Document (See **Section 21.3**).

Should there be an opportunity for FDOT to enter into a formal agreement with a UAO during the PD&E phase, the DUO must inform the PM. Together the DUO and the PM will coordinate with the OGC as appropriate to negotiate and execute the agreement with the UAO. Agreements reached during the PD&E phase will be included in the **Utility Assessment Package** and documented in the project files. These agreements could include ROW acquisition, utility easements, or preliminary engineering.

21.2.3 Railroad Procedure

For projects that include a railroad crossing, it is the responsibility of the PM to initiate coordination with the DRC, who will provide information concerning present and future use of the rail line, and existing or proposed protection devices at the crossing. In addition, the DRC can provide information about rail crossings such as: crossing status (active or inactive), condition of the crossing, crash incidents, number of tracks, crossing purpose, railroad schedules, and the owner of the railway.

Coordination with Railroads and local governments is required for any project that requires construction or reconstruction of a highway-rail grade crossing, in accordance with **Section 337.11, Florida Statutes (F.S.)**, see also **Chapter 14-57, F.A.C.** The DRC is responsible for this coordination. For projects that require closing or constructing a new grade crossing, **Railroad Grade Crossing Application, Form No. 725-090-66** must be completed. Some of the information required for this form include:

1. A safety analysis of the grade crossing,
2. Discussion of land use and traffic generators served by the crossing,
3. Existing and projected traffic,
4. Effect on rail operations, and
5. Effect on emergency vehicles access.

See **Railroad Grade Crossing Application, Form No. 725-090-66** for complete instructions.

For design requirements, including vertical and horizontal clearances, for grade separated crossings and at grade crossings refer to Part 1, Chapter 6 Railroad Crossing of [Plans Preparation Manual, Topic No. 625-000-007](#) and **Chapter 14-57, F.A.C.** The

PM should also coordinate with the DRC to determine if there are any special requirements.

The PM and the DRC need to work closely together and remain cognizant of the project schedule. The level of coordination will vary depending on the level of engineering detail required for the PD&E phase. For standard PD&E projects followed by a traditional design-bid-build, it is important to begin coordination with the railroad to ensure both FDOT and the railroad company understand the impacts of each alternative when choosing the preferred alternative. The PM, DRC, and railroad company should also work together to establish and anticipate any coordination efforts that may be needed as the project advances. For a project following the SWAT process (see [Part 1 Chapter 4, Project Development Process](#)) with advanced preliminary design or Design phase concurrent with the PD&E phase, or a project with the PD&E phase followed by a design-build contract, the coordination may require more detail such as deciding who will fund the at grade improvements, scheduling the work, determining if the railroad company will perform the construction. The DRC is responsible for this coordination. For more information see the [Rail Handbook](#).

Documentation of the coordination with the railroads must be included in the project file. The Environmental Document and **Preliminary Engineering Report** will discuss this coordination and involvement with any rail facilities) to the appropriate level of detail required to address any issues identified.

21.3 ENVIRONMENTAL DOCUMENT

Coordination with the Utilities and Railroads, and any related information from such coordination, should be summarized in the appropriate sections of the Environmental Document. See [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) for a discussion of the different Classes of Action.

Commitments will be documented in the Commitments section of the Environmental Document as well as the **Project Commitment Record, Form No. 700-011-35**. For more information on commitments, refer to [Part 2, Chapter 22, Commitments](#).

21.3.1 Type 2 Categorical Exclusions

Projects which are Categorical Exclusions (CEs) may have involvement with utilities and railroads as long as the involvement is determined not to be significant. The determination of significance should be agreed upon by the DUO, DRC, District Environmental Manager, and the PM following the guidance in [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#).

The PM should mark an "X" in the appropriate column on the Environmental Analysis section (3.D.4.) of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** as follows:

1. If there are no utilities or railroads within the project area, mark the column indicating “NOINV”.
2. If there are utilities or railroads in the project area but there is no impact, mark the column indicating “NO”.
3. If it is anticipated that there is a need for utility relocation or revision to railroad crossing, but the relocation or revision will not result in significant disruption of utility or rail services to the public mark the column indicating “NO”. The supporting documentation for utilities should summarize the information contained in the **Utilities Assessment Package**. For railroads, the supporting documentation should discuss the involvement with the railroad and address any issues identified during the coordination.

