

PART 1 PROCESS AND GUIDELINES OF PD&E MANUAL TABLE OF CONTENTS

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PART 1, CHAPTER 1

INTRODUCTION

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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 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 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.

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 environmental staff and environmental practitioners, who conduct work on behalf of FDOT. The **PD&E Manual** is used by the following FDOT program areas: State Environmental Management Office (SEMO), 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 the FDOT include consultants and other state agencies, such as the Department of Environmental Protection (DEP), State Historic Preservation Officer (SHPO), Department of Economic Opportunity (DEO), Florida Fish and Wildlife Conservation Commission (FWC), and the Federal Highway Administration (FHWA) Florida Division.

1.4 BACKGROUND

On November 21, 1991, the Secretary of the 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](#). SEMO 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 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, or privately funded projects.

As used herein, the term "environmental review process" means the process of preparing an Environmental Impact Statement, Environmental Assessment, Categorical Exclusion, or other document prepared under ***NEPA***, and includes the process for and completion of any environmental permit, approval, review, or study required for 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 **[SEMO Website: http://www.dot.state.fl.us/emo/](http://www.dot.state.fl.us/emo/)**.

1.6 REVISIONS

While SEMO has the ultimate responsibility for the development of, and updates to, this ***Manual***, this responsibility is exercised in collaboration with the Districts. SEMO regularly evaluates and updates the ***PD&E Manual*** in response to changing environmental requirements, standards and policies consistent with the procedures established by the FDOT Forms and Procedures Office. 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 SEMO for currency. Chapters requiring revisions are identified and updated over the course of the upcoming 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: Project Development and Environment 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 Local Agency Program (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 the FDOT's Forms and Procedures website.

1.9 REFERENCES

Council on Environmental Quality, 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 §§ 1500-1508

Federal Register, August 28, 1987, Volume 52, No. 167, Part 771-Environmental Impact and Related Procedures, 23 CFR §771

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

The Florida Transportation Plan

Title 23 U.S.C-Highways

Title 49 U.S.C Chapter 53- Public Transportation

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

PART 1, CHAPTER 2

FEDERAL HIGHWAY ADMINISTRATION CLASS OF ACTION DETERMINATION

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PART 1, CHAPTER 2

FEDERAL HIGHWAY ADMINISTRATION CLASS OF ACTION DETERMINATION

2.1 OVERVIEW

The Council on Environmental Quality (CEQ) promulgated regulations in **40 Code of Federal Regulations (CFR) parts 1500-1508** to implement the **National Environmental Policy Act (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 the standard used by the Florida Department of Transportation (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 Lead Federal Agency for EAs, EISs, and CEs as appropriate. This chapter provides guidance on determining the COA for projects in which the Federal Highway Administration (FHWA) is the Lead Federal Agency. For determining the COA for Federal Transit Administration (FTA) projects, see [Project Delivery](#).

Other state and local agencies may also seek federal funds or seek to maintain federal funding eligibility for transportation projects. These projects are processed through either FDOT's Local Agency Program (LAP) or by FDOT agreement with state or local agencies. FHWA has delegated to FDOT the management and disbursement of federal aid funds for transportation projects; therefore, FDOT provides oversight and is the liaison with FHWA on all federally funded projects (including 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 same procedures for the preparation of environmental documentation as other FHWA projects detailed in this manual.

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).

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: Environmental Impact Statements (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: Categorical Exclusions (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. A CE determination can be elevated by the lead agency when extenuating circumstances and/or controversy exist or when such issues arise later in project development.

- 3. Class III: Environmental Assessments (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 FHWA.

FHWA Florida Division 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)** that meet the criteria established in the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#) and listed in **Section 2.2.2.1**. For all projects not listed as a Type 1 CE, the District must consult with FHWA 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. The context is both the broader arena (society as a whole or watershed, for example) and the narrower environment (such as a specific neighborhood or stream).

Intensity: This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make a decision about partial aspects of a major action. The severity of the impacts must be viewed in both the larger and smaller contexts applicable to the action.

ETDM is FDOT's process to engage other agencies and the public early in project development. The Environmental Screening Tool (EST) is an internet-accessible, interactive Geographic Information System (GIS) database application that is used to coordinate with agencies and the public as part of the ETDM process. This tool provides standardized geographic data of environmental resources and provides agencies and the public an opportunity to view information about the project and comment on the potential effects of a proposed project. 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 FHWA); 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 the FHWA (see FDOT's [ETDM Manual, Topic No. 650-000-002](#)). The District should coordinate with FHWA 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

The first step of the Class of Action Determination process is to determine whether a project should be processed as a federal action as described in **Section 2.2.1**. The next step is to determine if FHWA is the Lead Federal Agency (See [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#)). 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 FHWA 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, 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 \(Section 2.1\)](#). By definition, LAP projects are federal actions requiring FDOT oversight and FHWA approval.

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 and it is proceeding as a FHWA project, then steps should be taken to fulfill FHWA's planning consistency requirements as it advances and 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 FHWA. 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 and 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 Management Office (EMO) staff.

The 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 aggressively. A key goal of SWAT is identifying the level of overlap between project development and design which can accelerate the process.

Yearly, a District SWAT team planning meeting is held before the FDOT Work Program gaming cycle begins. The SWAT planning meeting may include participants from the State Environmental Management Office (SEMO) or other staff experts at the request of the District SWAT team. These participants are transportation practitioners with

experience in various disciplines who ensure that project decisions get broad input and early acceptance.

During the planning meeting, the SWAT team reviews District PD&E projects set to be gamed in the coming year and discuss the purpose and need for each project. The team evaluates these candidate projects and those already programmed in the 5-year Work Program. Additionally, the team may review the ETDM **Planning Screen Summary Report**, if available, and assign a preliminary COA to each project. The team also recommends funding of the projects as either state or federal funds.

When determining preliminary COAs for projects, the SWAT team must be familiar with projects that must be federalized as listed in the Work Program Instructions. Some projects that must always fall under FHWA's jurisdiction include those that are:

1. On an Interstate
2. 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. Transportation Alternatives (TA) program;
5. FHWA Safety Program projects; or
6. Off-System projects (projects not on the State Highway System).

Other considerations should be taken into account when determining whether to use FHWA funds:

1. Projects qualifying as Type I CEs, since FDOT has delegated authority from FHWA;
2. Consideration of impacts to work program flexibility based upon anticipated cost of construction; or
3. Projects where protected species or habitat may be impacted and consultation under the **Endangered Species Act (ESA)** is necessary (See [Part 2, Chapter 27, 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.

Projects that must be or stay federalized through FHWA are listed in **Chapter 25, Work Program Instructions, Current Tentative Work Program**. If federal funds have been used on a prior phase of the current project, coordination with Central Office [Office of

General Counsel (OGC) and SEMO] is needed to determine whether the project falls under FHWA's jurisdiction.

The District SWAT team ranks projects, that are not required to be federalized, based on environmental and engineering complexity and expected number of PD&E days that would be saved using the state funded project delivery process. This is done to determine if the project should move forward as a federal or state project. **Figure 2-3** provides guidance for deciding which projects are to follow the federal or state process. Each project is recommended as either a federal or state project. The results of the SWAT planning meeting include a list of projects for gaming, sorted into state funded and federally funded, and an initial view on preliminary Class of Action assigned to each project.

2.2.2 Categorical Exclusions

A Categorical Exclusion (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 FHWA projects. 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 FHWA 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 FHWA to determine if the CE classification is appropriate. FDOT may decide or FHWA 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**; 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 approved with 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 as agreed upon with FHWA:

1. **Type 1 CE:** applies to projects or actions listed in **23 CFR § 771.117(c)** and identified in **23 CFR § 771.117(d)** that meet the criteria established in the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#) (see **Section 2.2.2.1**)
2. **Type 2 CE:** actions which require additional documentation to support the determination that an EA or EIS is not needed. The decision requires consultation with and approval from FHWA (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 FHWA.

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

FDOT is authorized to act on FHWA's behalf in determining 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)** according to the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#), satisfies the criteria for CEs in the **Council on Environmental Quality (CEQ) regulations (40 CFR § 1508.4)**, and satisfies the criteria identified in the agreement as listed below. These actions normally do not require any further **NEPA** approvals by the FHWA.

To be considered as a Type 1 CE, the project must meet the following criteria established in the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#):

1. The action must be listed in **23 CFR § 771.117(c)** (listed in **Section 2.2.2.1.1**) or an identified example action in **23 CFR § 771.117(d)** (listed in **Section 2.2.2.1.2**).
2. The action must satisfy the conditions described under **23 CFR § 771.117(a)** which meet the definition contained in **40 CFR § 1508.4**. These criteria are listed in **Section 2.2.2**.
3. The action must not have the unusual circumstances listed in **23 CFR § 771.117(b)**. Any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with FDOT, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances are also listed in **Section 2.2.2**.
4. When FDOT evaluates a proposed action under **23 CFR §§ 771.117(c) and (d)** to comply with the provisions in **23 CFR §§ 771.117(a), (b) and (e)** [Note: **Subsection 771.117(e)** (listed in **Section 2.2.2.1.3**) only applies to **Subsections 771.117(c)26, (c)27 and (c)28**], the following criteria must be satisfied in order for the proposed action to qualify as a Type 1 CE. For each proposed action, determine whether:
 - a. The action causes no major adverse impacts on travel patterns, planned growth or land use for the area or access control;
 - b. The action causes no adverse impacts to air, noise or water quality;
 - c. The action causes no wetland impacts that would require an individual **Section 404** permit from the USACE under the **Clean Water Act, Section 404, 33 USC 1344** and/or **Section 10** of the **Rivers and Harbors Act**;
 - d. The action causes no impacts to navigation that would require an individual USCG bridge permit;

- e. The action causes no impacts greater than minimal floodplain encroachments, which will not affect flood heights or base floodplain limits;
- f. The action does not require construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers; [for **23 CFR 771.117(c)(26), (27), and (28)**]
- g. The action results in a “no involvement,” “no effect,” or with concurrence from US Fish and Wildlife Service or National Marine Fisheries Service, as appropriate, a “may affect but not likely to adversely affect” determination concerning impacts to endangered and threatened species and/or their critical habitat in accordance with **Section 7** of the **Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536(a)-(d)**;
- h. The action would only require minor amounts of right-of-way and would not result in any residential or non-residential displacements;
- i. The action does not impact any properties protected by **Section 4(f)** of the **U.S. Department of Transportation Act, 49 U.S.C. § 303**, or FHWA has made a determination that **Section 4(f)** is not applicable in accordance with **23 CFR § 774**;
- j. The action has no involvement, a “no effect,” or “no adverse effect” determination regarding properties protected under **Section 106** of the **National Historic Preservation Act**;
- k. The action has no known contamination sites which would have more than a minimal impact to design, and right-of-way or construction activities once assessed can be avoided or remediated; or
- l. The action has no substantial controversy on environmental grounds.

The satisfaction of the criteria described in this section is documented by completing a [**Type 1 Categorical Exclusion Checklist, Form No. 650-050-12**](#) (see **Figure 2-4** and **Section 2.2.2.1.4**).

Failure of a project to meet any of the conditions set out in this section will require coordination with the FHWA. This could include following the Minor Categorical Exclusion (MiCE) process (**Section 2.2.3**), 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, an EA or an EIS.

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 FHWA:

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 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 right of way 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 right-of-way.
- 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 right-of-way. Existing operational right-of-way refers to right-of-way 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 right-of-way.
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.

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 consistent with the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#):

- 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 right-of-way or for joint or limited use of right-of-way, 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 right-of-way or that would result in any residential or non-residential displacements;
2. An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under **Section 404 of the Clean Water Act** and/or **Section 10 of the Rivers and Harbors Act of 1899**;
3. A finding of “adverse effect” to historic properties under the **National Historic Preservation Act**, 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 **Endangered Species Act**;
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;
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) will need to take place in some instances (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 permit]. Coordination with FHWA may also be required in order to make findings under concurrent laws [such as the **Endangered Species Act** and **Section 4(f)**] prior to finalizing the COA determination.

A public hearing is not required 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 improvement, a **Community Awareness Memorandum** 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 2-4, [Type 1 Categorical Exclusion Checklist, Form No. 650-050-12](#)**). This is typically completed at the end of the PS&E (Plans, Specifications, and Estimates) or 100% plans.

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

Documentation of the results of any analysis and coordination should be placed in the project file for the administrative record. 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 Administrator or FDOT delegate. A LAP agency cannot make the COA determination or sign the checklist.

For Type 1 CEs, whenever FHWA under the provisions of **23 CFR § 650, Subpart H** determines that a USCG bridge permit is not required, a copy of the FHWA determination and supporting documentation may need to be provided to USCG and the USACE (as appropriate).

Once the **[Type 1 Categorical Exclusion Checklist, Form No. 650-050-12](#)** is completed, the District Environmental Office [District Environmental Management Office (DEMO), Planning and Environmental Management Offices (PLEMO)] 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 2-5**. 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)**. After documenting the project file and FHWA's acceptance of the federal-aid form, the Type 1 CE project advances to the next production phase.

Before advancing to the next phase, the project should be reevaluated to confirm the original determination remains valid. Reevaluations for Type 1 CEs consist of completing

the checklist and submitting it with the [Status of Environmental Certification For Federal Project, Form No. 650-050-13 \(Part 1, Chapter 13, Reevaluations\)](#).

2.2.2.2 Type 2 Categorical Exclusions

For all projects that are not in the Type 1 CE categories, the District must consult with the FHWA and together 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](#), a **Preliminary Engineering Report (PER)**, and if applicable, a public hearing transcript. Details on Type 2 CEs and guidance on completing a **PER** is provided in [Part 1, Chapter 5, Type 2 Categorical Exclusion](#) and [Part 1, Chapter 4, Project Development Process](#). Type 2 CE documentation is sent to USCG when a bridge permit is required or FHWA has made a bridge permit determination under **23 CFR § 650, Subpart H**. 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 FHWA who provides LDCA allowing the project to proceed to the Design phase.

2.2.3 Minor Categorical Exclusion Process

The purpose of the Minor Categorical Exclusion (MiCE) process is to assist Districts in making and validating 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)**]. The MiCE is not a new COA, but rather a process which can be used to support 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 FDOT, FHWA, 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 FHWA

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 FHWA, 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 FHWA. This scenario is triggered when there is a “Yes” checked on the [**Type 1 Categorical Exclusion Checklist, Form No 650-050-12.**](#)

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 2-6** 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 FHWA.

2.2.4 Efficient Transportation Decision Making Qualifying Projects

For ETDM qualifying projects, the COA can be determined during 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 FDOT and is approved by FHWA. 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 on-line COA determination, through the EST, and submit it to FHWA for approval. After the FHWA and the District have agreed on the COA, FHWA 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 the [PD&E Manual, Topic No. 650-000-001](#).

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**, **Natural Resources Evaluation**).

2.2.6 Change of Class of Action

Prior to the beginning of PD&E or even during PD&E, the District or FHWA 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 the FHWA. In addition it would require the withdrawal of the **Notice of Intent (NOI)** with cause from the **Federal Register**. See [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for information on the **NOI**. In all cases, FHWA must be consulted if FDOT seeks modifications to a project's approved COA to obtain approval for the proposed change.

2.3 REFERENCES

23 Code of Federal Regulation (CFR) § 650, Subpart H, Conditions for determining if an activity requires a USCG permit

23 CFR § 771, Environmental Impact and Related Procedures

Council on Environmental Quality, 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

Endangered Species Act of 1973 (ESA), as amended (16 USC § 1531-1541); 50 CFR § 402

Federal Highway Administration. 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>

Federal Highway Administration. 2011. Supplement to January 28, 2008 “Transportation Planning Requirements and Their Relationship to NEPA Process Completion”, February 9, 2011

Florida Department of Transportation (FDOT). Local Agency Program Manual, Topic No. 525-010-300.
http://www.dot.state.fl.us/projectmanagementoffice/LAP/LAP_TOC.shtm

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

National Historic Preservation Act of 1966 (16 U.S.C. § 470), Public Law 89-665, as amended by Public Law 91-243, Public Law 93-54, Public Law 94-422, Public Law 94-458, and Public Law 96-515., Section 106

National Environmental Policy Act, Section 7

Robert Stafford Act, Title 42 U.S.C. Section 5121, Congressional findings and declarations

Title 23 U.S.C. Section 101, Definitions and declarations of policy

Title 23 U.S.C. Section 107, Acquisition of right-of-way- Interstate System

Title 23 U.S.C. Section 125, Emergency relief

Title 23 U.S.C. Section 156, Proceeds from the sale or lease of real property

Title 23 U.S.C. Section 317, Appropriation for highway purposes of lands or interests in lands owned by the United States

Title 23 U.S.C. Section 402, Highway Safety Programs

United States Department of Transportation Act of 1966, Section 4(f)

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

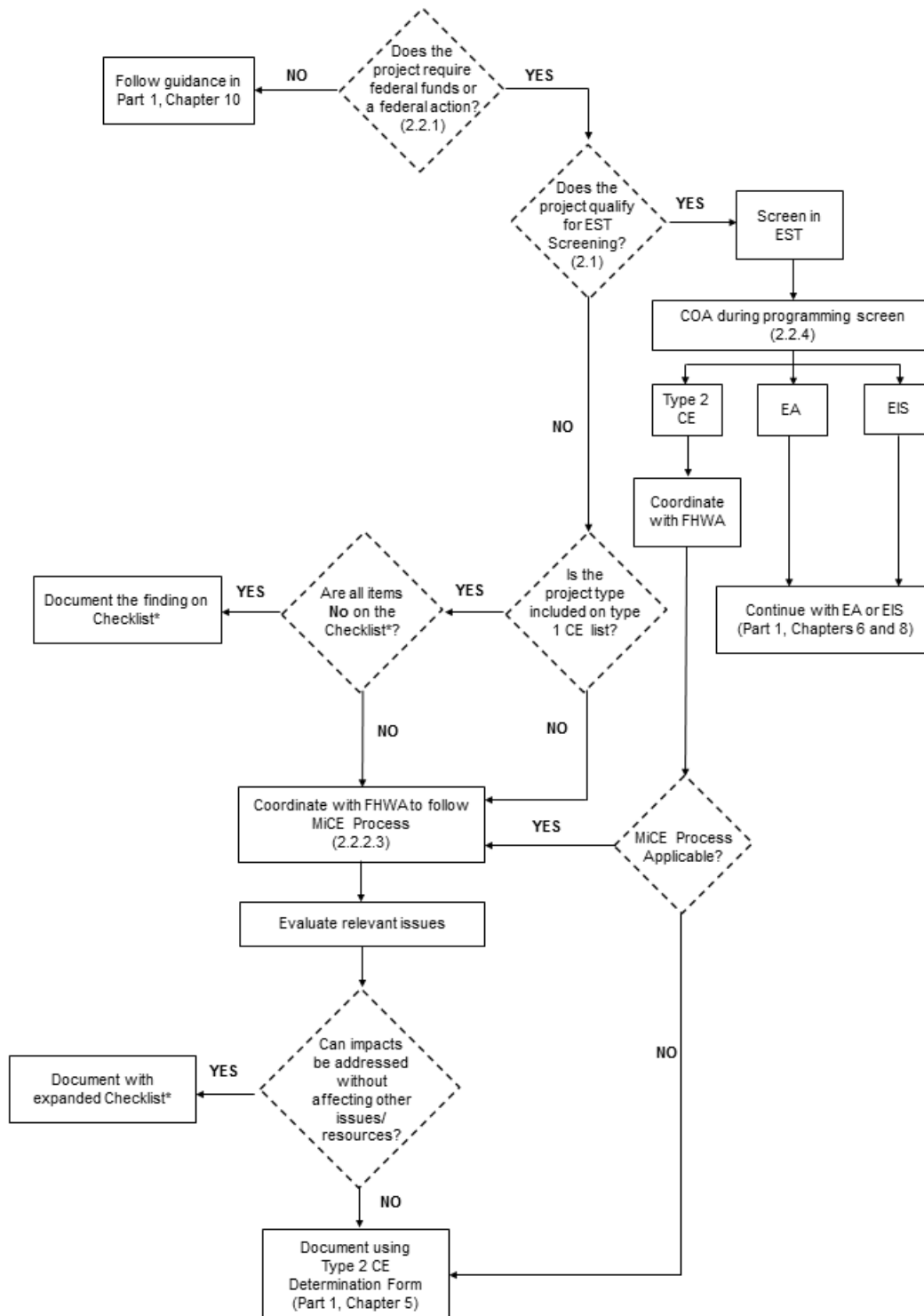
Urban Mass Transportation Act of 1964, as amended

2.4 HISTORY

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

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 2-4)

Figure 2-2 FHWA Class of Action Determination Process

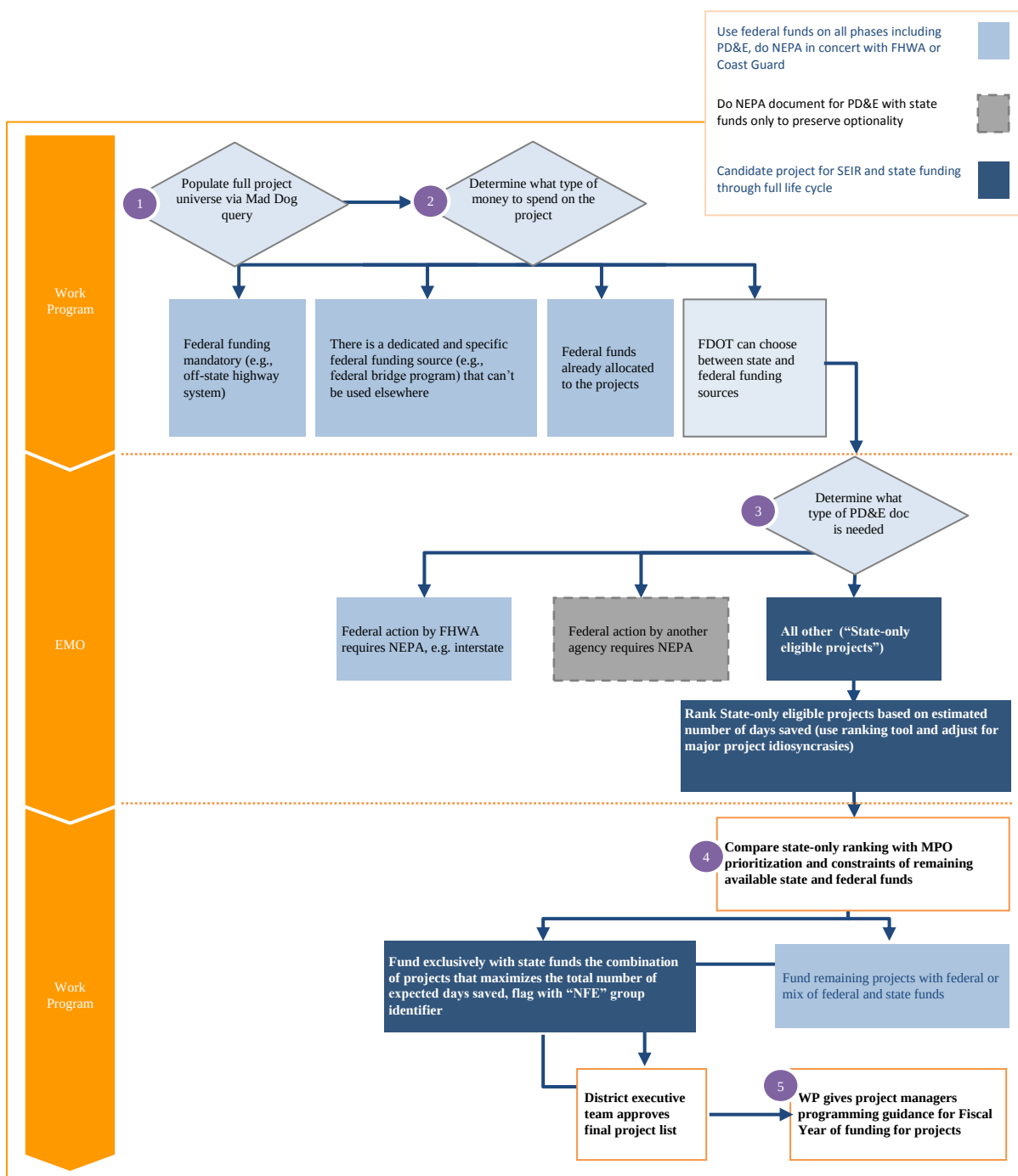


Figure 2-3 Funding Determination

TYPE 1 CATEGORICAL EXCLUSION CHECKLIST

Financial Management No. _____

FAP No. _____

CE Number: ☐ (c) _____ or ☐ (d) _____

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

Note: The criteria below also consider the conditions listed in 23 CFR § 771.117(e) for the CEs described in 23 CFR § 771.117(c)(26), (27) and (28).

