NEPA Assignment: OEM NEPA Review Process for District Practitioners

2016

Outline

• Foundation for Review Process
• OEM Organization
• Your OEM Team
• Your District
• Environmental Review Process
• Quality Assurance and Quality Control
Foundation for Review Process

Laws and Regulations

Regulatory Authority

- Efficient Environmental Reviews for Project Decision Making; 23 United States Code (U.S.C.) § 139
- Integration of Planning and Environmental Review; 23 U.S.C. § 168
- Transportation Planning Studies and Project Development; 23 C.F.R. § 450 and 450.318
- Linking the Transportation Planning and NEPA Process; Appendix A of 23 Code of Federal Regulations (C.F.R.) 450

Fixing America’s Surface Transportation (FAST) Act

- Additional direction for using planning decisions in NEPA
- Amends the Efficient Environmental Review Process to expedite project delivery; consultation requirements
- Transparency in environmental review process
  - National Permitting Dashboard
  - Public website of project review and permitting status
FHWA Guidance

Federal-aid Highway Program Policy and Guidance Center
• http://www.fhwa.dot.gov/pgc/

Office of Planning Environment Website
• http://www.fhwa.dot.gov/environment/

Environmental Review Toolkit (and FAST Act Guidance)
• https://www.environment.fhwa.dot.gov/index.asp
• https://www.environment.fhwa.dot.gov/strmlng/environmental_provisions.asp#fast

FDOT Manuals, Standards and Guidance

• Project Development and Environment (PD&E) Manual
• Efficient Transportation Decision Making (ETDM) Manual
• Design Standards
• Plans Preparation Manual (PPM)
• Interchange Access Request User’s Guide
• Public Involvement Resources for the Practitioner
• Public Involvement Handbook
• Construction Project Administration Manual (CPAM)
• Guidance Documents and Training Materials available on FDOT’s website under EMO Resources: http://www.dot.state.fl.us/emo/resources.shtm
Programmatic Agreements (PA)

Programmatic Agreement is a binding agreement between FDOT and other state and/or Federal agencies that streamline the environmental review and project delivery process.

- Project Specific: A PA that describes the action that will be taken in order to meet environmental compliance responsibilities
- Procedural: establishes a process through which compliance responsibilities will be met for an agency program, a category of projects or a particular type of resource
  - PA for Categorical Exclusions
  - PA for Section 106
  - PA for Interchange Access Requests

PA for Categorical Exclusions

- On the effective date of the NEPA Assignment Program, the existing PA is suspended as FDOT assumes authority for CE approvals
PA for Section 106

PA among FHWA, Advisory Council on Historic Preservation, the Florida Division of Historic Resources and FDOT Regarding Implementation of the Federal-Aid Highway Program in Florida

• Specifies procedures for resolving conflicts with external agencies
• Under NEPA Assignment, FDOT assumes FHWA’s role in the PA
• Section III – Responsibilities and General Requirements of the FDOT

PA for Interchange Access Requests

PA between the FHWA Division and the FDOT Regarding the Review and Approval of Specific Types of Changes in Interstate-system Access

• Moving Ahead for Progress in the 21st Century (MAP-21) Section 1318 (d) – Programmatic Agreements
  • Allows FHWA to delegate to FDOT the review and approval of certain IAR documents
  • Requires FDOT to meet stipulations in the PA
  • Applies to projects that qualify
  • No changes to required documentation
  • NEPA must still be completed for final approval
PA for Interchange Access Requests

IARs Eligible for PA process

- New and major modifications to service interchanges outside Transportation Management Areas (TMAs)
- Modifications to service interchanges inside TMAs
- Completion of partial interchanges
- Interchange Operation Analysis Reports (IOARs) will qualify similar to Interchange Modification Reports (IMRs)

IARs Not Eligible for PA process

- New and modified system to system interchanges
- New service interchanges inside of TMAs
- New partial interchanges
- Closure of access points
- Locked gate access
- Projects with EISs
- Projects with issues of National Policy or Substantial Controversy
- Any other Project required by FHWA
- Completion of basic movements at existing partial interchanges
A New Logo
A Video Break