21.3.2 Environmental Assessments and Environmental Impact Statements

For Environmental Assessments (EAs) and Environmental Impact Statements (EISs), it is the PM’s responsibility to document project-related utility or railroad impacts. The documentation should include a summary of the information in the **Utilities Assessment Package** and a discussion of any issues identified with railroads in the Environmental Analysis section of the EA or the EIS.

21.3.3 State-Funded Projects

For State Environmental Impact Reports (SEIRs), the PM should include the results of the coordination in the Environmental Analysis section of the SEIR by placing an "X" in the appropriate column indicating the level of impact:

1. If there are no utilities or railroads within the project area, mark the column indicating “NOINV”.
2. If the project will benefit the utilities and railroads or public use of such, mark the column indicating “ENHANCE”.
3. If there are utilities or railroads in the area but there is no impact, mark the column indicating “NO”.
4. If there is a potential impact, mark the column “YES”.

The PM should include justification for the decision in the Supporting Information column and supplement with attachments as necessary to support the impact evaluation. The supporting documentation for utilities should summarize the information in the **Utilities Assessment Package**. For railroads, the supporting documentation should discuss the involvement with the railroad and address any issues identified during coordination.

21.4 RE-EVALUATION OF UTILITY AND RAIL IMPACTS

Prior to proceeding to each phase of project development, or if there have been changes to the design, there must be a project re-evaluation consistent with [Part 1, Chapter 13, Re-evaluations](#). The District Utilities staff and the DRC must be consulted during the re-evaluation process to ensure that there are no changes to the anticipated impacts.

21.5 REFERENCES

Chapter 335, F.S., State Highway System. <http://www.leg.state.fl.us/Statutes/>

Chapter 337, F.S., Contracting; Acquisition, Disposal, and Use of Property.
<http://www.leg.state.fl.us/Statutes/>

FDOT, 2015. Standard Specifications for Road and Bridge Construction, Florida Department of Transportation.
<http://www.dot.state.fl.us/programmanagement/Specs.shtm>

FDOT, Construction Project Administration Manual, Topic No. 700-000- 000.
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FDOT, Local Agency Program Manual, Topic No. 525-010-300.
http://www.dot.state.fl.us/programmanagement/LAP/LAP_TOC.shtm

FDOT, Plans Preparation Manual, Topic No. 325-000-007.
<http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm>

FDOT, Rail Handbook. <http://www.dot.state.fl.us/rail/publications/handbook.pdf>

FDOT, Utility Accommodation Manual, Topic No. 710-020-001.
<http://www.dot.state.fl.us/programmanagement/utilities/UAM.shtm>

FDOT, Utility Work Agreements and Certification Process, Topic No. 710-010-050.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=710-010-050>

FDOT, Utility Work for Local Government Utilities, Topic No. 710-030-005.
<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=710-030-005>

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Rule 14-57, F.A.C., Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings Rule.

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=14-57>

Title 23 CFR § 645(a), Utility Relocations Adjustments and Reimbursement.

http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

Title 23 CFR § 645(b), Accommodation of Utilities. http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

Title 23 CFR § 646(b), Railroad-Highway Projects. http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

http://www.ecfr.gov/cgi-bin/text-idx?SID=62260a79a5de349c9956cf878c41325f&mc=true&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

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>

21.6 FORMS

[Project Commitment Record, Form No. 700-011-35](#)

[Railroad Grade Crossing Application, Form No. 725-090-66](#)

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures>. Sign in is required.

21.7 HISTORY

11/14/2003, 7/15/2016

PART 2, CHAPTER 22

COMMITMENTS

TABLE OF CONTENTS

22.1	OVERVIEW	22-1
22.1.1	Project Commitments.....	22-2
22.1.1.1	Local Agency Program Commitments.....	22-4
22.1.1.2	Permitting and Commitments	22-4
22.1.2	FDOT Commitment Tracking	22-5
22.2	PROCEDURE.....	22-5
22.2.1	Projects Not Qualifying for Screening	22-6
22.2.2	Projects Qualifying for Screening.....	22-6
22.2.3	Project Development and Environment Phase	22-6
22.2.3.1	Documenting Commitments	22-7
22.2.4	Re-evaluation.....	22-8
22.2.5	Design Phase	22-8
22.2.6	Right of Way Phase	22-9
22.2.7	Construction Phase	22-9
22.2.8	Operation and Maintenance Phase	22-9