	YES	NO
1. Will the action cause major adverse impacts on travel patterns, planned growth or land use for the area or access control ?	_____	_____
2. Will the action cause adverse impacts to air, noise or water quality?	_____	_____
3. Will the action cause wetland impacts that would require an individual Section 404 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?	_____	_____
4. Will the action cause impacts to navigation that would require an individual United States Coast Guard Bridge Permit?	_____	_____
5. Will the action cause impacts greater than minimal floodplain encroachments, which will affect flood heights or base flood plain limits?	_____	_____
6. Will the action require construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers (for 23 CFR § 771.117 (c)(26), (27) and (28)?	_____	_____
7. Will the action result in a determination other than, (1) "no involvement," (2) "no effect", or (3) with concurrence from US Fish and Wildlife Service or National Marine Fisheries Service, as appropriate, a "may affect but not likely to adversely affect" determination concerning impacts to endangered and threatened species and/or their critical habitat in accordance with Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536(a)-(d)?	_____	_____
8. Will the action require more than minor amounts of right-of-way, and result in any residential or non-residential displacements?	_____	_____

Figure 2-4 Type 1 Categorical Exclusion Checklist

YES NO

9. Will the action impact any properties protected by Section 4(f) of the U.S. Department of Transportation Act, 49 U.S.C. § 303(c) [NOTE: If it has been determined that Section 4(f) is not applicable in accordance with 23 CFR § 774 and Part 2, Chapter 13 of the PD&E Manual then the answer to this question is no.] _____
10. Will the action result in a determination other than, (1) no involvement, (2) "no effect," or (3) "no adverse effect" regarding properties protected under Section 106 of the National Historic Preservation Act? _____
11. 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 22, Contamination Impacts of the PD&E Manual, and can't be avoided or remediated? _____
12. Will the action have substantial controversy on environmental grounds? _____

IMPORTANT: If all answers are **No**, the project is a Type 1 CE and this checklist will be the NEPA document. If the answer to any of these questions is **Yes**, follow the Minor Categorical Exclusion Determination Key and coordinate with FHWA as appropriate.

This project has been evaluated and has been determined to meet the conditions as set forth in Florida's Programmatic Agreement for Categorical Exclusions effective October 2015, as a Type 1 Categorical Exclusion.

Signature: _____ Date: _____
District Environmental Administrator or designee

The following is a list of any supporting activities (e.g., field reviews, as appropriate, etc.), reports, or technical studies that were prepared and are included in the project file that were necessary to support the conclusions reached on the checklist.

- _____
- _____
- _____
- _____

Figure 2-4 Type 1 Categorical Exclusion Checklist (Page 2 of 2)

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 and per Florida's Programmatic Agreement for Categorical Exclusions effective October, 2015:

- ☐ 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 Administrator or designee

Figure 2-5 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 FHWA?

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 FHWA on the issues/resources requiring findings. Is a FHWA 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 FHWA approval and advance appropriately.

Figure 2-6 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 FHWA 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 FHWA approval and advance appropriately.

Figure 2-6 Minor Categorical Exclusion Determination Key (Page 2 of 2)

PART 1, CHAPTER 3

PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION

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PART 1, CHAPTER 3

PRELIMINARY ENVIRONMENTAL DISCUSSION AND ADVANCE NOTIFICATION

3.1 OVERVIEW

The Florida Department of Transportation (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 the ETAT during an ETDM screening event and is required for each screened project.

The PED is consistent with Federal Highway Administration's (FHWA's) ***Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)*** guidance 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 after the initial PED is reviewed and comments have been received by the ETAT.

FDOT informs agencies and other interested parties of a proposed transportation action through the AN. The AN also provides agencies, tribal representatives, elected officials, and other interested 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 use the same PEDs in both locations.

The AN fulfills the project initiation notification as required by ***SAFETEA-LU***, 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 on a project, by including the [Application for Federal Assistance \(SF-424\)](#) form requesting federal assistance.

The AN is also used by FDOT to seek consistency with the Florida Coastal Management Program (FCMP). The Florida Department of Environmental Protection (DEP) is responsible for coordinating the State of Florida's review of federal activities for consistency with the FCMP. DEP 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 25, Coastal Zone Consistency](#). The AN is also a means by which the Florida Department of Economic Opportunity (DEO) provides comments with regards 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 where electronic copies are not feasible (e.g. Native America Tribes). The AN may be completed during the Programming Screen or delayed until commencing the PD&E Study. **Figure 3-1** shows the AN process. Qualifying transportation projects should be entered into the EST as described in Chapter 5 of the [ETDM Manual, Topic No. 650-000-002](#). See [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) 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, Federal Highway Administration Class of Action Determination](#)). 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.

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, prior to start of the PD&E Study. See [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) for a list of qualifying project types. The only non-federal projects requiring an AN, and qualifying for screening through the EST are FDOT projects that require 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 maintaining 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 state document will provide sufficient information to serve as the agency's **National Environmental Policy Act (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, transmittal

list, [Application for Federal Assistance \(SF-424\)](#) (if appropriate), location map(s), and a Fact Sheet.

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 acknowledged in the cover letter as well (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 and 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 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 4, 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 Metropolitan Planning Organization (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 planned 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** ([Part 1, Chapter 4, Project Development Process](#)) that must be submitted with FHWA draft and final Environmental Documents. For Type 2 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 the [PD&E Manual, Topic No. 650-000-001](#) 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 9, 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 9, Sociocultural Effects Evaluation.](#)
 3. **Relocation Potential** - Discuss potential Right of Way acquisition needs for the project and whether relocations may be needed. See [Part 2, Chapter 9, Sociocultural Effects Evaluation.](#)
 4. **Farmlands** - Describe any farmlands in the project area and summarize their potential involvement. See [Part 2, Chapter 28, Farmland.](#)
 5. **Aesthetic Effects** - Describe the area's existing aesthetic features and summarize the project's potential involvement. See [Part 2, Chapter 15, Aesthetic Effects.](#)
 6. **Economic** - Describe the known economic condition of the area, ongoing or planned economic development efforts, and the project's potential involvement.
 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.
- b. **Cultural** – see [Part 2](#) of the [PD&E Manual, Topic No. 650-000-001](#)
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.
 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**. 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.
 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. §§ 4601-5 through 4601-7 and 4601-11)**

prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the National Park Service. Identify a project's potential **Section 6(f)** involvement. The 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 the [PD&E Manual, Topic No. 650-000-001](#)

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 DEP, Florida Water Management Districts, and/or the USACE. Describe how wetlands and surface waters may be evaluated. See [Part 2, Chapter 18, Wetlands and Other Surface Waters](#).
2. **Water Quality and Quantity** - Provide a brief description of existing stormwater treatment, additional treatment which may be required 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 EPA will need to provide a Sole Source Aquifer letter, as appropriate. See [Part 2, Chapter 20, Water Quality Impact Evaluation](#).
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 are evaluated. See [Part 2, Chapter 24, Drainage and Floodplains](#).
4. **Coastal Zone Consistency** - State if the project, is subject to a consistency review, **15 CFR § 930**. See [Part 2, Chapter 25, 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 27, 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)***.

d. **Physical** – see **Part 2** of the [PD&E Manual, Topic No. 650-000-001](#)

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 17 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 16, 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 whether a Level 1 Assessment will be conducted for the project. See [Part 2, Chapter 22, 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.
5. **Navigation** - Identify if the project intersects a potentially navigable waterway, the project's potential involvement, and how it may be evaluated.

e. **Special Designations** – see **Part 2** of the [PD&E Manual, Topic No. 650-000-001](#)

1. **Outstanding Florida Waters** - Identify potential involvement with Outstanding Florida Waters.
2. **Aquatic Preserves** - Identify potential involvement with Aquatic Preserves.
3. **Scenic Highways** - Identify, by formal name, designated or candidate Scenic Highways in the project vicinity and potential for involvement.
4. **Wild and Scenic Rivers** - Identify potential involvement with rivers listed in the Nationwide Rivers Inventory including 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 State Environmental Management Office (SEMO) 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 SEMO. 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 using the EST to those recipients who have agreed to receive the AN package electronically. 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 needed. 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). Regardless of how the AN package is distributed, the transmittal list should be documented in the EST. Other interested parties may include, tribal representatives, and/or 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 3-7** 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 SEMO. If a contact correction is identified, please notify SEMO to make the correction.

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 DEP pursuant to **15 CFR Part 930** and **Section 380.23, F.S.** 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, the 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, Federal Highway Administration Class of Action Determination](#). 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.

3.2.4.1 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. FDOT is the Lead Agency for non-federal 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 during COA determination. 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 during project review, or 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.

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 Federal 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 Federal 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.

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.

3.2.5 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 FHWA projects undergoing *NEPA* review, then the “issue resolution” process set out in **23 U.S.C. § 139(h)(4)**, as amended, will be applicable.

3.2.6 Reprocessing the Advance Notification

Reprocessing of the AN must take place 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 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 reprocessing of the AN will include an updated Programming Screen. If the project **has** started the PD&E phase, the AN will simply be updated and reprocessed using the EST; however, this does **not** include a new Programming Screen. An updated AN package is prepared in accordance with **Section 3.2.2**. On FHWA projects, the District must coordinate with FHWA.

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.

3.3 REFERENCES

15 CFR § 930, 197, Federal Consistency With Approved Coastal Management Programs (Subpart F). <https://www.environment.fhwa.dot.gov/index.asp>

Chapter 163, Florida Statutes (F.S.).

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/0163ContentsIndex.html

Council on Environmental Quality, Executive Office of the President, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. 40 CFR § 1500-1508.

<https://www.environment.fhwa.dot.gov/projdev/pd2implement.asp>

Intergovernmental Programs Procedure and Reference Manual.

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

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

Fixing America's Surface Transportation Act. <https://www.fhwa.dot.gov/fastact/>

Florida Department of Environmental Protection. State Clearinghouse Manual

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

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>

FDOT. EST User Handbook. <https://etdmpub.florat.org/est/?startPageId=493&keywords=EST&categoryList=82>

Florida Highway Administration. 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>

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 6002. <http://www.fhwa.dot.gov/>

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

3.4 HISTORY

2/28/2005, 11/5/2007, 10/19/2012

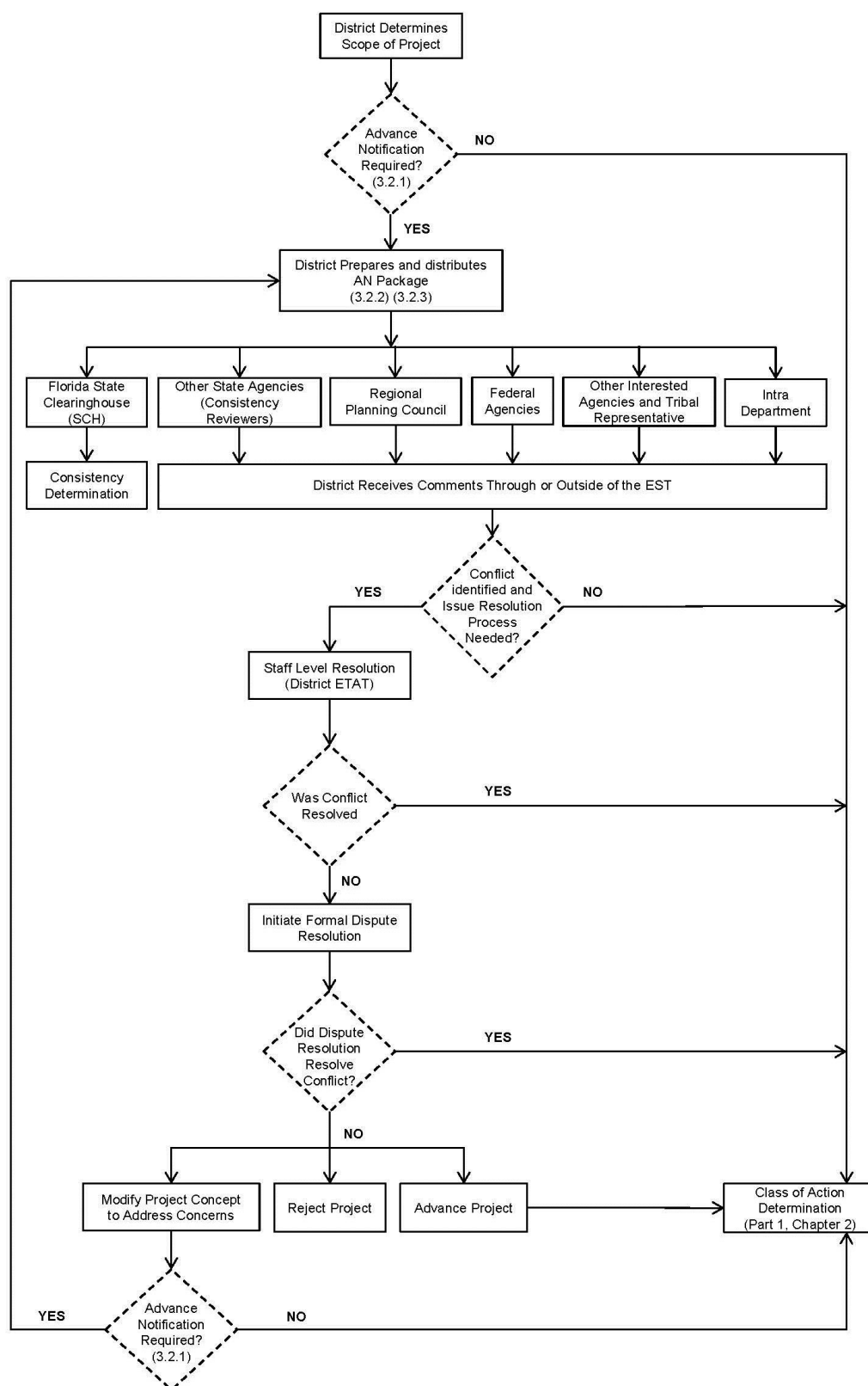


Figure 3-1 Advance Notification Process

(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 and the Florida Department of Transportation, in consultation with the Federal Highway Administration, 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.fl-a-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)



Figure 3-3 Example of Project Location Map

View Burden Statement		OMB Number: 4040-0004 Expiration Date: 8/31/2016
Application for Federal Assistance SF-424		
* 1. Type of Submission: ☐ Preapplication ☐ Application ☐ Changed/Corrected Application		* 2. Type of Application: ☐ New ☐ Continuation ☐ Revision
* 3. Date Received: 		* If Revision, select appropriate letter(s): * Other (Specify):
4. Applicant Identifier: 		
5a. Federal Entity Identifier: 	5b. Federal Award Identifier: 	
State Use Only:		
6. Date Received by State: 	7. State Application Identifier: 	
8. APPLICANT INFORMATION:		
* a. Legal Name: 		
* b. Employer/Taxpayer Identification Number (EIN/TIN): 	* c. Organizational DUNS: 	
d. Address:		
* Street1: 		
Street2: 		
* City: 		
County/Parish: 		
* State: 		
Province: 		
* Country: 		
* Zip / Postal Code: 		
e. Organizational Unit:		
Department Name: 	Division Name: 	
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: 	* First Name: 	
Middle Name: 		
* Last Name: 		
Suffix: 		
Title: 		
Organizational Affiliation: 		
* Telephone Number: 	Fax Number: 	
* Email: 		

Figure 3-4 Application for Federal Assistance

Application for Federal Assistance SF-424	
* 9. Type of Applicant 1: Select Applicant Type: Type of Applicant 2: Select Applicant Type: Type of Applicant 3: Select Applicant Type: * Other (specify):	
* 10. Name of Federal Agency:	
11. Catalog of Federal Domestic Assistance Number: CFDA Title:	
* 12. Funding Opportunity Number: * Title:	
13. Competition Identification Number: Title:	
14. Areas Affected by Project (Cities, Counties, States, etc.): Add Attachment Delete Attachment View Attachment	
* 15. Descriptive Title of Applicant's Project:	
Attach supporting documents as specified in agency instructions. Add Attachments Delete Attachments 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	* b. Program/Project
Attach an additional list of Program/Project Congressional Districts if needed.	
	Add Attachment Delete Attachment View Attachment
17. Proposed Project:	
* a. Start Date:	* b. End Date:
18. Estimated Funding (\$):	
* a. Federal	
* b. Applicant	
* c. State	
* d. Local	
* e. Other	
* f. Program Income	
* g. TOTAL	
* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?	
☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .	
☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.	
☐ c. Program is not covered by E.O. 12372.	
* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)	
☐ Yes ☐ No	
If "Yes", provide explanation and attach	
	Add Attachment Delete Attachment 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)	
** 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:	* First Name:
Middle Name:	
* Last Name:	
Suffix:	
* Title:	
* Telephone Number:	Fax Number:
* Email:	
* Signature of Authorized Representative:	* Date Signed:

Figure 3-4 Application for Federal Assistance (Page 3 of 3)

Federal Highway Administration, Division Administrator (Federal - aid projects only) **Federal Highway Administration - ETAT Representative**
 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 Administrator, 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)

FEDERAL AND STATE AGENCIES

Orlando Airports District Office Federal Aviation Administration 5950 Hazeltine National Dr., Suite 400 Orlando, FL 32822	Southeast Regional Office National Park Service U.S. Department of Interior 75 Spring St., SW, Suite 1130 Atlanta, GA 30303
Director Region IV Mitigation Division Federal Emergency Management Agency 3003 Chamblee Tucker Road Atlanta, GA 30341-4148	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
Regional Administrator Federal Railroad Administration 61 Forsyth Street SW, Suite 16T20 Atlanta, GA 30303-3104 Director Office of Public Engagement Federal Railroad Administration 1200 New Jersey Ave. SE, Mail Stop 10 Washington DC, 20590	Director U.S. Department of Interior, USGS Florida Water Science Center 12703 Research Parkway Orlando, FL 32826
(FDOT District 3 and parts of 2) Commander U.S. Coast Guard Eighth District 500 Poydras Street New Orleans, LA 70130-3310	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)
Field Manager Southeastern States Field Office Bureau of Land Management U.S. Department of Interior 411 Briarwood Drive, Suite 404 Jackson, MS 39206	Regional Environmental Officer U.S. Dept. of Housing and Urban Development Five Points Plaza 40 Marietta St. Atlanta, GA 30303-2086
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	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)
Florida Inland Navigation District 1314 Marcinski Road Jupiter, FL 33477	

Figure 3-7 Contact Information

**FEDERALLY RECOGNIZED TRIBES CULTURALLY
AFFILIATED WITH FLORIDA DISTRICTS**

When addressing Tribes include the updated name of the chairperson/chief from SEMO's website:

<http://www.dot.state.fl.us/emo/NA%20Website%20Files/index.htm>

Poarch Band of Creek Indians of Alabama

The Honorable _____, Chairperson
Poarch Band of Creek Indians of Alabama
5811 Jack Springs Road
Atmore, AL 36502

Muscogee (Creek) Nation of Oklahoma

The Honorable _____, Principal Chief
Muscogee (Creek) Nation of Oklahoma
P. O. Box 580
Okmulgee, OK 74447

Seminole Tribe of Florida

The Honorable _____, Chairperson
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, FL 33024

Miccosukee Tribe of Indians of Florida

The Honorable _____, Chairperson
Miccosukee Tribe of Indians of Florida
P. O. Box 440021
Tamiami Station
Miami, FL 33144

Seminole Nation of Oklahoma

The Honorable _____, Principal Chief
Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK 74884

Mississippi Band of Choctaw Indians

(Only contact for projects in the Florida Panhandle, west of the Apalachicola River to the Alabama state line)

The Honorable _____, Chairperson
101 Industrial Road
Choctaw, MS 39350

Figure 3-7 Contact Information (Page 2 of 2)

PART 1, CHAPTER 4

PROJECT DEVELOPMENT PROCESS

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PART 1, CHAPTER 4

PROJECT DEVELOPMENT PROCESS

4.1 OVERVIEW

This chapter provides an overview of the project development and delivery process for transportation projects, and is applicable to Federal Highway Administration (FHWA) led and State led projects. 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. Project development process for local agency projects should follow the procedure outlined in the [Local Agency Program Manual, Topic No. 525-010-300](#).

The project development and delivery process begins with planning studies and ends with a constructed project. The Florida Department of Transportation (FDOT) project development process is a comprehensive process involving phases that are substantially interrelated. These phases are Planning, Project Development and Environment (PD&E), Design, Right of Way (ROW), and Construction. PD&E is the FDOT process for studying transportation projects and complying with the **National Environmental Policy Act (NEPA)** 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.

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 method to alternative contracting methods such as Design-Build and Public Private Partnership (P3) Concession 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 work 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; or concurrently performing design activities with PD&E when possible.

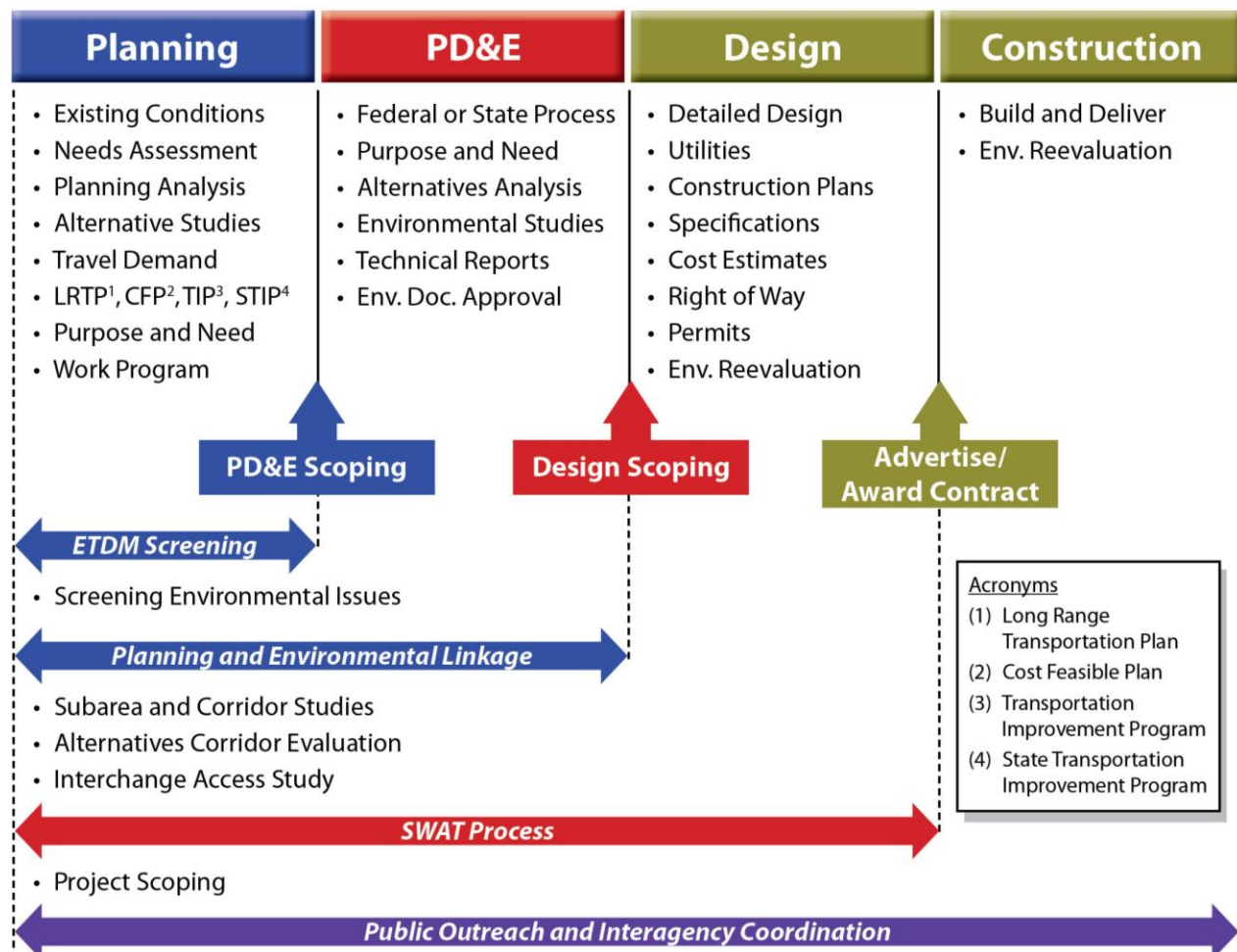


Figure 4-1 Project Development Process

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.