[Link to Video]

OEM Organization
NEPA Assignment: OEM NEPA Review Process for District Practitioners

Office of Environmental Management

State Environmental Programs Administrator
- Director Office of Environmental Management
- Management Operations Analyst

State Environmental Quality Assurance and Performance Administrator
- Program Coordinator
- Technology Resource Coordinator
- Quality Control and Quality Assurance Coordinator

State Environmental Process Administrator
- Ecology Specialist
- Environmental Permits Specialist
- Project Delivery Coordinator
- Project Delivery Coordinator

State Environmental Engineer
- State Project Development Engineer
- Statewide Noise and Air Quality Coordinator
- Project Development Engineering Specialist III
- Project Development Engineering Specialist I

Quality Assurance and Performance Section
- Special Counsel for Environmental Affairs
- Assistant General Counsel
- NEW Assistant General Counsel

Environmental Review and Analysis Section
- Engineering Review and Analysis Section

Project Delivery Coordinator
- Project Development Engineering Specialist III
- Project Development Engineering Specialist I

Project Review Teams

**ENVIROMENTAL**

Katasha Cornwell*  
Thu-Huong Clark  
Erika Thompson*  
Shereen Yee Fong

D1  
D2  
D3  
D4  
D5  
D6  
D7  
FTE

**ENGINEERING**

Brittany Bianco**

Martha Hodgson

D1  
D2  
D3  
D4  
D5  
D6  
D7  
FTE

**NOTES:**
- Primary Contact
- Permits & Additional District Support

**ADMINISTRATOR**

OEM Director
- Ken Morefield

Office of General Counsel
- Kathleen Teolan

- Marjorie Kirby
- Victor Mushurusa
- Xavier Pagen
Your OEM Team

OEM Points of Contacts and Lead Review Team

**DISTRICT 1**
- Project Delivery Coordinators
  - Katasha Cornwell - Primary
  - Thu-Huong Clark - Secondary
- Project Development Engineering Specialists
  - Martha Hodgson
- Permits and Additional District Support
  - Brittany Bianco
OEM Points of Contacts and Lead Review Team

DISTRICT 2

• Project Delivery Coordinators
  ▪ Erika Thompson - Primary
  ▪ Shereen Yee Fong - Secondary

• Project Development Engineering Specialist
  ▪ Jenna Bowman

• Permits and Additional District Support
  ▪ Brittany Bianco

DISTRICT 3

• Project Delivery Coordinators
  ▪ Katasha Cornwell - Primary
  ▪ Thu-Huong Clark - Secondary

• Project Development Engineering Specialist
  ▪ Jenna Bowman

• Permits and Additional District Support
  ▪ Brittany Bianco
OEM Points of Contacts and Lead Review Team

**DISTRICT 4**

- **Project Delivery Coordinators**
  - Shereen Yee Fong - Primary
  - Erika Thompson - Secondary
- **Project Development Engineering Specialist**
  - Michael Sykes
- **Permits and Additional District Support**
  - Brittany Bianco

**DISTRICT 5**

- **Project Delivery Coordinators**
  - Thu-Huong Clark - Primary
  - Katasha Cornwell - Secondary
- **Project Development Engineering Specialists**
  - Catherine Bradley
- **Permits and Additional District Support**
  - Brittany Bianco

**FLORIDA’S TURNPIKE**

- Use contacts for geographic District
OEM Points of Contacts and Lead Review Team

**DISTRICT 6**
- Project Delivery Coordinators
  - Shereen Yee Fong - Primary
  - Erika Thompson - Secondary
- Project Development Engineering Specialist
  - Catherine Bradley
- Permits and Additional District Support
  - Brittany Bianco

**DISTRICT 7**
- Project Delivery Coordinators
  - Erika Thompson - Primary
  - Shereen Yee Fong - Secondary
- Project Development Engineering Specialists
  - Martha Hodgson
- Permits and Additional District Support
  - Brittany Bianco
OEM and District Communication