22.3 REFERENCES 22-10

22.4 FORMS 22-10

22.5 HISTORY 22-11

LIST OF FIGURES

Figure 22-1 Project Commitment Record 22-12

PART 2, CHAPTER 22

COMMITMENTS

22.1 OVERVIEW

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 (FDOT) has assumed Federal Highway Administration's (FHWA's) 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, FDOT'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, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Commitments are an important component of a transportation project as they provide assurance to agencies and other stakeholders that identified issues will be addressed in a future phase of project delivery. The primary purpose of this chapter is to provide guidance to FDOT Districts on how to prepare the commitments section of an Environmental Document during the Project Development and Environment (PD&E) phase. This chapter also details how PD&E phase commitments are developed and the necessary coordination, tracking, and documentation required to ensure these obligations are transferred to future project phases and subsequently fulfilled. Because commitments made during the PD&E phase are implemented during future project phases, it is important to have coordination between staff from PD&E through the Operation and Maintenance phases to ensure the appropriate documentation and tracking of commitments are accomplished until commitments are completed.

FDOT requires that commitments be tracked through [Procedure No. 700-011-035, FDOT Commitment Tracking](#) and reviewed and documented in subsequent re-evaluations. This procedure provides guidance on tracking and documenting project commitments throughout Project Development, Design, Right of Way (ROW), Construction, and Operation and Maintenance phases. Commitments must be recorded on the **Project Commitment Record (PCR), Form No. 700-011-35**. See [Section 22.2.3.1](#) for guidance on how to document and track commitments.

Commitments established as a result of the PD&E Study and/or agency coordination must be documented in the Environmental Document [Categorical Exclusion (CE), Environmental Assessment (EA), Environmental Impact Statement (EIS), Non-Major

State Action (NMSA), or State Environmental Impact Report (SEIR)], and included in the project file.

22.1.1 Project Commitments

A FDOT commitment is an obligation to an external stakeholder to provide a feature, or perform an action, related to a project. Examples of commitments include:

- Design features meant to minimize adverse effects on identified environmental resources
- Actions during Design/Permitting phase meant to define in greater detail the presence/absence or potential impact on a resource
- Actions during construction to avoid impacts to protected resources

Project commitments may be established at any time during the PD&E, Design, ROW, Construction, and Operation and Maintenance phases of a project. Commitments are rarely established during the Planning phase of a project, due to inherent uncertainties in the evolution of a given project.

A PD&E phase commitment can be made as a result of coordination/consultation with agencies, the local community, or other stakeholders on social, cultural, physical, natural or engineering issues/resources. A **NEPA** commitment is an obligation identified and documented in the PD&E phase and subsequent re-evaluations, and is a binding commitment to avoid, minimize or mitigate project impacts in order to satisfy **NEPA** or other related laws.

FDOT may make commitments to the local community during PD&E, which could include context-sensitive solutions or design features like lighting, benches, bicycle or pedestrian facilities, aesthetic treatments, landscaping. Commitments may also be made during PD&E to support federal and/or state permitting. During the Design/Permitting phase, these commitments may become permit conditions at the discretion of the applicable regulatory agency and their status should be updated appropriately. For example, commitments regarding protected species or habitat impacts may be included in the permit at the discretion of the Florida Department of Environmental Protection (FDEP), Water Management District (WMD) or the U.S. Army Corps of Engineers (USACE). **Section 22.1.1.2** provides additional information on commitments and permitting.

The Project Manager for each project phase is responsible for establishing commitments (as appropriate) and ensuring that the commitments are properly documented. Each Project Manager is responsible for coordinating with others who may be tasked with implementing actions based on the project commitments, such as the District Environmental Office [District Environmental Management Office (DEMO), Planning and

Environmental Management Office (PLEMO)], Design Office, Construction Office, District Permit Coordinator, ROW Office, or Maintenance Office.

Before making a commitment, the project manager must coordinate with staff from the other project phases to ensure the action involved is feasible. The commitment must be feasible in terms of necessity, practicality, cost, and timing. Continuous coordination is vital to ensure that all commitments are appropriate and once agreed to by FDOT, are implemented. All project commitments must be properly coordinated, documented, tracked, and implemented for the project to successfully advance to completion.