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 the 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 United States Code (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.

Not Federal Eligible (NFE) 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 NFE item group identifier.

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**.

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 services and Design services, and guidelines for estimating and negotiating staff hours.

State Highway System (SHS) – means as defined in **Section 334.02(25), 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, Florida Statutes.**

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 State Highway System (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 deficiencies, such as capacity, safety, travel time reliability. 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. The purpose and need for the project is further refined in the PD&E phase as explained in [Part 2, Chapter 4, Project Description and Purpose and Need](#).

Project 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 effort and 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 by minimizing duplication of efforts and data. 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 United States Code (U.S.C.) § 168** and **23 Code of Federal Regulations (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.

If the planning product to be adopted into the **NEPA** analysis is older than 5 years (from the date the product was approved), the information used to prepare the planning study must be reviewed to check whether conditions or planning context have changed since approval of the planning product. 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 Lead Federal Agency 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 the 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 FHWA 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 begin 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. Determine 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; identification of opportunities for avoidance, minimization, and mitigation of potential project impacts; and identification of potential adverse environmental impacts that may inform a decision not to implement the project. 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 scoping comments received through the Programming Screen.

Within the ETDM process, ***NEPA*** scoping (as required by ***40 CFR § 1501.7***, for EISs only) begins with ETAT reviews during the EST screening events. Scoping continues throughout the Planning phase and early stages of preparation of an EIS. Details on the scoping process and how to conduct a scoping meeting are included 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 Lead Federal Agency.

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 in support of 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
4. Other alignments based on consultation with the Lead Agency

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 federal 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 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 6, 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 the determination of 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 Lead Federal Agency concurs with the **MM** after the ETAT comment period, through the EST. See [ETDM Manual](#) for procedures on how to develop **MM** using 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 unresolved project issues with the public, stakeholders or agencies, if known.

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 Lead Federal Agency for concurrence.

The Lead Federal Agency 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 the Lead Federal Agency 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 the Environmental Document (see [Part 2, Chapter 6, Engineering Analysis](#)). The Alternatives Considered but Eliminated section of the Environmental Document 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 scoping process in this Chapter builds on the SWAT process. 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 scoping process outlined in this Chapter is applicable to both state and federally funded projects.

The scoping process discussed in this section is not the formal “**NEPA** scoping process” required by **23 CFR Part 771** for preparation of an EIS. For the EIS scoping process, see [Part 1, Chapter 8, Draft Environmental Impact Statement \(DEIS\)](#).

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 project’s potential impacts. Additionally, scoping process provides the foundation for a PD&E Study. Scoping requires coordination of different project stakeholders within and outside the District to realize best options to deliver the project.

The PD&E scope of services documents the set of 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 expectation for project management and project performance, establishes a realistic 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 scoping, the Project Manager must work collaboratively with District staff and other project stakeholders, 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 project stakeholders is essential for developing effective project scopes that consider broader project issues.

4.2.5.1 SWAT Process

SWAT 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. **Both state and federally funded projects follow the SWAT process.** See [FDOT Quick Guide: Transforming our State Pre-Construction Process](#) and **SWAT Workbooks** for more guidance.

The objectives of the SWAT process include continuous, active team engagement (for both federal and state funded projects); identification of Not Federal Eligible (NFE) 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.

Both Central Office and the Districts measure the objectives of the SWAT through monitoring of the projects' production schedules.

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 disciplines are usually invited to participate in the SWAT team meetings. SWAT team members are experts who ensure that project decisions get broad input and early support. The SWAT team actively engages with the ETDM Coordinator and Environmental Management representatives. 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 to assist in identifying the appropriate delivery method for each project.

SWAT consists of planning 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), and project development approach before the projects advance to the PD&E phase. The SWAT planning and kickoff team meetings use the **SWAT Project Scoping Form** (shown in **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 in the late summer/early fall, prior to the beginning of the Work Program cycle, to review PD&E projects that compete for funding in the coming year. The planning meeting may include the State Environmental Management Office (SEMO) project delivery staff experts 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 core elements of 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 recommendation of funding type for each project that is being considered in the Work Program.

To decide whether to use federal funds on the project, the SWAT team considers a variety of factors including environmental considerations, anticipated permits, [Work Program Instructions](#), and expected time savings resulting from the state project delivery process. Additionally, the SWAT team assigns the anticipated COA for each project and

recommends 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 and an NFE identifier is assigned to state funded-only projects. **Figure 4–3** shows the process followed by the SWAT team to decide how the projects will be funded.

Projects that must follow the federal process or must stay federalized through FHWA 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
9. Projects qualifying as Type 1 CEs

If federal funds have been used on a prior phase of the current project, coordination with Central Office (Office of General Counsel and SEMO) is needed to determine whether the project falls under FHWA's jurisdiction.

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 27, 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.

NFE projects that do not qualify for ETDM Screening may proceed as NMSA projects. NFE 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 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. 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 **FDOT SWAT Scoping Form (Figure 4–2)** 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.

The results of the SWAT planning meeting include a list of projects for Work Program development consideration and recommendations supported by a completed **Section A** of the **FDOT Project Evaluation Form** for each project considered; an initial view on the anticipated or hypothetical COA assigned to each project; and a list of projects to be screened through the ETDM process. **Section B** of the form should be completed 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 scanned and retained in the project file.

4.2.5.1.2 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 assessment
9. Other technical studies or coordination as project characteristics allow

4.2.5.1.3 SWAT Kickoff Meeting

Each project that goes through PD&E must have a SWAT kickoff meeting. The kickoff meeting occurs approximately one year before PD&E funds are 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 an expedited preliminary project schedule. The kickoff meeting may also be used to consider if segmenting the project into logical and independent segments will expedite project delivery without compromising the **NEPA** process.

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 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 concerns and issues within their functional areas are raised and incorporated during project scope development.

Project scope evaluation by the SWAT team starts by revisiting the **SWAT Scoping Form (Figure 4-2)** prepared during the SWAT planning meeting (in which **Section A** of this form was completed). The SWAT kickoff meeting reviews **Section A** and completes **Section B** of the **SWAT Scoping Form** 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 expedited 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 **SWAT Scoping Form** 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. 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 recommended alternative can be determined in the PD&E process.

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 start of PD&E procurement to construction letting, 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.

4.2.5.1.4 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 are to be used solely as a guide. The WBS provides an activity/task coding structure that is required to define projects in the FDOT Project Schedule and Management (PSM) system. It also identifies the project milestones and activities to successfully deliver the project. **Table 4–1** lists some of PD&E activities that must be tracked in the project schedule.

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

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, Central Office, and the Lead Federal Agency 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 Directive 6640.1, A 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 without prior approval from FHWA. FHWA allows any work to be completed by FDOT in the PD&E process that is listed as “preliminary” in [PPM, Volume 2, Chapter 2, Sequence of Plans, Topic No. 625-000-008](#). Most items are in the preliminary status (or “P”) 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 Directive 6640.1**, 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 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 determination as to whether any activity materially affects the objective consideration of alternatives or has an adverse environmental impact is at the discretion of FHWA. The activities are eligible for Federal-Aid reimbursement once they are approved by FHWA. The form in **Figure 4–4** should be completed and signed by both FDOT and FHWA to authorize preliminary design activities.

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, for FHWA-led projects, FHWA 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. 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. For FHWA-led projects, there must be an agreement with FHWA prior to advancing any additional design activities.

There are three options that the SWAT team and the Project Manager may consider for dual procurement of PD&E and Design phases. 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 subject matter experts for input regarding project activities and/or impacts. The Project Manager must work in concert with an interdisciplinary project team (from Planning, Environmental Management, Design, Right of Way, Construction) to complete the scope of work. The interdisciplinary team must use the recommendations from the District SWAT kickoff meeting to complete the scope of services (consultant projects) or project work plan (in-house projects) for the PD&E Study. The Project Manager must use the **PD&E Standard Scope of Services** to prepare the scope of services for the project.

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 service. The consultant performing the PD&E Study must review the ETDM screening documentation and verify 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**. The Design-Build firm cannot make **NEPA** decisions but can assist in preparation of documents and 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 approval of **NEPA** document for Major Projects.

The Financial Plan for a Major Project must be based on detailed estimates of project costs. The Financial Plan provides for an annual submission of updates that is based on the reasonable assumptions as determined by the U.S. Department of Transportation (USDOT) Secretary, and assesses the appropriateness of the project delivery method. Additionally, the Financial Plan may include a phasing plan that identifies fundable phases that will address the purpose and need for the project in the short term, in the event there are insufficient financial resources to complete the entire project. A phasing plan must meet the fiscal constraint requirements in **23 U.S.C. § 134 and § 135**.

4.2.5.6 Quality Control Plan

The Project Manager is responsible for the quality of the Environmental Document and meeting schedule objectives for the project. To reach such 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 while realizing that quality is not perfection of the product.

All work associated with a PD&E Study must adhere to a project specific QC Plan which will ensure that project deliverables conform to FDOT standards and criteria. This 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 quality control process. [Part 1, Chapter 16, Quality Assurance and Quality Control of FDOT's Project Management Handbook](#) provides additional information for the development of Quality Control 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 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 SWAT meetings, prior planning documents and ACE, as applicable, to further refine the project's purpose and need. The PD&E phase also identifies various 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 6, 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 7 through Chapter 30](#), 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 32, Commitments](#) for more information on commitments during the PD&E phase.

4.2.6.1 Environmental Documents

The COA for the project may have been determined during ETDM; however, a COA determination is not mandatory prior to advancing a project to PD&E. If the COA is known, the project may proceed as a CE, EA, EIS, or SEIR. Type 1 CEs are processed as outlined in [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#). Some of these projects as well as some Type 2 CEs evaluated through the Minor Categorical Exclusion (MICE) process should be addressed on a case by case basis.

Processing

For federal projects, after completion of the public hearing (if required), FDOT should submit the required Environmental Document along with the project's certified **Public Hearing Transcript** to the FHWA Division Administrator for LDCA. 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 are also submitted to FHWA. [Figure 4-8](#) is to be completed for projects with segmented implementation. These checklists are intended to document and demonstrate project plan consistency, which is necessary to receive FHWA approval of the Environmental Document. For information on documenting planning consistency in the Environmental Document see [Part 2, Chapter 4, Project Description and Purpose and Need](#). Details on submittals of the final Environmental Documentation to the Lead Federal Agency for each COA are contained in [Part 1, Chapters 5 through 10](#).

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 Programming Screen comments, or to investigate other potential impacts as necessary. The appropriate planning consistency form should be submitted to FHWA 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 FHWA 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 the Lead Federal Agency. 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**](#).

Not Federal Eligible Projects

Transportation projects qualifying for EST screening, without federal involvement, where FDOT is the Lead Agency, 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**) will be prepared in response to the relevant environmental issues raised during the Programming Screen or identified in the project's scope.

Technical reports should be uploaded into the EST for review by the appropriate ETAT members. This will allow 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. Protected Species and Habitat Evaluation
3. Wetland Evaluation
4. Essential Fish Habitat Assessment
5. Noise Study
6. Air Quality
7. Level I Contamination Assessment
8. Conceptual Stage Relocation
9. Section 4(f) Evaluation
10. Cultural Resource Assessment Survey
11. Sociocultural Effects Evaluation
12. 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, etc. The PD&E Project Manager is responsible for collecting, maintaining, and filing documentation for a PD&E Study in a project file. A 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 FDOT's Electronic Document Management System (EDMS) system in accordance with the [Information Technology Resources User's Manual, Procedure No. 325-000-002](#) and [Records Management, Procedure](#)

No. 050-020-025.

Below is a list of reports and design information the Project Manager should have in the 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 in the file.

1. Approved Environmental Document (Type 2 CE documentation, EA with FONSI, FEIS/ROD, DEIS, 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. ***Project Design Report (if applicable)***
11. ***Conceptual Access Management Plan***
12. ***Natural Resources Evaluation (wetlands, species, Essential Fish Habitat)***
13. ***Cultural Resource Assessment Survey***
14. ***Section 4f Evaluation Report***
15. ***Sociocultural Effects Evaluation Technical Memorandum***
16. ***Conceptual Stage Relocation Plan***
17. ***Noise Study Report***
18. ***Air Quality Technical Memorandum***
19. ***Contamination Screening Evaluation Report or Level 1 Contamination Assessment Report***
20. ***Water Quality Impact Evaluation Checklist***

21. *Location Hydraulics Report*

22. *Planning Consistency Form* (except for Type 2 CEs, it is included in the form)

23. Preliminary stormwater design (including any drainage reports, preliminary drainage design, and/or ***Pond Siting Report***)

24. Preliminary plans for preferred alternative with right of way dimensions

25. Documentation of the public involvement and interagency coordination efforts

26. *Utility Assessment Technical Memorandum*

27. Conceptual Transportation Management Plan (TMP)

28. Preliminary bridge analysis with supporting location and design recommendations for each viable structure alternative (if applicable).

29. *Bridge Hydraulic Report* for the selected alternative (for bridges over water)

30. *Preliminary Scour Analysis* (for bridges over water)

31. Copy of ***DEP Form 62-257.900(1)-Notice of Asbestos Renovation or Demolition*** (This form should be added to the project file when completed during PD&E)

32. *Value Engineering Study Report* (if applicable)

33. *Interchange Justification or Modification Report* (if applicable)

34. *System Engineering Management Plan* (if applicable)

35. *Design Exceptions/Variation Package* (if applicable)

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

4.2.7 Design and Construction

4.2.7.1 Design

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 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 submittals is determined in the scope of services. [PPM, Volume 2, Chapter 2, Topic No.625-000-008](#) identifies requirements of each phase submittal.

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 project development 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 permits to be obtained 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 Final 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 reevaluation 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.

4.2.7.2 Reevaluations

A Reevaluation ensures project compliance with all applicable federal and state laws prior to the advancement of the project to the next major production phase (final design, right of way acquisition, or construction). 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, Reevaluations](#) explains the required reevaluation process for environmental studies and supporting documentation.

4.2.7.3 Construction

Once the Final Design phase is complete and all permits are obtained, the construction plans, and bid package are assembled for advertisement to select the contractor. An in-house staff or consultant is also assigned to provide Construction Engineering Inspection (CEI) for the project. CEI is conducted in compliance with the processes and procedures identified in the [Construction Project Administration Manual \(CPAM\), Topic No. 700-000-000](#).

The Construction phase Project Manager is responsible for reviewing the **PCR** for project commitments made during the PD&E phase, to ensure that they have been included in the project's contract documents and/or plan set and will be constructed and monitored, if required, after construction.

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 resources 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, 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 ETDM **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 9, 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

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FDOT. 2013. Records Management, Procedure No. 050-020-025.
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4.4 HISTORY

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

FDOT SWAT SCOPING FORM

To be used for both Federal and State Funded Projects

SECTION A

1. GENERAL INFORMATION

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Project Manager: _____

2. PROJECT DESCRIPTION

a. Background Information

b. Purpose and Need

c. Proposed Improvements

3. FUNDING

Funding type: _____

Figure 4–2 SWAT Scoping Form (Page 1 of 3)

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 FHWA?
☐	☐	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 SWAT Scoping Form (Page 2 of 3)

SECTION B

1. POTENTIAL PROJECT IMPACTS TO ENVIRONMENTAL RESOURCES

Resource Categories	Potential Impacts?				State Basis for Decision
	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. Recreation Areas	☐	☐	☐	☐	
C. NATURAL					
1. Wetlands and Other Surface Waters	☐	☐	☐	☐	
2. Aquatic Preserves and Outstanding FL Waters	☐	☐	☐	☐	
3. Water Quality	☐	☐	☐	☐	
4. Wild and Scenic Rivers	☐	☐	☐	☐	
5. Drainage and Floodplains	☐	☐	☐	☐	
6. Coastal Barrier Resources	☐	☐	☐	☐	
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	☐	☐	☐	☐	

* 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 SWAT Scoping Form (Page 3 of 3)

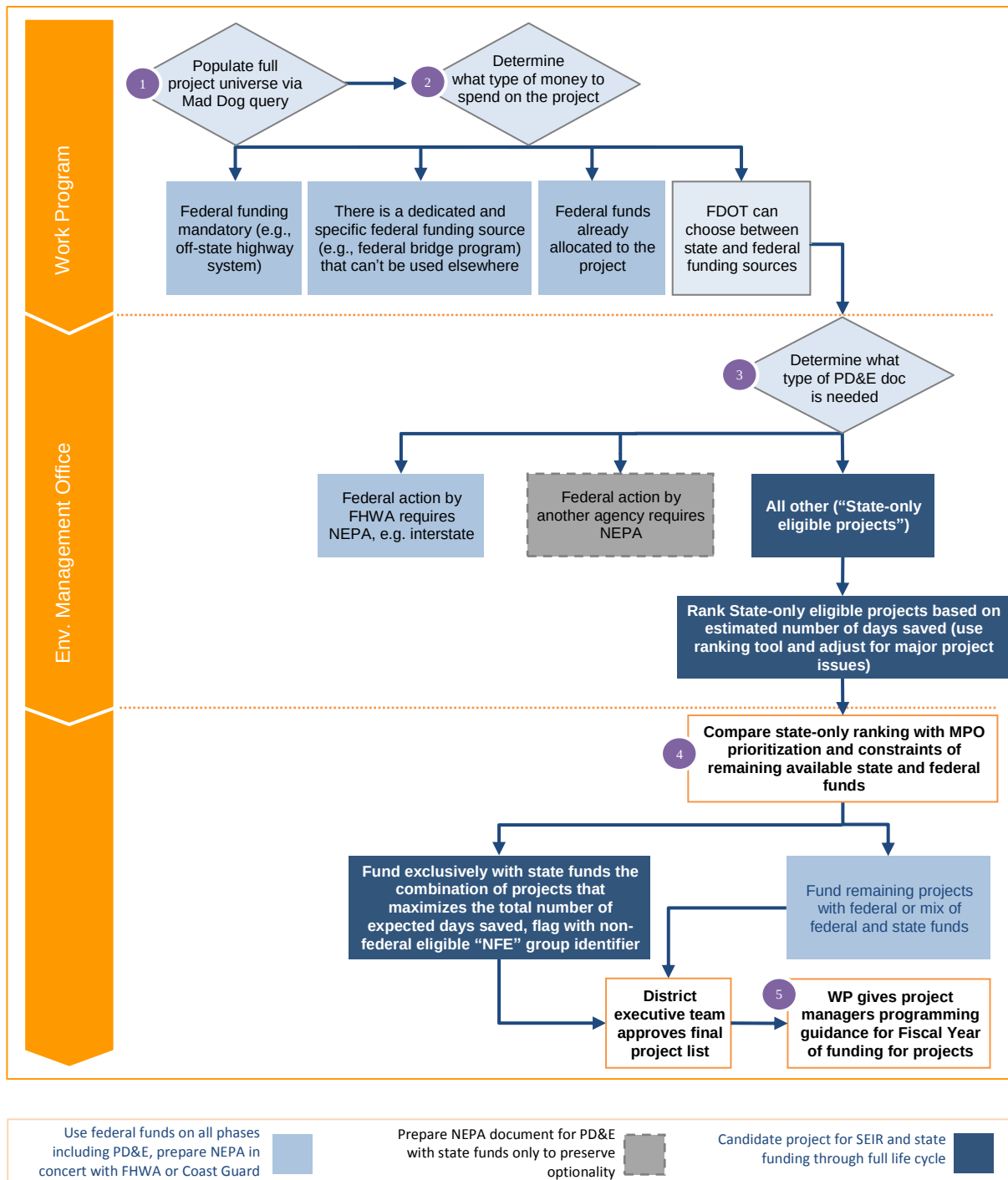


Figure 4–3 Funding Determination

Approval to Advance Preliminary Design Activities		
Document Information:		
Date: _____ (Current Date)	Document Type: <u>EIS/EA/Type 2 CE</u>	Status: <u>Draft/Final</u>
Project Name: _____ (PD&E Project Title)	FM #: <u> </u> (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 <i>yes/no</i>		
4) Identify what advanced design is requested and reasons for developing the preferred alternative to a higher level of detail. (30% design, 60% design)		
5) Summarize commitments that affect the findings and/or design, if any <i>Project Commitment Record</i>		
6) Is Planning Consistency Form complete? <i>yes/no</i>		
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 FDOT. FHWA will not be committed to a record of decision or funding of an alternative. **		

FDOT Name: _____ Date: _____ Phone #: _____

FDOT Signature: _____ Email: _____

Project is approved for preliminary engineering: _____

Additional information required: _____

Explain:

FHWA 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

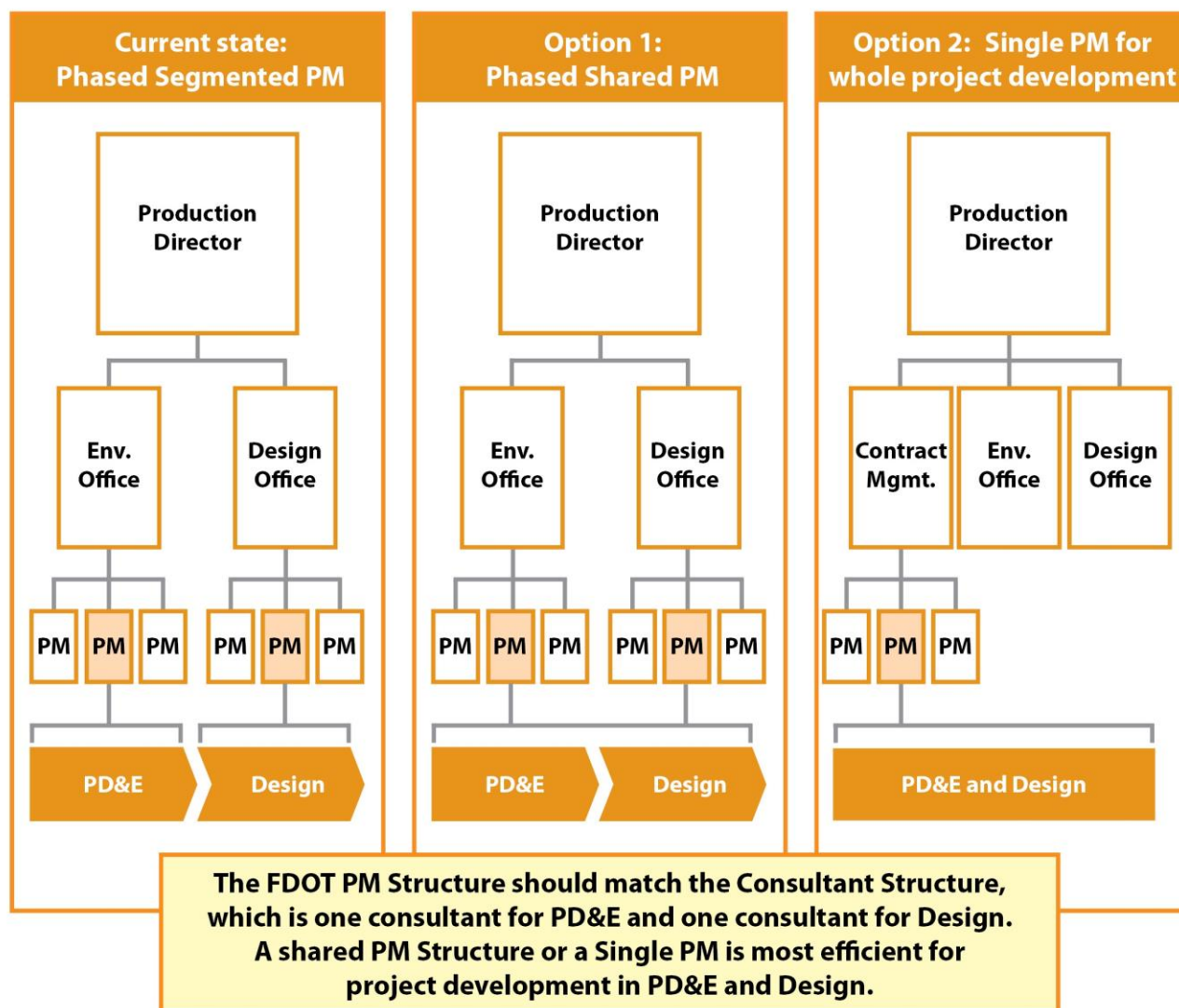


Figure 4–6 Project Management Structures

Planning Requirements for Environmental Document Approvals									
Document Information:									
Date: (Current Date)		Document Type: EIS/EA/CE II			Document Status: Draft/Final				
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?		Y/N (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: (Current Date)		Document Type: EIS/EA/CE II			Document Status: Draft/Final				
Project Name: (PD&E Project Title)				FM #: (Original FM#)					
Project Limits: (NEPA Logical Termini/PD&E Study Limits)				ETDM #:					
Are the limits consistent with the plans?				Y/N (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)					
Segment Information: (Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)									
Segment Limits: Segment FM #:									
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	COMMENTS				
			\$	FY					
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)				
Segment Information: (Add additional tables as needed to describe all segments within the logical termini limits. Clearly identify segment representing the next funded phase)									
Segment Limits: Segment FM #:									
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	COMMENTS				
			\$	FY					
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)				
FDOT Preparer's Name:				Date:		Phone #:			
Preparer's Signature:				Email:					
*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

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PART 1, CHAPTER 5

TYPE 2 CATEGORICAL EXCLUSIONS

5.1 OVERVIEW

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 the **National Environmental Policy Act (NEPA) of 1969**, as amended. See [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) for more information on Class of Action (COA) determinations.