**Project Kick-off Meeting**
- Communicate mutual expectations about project
- Discuss review schedule and document review milestones
- District provides project summary and issue discussion
- Schedule monthly coordination meetings

**Coordination Meetings**
- Review status of engineering, environmental process and public involvement activities
- Get ahead of issues and formulate a plan
- Document submittals
- Project schedule updates

**District and Project Site visits**

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Additional Collaboration

- Statewide Acceleration and Transformation (SWAT) Kick-off Meeting (Additional training to be provided at a later date)
- Alternative Corridor Evaluation (ACE) process, range of Alternatives
- ETDM Programming Screen / Class of Action evaluation
- PD&E Scope of Services Development
- At project initiation; once Consultant is on board
- At key Public Involvement Milestones
- Changes in Class of Action
A Teleconference in Real Life
A Video Break
https://youtu.be/DYu_bGbZiiQ

Your District
Districts’ Role Prior to PD&E Phase

Similar to before NEPA Assignment with additional guidance and measures to ensure program success:

- MPO Coordination
- Work Program Development
- SWAT Planning and Kick-off meetings
- ETDM Planning and Programming screens
- Alternative Corridor Evaluation Process
- Recommending potential participating and cooperating agencies to OEM

Districts’ Role Prior to PD&E Phase

- Propose planning products to be adopted as part of NEPA
- Propose Class of Action
- Advanced Notification
- PD&E Scope of Services
- Statement to be included on cover of planning products to be adopted:

“This planning product may be adopted into the environmental review process, pursuant to Title 23 USC § 168 of the state project development process.”
Interagency Coordination and Public Outreach

**INTERAGENCY**
- ETDM provides initial groundwork
- District leads coordination and OEM provides support
- OEM will request formal consultation

**PUBLIC OUTREACH**
- OEM may attend public meetings
- OEM can provide support in response to comments, as needed

Integration of Planning, PD&E and Design

NEPA Assignment: OEM NEPA Review Process for District Practitioners
Integration of Planning, PD&E and Design
Environmental Review Process

Review and Approval Type 1 CEs
Type 1 Categorical Exclusion Overview

Qualify as Categorical Exclusions if meet certain criteria contained in:

- 23 C.F.R. § 771.117 (a)

Actions listed in:

- 23 C.F.R. § 771.117 (c), or
- 23 C.F.R. § 771.117 (d)
- Part 1, Chapter 2 – PD&E Manual

Type 1 Categorical Exclusions - Documentation

- **Type 1 Categorical Exclusion Checklist**
  - Part 1, Chapter 2 - PD&E Manual
  - Form No. 650-050-12
- **Checklist is the Environmental Document**
- **Include supporting documentation in File**
  - Agency Coordination
  - Technical Memos
- **Minor Categorical Exclusion (MiCE) process**
NEPA Review for Type 1 CEs

- **Approvals of Type 1 CEs delegated to Districts**
  - Currently delegated; no change
  - Districts responsible for internal Quality Assurance / Quality Control
  - Review and Approval is **NOT REQUIRED** from OEM; however OEM can provide support as needed

- **Document uploaded to the State Wide Environmental Project Tracker (SWEPT)**

Type 1 CEs in SWEPT
Overview of Environmental Review Process

- **ETDM Screening; Scope of Services Finalized; Advance Notification; Class of Action evaluation**
- **Project Initiation**
- **Technical Studies**
- **District Review of Technical Studies**
- **Prepare Draft Environmental Document**
- **District Quality Control Certification prior to submit to OEM**
- **OEM and Legal Document Review**
- **District Updates Draft Environmental Document**
- **OEM and Legal Review and Approval**
- **Public Hearing**
- **District Updates Final Document**
- **OEM and Legal Review of Final Document**
- **District Certifies Final Document**
- **OEM Approves Final Document; Location and Design Concept Acceptance**
- **Legal Sufficiency Review Completed for EISs and Individual Section 4(f)**
- **Additional Steps for FONSI/ROD (Publication and limitation of Claims)**