When making commitments the Project Manager must:

1. Ensure that commitments are clear and concise;
2. Ensure commitment language is coordinated with the appropriate subject matter expert;
3. Ensure that commitments do not contradict other commitments;
4. Consider the practical impact of the commitments on future project phases; and
5. Ensure the source of and reason for the commitment is fully documented in the project file.

Project managers should be mindful of whether statewide precedence is being created when employing new or unique commitments, as well as making any long term obligations, procedural mechanisms or dedication of state resources needed to uphold commitments. For example, proposed preservation of FDOT ROW for a non-transportation related purpose, or monitoring in perpetuity should prompt further discussion within the District and OEM prior to making the commitment. The approval of a commitment is at the discretion of each District and is evaluated based upon the magnitude of impact it has on FDOT resources.

Project Managers must coordinate with appropriate District personnel prior to agreeing to a commitment that would obligate substantial FDOT resources. For example, during the PD&E phase a Project Manager can make a commitment to a resource agency to continue coordination with that agency during the Design phase, where environmental permits are typically obtained. This type of commitment does not typically require vetting within other project phases or by the District chain of command. However, a commitment to include a wildlife crossing during PD&E should prompt the Project Manager to coordinate with staff from other offices and obtain approval. A wildlife crossing could potentially obligate substantial funds, time, and effort from multiple offices and therefore should be thoroughly vetted before making such a commitment.

It is important to recognize that FDOT is required to follow the requirements detailed in its standard specifications, manuals, and handbooks. For example, a commitment should not be made to follow the [Standard Specifications for Road and Bridge Construction](#).

22.1.1.1 Local Agency Program Commitments

FDOT is statutorily empowered to contract with other Local Agencies to plan, develop, design, acquire ROW, and construct transportation facilities through LAP. FDOT reimburses these Local Agencies for services provided to the public. When FDOT contracts with any Local Agency for reimbursement using federal funds administered by the FHWA, FDOT must ensure Local Agencies comply with all applicable federal statutes, rules, and regulations.

When applicable, the Local Agency should maintain a commitment file with a summary of commitments made during the development of the project. The Local Agency should review the file to ensure that the commitments are incorporated into the Plans Specifications and Estimates.

FDOT's Project Manager must ensure that any commitments made by an implementing LAP Agency are discussed with FDOT, to ensure that commitments are documented clearly stating LAP Agency responsibility and that FDOT is not obligated to fulfill those commitments. FDOT should not make commitments on behalf of a LAP Agency. See [Local Agency Program Manual, Topic No. 525-010-300](#) for more information on LAP projects and LAP commitments.

22.1.1.2 Permitting and Commitments

Commitments regarding wetland and other surface water impacts, listed species, and/or habitat that were identified during the PD&E phase may later be included as permit conditions. Permit conditions must be met in order to comply with an environmental permit and are developed in coordination with the applicable regulatory agency. These are typically developed during the Design phase when projects are typically permitted; however, in some instances, permitting may take place during the PD&E phase. Commitments that are included in project permits must be tracked as part of permit compliance. Failure to comply with permit conditions is a violation of the permit and may result in enforcement action against FDOT. It is critical that permit conditions are met, and appropriate documentation demonstrating the permit condition has been satisfied is submitted to the appropriate regulatory agency and included in the project file. See [Part 1, Chapter 12, Environmental Permits](#), for more information on environmental permitting.

An example of a commitment made during the PD&E phase that may be included as a permit condition include a commitment for species protection made in coordination with a regulatory agency. Examples of species-specific commitments made during PD&E include:

- Re-initiate or continue consultation with the commenting wildlife agencies during permitting to better define potential species impacts
- Conduct species-specific pre-construction surveys (such as for the bald eagle) to verify nest presence/absence/activity
- Conduct species-specific pre-construction surveys (such as for the gopher tortoise) since the species protection would not result from federal permitting and the species is not wetland-dependent and automatically included in the state Environmental Resource Permit review
- Protect a species during construction (such as the Florida manatee, eastern indigo snake, and small-tooth sawfish)

Another commitment that may be included in an environmental permit is a commitment to avoid cultural or historical resources. For example, a commitment may be made to have an archaeological monitor on site during construction activities near a known historical archaeological site. This type of commitment would be made during the PD&E phase and coordinated with the appropriate regulatory agency. The commitment would then be included as a permit condition, at the discretion of the permitting agency during Design/permitting. When a commitment made in PD&E subsequently becomes a permit condition, its status should be updated appropriately.