A Type 2 CE in Florida is one of two categorical exclusions recognized by the Federal Highway Administration (FHWA) through a Programmatic Agreement with the Florida Department of Transportation (FDOT), titled [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117](#). This Programmatic Agreement authorizes FDOT to make a CE determination and provide approval on behalf of FHWA for CEs listed in **23 CFR § 771.17(c)** and identified in **23 CFR § 771.17(d)**. Type 1 CEs are discussed in [Part 1, Chapter 2, Federal Highway Administration Class of Action](#). Type 2 CEs require more documentation than a Type 1 CE to support the determination that the project is a CE. The decision requires consultation with and approval from FHWA. Type 2 CEs require a higher level of public involvement than Type 1 CEs, and may require a public hearing, if a major transportation improvement project as described in **Section 339.155(5), Florida Statutes (F.S.)** and outlined in [Part 1, Chapter 11, Public Involvement](#). Examples of project types which may qualify as a Type 2 CE in Florida are found in Attachment C of the [Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.11](#); however, this list is not all inclusive.

Projects anticipated to be Type 2 CEs should be evaluated by the State-Wide Acceleration and Transformation (SWAT) team. SWAT is a project management strategy developed by the FDOT that involves a multidisciplinary team of experienced FDOT staff that assist in scoping, programming, and advancing projects. See [Part 1, Chapter 4, Project Development Process](#) for more information on the SWAT process.

Projects that qualify for screening are evaluated through the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) (see [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) for a list of qualifying projects). FDOT and FHWA typically make the Type 2 CE COA determination at the completion of the Programming Screen evaluation. However, in certain circumstances the COA determination may be delayed until additional analysis is completed to support the determination. If a project does not qualify as a Type 1 CE, but is not required to be screened through the EST, it can be processed following the Minor Categorical Exclusion

(MiCE) process which may in some cases result in a Type 2 CE determination (see [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#)).

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. 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. Guidance on completing the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#) is in **Section 5.2.3** and guidance on preparing a **PER** is provided in [Part 2, Chapter 6, Engineering Analysis](#). Other documentation may need to be submitted to FHWA as discussed in **Section 5.2.3**.

Before FHWA can approve a Type 2 CE, transportation planning requirements must be met and documented in the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#). FHWA approval of the Type 2 CE results in Location and Design Concept Acceptance (LDCA), allowing the project to proceed to final design. This chapter outlines the required processing and documentation for Type 2 CE projects (**Figure 5-1**).

5.2 PROCEDURE

For Type 2 CEs, the documentation is the same regardless of whether the project is screened through the EST, or processed using the MiCE process. 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 in the preparation of the Environmental Document. Issues raised by the ETAT must be addressed in the Type 2 CE documentation. For projects which were not screened through the EST, the District is responsible for gathering enough information to scope the project and coordinating with FHWA and any other applicable agencies according to the MiCE process as outlined in [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#).

A Type 2 CE does not typically require consideration of multiple build alternatives during the screening process, but in some situations the impacts to issues or 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 PD&E. FDOT is encouraged to prepare up to 60% preliminary design during PD&E as described in [Part 1, Chapter 4, Project Development Process](#).

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. If, during this effort, a significant impact is identified, coordination will need to occur with FHWA to revise the COA determination.

5.2.1 Transportation Planning Requirements

Before FHWA can provide LDCA, the proposed project, including logical termini, as defined in the Environmental Document must meet the Planning Requirements for **NEPA** Approval from the ***Supplement to January 28, 2008, "Transportation Planning Requirements and Their Relationship to NEPA Process Completion", February 9, 2011*** (revised by FHWA April 7, 2011). FDOT instructions are provided in [Section 2. Meeting Planning Requirements for NEPA Approval](#) of the Supplement. The intent is to advance projects derived from transportation plans and clearly describe the steps towards implementation as described in those plans. Complete the Project Planning Consistency table on the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#), to address these requirements (see instructions in **Section 5.2.5**).

5.2.2 Impact Evaluation

For Type 2 CEs, documentation must be prepared to address the topical categories contained in the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#). The purpose of this form is to provide focused documentation, demonstrating the proposed project has no significant direct, indirect, or cumulative impacts. The issues/resources contained in **Section 6** of the form must be addressed using pertinent chapters of Part 2 of the [PD&E Manual](#) to satisfy applicable federal and state environmental laws, regulations, and executive orders. The analysis should be focused on the relevant issues and those requiring findings. A finding implies that a decision must be made or a signature is needed by FDOT, FHWA, and/or an appropriate resource agency. Topics must address project impacts and mitigation as required by the referenced Part 2 [PD&E Manual](#) chapters. As appropriate for each topic, the evaluation and support documentation should include the necessary standard statements required by FHWA to show compliance with FHWA policy. Impact evaluation material should be summarized and appended to the form in the order listed.

5.2.3 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**). Each section must be completed, as appropriate.

Section 1: General Information - Provide a list of the county(ies) involved; project name or title (including bridge number(s), if appropriate); project limits (as agreed upon by FHWA); project numbers [ETDM Number (if applicable), Financial Management Number, and Federal-Aid Project Number], and attach a project location map, and reference on the form.

Section 2: Project Purpose and Need

a. 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 4, Project Description and Purpose and Need](#) for detailed guidance on preparing the purpose and need.

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. Project Planning Consistency:

The planning consistency table must be completed prior to submittal to FHWA for LDCA to verify that a project meets the planning requirements in **23 CFR § 450**. 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 FHWA 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 3: Class of Action - Based on the information and associated analysis in Section 6 of this form, FDOT and FHWA determine whether a project fulfills the criteria for a CE. To complete this section, mark an "X" in the box "Type 2 Categorical Exclusion" and an "X" in the box for other actions, which were completed on line 3b. In line 3c, after consultation with FHWA, mark the appropriate box regarding the status of public involvement and, if applicable, project LDCA. On line 3d, mark an "X" for the appropriate cooperating agency, based on early coordination with FHWA. 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 4: Reviewers' Signatures - The FDOT Project Manager and Environmental Administrator or designee must sign and date the review section.

Section 5: FHWA Concurrence - The FHWA Division Administrator or designee must sign and date this section to concur with the recommendation(s) in Section 3.

Section 6: Impact Evaluation - The analyst uses the results of the environmental evaluation, 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, none, or no involvement. Documentation must be provided by the analyst in the Basis for Decision column and supplemented with attachments, if necessary, to substantiate the impact determination.

For clarity, the following definitions are provided to assist in determining the magnitude of the impact of the project on the affected issue or resource. When making these determinations, consider direct, indirect, and cumulative impacts. See [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) for guidance on significance:

1. If the impact is significant per **40 CFR § 1508.27**, mark the column "Sig" with an "X". Coordinate with FHWA 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 "Not Sig" with an "X". Not significant means the project has an impact on an environmental issue/resource which may range in level of magnitude from minimal to substantial.
3. If the impact is none, mark the column "None" with an "X". None means the project has been evaluated for an issue or resource and the issue exists, but there is no impact.
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 a topical category is marked in the "NoInv" column, no further documentation is needed.

The following topical categories must be addressed as appropriate:

A. Social & Economic

1. **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 9, Sociocultural Effects Evaluation](#).
2. **Community Cohesion:** Is there any potential for splitting or isolating neighborhoods, changing travel patterns, affecting access or parking, and other variables of local community concern? For guidance see [Part 2, Chapter 9, Sociocultural Effects Evaluation](#).
3. **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 9, Sociocultural Effects Evaluation](#).
4. **Community Services:** How will the proposed action affect school districts, churches, and community services and facilities? Identify any such facilities by name and any potential involvement (e.g., First Street Baptist Church, Big Bend Elementary School, First Street Hospital, Willow Street Fire Station). For guidance see [Part 2, Chapter 9, Sociocultural Effects Evaluation](#).
5. **Nondiscrimination Considerations:** Are there potential impacts to distinct ethnic, elderly, minority, handicapped, or other groups? Is there a likelihood of disproportionate impacts? Regardless of the impact level identified, documentation should always contain the standard statement and, if applicable, a brief summary of the assessment. For guidance and standard statement see [Part 2, Chapter 9, Sociocultural Effects Evaluation](#).
6. **Controversy Potential:** Are there any areas of controversy resulting directly or indirectly from the project? Is there a likelihood of disproportionate impacts? Reference results of public hearings or any other public involvement. If the project was screened, reference ETAT issue resolution.
7. **Scenic Highways:** Identify, by formal name, all designated (or candidate) Scenic Highways within the project study area and consider their involvement with the project. For guidance see [Part 2, Chapter 29, Scenic Highways](#).
8. **Farmlands:** Is there any involvement with Farmlands? For guidance see [Part 2, Chapter 28, 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 13, Section 4\(f\) Evaluations](#).
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 12, 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 13, Section 4\(f\) Evaluations](#).
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 12, 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 13, Section 4\(f\) Evaluations](#).
4. **Recreation 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 13, Section 4\(f\) Evaluations](#).

C. Natural

1. **Wetlands** - 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 18, Wetlands and Other Surface Waters](#) for further guidance and standard statements.
2. **Aquatic Preserves** - Are there any Aquatic Preserves in the project area? Identify any Aquatic Preserves, by name, and potential involvement (i.e., water quality impacts, retention, ROW needs). For projects located in an Aquatic Preserve without acquisition or impacts include the standard statement provided in [Part 2, Chapter 19, Aquatic Preserves and Outstanding Florida Waters](#).
 3. **Water Quality** - 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**, for all EST screened projects. Where a **WQIE** is required, include the standard statement provided in [Part 2, Chapter 20, Water Quality](#).
 4. **Outstanding Florida Waters:** Identify any Outstanding Florida Waters by name, and potential involvement (i.e., water quality impacts, retention, ROW needs). For guidance see [Part 2, Chapter 19, Aquatic Preserves and Outstanding Florida Waters](#).
 5. **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 which have no impacts on the river, include the standard statement per [Part 2, Chapter 23, Wild and Scenic Rivers](#).
 6. **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 24, Drainage and Floodplains](#) for further guidance and standard statements.
 7. **Coastal Zone Consistency** - Determine if the project is consistent with the Florida Coastal Zone Management Program. See [Part 2, Chapter 25, Coastal Zone Consistency](#).
 8. **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 26, Coastal Barrier Resources](#).
 9. **Wildlife and Habitat** - Are there any potential impacts to wildlife and habitat? Assess and consult for impacts as appropriate. Provide a finding if one is necessary. For guidance see [Part 2, Chapter 27, Protected Species and Habitat](#).

10. **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 11, Essential Fish Habitat](#).

D. Physical

1. **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 17, 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 16, Air Quality Analysis](#).
3. **Construction:** Consider potential construction impacts relative to all topical categories and document, consistent with [Part 2, Chapter 6, Engineering Analysis](#).
4. **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 22, Contamination](#).
5. **Aesthetic Effects:** Consider aesthetic effects in accordance with procedures in [Part 2, Chapter 15, Aesthetic Effects](#).
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 6, Engineering Analysis](#).
7. **Utilities and Railroads:** Discuss any involvement with utilities and/or rail systems. For guidance see [Part 2, Chapter 10, Utilities and Railroads](#).
8. **Navigation:** Consider any potential impacts to navigation by providing the following information which FHWA will use to make its determination under **23 CFR § 650, Subpart H**. Pursuant to **23 CFR § 650, Subpart H**, FHWA can determine that a project is exempt from a U.S. Coast Guard (USCG) permit whenever the proposed construction, reconstruction, rehabilitation, or replacement of the federally-aided or assisted project is 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.

In order for FHWA to determine that a project is exempt from a USCG navigational permit, the District may provide the following information, as appropriate, with the determination form:

- 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.

If FHWA cannot determine that the project is exempt from a USCG permit, coordination with the USCG will be needed prior to approval of the Type 2 CE.

E. Permits Required - List all anticipated federal and state permits by providing the name of the permitting agency, the name of the permit, and the permit status.

Section 7: Commitments and Recommendations - Document any commitments made by the FDOT over the course of the project, per [Part 2, Chapter 32, 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](#).

5.2.4 Documentation

The Environmental Document for a Type 2 CE consists of the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#), **PER**, and if applicable, the public hearing transcript. Guidance on completing a **PER** is provided in [Part 2, Chapter 6, Engineering Analysis](#). Documentation must be provided on the form to substantiate the impact determinations of significant, not significant, or none. If analysis results in a

finding of significant impact(s), coordinate with FHWA since the significance finding must be made by them.

If the project was screened through the EST, comments received from the ETAT should be addressed 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**.

The Type 2 CE Environmental Document must demonstrate interagency coordination on respective jurisdictional issues and public involvement efforts to adequately support the conclusions reached in the COA. 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 any correspondence representing findings or concurrence should be attached.

Documentation supporting project planning consistency should be appended to the form. This includes applicable LRTP, TIP, and current STIP pages. To address LRTP consistency for projects not qualifying for screening, verify that the project is represented in the LRTP summary sheet (e.g., general sidewalk projects, pedestrian improvement projects, safety) and include a copy of the sheet.

The proposed action may require other reports, such as, but not limited to, the **Noise Study Report**, **Air Quality Report**, **Natural Resources Evaluation**, **Conceptual Stage Relocation Plan**, and/or **Contamination Screening Evaluation Report**. These reports should not accompany the Type 2 CE submittal to FHWA, unless FHWA specifically requests them. The only exception to this is the public hearing transcript (including the summary and certification), which must be included when a public hearing is held for a project.

The project file, which will constitute the Administrative Record, must document environmental evaluations, supporting coordination, consultations, and findings. The District must insure that proper documentation can be produced from the project file upon request by FHWA or as needed to support the project decision. The District is responsible for ensuring that the Type 2 CE documentation is reviewed for quality control prior to submittal to FHWA for approval.

5.2.5 Processing

After completing the Type 2 CE documentation and public hearing, if required, FDOT may request LDCA from the FHWA Division Administrator.

The District submits the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#), with consistency documentation, **PER**, and, if applicable, the public hearing transcript, to the FHWA Division Administrator. Additional supporting information and technical reports may be submitted to FHWA upon its request. The transmittal letter (**Figure 5-3**) submitted with the Type 2 CE documentation must contain:

1. SUBJECT with the County, ETDM Number (if applicable), Financial Management Number, Federal-Aid Project Number, common project name, road number, and termini
2. Wording to the effect that: Enclosed is the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#), **PER**, and the public hearing transcript for the subject project. Upon review and approval of the Categorical Exclusion Class of Action determination, FDOT requests this project be granted Location and Design Concept Acceptance in accordance with **23 CFR § 771**.

The signature of the FHWA Division Administrator or the Administrator's designee on the [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#) provides concurrence with the COA and grants LDCA. FHWA sends one (1) copy of the executed signature page to the District. The District publishes a notice of LDCA in the local newspaper(s); see [Part 1, Chapter 11, Public Involvement](#). 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 FHWA. At this point, the project may proceed to the next phase.

The approved Type 2 CE documentation and any other associated documents are added to the project file. For projects that were screened, the approved Type 2 CE documentation and other technical reports as appropriate are submitted to the District ETDM Coordinator to be included as an attachment to the project record in the EST. The Project Manager also provides copies to the District Design Project Manager for the subsequent final design phase.

For bridge projects requiring a USCG bridge permit, or for those where FHWA has made a bridge permit determination under **23 CFR § 650, Subpart H**, a copy of the approved Type 2 CE documentation is sent to the USCG. For projects where there is **Section 404** permit involvement, a copy of the approved Type 2 CE documentation is sent to the USACE.

There may be rare occasions when it is necessary or desired to file a limitations of claims notice for a Type 2 CE. In these situations, the District must coordinate with the FDOT Office of General Counsel and the FHWA Division Office on the need for publication of a **Limitation of Claims Notice** under **23 U.S.C. § 139 (I)**. The determining factors in this decision will be the COA, degree of controversy surrounding the project, the likelihood of litigation, and the anticipated time frames for advancing the project to maintain project schedules. See [Part 1, Chapter 9, Final Environmental Impact Statement](#) for guidance on preparing a **Limitation of Claims Notice**.

Reevaluations are done for Type 2 Categorical Exclusions according to [Part 1, Chapter 13, Reevaluations](#).

5.3 REFERENCES

Coastal Barrier Resources Act (CBRA) (Pub. L. 97-348)

Federal Highway Administration (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

FHWA and FDOT, 2015. Programmatic Agreement for Categorical Exclusions under 23 CFR § 771.117. Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-aid Highway Projects

Florida Department of Transportation (FDOT), 2012. Project Commitment Record, Form No. 700-011-35.
<http://www2.dot.state.fl.us/proceduraldocuments/forms/informs/70001135.pdf>

FDOT, 2012. 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, 2015. Efficient Transportation Decision Making Manual.
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT, 2015. Type 2 Categorical Exclusion Determination Form.
<http://www2.dot.state.fl.us/proceduraldocuments/forms/informs/65005011.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/Reg-NEPA.pdf

State of Florida, Office of the Governor, Executive Order 81-105, 1981

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 HISTORY

01/31/2007, 10/03/2012

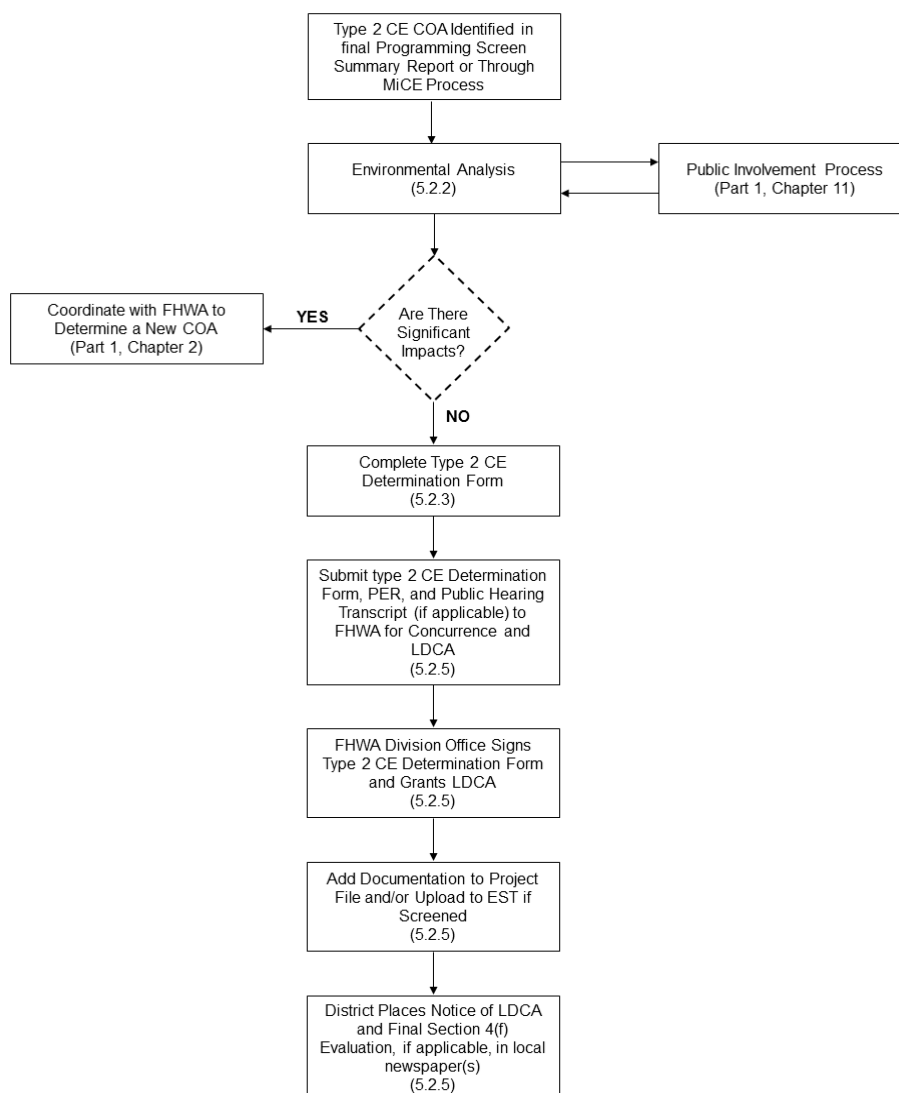


Figure 5-1 Type 2 Categorical Exclusion Process

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

1. GENERAL INFORMATION

County: _____
 Project Name: _____
 Project Limits: _____
 Project Numbers [ETDM (if applicable), Financial Management, Federal-Aid]:

2. PROJECT PURPOSE AND NEED

- a. Purpose and Need:
- b. Proposed Improvements:
- c. 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 TIP/STIP/LRTP***

Figure 5-2 Type 2 Categorical Exclusion Determination Form

3. CLASS OF ACTION

- a. Class of Action:
- ☐ Type 2 Categorical Exclusion
- b. Other Actions:
- ☐ Section 4(f) Evaluation
- ☐ Section 106 Consultation
- ☐ Endangered Species Biological Assessment
- c. Public Involvement:
1. ☐ A public hearing is not required, therefore, approval of this Type 2 Categorical Exclusion constitutes acceptance of the location and design concepts for this project.
2. ☐ A public hearing was held on (insert date of the hearing) and a transcript is included. Approval of this determination constitutes location and design concept acceptance for this project.
- ☐ An opportunity for a public hearing was afforded and a certification of opportunity is included. Approval of this determination constitutes acceptance of the location and design concepts for this project.
3. ☐ A public hearing will be held and the public hearing transcript will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.
- ☐ An opportunity for a public hearing will be afforded and a certification of opportunity will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.
- d. Cooperating Agency: ☐ USACE ☐ USCG ☐ FWS ☐ EPA ☐ NMFS
- ☐ NONE

4. REVIEWERS' SIGNATURES

FDOT Project Manager

___ / ___ / ___
Date

FDOT Environmental Administrator or Designee

___ / ___ / ___
Date

5. FHWA CONCURRENCE

Division Administrator or Designee

___ / ___ / ___
Date

Figure 5-2 Type 2 Categorical Exclusion Determination Form (Page 2 of 4)

6. IMPACT EVALUATION

Topical Categories	Impact Determination*				Basis for Decision*
	Sig	Not Sig	None	No Inv	
A. SOCIAL & ECONOMIC					
1. Land Use Changes	☐	☐	☐	☐	
2. Community Cohesion	☐	☐	☐	☐	
3. Relocation Potential	☐	☐	☐	☐	
4. Community Services	☐	☐	☐	☐	
5. Nondiscrimination Considerations	☐	☐	☐	☐	
6. Controversy Potential	☐	☐	☐	☐	
7. Scenic Highways	☐	☐	☐	☐	
8. Farmlands	☐	☐	☐	☐	
B. CULTURAL					
1. Section 4(f)	☐	☐	☐	☐	
2. Historic Sites/Districts	☐	☐	☐	☐	
3. Archaeological Sites	☐	☐	☐	☐	
4. Recreation Areas	☐	☐	☐	☐	
C. NATURAL					
1. Wetlands	☐	☐	☐	☐	
2. Aquatic Preserves	☐	☐	☐	☐	
3. Water Quality	☐	☐	☐	☐	
4. Outstanding FL Waters	☐	☐	☐	☐	
5. Wild and Scenic Rivers	☐	☐	☐	☐	
6. Floodplains	☐	☐	☐	☐	
7. Coastal Zone Consist.	☐	☐	☐	☐	
8. Coastal Barrier Resources	☐	☐	☐	☐	
9. Wildlife and Habitat	☐	☐	☐	☐	
10. Essential Fish Habitat	☐	☐	☐	☐	
D. PHYSICAL					
1. Noise	☐	☐	☐	☐	
2. Air Quality	☐	☐	☐	☐	
3. Construction	☐	☐	☐	☐	
4. Contamination	☐	☐	☐	☐	
5. Aesthetic Effects	☐	☐	☐	☐	
6. Bicycles and Pedestrians	☐	☐	☐	☐	
7. Utilities and Railroads	☐	☐	☐	☐	
8. Navigation	☐	☐	☐	☐	
a. ☐ FHWA has determined that a USCG Permit IS NOT required in accordance with 23 CFR 650, Subpart H.					
b. ☐ FHWA has determined that a USCG Permit IS required in accordance with 23 CFR 650, Subpart H.					