**LEGEND**
- District
- OEM

*Efficient Transportation Decision Making (ETDM)*

**14 Day Pre-Screening OEM Review**
- Prior to release for ETAT review
- Project Description
- Purpose and Need
- Preliminary Environmental Discussion (PED)

**Possible Outcomes**
- Ok to proceed as is
- Ok to proceed with comments
- Not Ok to proceed, let’s discuss

**Advance Notification**
Efficient Transportation Decision Making (ETDM)

**During ETDM Screening events**
- OEM will not comment as a member of the Environmental Technical Advisory Team (ETAT)

**Alternative Corridor Evaluation (ACE) Process**
- OEM approves ACE Methodology Memorandum
- OEM approves ACE Report (ACER)

**Alternatives**
- OEM approves alternatives moving forward as well as alternatives being eliminated

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**Cooperating and Participating Agencies**
- District recommends; OEM formally invites

**At conclusion of ETDM Screening event**
- OEM approves Purpose and Need at Programming Screen
- OEM accepts Purpose and Need as “understood” in Planning
Scope of Services and Class of Action

**Scope of Services**
- Prior to procuring PD&E Study, determine approach
- PD&E and Design can begin concurrently if preliminary design activities comply with 23 C.F.R. Part 771 and 40 C.F.R. 1500-1508
  - **CANNOT** limit choice of reasonable alternatives
  - **CANNOT** advance beyond 60% until Location Design Concept Acceptance (LDCA)
- OEM can review concurrent with Districts

**Class of Action (COA)**
- May be approved during ETDM or during PD&E phase
- Additional studies may be needed prior to finalizing COA
- MiCE process
Project Initiation

SWAT Kick-off Meeting after ETDM
- Identifies project activities based on scope
- Develops initial project schedule
  - FDOT project schedule templates
  - Project Schedule and Management (PSM) codes

Initiation Defined as
- Notice of Intent (NOI) issued for EISs
- PSM Codes for Type 2 and EA project schedules

During PD&E Study
- Project Consultant develops detailed schedule and updates periodically
- Primavera P3

OEM Lead Review Team assigns
- Subject Matter Experts
- Office of General Counsel
- Planning staff
**Environmental Technical Studies**

**Districts Conduct Environmental Technical Studies**
- OEM requires concurrent review prior to Agency submittal
  - Natural Resources Evaluation (NRE)
  - Cultural Resources Assessment Survey (CRAS)
- OEM can review other environmental technical studies upon request

**Engineering Technical Studies**

**Districts Conduct Engineering Technical Studies**
- OEM review after District QC
  - Project Traffic Analysis Report
  - Preliminary Engineering Report
- OEM can review other engineering technical studies upon request
Draft Environmental Document

**District Prepares Environmental Document**
- Follow the PD&E Manual
- Address Public, local government, agency comments and tribal comments
- Reference technical studies
- Include Standard statements as applicable
- Include project commitments

District Quality Control Certification

- Districts responsible for conducting their own Quality Control
- District completes Environmental Document Submittal Form (Form 650-050-15) in SWEPT
- Draft environmental document and technical studies are uploaded into the Electronic Review Comment system
- OEM Lead Review Team confirms submittal is complete and ready for review
District Quality Control Certification

District Quality Control Certification prior to submittal to OEM

District 1 ERC Submittal Reviewers

Districts assign OEM Lead Reviewers in ERC
- Katasha Cornwell
- Thu-Huong Clark
- Martha Hodgson
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza
**DISTRICT 2 ERC Submittal Reviewers**

Districts assign OEM Lead Reviewers in ERC

- Erika Thompson
- Shereen Yee Fong
- Jenna Bowman
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza

**DISTRICT 3 ERC Submittal Reviewers**

Districts assign OEM Lead Reviewers in ERC

- Katasha Cornwell
- Thu-Huong Clark
- Jenna Bowman
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza
DISTRICT 4 ERC Submittal Reviewers