22.1.2 FDOT Commitment Tracking

Guidance and procedures for documenting and tracking project commitments are in [Procedure No. 700-011-035, Project Commitment Tracking](#). As noted in the procedure, “It is imperative that any commitments made by the Department are sufficiently documented so they can be tracked throughout the life of the project, fulfilled during the appropriate time, and reviewed and documented for their completeness prior to final acceptance of the project.”

Commitments made by FDOT over the course of the project must be documented on the **Project Commitment Record (PCR), Form No. 700-011-035** included in [Figure 22.1](#). The **PCR** is the standard form for documenting, transmitting, and tracking project commitments. Commitments identified in the PD&E phase must be recorded in the **PCR** for transmittal to the Project Manager during the Design phase, as well as documented in the Commitments section of the Environmental Document ([Section 22.2.3.1](#)).

22.2 PROCEDURE

Some projects may qualify for Efficient Transportation Decision Making (ETDM) screening in the Environmental Screening Tool (EST). [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#) and Chapter 2 of the [ETDM Manual, Topic](#)

[No. 650-000-002](#) list the qualifications for ETDM screening. Regardless of whether a project is screened, commitments must be documented in the Environmental Document.

22.2.1 Projects Not Qualifying for Screening

For transportation projects not qualifying for EST screening, commitments are documented as a part of discussions and coordination with resource agencies, the public, and other stakeholders. Decisions and commitments must be documented in the Environmental Document and/or project file, and appropriately addressed through incorporation into the final design/construction plans. A *PCR* is also prepared for these types of projects. Documentation in the Environmental Document is as follows:

1. **Type 1 CE** - For these projects, complete a ***Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*** according [Part 1, Chapter 2, Class of Action Determination for Highway Projects](#). Include project commitments in the project file, and complete a *PCR* as detailed in [Section 22.1.2](#).
2. **Non-Major State Actions (NMSA)** - Complete a ***Non-Major State Action Checklist, Form No. 650-050-30*** ([Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#)). For these projects include project commitments in the project file, and complete a *PCR* as detailed in [Section 22.1.2](#).
3. **Type 2 CE** - Some Type 2 CEs may not require screening through the EST. For these projects, commitments are documented on the ***Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*** as if the project was screened. See [Section 22.2.3.1](#) for guidance on documenting Type 2 CEs.

22.2.2 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 project-level coordination with the regulatory agencies and includes a Preliminary Environmental Discussion (PED) ([Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)).

Environmental Technical Advisory Team (ETAT) members review the proposed project and respond with comments. The ETAT members may provide recommendations to FDOT for minimizing potential environmental impacts. It is recommended that commitments not be made during ETDM Screening since the project is preliminary and many changes may occur as the project advances and through the PD&E phase.

22.2.3 Project Development and Environment Phase

During PD&E, FDOT should review the ***Programming Screen Summary Report*** to consider ETAT member recommendations. The Project Manager is responsible for

collecting and maintaining correspondence with agencies/organizations (e.g., letters, emails), documenting coordination on project commitments as part of the project file, and adding commitments to the **PCR**. This documentation provides information for the next project phase.

Any recommendations made during ETDM screening should have been entered into the “General Project Recommendations” section of the **Programming Screen Summary Report**. If recommendations were made, the District reviews the recommendations during the PD&E phase to determine whether they continue to be applicable to the project. This may require contacting the ETAT member that made the recommendation, and discussing whether it is still applicable. If, through coordination, it is determined that a recommendation is no longer applicable, the Environmental Document should include a thorough discussion of the coordination with the ETAT member that led to this decision.

During the PD&E Study, FDOT may need to make project commitments to stakeholders in order to address social, cultural, physical natural or engineering issues and advance the project. See **Section 22.1.1** for guidance on preparing a project commitment. Once a Project Manager has identified a necessary commitment, they are responsible for coordinating with the District Design Office, Construction Office, District Permit Coordinator, ROW Office, or Maintenance Office to ensure the feasibility/viability of the commitment, and for obtaining approval on the commitment.