* **Impact Determination:** Sig = Significant; NotSig = Not significant; None = Issue present, no impact; NoInv = Issue absent, no involvement. Basis of decision is documented in the referenced attachment(s).

Figure 5-2 Type 2 Categorical Exclusion Determination Form (Page 3 of 4)

E. PERMITS REQUIRED

7. COMMITMENTS AND RECOMMENDATIONS

Figure 5-2 Type 2 Categorical Exclusion Determination Form (Page 4 of 4)

(DATE)

District/Area Transportation Engineer
Federal Highway Administration
3500 Financial Plaza, Suite 400
Tallahassee, Florida 32312

Subject: NAME OF PROJECT

ETDM No. (if applicable)
Financial Management No.
Federal-Aid Project No.
SR-XXX, From A to B
County, Zip Code

RE: Transmittal of Type 2 Categorical Exclusion for approval

Dear Mr./Ms.:

Enclosed is the Type 2 Categorical Exclusion Determination Form and supporting documentation, including the Preliminary Engineering Report and the public hearing transcript for the public hearing held on **{Date}** for the subject project. Upon review and approval of the Type 2 Categorical Exclusion Class of Action determination, FDOT requests this project be granted Location and Design Concept Acceptance in accordance with **23 CFR 771**. Please acknowledge your concurrence with these findings by signing and dating the Type 2 Categorical Exclusion Determination Form and returning the executed signature page for the project files.

Sincerely,

District Environmental Office
[District Environmental
Management Office (DEMO)/
Planning and Environmental
Management Office (PLEMO)]

Figure 5-3 Project Transmittal Letter from the District to FHWA

PART 1, CHAPTER 6

ENVIRONMENTAL ASSESSMENT

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PART 1, CHAPTER 6

ENVIRONMENTAL ASSESSMENT

6.1 OVERVIEW

An Environmental Assessment (EA) is prepared when the significance of the environmental impacts associated with a project are unknown. The preparation of an EA begins after Federal Highway Administration (FHWA) determines it is the appropriate Class of Action (COA). FHWA calculates the EA time frame from the moment the COA is approved through Location and Design Concept Acceptance (LDCA).

If at any point in the EA process, before LDCA, it is determined that the project will result in significant impacts, an Environmental Impact Statement (EIS) must be prepared. Significance is identified by the Florida Department of Transportation (FDOT) or FHWA, but the final determination is made by FHWA. If an EIS is needed, a Notice of Intent (NOI) must be completed. It is important when writing the scope of services for an EA not to assume that the decision will be a Finding of No Significant Impact (FONSI), but rather recognize the result could be either a FONSI or conversion to an EIS. If after completing the EA, it is determined there are no significant impacts resulting from the project, a FONSI is prepared. See [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) for guidance on significance.

An EA is prepared by following the procedures in this chapter. Concurrent with the preparation of an EA, a public involvement plan is developed and administered in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). For Local Agency Program (LAP) projects, FDOT provides oversight and is the liaison with FHWA. **Figure 6-1** shows the EA process.

The EA should be a concise document that:

1. Briefly provides sufficient evidence and analysis for determining whether to prepare a FONSI or an EIS
2. Aids in complying with the **National Environmental Policy Act (NEPA)** and other applicable federal environmental laws, regulations, and Executive Orders when an EIS is not necessary
3. Facilitates preparation of an EIS when one is necessary

A project file is to be maintained during the **NEPA** process to compile an Administrative Record of decisions made. The Districts should maintain accurate and up-to date project files throughout the project and include all decision-making materials.

For EAs, a public hearing is conducted to comply with **23 CFR 771.119** and **Section 339.155(5), Florida Statutes (F.S.)**. After the public hearing, if no significant impacts are associated with the project, a FONSI is prepared in accordance with [Part 1, Chapter 7, Finding of No Significant Impact](#). If significant impacts are determined as a result of the public hearing process, a Draft Environmental Impact Statement (DEIS) is prepared in accordance with [Part 1, Chapter 8, Draft Environmental Impact Statement](#).

6.2 PROCEDURE

6.2.1 Format and Sequence of Topics

Figure 6-3 lists topics for inclusion in the EA. These subcategories are based on federal laws, regulations, and Executive Orders. The topics that are required in the EA, include the Project Description and Purpose and Need, Alternatives Considered, Impacts, Comments and Coordination, and Commitments. The Commitments section should provide commitments made to date and be the same as those recorded on the [Project Commitment Record \(PCR\), Form No. 700-011-35](#) in accordance with [Procedure No. 700-011-035, FDOT Commitment Tracking](#). The “Impacts” topics are discussed in the EA, if applicable. They should identify project impacts and address comments provided by the Environmental Technical Advisory Team (ETAT) during EST screening. Preparation of the document entails following the procedures in each of the referenced chapters for all required topics and those topics deemed relevant to the project. Reference chapters in the [Project Development and Environment \(PD&E\) Manual](#) are identified in **Figure 6-3**.

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 to the point and focused on the relevant issues or resources where the significance of the impacts is in question. Comments submitted from the ETAT during EST screening should be used to focus the content of the EA. To be consistent with CEQ guidelines, the EA should use good quality maps and exhibits, incorporate by reference, and summarize background data and analysis.

The EA should demonstrate the project’s fulfillment of FHWA planning consistency requirements in the Project Description and Purpose and Need section of the EA and the **Planning Requirements for Environmental Document Approvals Form** ([Part 1, Chapter 4, Project Development Process](#)). Long Range Transportation Plan (LRTP), Transportation Improvement Plan (TIP), and current State Transportation Improvement Plan (STIP) pages should also be attached to the form and submitted to FHWA. If the project has been segmented for construction or if segmentation is known, it must be identified in the form and associated discussion. A map showing segmentation should

also be included with the form and described in the EA. All consistency requirements must be met prior to requesting LDCA.

6.2.2 Intradepartment and FHWA Review Process

After preparing the EA, the District conducts a quality control review and sends the EA, including any technical support documents to State Environmental Management Office (SEMO). Upon receipt, SEMO will coordinate its 30-day review schedule with the District. SEMO will provide a technical and procedural review of the documents and transmit its comments to the District. The Districts should allow sufficient time in their schedules to address SEMO comments and allow for additional review or coordination.

After SEMO has completed its review and comments have been addressed by the District, SEMO will email its approval to the District. The District then submits the EA to the FHWA for review and approval. The District must contact the FHWA to determine the number of copies needed. FDOT is responsible for submitting all materials to FHWA, such as the EA and all supporting documentation.

The District sends FHWA supporting technical reports that led to the decision and required coordination with another agency such as the ***Conceptual Stage Relocation Plan, Noise Study Report, Contamination Screening Evaluation Report, Preliminary Engineering Report, and Natural Resource Evaluation***. FHWA is also sent a completed ***Planning Requirements for Environmental Document Approvals Form***. For a complete list of technical documents and the planning requirements form, see [Part 1, Chapter 4, Project Development Process](#). A transmittal letter and related reports should accompany the EA. A sample transmittal letter is provided in **Figure 6-2**.

If there are cooperating agencies, the District submits two (2) copies of the EA to each agency for its review and comment. In addition, the cooperating agencies are sent technical documents that pertain to their jurisdiction.

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

6.2.3 Actions Taken After FHWA Approval of the Environmental Assessment

One (1) copy of the approved EA and a transmittal letter are forwarded by FHWA to the District. The District makes copies of the EA for public availability and inspection. The District should then upload the approved EA to the EST. If uploaded, an electronic copy of the EA is sent to the Florida State Clearinghouse (SCH) and ETAT agencies. The District may also send the document to other interested state and federal agencies and other stakeholders. If applicable, copies must be sent to the cooperating agencies [e.g., U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE)].

The District places a notice in a local newspaper(s) that the approved document is available for public review, and provides a list of locations where it can be inspected by the public ([Part 1, Chapter 11, Public Involvement](#)). This notice is usually provided in the same advertisement for the public hearing. The public hearing is held a minimum of twenty-one (21) days after the notification of public availability is placed in the local newspaper(s).

Once the EA is approved, the notice of availability provides that all organizations, agencies, and the public have the opportunity to provide input during the 30-day comment period per **23 CFR § 771.119**.

After the public hearing has been held, the comment period has closed, and all issues have been addressed, the District attaches the public hearing transcript and responses to substantive comments to the EA, and 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

23 CFR § 771.119, Environmental Assessments

Council on Environmental Quality, 40 Most Asked Questions Concerning CEQ's NEPA Regulations, March 16, 1981

Council of Environmental Quality, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 43 FR 55978-56007 and 40 CFR Parts 1500-1508

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

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

FHWA guidance on National Environmental Policy Act (NEPA) documentation.
<http://environment.fhwa.dot.gov/projdev/docuea.asp>

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

Florida Department of Transportation (FDOT). 2006. [Efficient Transportation Decision Making \(ETDM\) Manual, Topic No. 650-000-002](#)

6.4 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 SEMO approval, 5/30/2014

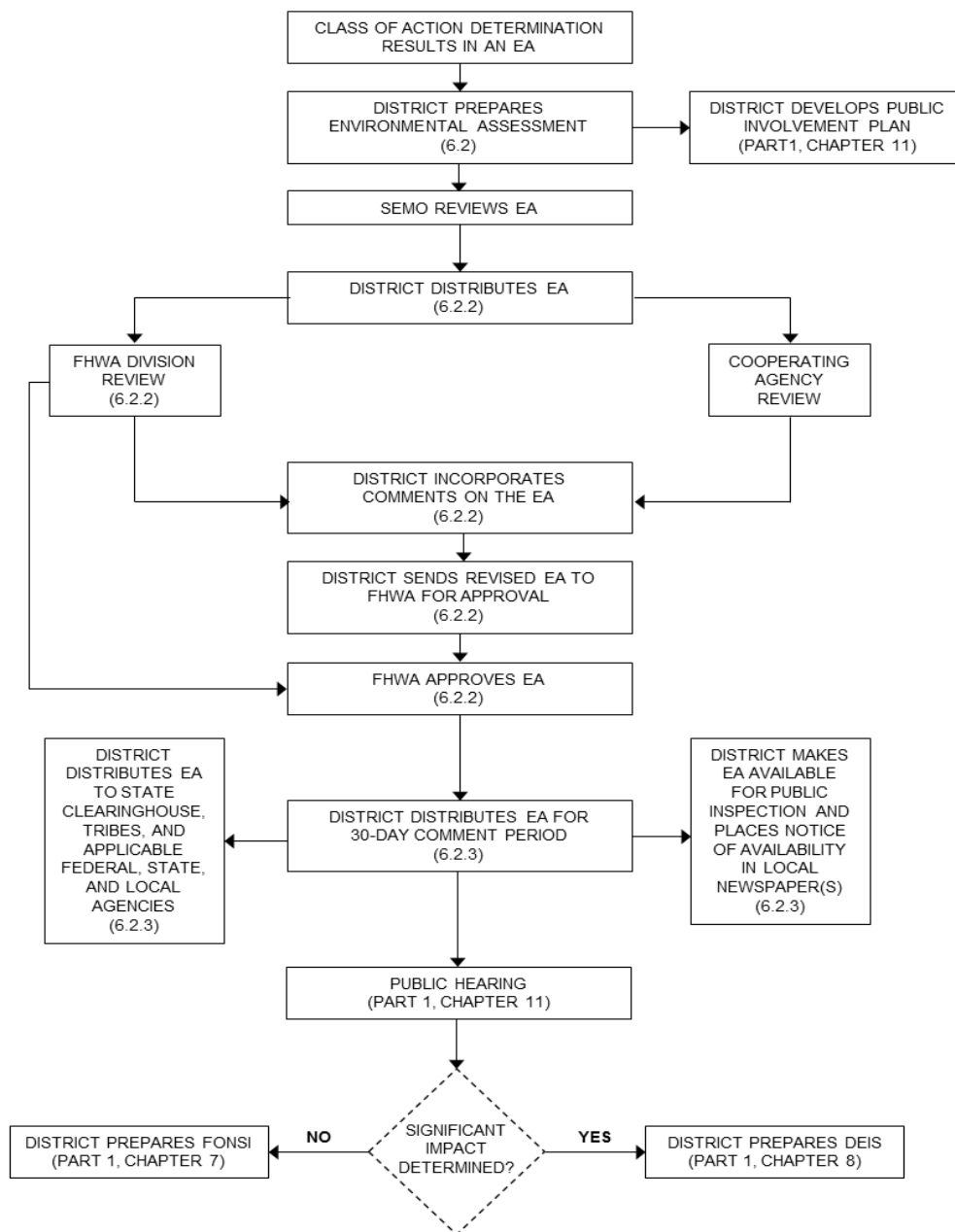


Figure 6-1 Environmental Assessment Process

(DATE)

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

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

Dear Name:

Enclosed are _____ copies of an Environmental Assessment for the referenced project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

In addition, copies of the Preliminary Engineering Report, Conceptual Stage Relocation Plan, Contamination Screening Evaluation Report, Natural Resources Evaluation, and the Noise Study Report are enclosed as reference material. The Planning Requirements for Environmental Document Approvals Form is also enclosed.

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

Sincerely,

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

Enclosures

cc: Federal-Aid Programs Coordinator

Figure 6-2 Sample Transmittal Letter to FHWA for EA and Associated Reports

CONTENT ITEMS IN ENVIRONMENTAL ASSESSMENTS

TOPIC	CHAPTER (Part 2 of PD&E Manual)
COVER PAGE	2
TABLE OF CONTENTS	1
PROJECT DESCRIPTION AND PURPOSE AND NEED	4
ALTERNATIVES CONSIDERED	6
IMPACTS	8
Social and Economic	
1. Social	9
2. Economic	9
3. Land Use Changes	9
4. Mobility	9
5. Aesthetic Effects	9 and 15
6. Relocation Potential	9
7. Farmland.....	28
Cultural	
1. Section 4(f)	13
2. Historic Sites/Districts	12
3. Archaeological Sites	12
4. Recreational Areas	13
Natural	
1. Wetlands and Other Surface Waters.....	18
2. Aquatic Preserves and Outstanding Florida Waters	19
3. Water Quality	20
4. Wild and Scenic Rivers.....	23
5. Drainage and Floodplains.....	24
6. Coastal Zone Consistency.....	25
7. Coastal Barrier Resources	26
8. Protected Species and Habitat	27
9. Essential Fish Habitat	11
Physical	
1. Highway Traffic Noise.....	17
2. Air Quality Analysis.....	16
3. Contamination.....	22
4. Utilities and Railroads.....	10
5. Scenic Highways	29
6. Construction.....	6
7. Bicycles and Pedestrians	6
8. Navigation	Part 1, Chapter 2
Anticipated Permits	
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PART 1, CHAPTER 7

FINDING OF NO SIGNIFICANT IMPACT

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PART 1, CHAPTER 7

FINDING OF NO SIGNIFICANT IMPACT

7.1 OVERVIEW

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

7.2 PROCEDURE

7.2.1 Environmental Assessment Update

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

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

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

7.2.2 Intradepartment and FHWA Review Process

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

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

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

7.2.3 Actions Taken After FHWA Approval of the FONSI

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

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

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

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

7.2.4 Guidance on Limitation of Claims Notice

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

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

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

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

7.3 REFERENCES

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

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

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

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

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

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

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

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

7.4 HISTORY

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

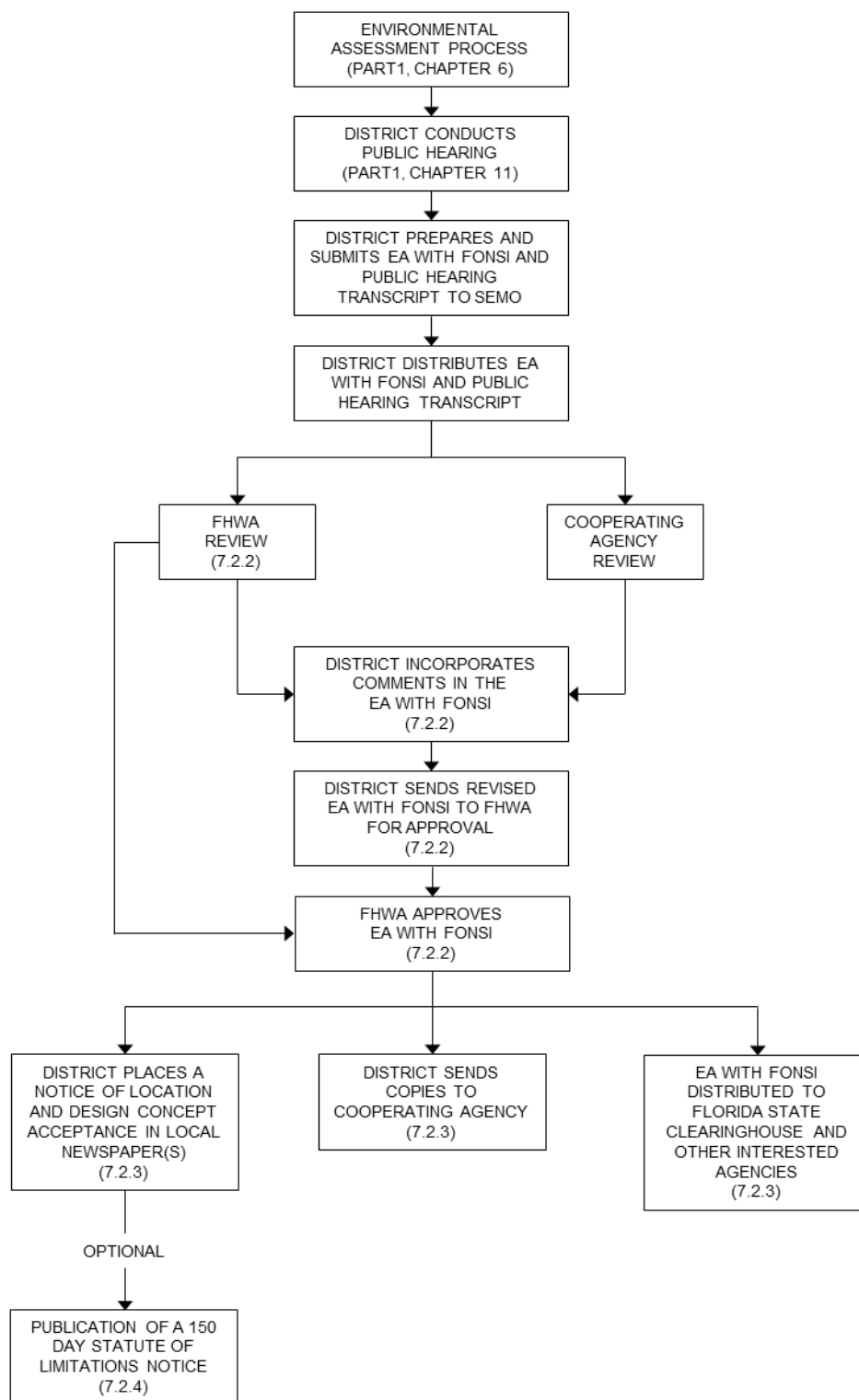


Figure 7-1 Finding of No Significant Impact Process

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

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

Dear Name:

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

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

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

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

Sincerely,

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

Enclosure

cc: Federal-Aid Programs Coordinator

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

PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

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PART 1, CHAPTER 8

DRAFT ENVIRONMENTAL IMPACT STATEMENT

8.1 OVERVIEW

A Draft Environmental Impact Statement (DEIS) is prepared when a proposed project is anticipated to have a significant impact on an issue and/or resource. Council on Environmental Quality (CEQ) regulations (**40 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 documented through the Alternative Corridor Evaluation (ACE) process ([Part 2, Chapter 6, Engineering Analysis](#)). This chapter provides guidance for the development of a DEIS when Federal Highway Administration (FHWA) is the Lead Federal Agency. 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.”

Districts should maintain accurate and up-to-date project files throughout the project and include all decision making materials. The **National Environmental Policy Act (NEPA)** process necessitates a project file be maintained, creating the Administrative Record (AR). The AR is the written record supporting FHWA decisions.

After the Class of Action (COA) determination is approved, the FHWA Division Office publishes a **Notice of Intent (NOI)** to prepare an EIS in the **Federal Register (FR)**. A public involvement program is developed and administered for the preparation of the DEIS in accordance with procedures in [Part 1, Chapter 11, Public Involvement](#). **Figure 8-1** shows the DEIS process. For Local Agency Program (LAP) projects, the Florida Department of Transportation (FDOT) provides oversight and is the liaison with FHWA.

After the District prepares a DEIS and completes a quality control review, it submits the DEIS and supporting technical documents to the State Environmental Management Office (SEMO) for technical and procedural review. SEMO coordinates its 30-day review with the District and upon SEMO approval, the District submits the DEIS to FHWA. Submittal of documents to FHWA is through FDOT Districts. A copy should also be sent to the cooperating agencies. Comments from the cooperating agency(s) and the FHWA Division Office are evaluated and incorporated into the DEIS by the District, and the DEIS is resubmitted to FHWA for approval for public availability.

Upon approval, the District publishes a notice of public availability for the document in a local newspaper(s) and sends the DEIS to the Florida State Clearinghouse (SCH) and all interested state and federal agencies. The Districts should use the Environmental

Screening Tool (EST) to distribute the DEIS. Paper copies are mailed to applicable Native American Tribes and other stakeholders who request it or those without electronic access. The approved DEIS is filed electronically by FHWA with the U.S. Environmental Protection Agency (EPA) (via e-NEPA) for publication in the **FR**, as required by **23 CFR § 771.123**. Upon publication, a 45-day comment period is provided for the review of the DEIS and a public hearing is held.

After the public hearing, the combined Final Environmental Impact Statement/Record of Decision (FEIS/ROD) or FEIS is prepared according to procedures in [Part 1, Chapter 9, Final Environmental Impact Statement](#).

8.2 PROCEDURE

The following activities should be carried out by the District for EIS projects during project screening through the 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 consultation 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 Consultant Scope of Services based on Environmental Technical Advisory Team (ETAT) commentary.
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 **Public Involvement Plan (PIP)** as memorialized in the **ETDM Agreement between FDOT and FHWA** as approved.
7. Develop Project Schedule.
 - a. Developed in consultation with FHWA, cooperating and participating agencies.

8. Prepare draft **NOI**

Public involvement and outreach activities which take place before and during the EST screening events must be documented in the **Programming Screen Summary Report**. 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 project scoping required for an EIS discussed in **Section 8.2.1**.

8.2.1 Scoping

Scoping is a formal process for projects requiring an EIS (**23 CFR Part 771**). Scoping 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)**. Scoping 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 on the purpose and need must be achieved during the 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. To determine whether a formal scoping meeting should be held, information from the ETDM screening process and input from the agencies, as well as coordination with FHWA, should be considered. Details on the scoping process and 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 EIS must discuss the scoping process, including all meetings held, coordination with participating and cooperating agencies, issues raised, and the District's response and commitments. The scoping process is summarized in the Comments and Coordination section of the EIS ([Part 2, Chapter 31, Comments and Coordination](#)).