Districts assign OEM Lead Reviewers in ERC
- Shereen Yee Fong
- Erika Thompson
- Michael Sykes
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza

DISTRICT 5 ERC Submittal Reviewers

Districts assign OEM Lead Reviewers in ERC
- Thu-Huong Clark
- Katasha Cornwell
- Catherine Bradley
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza
**DISTRICT 6 ERC Submittal Reviewers**

Districts assign OEM Lead Reviewers in ERC

- Shereen Yee Fong
- Erika Thompson
- Catherine Bradley
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza

**DISTRICT 7 ERC Submittal Reviewers**

Districts assign OEM Lead Reviewers in ERC

- Erika Thompson
- Shereen Yee Fong
- Martha Hodgson
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza
Florida’s Turnpike ERC Submittal Reviewers

Districts assign OEM Lead Reviewers in ERC
- Use contact for geographic District
- Marjorie Kirby
- Xavier Pagan
- Victor Muchuruza
OEM and Legal Draft Document Review

- Project Briefing (Optional) Scheduled by District Project Manager
  - Summarize issues and coordination held
- 30 Day OEM and Legal Review
- Cooperating Agencies
  - Districts upload documents into the Environmental Screening Tool for concurrent agency review

District Updates Draft Environmental Document

- ERC response to comments should include references to where change was made
- OEM Comment Resolution Meeting (Optional)
  - Requested by Districts as needed
  - Discuss comments not understood
- Environmental Document Submittal Form
  - “OEM Comment Resolution” once all comments addressed
**District Updates Draft Environmental Document**

- Options to ensure changes were made (On a case by case basis)
  - "Track Changes"
  - Errata Sheets
  - Highlighted text changes

**OEM and Legal Review and Approval for Public Availability**

- 15 Day OEM and Legal Review to verify comments were addressed
- EAs and EISs
  - Approval for public availability
Public Hearing

- EAs and EISs require a Public Hearing
- Some Type 2 CEs require Public Hearings
  - Per Section 339.155 F.S.
- Type 2 CE’s do not require approval by OEM for Public Hearing unless requested by a District

District Updates Final Document

- Address comments from Public Hearing
- Prepare document for Location Design Concept Acceptance (LDCA)
OEM and Legal Review of Final Document

- 30 Day Review by OEM Lead Review Team and Legal prior to LDCA

Final Document Approval

- District Certifies Final Document
- 30 Day Legal Sufficiency Review (when required)
  - Draft Final EISs and Individual Section 4(f) Evaluations
  - Assesses whether the Environmental Document adequately addresses the NEPA procedures, laws and policies concerning the project
  - Evaluates potential litigation risk
- Final OEM Review
  - Districts complete and submit Environmental Document Submittal Form: “Request for Approval”
  - Districts upload final documents into SWEPT for approval
  - Recommend LDCA to OEM Director
Final Document Approval

- Director of OEM or designee signs Environmental Document
  - Type 2 CE = Location Design Concept Acceptance
  - EA/FONSI
  - DEIS & FEIS/ROD
- Advertise LDCA in local newspaper
- Additional Steps for EAs and EISs
- Determine if Limitation of Claims should be published

What is a Re-evaluation

- Documents whether changes have occurred since the approval of the original Environmental Document
- Required:
  - Prior to requesting federal-aid authorization for subsequent project phases (final design, right of way and construction)
  - Major design/project changes (e.g. Design-Build project)
  - Project changes due to changes in law or regulation
  - Project changes from the federal process to the state process
  - Acceptable FEIS was not submitted 3 years after DEIS
OEM’s Role in Alternative Project Delivery

**Review Request for Proposals**
- Confirm commitments are included in the Request for Proposal (RFP)
- Decision-making authority remains with FDOT
- Re-evaluation for design changes required during D/B and prior to construction

**Scheduling**
- OEM needs to be involved and considered for the review process
- Districts should advise OEM of upcoming re-evaluations due to design changes
The Importance of Project (NEPA) Commitments