22.2.3.1 Documenting Commitments

Commitments established as a result of the PD&E Study and/or agency coordination must be documented in the Environmental Document, the **PCR**, and the project file. Commitments are documented in the **PCR** in accordance with **Section 22.1.2** and are transmitted to the Design and Construction Offices according to **Procedure No. 700-011-035, Project Commitment Tracking**. The PD&E phase Project Manager must provide the **PCR** to the Design phase Project Manager.

Project commitments are documented in the Environmental Document and the **PCR**. The **PCR** is uploaded to the StateWide Environmental Project Tracker (SWEPT) to be included in the project file. Project commitments are documented in the Commitments section of the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11**, EA, EIS, or SEIR. This section of the Environmental Document addresses all commitments which FDOT has entered into over the course of the PD&E Study. All commitments are listed verbatim as found in the body of the Environmental Document, accompanying technical reports, and as recorded on the **PCR**.

The Commitments section should include a list of commitments made, the agreed upon language, and the stakeholder(s) involved. It should include any commitments made through coordination with agencies/organizations during the PD&E phase, as well as any validated recommendations identified in the ETDM screening events. Commitments may also be listed in associated technical reports (e.g., **Natural Resource Evaluation, Noise Study Report, Memorandum of Agreement**). These commitments should be included

verbatim in the Commitments section of the Environmental Document and recorded on the **PCR**.

22.2.4 Re-evaluation

Any changes to commitments after approval of the Environmental Document must be documented in a re-evaluation as per [Part 1, Chapter 13, Re-evaluations](#). Re-evaluations prepared through this process should provide a status update of the commitments in the “Commitment Status” section of the **Re-evaluation Form, Form No. 650-050-29**. Any new commitments arising from subsequent agency negotiations or public involvement activities or otherwise are also listed, updated, and discussed.

22.2.5 Design Phase

During Design, the Design Project Manager is responsible for reviewing the **PCR** for project commitments made during the PD&E phase. The Design Project Manager should consult with the PD&E Project Manager, District Environmental Office and the Permit Coordinator as appropriate to ensure that project commitments are understood. The Design Project Manager should ensure that commitments impacting a project’s design are accurately incorporated in the project plan, contract documents and/or determine if special provisions will be required. The Design Project Manager should also coordinate with the Permit Coordinator to ensure commitments related to permit conditions (e.g., species protection measures) are addressed.

Some examples of PD&E commitments that can be included in the project plan or contract documents during Design phase include:

- Additional design features and details
- Renewed consultation with state and/or federal regulatory agencies
- Pre-construction species-specific wildlife surveys
- Construction requirements and/or restrictions
- Design changes
- Project specific plan notes

The Design Project Manager must update the **PCR** to document that PD&E project commitments were reviewed and included in the project design plans and/or contract documents as appropriate. The Design Project Manager should ensure that the updated **PCR** is transmitted to the ROW or Construction Project Manager, as appropriate.

Prior to advancing the project to ROW or Construction phases, the Environmental Manager completes the appropriate Status of Environmental Certification Form, ***Status of Environmental Certification for Federal Project, Form No. 650-050-13*** or ***Status of Environmental Certification for State Funded Project, Form No. 650-050-14***.

22.2.6 Right of Way Phase

During the ROW phase, the Project Manager is responsible for reviewing the ***PCR*** for project commitments that may impact project ROW. It is the Project Manager's responsibility to coordinate with previous phase managers as appropriate to ensure that project commitments are understood. An example of a PD&E commitment that may be implemented during ROW phase is a commitment to have an archaeological monitor on site during ROW demolition activities.

22.2.7 Construction Phase

The Project Manager in the Construction phase is responsible for reviewing the ***PCR*** for project commitments, to ensure that they have been included in the project's contract documents and/or plan set to be addressed during construction. During Construction, it is the Project Manager's responsibility to ensure that the project is constructed according to the project design plans and that all of the project commitments found in the ***PCR*** are met and documented prior to final acceptance.

The District should have a clearly established protocol in place to re-engage the Environmental Office or others to address project commitments as needed during construction.