8.2.2 Preparation of the Notice of Intent

After FHWA approval of the Class of Action Determination and project schedule, a **NOI** is published in the **FR** which informs stakeholders of the proposed project and that an EIS is being prepared (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 FEIS/ROD or ROD.

After the District drafts the **NOI**, it is forwarded to the FHWA Division Office for publication in the **FR**. **Figure 8-3** is a sample transmittal letter for a **NOI**. A copy of the published notice must be included in the project file. FHWA will not publish the **NOI** in the **FR** until the project schedule has been approved. A copy of the published **NOI** must also be included in the Appendix of the FEIS/ROD or FEIS.

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 FHWA Division Administrator, and City and State (Tallahassee, Florida) under the signature].

Two or more **NOIs** can be included in a single document by making appropriate revisions to the heading and text of the notice. This should be coordinated with FHWA prior to development of such a **NOI**.

8.2.2.2 Notice of Intent Content

The **NOI** should be written in plain English for ease in understanding. Avoid the use of technical jargon. The project should always be referred to as the "proposed project". Before using an acronym, fully define the term. FHWA should always be listed first when other agencies are listed as being involved in the preparation of the EIS.

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 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 FHWA Division Office and FDOT contacts who can answer questions about the proposed project and the EIS as it is being developed.
5. **SUPPLEMENTARY PROJECT INFORMATION:** This section should contain the following 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 FEIS/ROD for the proposed project. The following statement must be included:

The FHWA will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Title 23 U.S.C. Chapter 139.

- d. A brief description of the proposed scoping process. If a scoping meeting is scheduled, provide meeting information including time and location;
- e. The 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 the District to FHWA which then submits it to the EPA for publication in the **FR**. The **NOI** begins the **NEPA** process.

8.2.3 Project Status Update

Once the **NOI** is issued 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 update fact sheet is sent to the same recipients as the Programming Screen Notification and/or AN 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 Class of Action
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

8.2.4 Assigning an EIS Number

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-13-01-D would be the first DEIS in Florida for the calendar year 2013. Contact SEMO for assistance when assigning the document number. It is important to note that this document number is updated with the submittal of the FEIS document (See [Part 1, Chapter 9, Final Environmental Impact Statement](#)).

8.2.5 Draft Environmental Impact Statement Format

The content items and formatting of the DEIS should be as described in **FHWA Technical Advisory T6640.8A** and shown in **Figure 8-6**. The DEIS must include a cover page, table of contents, executive summary, list of preparers, list of agencies, organizations, and persons to whom copies of the statement are sent, and an index. The DEIS must also include the purpose and need for action, alternatives including the proposed action, affected environment, environmental consequences, and an appendix. The environmental consequences section must include a discussion of potential impacts to issues/resources identified in **Figure 8-6** for each reasonable alternative. Based on the affected environment, the project specific issues/resources may need to be modified. Once the analysis is completed a determination of significance is made for relevant issues/resources in coordination with FHWA. Guidance to address specific issues/resources is provided in [Part 2 of this Manual](#).

The DEIS document must include information reflecting the project's planning consistency (LRTP, STIP, and TIP). Guidance on planning consistency is in **Guidance for Meeting Planning Requirements for NEPA Approval** and [Part 2, Chapter 4, Project Description and Purpose and Need](#). Planning consistency must be met prior to requesting Location and Design Concept Acceptance. In addition, commitments made to date should be documented ([Part 2, Chapter 32, Commitments](#)).

The DEIS may be presented in a different format per **40 CFR § 1502.10**. It is important to coordinate with FHWA when considering the use of an alternative format. A reader-

friendly format may be used as long as the required information is included. For suggestions on reader-friendly Environmental Documents see the ***Improving the Quality of Environmental Documents*** report by American Association of State Highway and Transportation Officials (AASHTO) and FHWA.

8.2.6 Intradepartment and FHWA Review Process

After preparing the DEIS, the District conducts a quality control review and sends the DEIS, including any technical support documents to SEMO. Upon receipt, SEMO will coordinate its 30-day review schedule with the District. SEMO will provide a technical and procedural review of the documents and provide comments to the District. The Districts should allow sufficient time in their schedules to address SEMO comments and allow for additional review or coordination, as necessary.

After SEMO has completed its review and comments have been addressed by the District, SEMO will email the Districts approval to submit the DEIS to FHWA. The DEIS and two (2) copies of each supporting report must be submitted directly by the District to the FHWA Division Office for its internal distribution. The Districts must contact the FHWA Division Office to determine the number of DEIS copies needed. A transmittal letter from the District to FHWA should accompany the DEIS and related reports. A sample letter is provided in **Figure 8-4**.

The FHWA Division Office may request a legal sufficiency review of the DEIS from the Atlanta Regional Office. Depending on the scope of the project, the Division may also ask for review by the FHWA Office in Washington, D.C. These additional reviews may impact the project schedule.

The District submits the DEIS to cooperating agencies for review and comment. Cooperating agencies are only provided the technical documents that pertain to their area of statutory or regulatory jurisdiction.

Technical documents and other supporting reports that led to the decision and required coordination with another agency may include the ***Conceptual Stage Relocation Plan (CSRP), Noise Study Report, Preliminary Engineering Report, and Natural Resources Evaluation***. For a complete list of technical documents see [Part 1, Chapter 4, Project Development Process](#).

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

8.2.7 Actions Taken After FHWA Approval of the DEIS

When FHWA approves the DEIS for public availability they sign and date the cover page and send it to the District. After receiving the signed cover page, in coordination with FHWA, the District enters the deadline for formal comment submittal on the cover page established by calculating 45 calendar days after posting on EPA's e-NEPA website indicating publication of the **Notice of Availability** in the **FR**.

Distribution of the DEIS and publication in a local newspaper(s) must occur before FHWA sends the e-NEPA request for the publication of the **Notice of Availability** in the **FR** to EPA (**23 CFR § 771.123**). The District transmits the approved document to the organizations and stakeholders listed in [Part 1, Chapter 3, Preliminary Environmental Discussion and Advance Notification](#). The District should upload the approved DEIS to the EST. If uploaded, an electronic copy of the DEIS is sent to the Florida State Clearinghouse, cooperating agencies, ETAT, and other contacts to which the AN was originally sent. Paper copies of the DEIS are sent to applicable Native American tribes, and other stakeholders who request it or those without electronic access.

The District places a notice in the local newspaper(s) which advertises the public hearing, 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 notification of public availability is placed in the local newspapers.

The **Notice of Availability** is initiated when FHWA 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- 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 formatting the document for e-NEPA, the District sends it to FHWA, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. EPA then publishes the **Notice of Availability** of the FEIS in the **FR** for a 45-day comment period (**23 CFR § 771.123**). **Figure 8-5** is an example of a **Notice of Availability** in the **FR**.

The District must monitor the **FR** for publication of the notice and place a copy in the project file.

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

8.3 REFERENCES

23 Code of Federal Regulations (CFR) Part 771. Environmental Impact and Related Procedures

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

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

Fixing America's Surface Transportation (FAST) Act

Florida Department of Transportation (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.shtml>

Title 23 United States Code (USC) 139

8.4 HISTORY

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

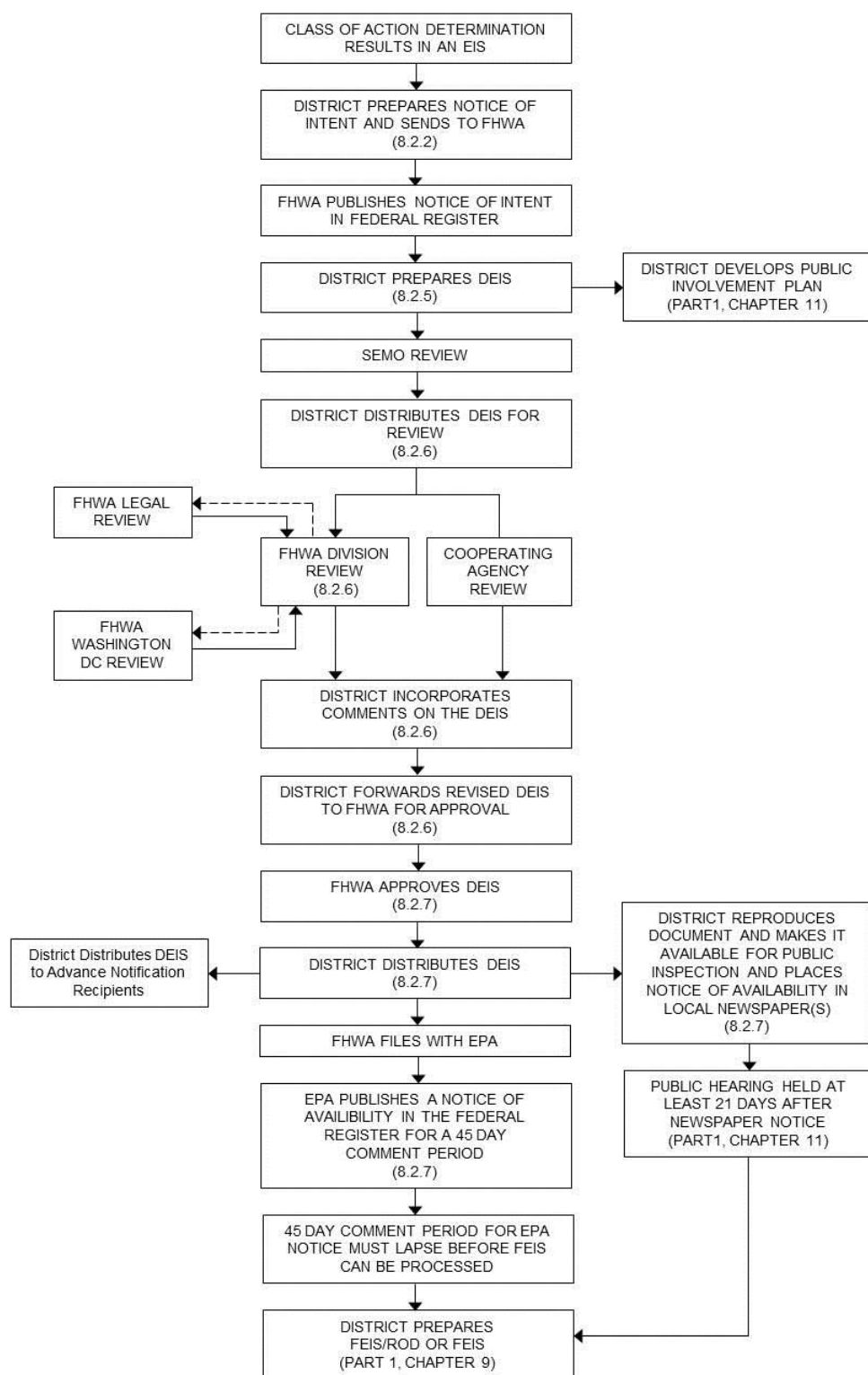


Figure 8-1 Draft Environmental Impact Statement Process

(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 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), Environmental Coordinator,
Federal Highway Administration, 3500 Financial Plaza, Suite 400, Tallahassee Florida
32312

(Name), (FDOT Contact), (District Address)

SUPPLEMENTARY PROJECT INFORMATION: The FHWA, in partnership with the Florida Department of Transportation will prepare an EIS for a proposal to improve SR XX in _____ County, Florida. The FHWA 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 FDOT recommended alternative would become FHWA 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. Public notice will be given 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 parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA 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)

Division Administrator, or designee
Tallahassee, Florida

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

(DATE)

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

Subject: Notice of Intent

Financial Management Number XXXXX-XXXX
Federal-Aid Project. No. X-XXX(X)-X
Any County, Florida

Dear Mr. /Ms.:

Attached is a Notice of Intent to prepare an Environmental Impact Statement for the subject project. Please publish this Notice in the Federal Register as required by 23 CFR Part 771.

Sincerely,

District Environmental Office

Attachment

Figure 8-3 Sample Transmittal Letter for Notice of Intent

(DATE)

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

Subject: Draft Environmental Impact Statement
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
Any County, Florida

Dear Mr. /Ms.:

Enclosed are ____ copies of the Draft Environmental Impact Statement for the project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

In addition, copies of the Preliminary Engineering Report, Conceptual Stage Relocation Plan, and Noise Study Report (and any other supporting reports) are enclosed as reference material. The Planning Requirements for Environmental Document Approvals Form is also enclosed.

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

Sincerely,

District Environmental Office

Enclosures

cc: Manager, Environmental Management Office / with enclosure
Federal-Aid Programs Coordinator

Figure 8-4 Sample Transmittal Letter to FHWA for DEIS and Associated Reports

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: James Christian
(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 8-5 Sample Notice of Availability Published by EPA in the Federal Register

CONTENT ITEMS IN DRAFT ENVIRONMENTAL IMPACT STATEMENTS

TOPIC	CHAPTER (Part 2 of PD&E Manual)
COVER PAGE	2
TABLE OF CONTENTS	1
EXECUTIVE SUMMARY	3
PURPOSE AND NEED FOR ACTION.....	4
ALTERNATIVES INCLUDING THE PROPOSED ACTION.....	6
AFFECTED ENVIRONMENT.....	7
ENVIRONMENTAL CONSEQUENCES	8
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Social	9
Economic	9
Land Use Changes	9
Mobility.....	9
Aesthetic Effects	9 and 15
Relocation Potential.....	9
Farmland.....	28
Cultural	
Section 4(f)	13
Historic Sites/Districts.....	12
Archaeological Sites	12
Recreational Areas	13
Natural	
Wetlands and Other Surface Waters.....	18
Aquatic Preserves and Outstanding Florida Waters	19
Water Quality.....	20
Wild and Scenic Rivers.....	23
Drainage and Floodplains.....	24
Coastal Zone Consistency.....	25
Coastal Barrier Resources	26
Protected Species and Habitat	27
Essential Fish Habitat	11
Physical	
Highway Traffic Noise.....	17
Air Quality Analysis.....	16
Contamination.....	22
Utilities and Railroads.....	10
Scenic Highways	29
Construction.....	6
Bicycles and Pedestrians	6
Navigation.....	Part 1, Ch. 5
Anticipated Permits	
Cumulative Impacts	

Figure 8-6 Content Items in Draft Environmental Impact Statements

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LIST OF PREPARERS	33
LIST OF AGENCIES, ORGANIZATIONS AND PERSONS..... TO WHOM COPIES OF THE STATEMENT ARE SENT	34
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Figure 8-6 Content Items in Draft Environmental Impact Statements (Page 2 of 2)

PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

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PART 1, CHAPTER 9

FINAL ENVIRONMENTAL IMPACT STATEMENT

9.1 OVERVIEW

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 or FEIS identifies the preferred alternative and documents the reasonable alternatives considered, discusses substantive comments received on the DEIS and responses, summarizes public involvement, and describes 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.

Preparation of a FEIS may begin after the 45-day public comment period for the DEIS published in the **Federal Register Notice of Availability** closes. The FEIS may be prepared by completing an FEIS Errata Sheet, or updating the DEIS and submitting a FEIS/ROD or if conditions warrant, a FEIS (**Section 9.2.2**). If the District is submitting a FEIS, a Draft Record of Decision (DROD) should be prepared and submitted to the Federal Highway Administration (FHWA) with the FEIS. The FEIS process is shown in **Figure 9-1** and the FEIS/ROD process in **Figure 9-2**. The FEIS/ROD or FEIS is submitted only after the District has completed a quality control review, and the State Environmental Management Office (SEMO) has provided a technical and procedural review. SEMO coordinates its 30-day review with the District and upon SEMO approval the District submits the FEIS/ROD or FEIS to FHWA. The District should also send a copy of the FEIS/ROD or FEIS to cooperating agencies.

The FEIS/ROD or FEIS must include information demonstrating the project's fulfillment of FHWA's planning consistency requirements [Long Range Transportation Plan (LRTP), Transportation Improvement Program (TIP), and State Transportation Improvement Program (STIP)]. This information is prepared using the **Planning Requirements for Environmental Document Approvals Form** located in [Part 1, Chapter 4, Project Development Process](#). Planning consistency must be met prior to requesting Location and Design Concept Acceptance (LDCA).

Once approved, the FHWA Division Office sends the signed cover page of the FEIS/ROD or FEIS to the District. The District sends the FEIS/ROD or FEIS to the Florida State Clearinghouse and all interested state and federal agencies. Since the FEIS has a 30-day comment period, supporting technical documents may be provided at the same time.

These may be sent using the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) or via email.

If the document is an FEIS, it must be published in the **FR**. FHWA files the FEIS electronically with the U.S. Environmental Protection Agency (EPA) via e-NEPA. FHWA's Division Administrator may sign the ROD thirty (30) days after EPA publishes the **Notice of Availability** in the **FR**. The signing of the ROD provides LDCA.

The signing of a combined FEIS/ROD provides LDCA.

After receipt of LDCA, a notice is published in a local newspaper(s) by the District stating that LDCA has been granted for the project. This should be the same newspaper in which the public hearing ad was published.

9.2 PROCEDURE

9.2.1 Preparation of the Final Environmental Impact Statement

The FEIS is prepared after the DEIS public hearing. The public has the opportunity to provide comments to the Florida Department of Transportation (FDOT) on a project, both before and during the public hearing and a minimum of 10 days following the public hearing. 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, transcript record, and any design, cost, environmental, or 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 as published in the **Federal Register (FR) Notice of Availability** has ended. 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 District may revise the DEIS or prepare errata sheets to describe the outcome of the public hearing, issues raised, and FDOT responses, including design changes since the approval of the DEIS.

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 FHWA 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 **23 CFR § 771.133** and in **Section VI(C)** of **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.

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 FHWA determines not to use errata sheets, the DEIS is updated to become the FEIS. Updates should be made in accordance with [Part 2 of this Manual](#) as referenced below:

1. Update the EIS document number, with new year, if applicable and change D to F.
2. Update the Commitments section ([Part 2, Chapter 32, Commitments](#)) containing:

- a. A list of commitments made by FDOT, including but not limited to mitigation measures, design commitments, and pollution control measures; and
 - b. The commitments identified in the DEIS. These should have been documented in accordance with [Procedure No. 700-011-035, Project Commitment Tracking](#). Any new commitments require internal coordination and once approved by the appropriate District authority shall be included in the FEIS and [Project Commitment Record \(PCR\), Form 700-011-35](#) by the appropriate project manager.
3. Update the Comments and Coordination section ([Part 2, Chapter 31, Comments and Coordination](#)) to include:
 - a. A summary of the public hearing(s), identifying place(s), time(s), participants, and comments received; and
 - b. Responses to comments after notice of the DEIS and the public hearing(s) as applicable.
4. Modify appropriate sections of the document to reflect changes in environmental impact(s), cost, design, or other changes since approval of the DEIS.
5. Revise the Executive Summary in the DEIS according to [Part 2, Chapter 3, EIS Executive Summary/FONSI](#).

The updated DEIS is then submitted by the District as a FEIS/ROD or FEIS to FHWA according to **Section 9.2.3**.

9.2.2 Preparation of the Record of Decision

The ROD summarizes the findings of the FEIS and documents FHWA's final decision. It presents the basis for the preferred 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. See **Figure 9-6** for a sample format. 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 should include on the cover page a notice stating that a combined FEIS/ROD will be prepared pursuant to **Title 23 U.S.C. § 139**. This does not alter requirements under other environmental laws. At a minimum, a combined FEIS/ROD must meet the requirements of **Title 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 be in the fiscally constrained Metropolitan Planning Organization LRTP and TIP, or STIP (**23 CFR Part 450**), and, in air quality nonattainment and maintenance areas,

comply with conformity regulations under the **Clean Air Act** and EPA requirements [**42 U.S.C. § 7506(c)** and **40 CFR Part 93**].

The FEIS and ROD should be combined into 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 FHWA is combining the FEIS and ROD. In situations where FHWA published a notice of availability for the DEIS prior to October 1, 2012, FHWA should provide notification as early as possible to all project sponsors and participating agencies that FHWA will issue a combined FEIS/ROD unless conditions exist that prevent issuance of a combined document. At a minimum, notification should be made prior to publication of a combined FEIS/ROD.

The notice may use language such as:

FHWA will issue a combined 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 FHWA determines that a combined FEIS/ROD is not appropriate, the determination must be included in the administrative record.

The format of the FEIS/ROD should be coordinated with FHWA Division 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 as part of the FEIS Executive Summary. In the table of contents, the Executive Summary should be titled **Executive Summary with ROD**.

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, information required in a FEIS, and 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 FHWA 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, FHWA Division may approve the ROD which constitutes LDCA.

9.2.3 Intradepartment and FHWA Review Process

After preparing the FEIS/ROD or FEIS, the District conducts a quality control review and sends the document, including any technical support documents and the DROD, if applicable, to SEMO. Upon receipt, SEMO will coordinate its 30-day review schedule with the District. SEMO will provide a technical and procedural review of the documents and transmit its comments to the District. The District should allow sufficient time in their schedules to address SEMO comments and allow for any additional review or coordination.

After SEMO has completed its review and comments have been satisfactorily incorporated or addressed by the District, SEMO will email its approval for submittal to FHWA to the District. The FEIS/ROD or FEIS with DROD, two (2) copies each of supporting reports and one (1) copy of the public hearing transcript are then submitted by the District to FHWA. The Districts must contact FHWA's Division Office to determine the number of FEIS/ROD or FEIS copies needed. A transmittal letter from the District to FHWA should accompany the FEIS/ROD or FEIS and related reports. Sample letters are provided in **Figure 9-3** and **Figure 9-4**.

The District must also send FHWA a completed **Planning Requirements for Environmental Document Approvals Form** ([Part 1, Chapter 4, Project Development Process](#)). LRTP, TIP, and current STIP pages should also be attached to the form and submitted to FHWA. If the project is segmented for future phases, it must be identified in the form and associated discussion. A map showing each segment should also be included with the form and described in the FEIS/ROD or FEIS. All consistency requirements must be met prior to requesting LDCA. The District is responsible for submitting all materials to FHWA.

FHWA's Atlanta Regional Office provides a legal sufficiency review of the FEIS and depending on the scope of the project, the Division may also ask for review by FHWA's office in Washington DC. These additional reviews may impact the project schedule.

If there are cooperating agencies, the District submits two (2) copies of the FEIS/ROD or FEIS to each agency for their review and comment. The cooperating agencies are sent only the technical documents that pertain to their jurisdiction.

Within thirty (30) days of receipt of the FEIS/ROD or FEIS, FHWA and the cooperating agencies should review and provide comments to the District. FHWA's Division Office will:

1. Review the document and provide comments
2. Provide a statement that the document is not ready for review, or
3. Submit the final document for legal sufficiency review.

If FHWA or a cooperating agency submits comments, the District must address the comments and make any necessary revisions to the document.

9.2.4 Actions Taken After FHWA Approval of the FEIS/ROD or FEIS

9.2.4.1 FEIS/ROD

When the District receives the signed cover page of a combined FEIS/ROD from FHWA, the District must publish an Announcement of LDCA. The announcement should be published in the same local newspaper(s) used for public hearing notification, informing the public that the project is being advanced. The District needs to coordinate internally to advance the project as appropriate (e.g., inform Directors, Design Office, Federal-Aid Office, Office of the Work Program). One hard copy and one electronic copy of the signed FEIS/ROD must be sent to SEMO.

The District should upload the approved FEIS/ROD to the EST. Once uploaded, the District can use the EST or email to send an electronic copy of the document to the Florida State Clearinghouse and ETAT which includes the Cooperating Agencies [e.g., U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE)]. 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. Paper copies should be printed and mailed to Native American tribes. Others should be sent an electronic link to the document, unless a paper copy is needed. A sample transmittal letter is provided in **Figure 9-5**.

9.2.4.2 FEIS

When the District receives the signed cover page of an FEIS from FHWA, the District should transmit the approved document to recipients of the DEIS, including cooperating agencies, and those who submitted substantive comments on the DEIS. The District may provide alternative circulation processes in accordance with **40 CFR § 1502.19**. The District should upload the approved FEIS to the EST. Once uploaded, the District can use the EST to send an electronic copy of the document to the Florida State Clearinghouse and ETAT which includes the Cooperating Agencies (e.g., USCG, USACE). 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. Paper copies should be printed out and mailed to Native American tribes. Others

should be sent an electronic link to the document, unless a paper copy is needed. A sample transmittal letter is provided in **Figure 9-5**. Distribution of the document and publication of where the document is available for review should be in the same local newspaper(s) used for public hearing notification and must occur before FHWA sends the e-NEPA request for the publication of the **Notice of Availability** in the **FR** to EPA (**23 CFR § 771.125**). The formal review period will close 30 days after posting on the e-NEPA website.