Commitments are a critical component of a transportation project as they provide assurance to agencies and other stakeholders that identified issues will be appropriately addressed in a future phase of project delivery.
Project Commitments

- Commitments are written and documented correctly
- Commitments do not repeat laws, specifications, standards
- Commitments are doable
- Coordination steps in the PCR were/can be met
- Responsible party for commitments
- Recognize difference between permit conditions and commitments
- For Re-evaluations, Districts provide status of NEPA Commitments to OEM
- Commitments procedure PD&E Manual: Part 2, Chapter 32

Quality Assurance and Quality Control
FDOT Quality Assurance / Quality Control Policy

- QA/QC Policy, Topic Number 001-260-001
- Ensures compliance and quality performance by the Central Office and District staff responsible for the delivery of transportation products, services, and information

Quality Assurance / Quality Control (QA/QC)

CONSULTANTS

- Develop individual QC Plans for each project
- Adhere to QC Plan
- QC prior to document submittal
- Submit Consultant QC certification form with submittal
- Maintain QC markups and QC certification

Guidance:
- QA/QC Policy Topic No.: 001-260-001
- FDOT Project Management Handbook, Part 1, Chapter 16
Quality Assurance / Quality Control (QA/QC)

**DISTRICTS**
- Ensure consultant QC Plan is being adhered
- Use Electronic Review Comment (ERC) system
- Utilize technical reviewers and District resources
- Request OEM support when needed
- Maintain records of QC certifications, and, when requested, QC markups
- Upload Final Documents using SWEPT

**Guidance:**
- QA/QC Policy Topic No.: 001-260-001
- FDOT Project Management Handbook, Part 1, Chapter 16

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**Quality Assurance / Quality Control (QA/QC)**

**OEM**
- Review and Monitor Processes and Performance
  - Project Decisions
  - Completion of Environmental Analysis
  - Project File Documentation
  - Checking for errors and omissions
  - Legal Sufficiency Reviews

**Guidance:**
- QA/QC Policy Topic No.: 001-260-001
- FDOT Project Management Handbook, Part 1, Chapter 16
NEPA Assignment: OEM NEPA Review Process for District Practitioners

Summary

- Type 1 CEs
- FONSI/ROD
- Legal Sufficiency
- Project Commitments
- Type 2 CE, EAs and EISs
- SME Assignment?
- OEM & District Issue Discussion
- ETDM Preparation

Survey
Any questions....Who you gonna call?

a. FHWA  
b. OEM  
c. Ghostbusters
The existing Programmatic Agreements for Section 106 and Interchange Access Requests will be suspended on the effective date of NEPA Assignment.

a. True
b. False
Under NEPA Assignment, FDOT will **not** need any approvals from FHWA for Interstate Interchange Access Requests

a. True
b. False
Under NEPA Assignment, OEM will approve Type 1 Categorical Exclusions

a. True
b. False
Prior to submitting a document for OEM review, what is required from the District?

a. Electronic Review Comment (ERC) Submittal Report as proof of internal review
b. Environmental Document Submittal Form
c. A copy of the District’s Quality Control set
d. Efficient Transportation Decision Making (ETDM) summary report
Who signs the final environmental document for Location Design Concept Acceptance (LDCA)?

a. Consultant  
b. District Environmental Administrator  
c. District Project Development Engineer  
d. OEM Director or designee
If a project does not have major design changes, it can advance to the next phase from design to construction without a re-evaluation.

a. True
b. False
Which statement is true?

a. Commitments are not needed anymore due to NEPA Assignment
b. Commitments will continue to provide assurance to agencies and other stakeholders that identified issues will be addressed in future phases of the project
c. Commitments will be developed by OEM

Which statement is true?

a. Commitments are not needed anymore due to NEPA Assignment
b. Commitments will continue to provide assurance to agencies and other stakeholders that identified issues will be addressed in future phases of the project
c. Commitments will be developed by OEM