During Construction Final Acceptance, the Project Manager is responsible for ensuring that the commitments were addressed including commitments specified in the contract plans, permit conditions and any commitments made during construction. This is handled by the Construction Office but may require Environmental Office involvement ([***Chapter 8 of the Construction Project Administration Manual, Topic No. 700-000-000***](#)).

22.2.8 Operation and Maintenance Phase

During the Operation and Maintenance phase, the Project Manager is responsible for reviewing the ***PCR*** for project commitments that may impact maintenance of the project. It is the Project Manager's responsibility to coordinate with previous phase managers as appropriate to ensure that project commitments are understood. An example of a PD&E commitment that could impact the Operation and Maintenance phase is a commitment to maintain landscaping at a higher standard than FDOT Maintenance requirements.

22.3 REFERENCES

American Association of State Highway and Transportation Officials. 2006. Practitioner's Handbook. Tracking Compliance with Environmental Commitments/ Use of Environmental Monitors

FDOT. Construction Project Administration Manual, Topic No. 700-000-000.
<http://www.dot.state.fl.us/construction/manuals/cpam/CPAMManual.shtm>

FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT. Local Agency Program Manual, Topic No. 525-010-300
http://www.dot.state.fl.us/programmanagement/LAP/LAP_TOC.shtm

FDOT. Plans Preparation Manual, Topic No. 625-000-007.
<http://www.dot.state.fl.us/rddesign/PPMManual/2015PPM.shtm>

FDOT. Project Commitment Tracking, Topic No. 700-011-035
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/700011035.pdf>

FDOT. Standard Specifications for Road and Bridge Construction.
<http://www.dot.state.fl.us/programmanagement/Specs.shtm>

Memorandum of Agreement 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, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

22.4 FORMS

[Project Commitment Record Form, Topic No. 700-011-35](#)

Status of Environmental Certification for Federal Project, Form No. 650-050-13*

Status of Environmental Certification for State Funded Project, Form No. 650-050-14*

Re-evaluation Form, Topic No. 650-050-29*

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures>. Sign in is required.

22.5 HISTORY

1/12/2000, 1/5/2009, 2/23/2016

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 PROJECT COMMITMENTS RECORD

700-011-25
 Construction
 02-7

PROJECT DEVELOPMENT & ENVIRONMENT

Project Name: _____ Project Manager: _____ Environmental Document Approval Date: _____ FM#: _____ FAP#: _____
 Environmental Document Type: (Type 1 CE, Type 2 CE, EA, EIS, NMSA, SEIR)

Project Segment Number	Commitment	External Stakeholder	Env. Commit. ? (yes/no)	Implementation Phase	Status	Transmittal Date	Completion Date	Comments

DESIGN

Project Name: _____ Project Manager: _____ FM#: _____ FAP#: _____

Project Segment Number	Commitment	External Stakeholder	Env. Commitment ? (yes/no)	Confirmed no impact to Env. Commit. (yes/no)	Commitment Approval Date	Implementation Phase	Status	Transmittal Date	Completion Date	Comments

RIGHT OF WAY

Project Name: _____ Project Manager: _____ FM#: _____ FAP#: _____

Project Segment Number	Commitment	External Stakeholder	Env. Commitment ? (yes/no)	Confirmed no impact to Env. Commit. (yes/no)	Commitment Approval Date	Implementation Phase	Status	Transmittal Date	Completion Date	Comments

CONSTRUCTION

Project Name: _____ Project Manager: _____ FM#: _____ FAP#: _____

Figure 22-1 Project Commitment Record

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PROJECT COMMITMENTS RECORD

700-011-35
 Construction
 02-7

Project Segment Number	Commitment	External Stakeholder	Env. Commitment? (yes/no)	Confirmed no impact to Env. Commit. (yes/no)	Commitment Approval Date	Implementation Phase	Status	Transmittal Date	Completion Date	Comments

OPERATION & MAINTENANCE

Project Name: _____ Project Manager: _____ FM#: _____ FAP#: _____

Project Segment Number	Commitment	External Stakeholder	Env. Commitment? (yes/no)	Confirmed no impact to Env. Commit. (yes/no)	Commitment Approval Date	Implementation Phase	Status	Transmittal Date	Completion Date	Comments

Figure 22-1 Project Commitment Record (2 of 2)