The **Notice of Availability** is initiated when FHWA files the FEIS with EPA. All FEISs 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- 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 formatting the document for e-NEPA, the District sends it to FHWA, identifying the Title, Subject, Author, and Keywords for use as metadata for the submittal. 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 place a copy in the project file.

FHWA's Division may sign the ROD 30 days after publication of the notice in the **FR**. By signing the ROD, FHWA's Division Administrator grants LDCA.

Upon LDCA, 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). One hard copy and one electronic copy of both the FEIS and ROD must be sent to SEMO. The District must also publish a notice of LDCA in the same local newspaper(s) used for the public hearing notice. The LDCA notice informs the public that the FHWA is advancing the project to the next phase ([Part 1, Chapter 11, Public Involvement](#)).

9.2.4.3 Project Commitment Tracking

Upon LDCA the Districts shall follow [Procedure No. 700-011-035, Project Commitment Tracking](#), requiring use of the **PCR** to document commitments. The completed **PCR** is then transmitted to the appropriate project manager.

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 FHWA for review, the District must discuss with FDOT's Office of General Counsel and FHWA's Division Office the need for publication of a **Limitation of Claims Notice** under **23 U.S.C. § 139 (I)**. In considering whether to publish a **Limitation of Claims Notice**, the determining factors include the class of action, degree of controversy surrounding the project, the likelihood of litigation, and the anticipated time frames for advancing the project to maintain project schedules. In most instances, FEIS/ROD and FEIS documents will require preparation of a **Limitations of Claims Notice**.

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

There may be occasions when associated federal agency approvals (e.g., USACE permit, USCG permit) will be received at or around the same time as final **NEPA** approval. On those occasions, as part of the notice publication discussion, FHWA and FDOT will confer as to whether one combined notice should be published for the **NEPA** document and any associated federal agency actions. If other federal agency actions (e.g., 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, if agreed to between FHWA and FDOT.

9.3 REFERENCES

23 Code of Federal Regulations (CFR) Part 771 - Environmental Impact and Related Procedures.

23 United States Code (U.S.C.) § 139.

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.

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

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

Florida Department of Transportation (FDOT), [Project Commitment Tracking, Procedure No. 700-011-035](#).

Memorandum titled, "Interim Guidance on the use of 23 U.S.C. § 139(l) Limitation on Claims Notices" from FHWA Acting Chief Counsel to FHWA Directors of Field Services, Division Administrators, and Federal Lands Highway Division Engineers, December 1, 2005.

9.4 HISTORY

11/25/2002, 1/31/2007, 1/5/2009, 7/12/2011, 2/03/2014

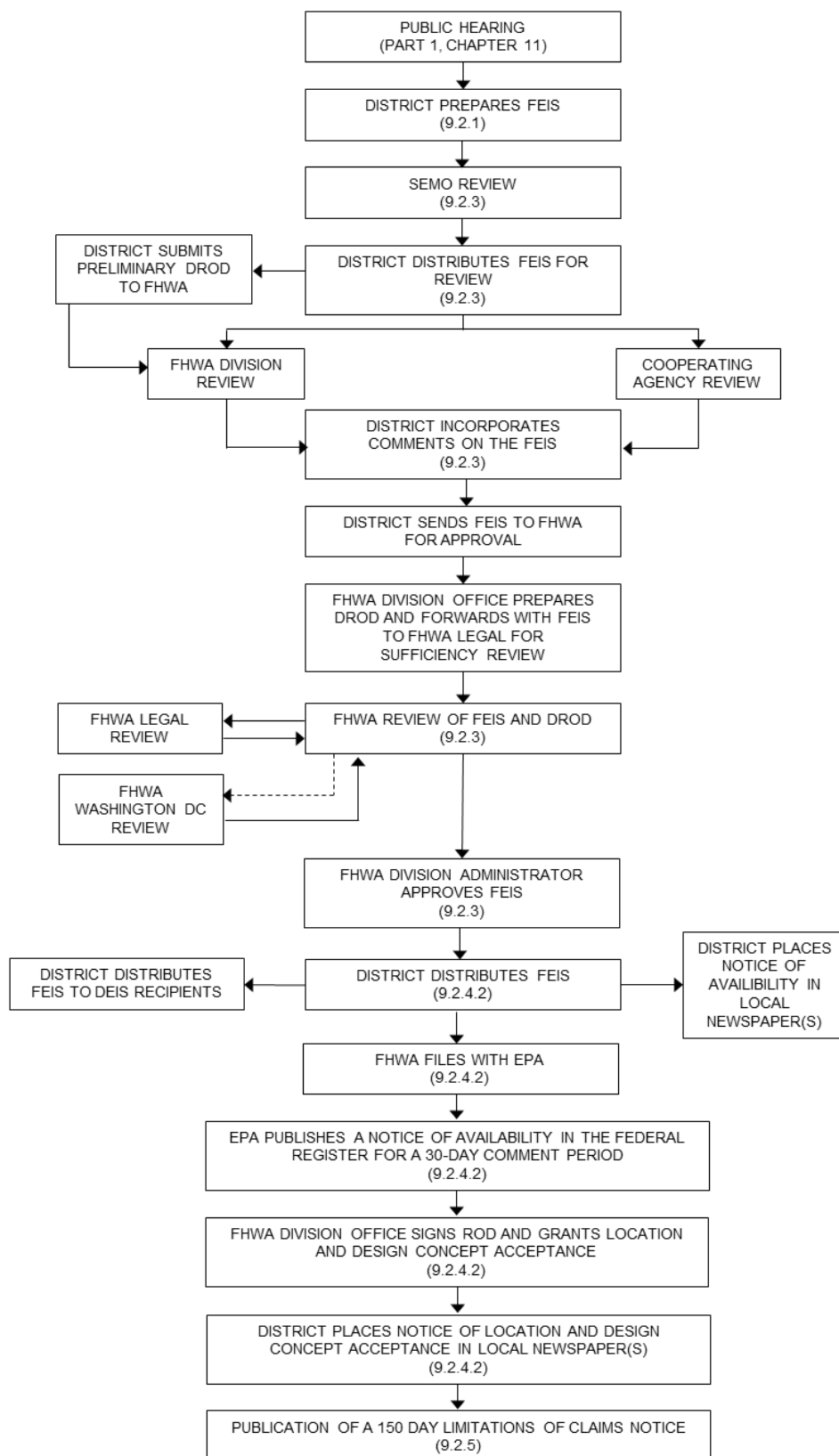


Figure 9-1 Final Environmental Impact Statement Process

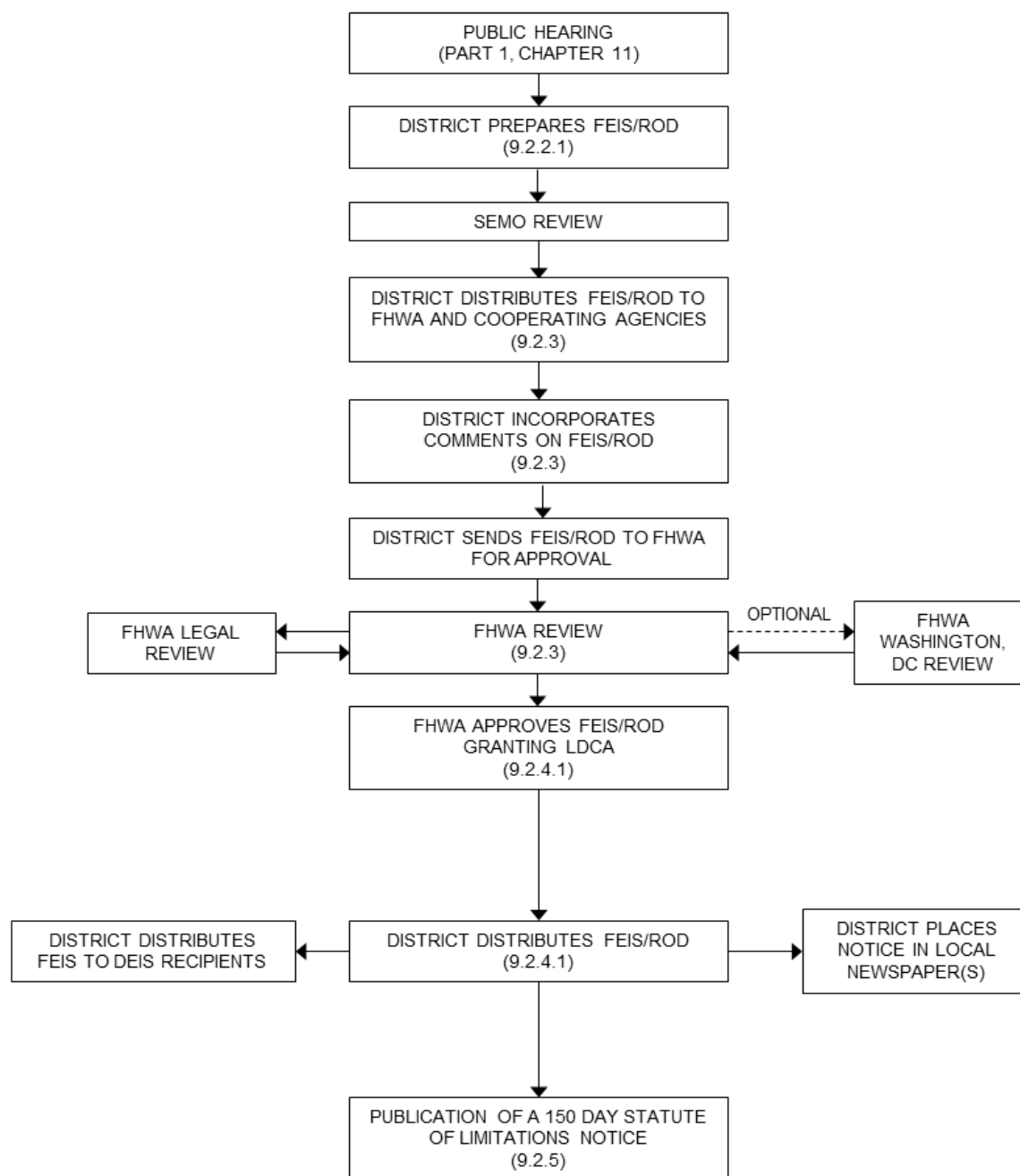


Figure 9-2 FEIS/ROD Process

(DATE)

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

Subject: Final Environmental Impact Statement/Record Of Decision
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
Any County, Florida

Dear Mr./Ms.:

Enclosed are _____ copies of the Final Environmental Impact Statement/Record of Decision for the project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

In addition, copies of the Preliminary Engineering Report, Natural Resources Evaluation, and the Noise Study Report are enclosed as reference material. The Planning Requirements for Environmental Document Approvals Form is also included for planning consistency determination.

Finally, a copy of the certified public hearing transcript from the public hearing held on _____, is enclosed.

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

Sincerely,

District Environmental Office

Enclosures

cc: District Federal-Aid Coordinator

Figure 9-3 Sample Transmittal Letter to FHWA for FEIS/ROD, Associated Reports, and Public Hearing Transcript

(DATE)

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

Subject: Final Environmental Impact Statement
Financial Management Number XXXXX-XXXX
Federal-Aid Project No. X-XXX(X)-X
Any County, Florida

Dear Mr./Ms.:

Enclosed are _____ copies of the Final Environmental Impact Statement for the project as required by the National Environmental Policy Act of 1969 and submitted in compliance with 23 CFR Part 771.

In addition, copies of the Preliminary Engineering Report, Natural Resources Evaluation, and the Noise Study Report are enclosed as reference material. The Planning Requirements for Environmental Document Approvals Form is also included for planning consistency determination.

Also included is the initial Draft Record of Decision and a copy of the certified public hearing transcript. The public hearing was held on _____.

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

Sincerely,

District Environmental Office

Enclosures

cc: District Federal-Aid Coordinator

Figure 9-4 Sample Transmittal Letter to FHWA for FEIS, DROD, Associated Reports, and Public Hearing Transcript

(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 in coordination with the Federal Highway Administration is transmitting the Final Environmental Impact Statement as approved by FHWA. 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: FHWA / without enclosure

Figure 9-5 Sample Transmittal Letter for FEIS Distribution

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 as 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 Federal Highway Administration (FHWA) Florida Division, in coordination with the FDOT and 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 Considered

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

Alternative Selected

Figure 9-6 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 committed to implement mitigation measures to minimize project impacts. These commitments are tracked in accordance with FDOT's Project Commitment Tracking Procedure, Topic No. 700-011-035.

Through the Reevaluation process the project is kept current with laws and regulations, commitments are identified and updated, permits are identified, and project changes are addressed. Required permits may include conditions for 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 FHWA, in coordination with the FDOT, has taken into consideration all pertinent correspondence, documents, and technical reports postmarked through _____. FDOT has adequately responded to all substantive comments received from interested parties regarding the content and accuracy of the *FEIS* and supporting studies for selection 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 *Final Environmental Impact Statement*, with the input received from other agencies, organizations, and the public; the Federal Highway Administration has determined that the *FEIS* preferred alternative (_____), namely _____ is hereby the selected alternative. It is the decision of the FHWA to adopt this alternative as the selected alternative for this project, and grant the Florida Department of Transportation Location and Design Concept Acceptance.

Name
Florida Division Administrator

Date

Figure 9-6 Record of Decision (Page 2 of 2)

PART 1, CHAPTER 10

STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY

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PART 1, CHAPTER 10

STATE, LOCAL, OR PRIVATELY FUNDED PROJECT DELIVERY

10.1 OVERVIEW

The purpose of this chapter is to define the environmental evaluation process for the development of state, local, or privately funded projects. State funded projects are those advanced through the Florida Department of Transportation (FDOT) Work Program using only state transportation allocations, and for purposes of this Chapter, do not require Federal Highway Administration (FHWA) funding or FHWA action. This chapter also provides guidance on integration of the Statewide Acceleration and Transformation (SWAT) approach with state funded project delivery. Proposed projects on the interstate, using interstate right of way (ROW) or using FHWA funds, as well as Local Agency Program (LAP) projects, are FHWA projects and require preparation of a federal **National Environmental Policy Act (NEPA)** document as described in [Part 1 Chapter 4, Project Development Process](#) and other related chapters of this **Manual**, rather than a State Environmental Impact Report (SEIR). 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 **FDOT State Environmental Impact Report Form** for SEIRs and the **Non-Major State Action Checklist** 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 FDOT 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 funding should be used on individual projects for all phases whenever feasible as this will allow faster delivery by reducing costs and time in the Project Development and Environment (PD&E) phase ([Chapter 25, Work Program Instructions, Current Work Program](#)). By expediting the PD&E process through the SWAT approach and advancing the level of Design whenever and to the extent possible, these projects should be ready for construction earlier. Once it is determined that the project will be state funded only, this funding source must be used throughout all the work program phases for the project. The SWAT approach to project delivery is provided in **Figure 10-2** and is substantially applied to both state and federally funded projects. This chapter focuses on the SWAT approach as it relates to state funded projects, [Part 1 Chapter 4, Project Development Process](#) further addresses the SWAT approach 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 will decide whether to initiate project screening with either an ETDM Planning Screen or Programming Screen event, based upon project complexity and timing. Minimally, the ETDM Programming Screen must 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. Additionally, the project manager will assure a work program identifier of "Not Federal Eligible" (NFE) is assigned to the project, see [Chapter 25, Work Program Instructions, Current Work Program](#) and **Section 10.2.1.2**. 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.

The analysis and documentation completed for a state funded project is typically a SEIR. Also reference [Part 1, Chapter 4, Project Development Process](#). The ETDM Screening event results may be used to inform further project planning, project scoping and SWAT activities prior to initiation of the SEIR. 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 25, 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 State-Wide Acceleration and Transformation Team and State Funded Projects

SWAT 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 **SWAT Workbooks** for more guidance. Each District has an established SWAT team that is composed of cross-functional, multi-disciplinary staff experienced in project delivery.

SWAT consists of planning and kickoff team meetings. The SWAT planning and kickoff team meetings use the **SWAT Scoping Form** (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 for State Funded Projects

Each District's SWAT team holds an annual planning meeting early in the Work Program Cycle, to review all PD&E projects that compete for funding in the coming year. The planning meeting may include the State Environmental Management Office (SEMO) 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. 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 NFE is assigned to state funded only projects. **Figure 10-4** shows the process followed at the planning meeting to decide how the projects will be funded. Refer to [Part 1, Chapter 4, Project Development Process](#) and [Chapter 25, Work Program Instructions, Current Work Program](#) for additional detail.

Projects that must follow the federal process or must stay federalized through FHWA 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, etc.)
3. Projects within and impacting federal lands such as National Parks or Forests, etc.
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), since FDOT has delegated authority
10. If federal funds have been used on a prior phase of the current project, coordination with Central Office (Office of General Counsel and SEMO) is needed to determine whether the project falls under FHWA's jurisdiction.

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 27, 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.

NFE projects that do not qualify for ETDM Screening may proceed as NMSAs (see **Section 10.2.1.4**). NFE 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 **FDOT SWAT Scoping Form (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 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.

The kickoff meeting may also consider if segmenting the project will expedite project delivery.

Project scope evaluation by the SWAT kickoff meeting participants starts by revisiting the **SWAT Scoping Form (Figure 10-3, Section A)** prepared during the SWAT planning meeting. The SWAT kickoff meeting participants review **Section A** and complete **Section B** of the **SWAT Scoping 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 **SWAT Scoping Form** 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 kickoff meeting must determine PD&E activities (see [Part 1, Chapter 4, Project Development Process](#)) that can begin ahead of the PD&E Study initiation to take advantage of potential PD&E time savings as well as 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. Environmental complexity is estimated based on the likelihood of substantial issues the project will face, and the design ambiguity is a function of how quickly a preferred alternative can be determined in the PD&E process.

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 PD&E procurement to construction letting, 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 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 NFE Project Dashboard prior to consultant acquisition advertisement by the District's designated editor.

10.2.1.3 FDOT SWAT Scoping Form Instructions for State Funded Projects

Section A

During the SWAT planning meeting **Section A** of the **SWAT Scoping Form (Figure 10-3)** is first prepared to assist with determining whether a NMSA or SEIR is recommended. This section of the form is prepared following instructions for the **Non-Major State Action Checklist** provided in **Section 10.2.1.4.1**.

Section B

During the SWAT project kickoff meeting **Section B** of the **SWAT Scoping Form (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 aerials, or site visit documentations, coordination with the Project Manager and subject matter experts to fill out the form. The level of impact is determined based on the context and intensity of the impact on the issue/resource being analyzed.

The following definitions assist in determining the potential impact of the project:

- 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.

For instructions on preparing **Sections 2-6** of the form see [Part 1, Chapter 4, Project Development Process](#).

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 (Figure 10-5)**. See **Section 10.2.1.4.1** for instructions on preparing the **Non-Major State Action Checklist**. 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 12, 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 Administrator or designee should sign and date the **Non-Major State Action Checklist**. The signed **Non-Major State Action Checklist** should

be added to the project file, then the project can be advanced to the Design phase.

At the conclusion of the Design phase the District will reevaluate the NMSA by updating the **Non-Major State Action Checklist** and signing it. After signing it, the District Environmental Administrator or designee must complete, sign and date the [Environmental Certification for State Funded Project, Form No. 650-050-14](#), as provided in **Figure 10-6**.

10.2.1.4.1 Completing the Non-Major State Action Checklist

The **Non-Major State Action Checklist (Figure 10-5)** should contain the following information:

1. GENERAL INFORMATION: identifies the name of the project, its limits, county, ETDM number (if applicable), 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, ROW, etc.).
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 Administrator 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 **SWAT Scoping Form** should be reviewed and used as supporting information for preparation of the **FDOT SEIR Form (Figure 10-7)** 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

United States Fish and Wildlife Service (USFWS) regarding federally listed species, consultation occurs under **Section 10** of the **ESA**. See [Part 2, Chapter 12, Historic and Archeological Resources](#) and [Part 2, Chapter 27, 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 13, Section 4\(f\) Evaluations](#)]. For example, coordination with the Department of Environmental Protection (DEP) 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 20, Water Quality Impact Evaluation](#)).
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. The SEIR should be made available to the public 21-days prior to the public hearing. Before the public hearing, the **FDOT SEIR Form** must be approved for public availability by the District Environmental Office Manager, Environmental Administrator, or PD&E Engineer.

After the public hearing and prior to requesting final approval by the District Secretary, SEMO will 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 10-6**.

Project commitment coordination is accomplished for state funded projects prior to and during the PD&E phase consistent with [Part 2, Chapter 32, Commitments](#) and the [Project Commitment Record \(PCR\), Topic No. 700-011-35](#). 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 **PCR**, [Procedure No. 700-011-035, Project Commitment Tracking](#).

Project files will be maintained within FDOTs statewide environmental project tracking system, and retained by the Project Manager for state funded projects in the same manner as federal projects.

10.2.1.5.1 Completing the FDOT SEIR Form

The **FDOT SEIR Form (Figure 10-7)** is completed to produce the SEIR document. This is accomplished, in part, by updating information included in the **SWAT Scoping Form**, and as a result of further environmental analysis and engineering. Results are described in the **FDOT SEIR Form** 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. GENERAL INFORMATION: Complete project information as indicated on the form.
2. PROJECT DESCRIPTION: Briefly describe existing conditions, purpose and need, and proposed improvements. 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.
3. ENVIRONMENTAL ANALYSIS: The analyst uses the results of the environmental evaluation, knowledge of the project area, and input received through agencies and the public, to complete the form. Using information provided through scoping efforts, the issues/resources are evaluated using the 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 topical categories listed in **Section 3. A-D** of **Figure 10-7**.

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. Items that are checked “NoInv” should not have supporting documentation. The “basis for decision” line should be used to explain the reasoning. For items checked “no substantial impact” or “enhance,” the form should include a short description of how that information is known, providing backup documentation if necessary, e.g., “Coordinated with X agency on Y date, response was Z, and we will take ABC next

steps. Please reference attachment.” For items checked “substantial impact,” the form should reference the supporting documentation and reports.

Supporting information can be included as attachments for topical categories where a box other than “NoInv” is checked. The standard statements required for FHWA 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.

Coordination letters and memos should be referenced and included as attachments. Larger documents, such as technical reports, should be referenced and placed in the project file. The project file should contain the analytical documentation to support the project decisions.

4. **ANTICIPATED PERMITS:** This section identifies permits that are anticipated for the project. Sufficient information for permitting agencies should be provided under the applicable topical category of **Section C**. For example, if a USACE permit is anticipated, supporting information should be included in **Section 3.C.1**. (Wetlands and Other Surface Waters), **Section 3.C.7**. (Protected Species and Habitat), and **Section 3.C.8** (Essential Fish Habitat), if applicable.
5. **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 6, Engineering Analysis](#).
6. **COMMITMENTS:** This section discusses all commitments made on the project prior to and during the PD&E phase per [Part 2, Chapter 32, Commitments](#). These commitments should be the same as those on the [Project Commitment Record \(PCR\), Topic No. 700-011-35](#). Project commitments must be documented on the **PCR** according to [Procedure No. 700-011-035, Project Commitment Tracking](#).
7. **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.
8. **APPROVED FOR PUBLIC AVAILABILITY (BEFORE PUBLIC HEARING):** 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 date the project was accepted for public review. District Environmental Office Manager, Environmental Administrator, or PD&E Engineer may complete this section.
9. The date of the public hearing is provided.
10. **APPROVAL OF FINAL DOCUMENT:** The nondiscrimination standard statement

and a signature block are provided for District approval of the SEIR. The SEIR is approved by the District Secretary or designee.

10.2.1.6 Reevaluation

Reevaluations are conducted prior to construction advertisement. Reevaluation is used to update status of commitments, coordination, permits, and other relevant information. Reevaluation of a SEIR is prepared by using the form provided in **Figure 10-8**. The content of this form is similar to reevaluations conducted for federal projects, and guidance is provided in **Section 10.2.1.6.1**. Final approval is given by the District Secretary (or designee). The approved Reevaluation is maintained in the District project file and distributed to Design, ROW, and Construction Offices, or others as appropriate.

For NMSAs a reevaluation is done through a re-submittal of the **Non-Major State Action Checklist (Figure 10-5)**. This reevaluation consists of a finding that the NMSA designation remains valid. The results of the checklist are documented in the [Status of Environmental Certification for State Funded Project, Form No. 650-050-14](#) form, as shown in **Figure 10-6**.

10.2.1.6.1 SEIR Reevaluation Form

The **SEIR Reevaluation Form (Figure 10-8)** 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:

- a. The change in project phase(s) for which the project segment(s) is (are) being reevaluated [i.e., Preliminary Engineering, ROW, and Construction Advertisement]
- b. Document type [SEIR] and date of approval of original Environmental Document. Additionally identify prior Reevaluations, their date, and document type.
- c. Project number(s): Financial Management and ETDM number(s) of the original approved document
- d. Project name, location, and limits covered under the originally approved Environmental Document
- e. Segment of highway being advanced: Financial Management number(s), location, and limits and identify as state-funded
- f. 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.

- g. Name of the FDOT 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 COMMENTS 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 document or most recent Reevaluation. 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 criteria
5. New design variations or 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 Environmental Document along with their current status (completed, modified, added, or deleted). Commitment changes require an explanation. New commitments can surface from a variety of sources, such as subsequent agency negotiations or permit requirements or from public involvement. These commitments must be listed, updated, and discussed. The Districts must review, verify, and update the [Project Commitment Record \(PCR\), Topic No. 700-011-35](#) per [Procedure No. 700-011-035, Project Commitment Tracking](#). It is important that commitments made by the FDOT are documented. They must be tracked throughout the course of the project and satisfied at the appropriate time. 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 permit status, and documents any permit modifications. The status of the permit(s) should be commensurate with the phase of the project and the type of Reevaluation. For example, if the permit has been applied for, identify the type of permit, jurisdictional agency, date of application and application number, if applicable; if the permit has been issued, identify the type of permit, issuing agency, date of issuance, and permit number. The preparer of the Reevaluation 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 Reevaluation 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 reevaluated. 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. It is recommended that the project identified herein be advanced to the next phase.

Section 7 – DISTRICT APPROVAL RECOMMENDATION

The District Environmental Engineer/Manager, or designee, will sign the Signature line and place any consultation documentation in the Project File.

Section 8 - DISTRICT SECRETARY APPROVAL

The District submits the Reevaluation to the District Secretary. The District Secretary, or designee, approves the Reevaluation by signing the **SEIR Reevaluation Form**.

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. SEMO 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 12, Archaeological and Historical Resources](#)) and **Section 7** of the **ESA** is followed for federally listed species involvement (see [Part 2, Chapter 27, 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 \(Form 850-040-89\)](#). The local or private entity must apply for a [FDOT Construction Agreement \(Form 850-040-89\)](#) 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.

In cases where a privately or locally funded project is developed under **Chapter 14-107, FAC Public-Private Transportation Facilities** 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 lead should consult with the District to consider the following:

1. How the PEIR (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 Reevaluation 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, Florida Statutes**, 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 10-7** 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. 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 document type. 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, Federal Highway Administration Class of](#)

Action Determination) 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.

The PEIR is not an FDOT document, but is prepared following the same procedures and requirements as the SEIR, **Section 10.2.1.5.1**. **Figure 10-9** provides a PEIR outline.

10.3 REFERENCES

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>

FDOT. 2012a. Project Commitment Record Form, Topic No. 700-011-35.

<http://www2.dot.state.fl.us/proceduraldocuments/forms/byofficedetail.asp?formnumber=700-011-35>

FDOT. 2012b. 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

Rule 14-107, Florida Administrative Code (F.A.C.). Public-Private Transportation Facilities

Section 334.30, Florida Statutes (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 HISTORY

01/10/2001, 5/26/2011

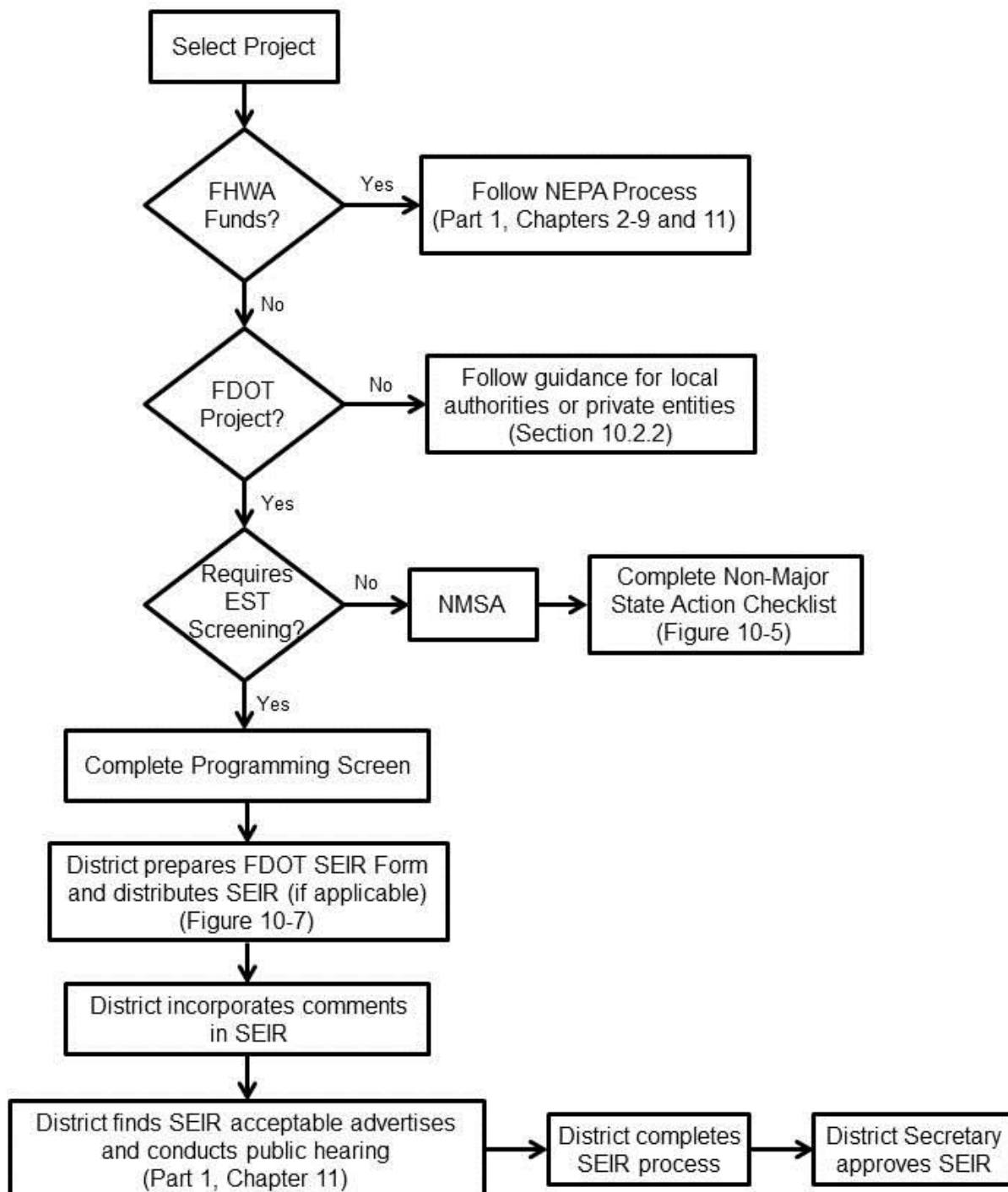
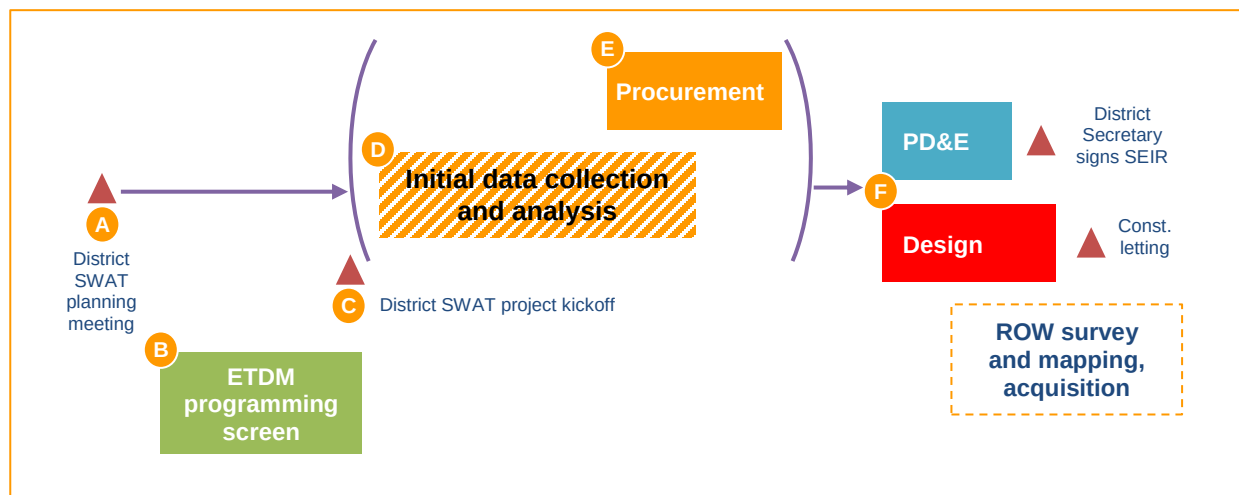


Figure 10-1 FDOT State, Local, or Privately Funded Project Delivery Process



	A	B	C	D	E	F
Step	District SWAT planning meeting	ETDM Programming Screen	District SWAT Project Kickoff	Initial Data Collection & Analysis	Procurement	PD&E and Design
Timing	Late summer before each new gaming cycle	Must be complete one year before PD&E begins and screening results should be used to appropriately program the project	One year ahead of PD&E / Design funding date in work program	Begins after project kick off	4-6 months	10-30 months PD&E: 6-14 months Design: 10-18 months
Participants	SWAT team ISD / Planning Work program EMO	ETDM coordinator	SWAT Team PD&E and Design PMs ISD / Planning	PD&E and Design PMs	PD&E and Design PMs Procurement	PD&E and Design PMs
Activities	Discuss all projects to be gamed in upcoming cycle Decide core elements of purpose and need Use ETDM planning screen if possible Ensure alignment with MPO on project Decide state or federal funded If state funded, decide NMSA vs. SEIR	SWAT team communicates list of state projects to ETDM coordinator Check state or federal funding box Conduct ETDM programming screen If state-funded, FHWA will not comment on project	Scoping Segmentation consideration High-level schedule Plan for tech panel Use ETDM programming screen to scope	Environmental review Survey Geotech Traffic Long lead species surveys	Concurrent and/or joint procurement	Overlap of PD&E and Design activities, working to get quickly to the preferred alternative 60% of Design done by end of PD&E

Figure 10-2 Statewide Acceleration Process

FDOT SWAT SCOPING FORM

To be used for both Federal and State Funded Projects

SECTION A

1. GENERAL INFORMATION

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

Project Manager: _____

2. PROJECT DESCRIPTION

a. Background Information

b. Purpose and Need

c. Proposed Improvements

3. FUNDING

Funding type: _____

Figure 10-3 FDOT SWAT 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 FHWA?
☐	☐	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 10-3 FDOT SWAT Scoping Form (Page 2 of 3)

SECTION B

1. POTENTIAL PROJECT IMPACTS TO ENVIRONMENTAL RESOURCES

Resource Categories	Potential Impacts?				State Basis for Decision
	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. Recreation Areas	☐	☐	☐	☐	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	☐	☐	☐	☐	_____
2. Aquatic Preserves and Outstanding FL Waters	☐	☐	☐	☐	_____
3. Water Quality	☐	☐	☐	☐	_____
4. Wild and Scenic Rivers	☐	☐	☐	☐	_____
5. Drainage and Floodplains	☐	☐	☐	☐	_____
6. Coastal Barrier Resources	☐	☐	☐	☐	_____
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	☐	☐	☐	☐	_____

* 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 SWAT Scoping Form (Page 3 of 3)

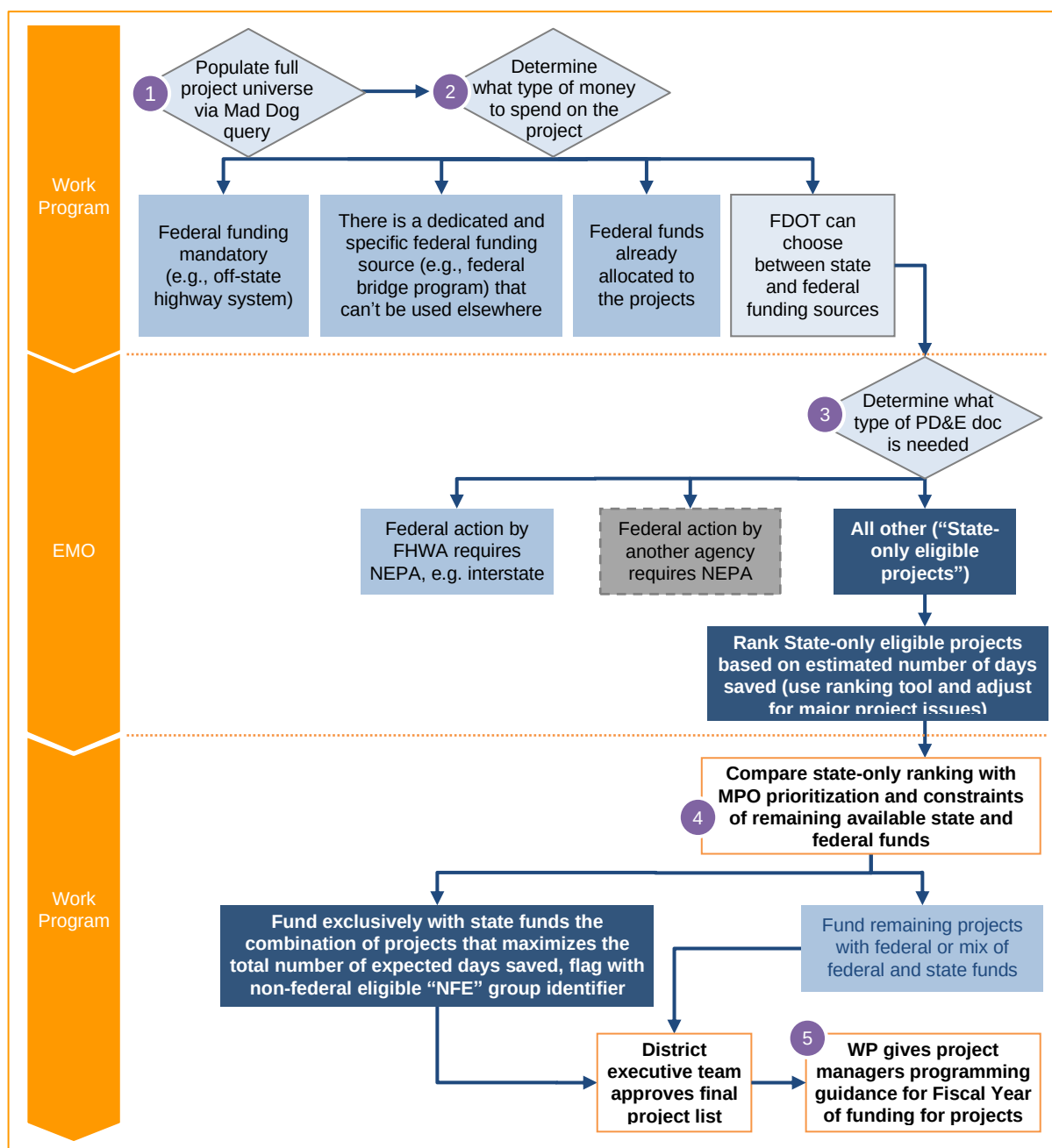


Figure 10-4 Funding Determination

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, Federal Highway Administration Class of Action Determination 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 24 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 10-5 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 22, 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 Administrator or designee:

Date: ____/____/____

Figure 10-5 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 reevaluated on _____ and the determination remains valid.

☐ This project is a State Environmental Impact Report (SEIR). The SEIR was approved on _____.

A reevaluation in accordance with the FDOT Project Development and Environment Manual Part 1, Chapter 10 was approved on _____.

SIGNATURE:

District Environmental Administrator

DATE: _____

Figure 10-6 Environmental Certification for State Funded Project Form

[Form No. 650-050-14](#)

FDOT STATE ENVIRONMENTAL IMPACT REPORT FORM

1. GENERAL INFORMATION:

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

2. PROJECT DESCRIPTION:

a. Existing:

b. Purpose and Need:

c. Proposed Improvements:

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 TIP/STIP/LRTP***

Figure 10-7 FDOT State Environmental Impact Report Form

3. ENVIRONMENTAL ANALYSIS

	*Topical Categories		Substantial Impacts?		**Basis for Decision
	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. Recreation Areas	☐	☐	☐	☐	_____
C. NATURAL					
1. Wetlands and Other Surface Waters	☐	☐	☐	☐	_____
2. Aquatic Preserves and Outstanding FL Waters	☐	☐	☐	☐	_____
3. Water Quality	☐	☐	☐	☐	_____
4. Wild and Scenic Rivers	☐	☐	☐	☐	_____
5. Drainage and Floodplains	☐	☐	☐	☐	_____
6. Coastal Barrier Resources	☐	☒	☐	☐	<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	☐	☐	☐	☐	_____

* Topical Categories: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

**Basis for decision is documented in the referenced attachment(s).

Figure 10-7 FDOT State Environmental Impact Report Form (Page 2 of 3)

4. 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

5. ENGINEERING ANALYSIS

6. COMMITMENTS

7. FDOT SELECTED ALTERNATIVE

8. ☐ APPROVED FOR PUBLIC AVAILABILITY (BEFORE PUBLIC HEARING)

Date

9. A Public Hearing was held on _____ Date

10. 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

Figure 10-7 FDOT State Environmental Impact Report Form (Page 3 of 3)

2. EVALUATION OF CHANGES IN IMPACTS

	YES / NO		COMMENTS
A. SOCIAL & 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. Recreation Areas	☐	☐	_____
C. NATURAL			
1. Wetlands and Other Surface Waters	☐	☐	_____
2. Aquatic Preserves and Outstanding FL Waters	☐	☐	_____
3. Water Quality	☐	☐	_____
4. Wild and Scenic Rivers	☐	☐	_____
5. Drainage and Floodplains	☐	☐	_____
6. Coastal Barrier Resources	☐	☒	<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	☐	☐	_____

Figure 10-8 State Environmental Impact Report Reevaluation 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 environmental determination have occurred check the following:

[] The above Environmental Document has been reevaluated. 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. 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 10-8 State Environmental Impact Report Reevaluation Form (Page 3 of 3)

PROJECT ENVIRONMENTAL IMPACT REPORT

1. GENERAL INFORMATION:

Project Name: _____

Project Limits: _____

County: _____

ETDM Number (If applicable): _____

Financial Management Number: _____

2. PROJECT DESCRIPTION:

a. Existing:

b. Purpose and Need:

c. Proposed Improvements:

3. ENVIRONMENTAL ANALYSIS

*Topical Categories	Substantial Impacts?				**Basis for Decision
	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. Recreation Areas	[]	[]	[]	[]	_____

C. NATURAL

1. Wetlands and Other Surface Waters	[]	[]	[]	[]	_____
2. Aquatic Preserves and Outstanding FL Waters	[]	[]	[]	[]	_____
3. Water Quality	[]	[]	[]	[]	_____
4. Wild and Scenic Rivers	[]	[]	[]	[]	_____
5. Drainage and Floodplains	[]	[]	[]	[]	_____

Figure 10-9 Project Environmental Impact Report

*Topical Categories		Substantial Impacts?				**Basis for Decision
		Yes	No	Enhance	NoInv	
6.	Coastal Barrier Resources	[]	[X]	[]	[]	<u>(unless federal funds sought in the future)</u>
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	[]	[]	[]	[]	_____

* Topical Categories: Yes = Substantial Impact; No = No Substantial Impact; Enhance = Enhancement; NoInv = Issue absent, no involvement.

**Basis for decision is documented in the referenced attachment(s).

4. 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

5. ENGINEERING ANALYSIS

6. COMMITMENTS

7. SELECTED ALTERNATIVE

8. Public Hearing to be Held?

- ☐ Yes - Check and date below
- ☐ No - Go to line 10
- ☐ **APPROVED FOR PUBLIC AVAILABILITY (BEFORE PUBLIC HEARING)**

____/____/____
 Date

9. A Public Hearing was held on ____/____/____ Date

Figure 10-9 Project Environmental Impact Report (Page 2 of 3)

10. 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

Figure 10-9 Project Environmental Impact Report (Page 3 of 3)

PART 1, CHAPTER 12

ENVIRONMENTAL PERMITS

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PART 1, CHAPTER 12

ENVIRONMENTAL PERMITS

12.1 OVERVIEW

This chapter details the environmental permits that may be required for transportation projects as well as coordination required with regulatory agencies and within the Florida Department of Transportation (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.

FDOT construction and maintenance activities are regulated by numerous environmental laws and regulations administered by federal and state agencies. These agencies have established environmental programs to conserve, protect, manage, and control the air, land, water, and natural resources of the State or the United States. FDOT is required to obtain an environmental permit from the appropriate federal or state agency, unless exempted by statute or rule:

1. For any activity which is expected to be a source of air, ground, or surface water pollution, including the discharge of untreated rainfall moving over and through the ground; for dredging or filling in, on, or over waters of the State or the United States, including wetlands;
2. For activities, including bridges occurring in navigable waters of the United States;
3. For activities where protected species and/or their habitats may be impacted; and
4. For activities associated with archaeological testing and research occurring on State-owned or controlled lands, including sovereign submerged lands.

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.

Permitting is generally initiated during the Design phase (i.e., typically 60% plan/design completion), but can be advanced in the Project Development and Environment (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.

For qualifying projects, FDOT's Efficient Transportation Decision Making (ETDM) process is initiated during the Planning phase. During the ETDM process, resource agencies review projects to identify potentially affected resources and permits that FDOT may need to obtain. The agencies may also suggest avoidance or minimization measures to reduce impacts to protected resources and suggest potential mitigation options for unavoidable impacts. See **Section 12.3.2** for guidance on projects that qualify for ETDM screening.

In PD&E, 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**.

Typically, once a project is in the Design phase, impact evaluations are finalized and permit applications are submitted to the regulatory agencies. FDOT coordinates with these agencies to address comments and finalize compensatory mitigation, if any is required. 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 the 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 such as the **Natural Resource Evaluation** and **Cultural Resource Assessment Survey**. These reports can provide support for environmental permit applications. The Environmental Office staff must ensure that these documents are available 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 the 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, 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 project design incorporates appropriate environmental commitments.

The Construction Project Administrator is responsible for compliance during the Construction phase. The Project Administrator shall review and be familiar with all contract documents for the project and the project site including all natural features protected by federal and state regulations. The Project Administrator shall monitor all regulated activities to assure that they are conducted in accordance with the permit(s) and all permit conditions are met. 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 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, F.A.C.**

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 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 form whereby one entity performs both design and construction under one single contract.

Design-Bid-Build - A form of project delivery 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 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), F.S.**, directly or via an excavated water body or series of water bodies. (See **Section 373.403(13), F.S.**)

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. (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), F.S.** [See **Section 373.403(14), F.S.**]

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) - 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, F.A.C.**)

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 on behalf of the Federal Highway Administration (FHWA).

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 - From the federal **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 (see **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 (See **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 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" (**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), F.S.**]

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 **Endangered Species Act (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 Department of Environmental Protection (DEP) is the State's primary environmental regulatory agency. DEP has delegated much of the permitting responsibility for Environmental Resource Permits (ERPs) to the State's five Water Management Districts (WMD) and specified local governments. DEP 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 DEP and WMD agency operating agreements.

The five Water Management Districts (WMD) are: Northwest Florida, Suwannee River, St. Johns River, South Florida, and Southwest Florida. WMDs have been delegated permitting authority by DEP 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 State Historic Preservation Officer (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, F.S., provides that FDOT is not subject to county, municipal, or special district regulations for projects on the State Highway System and therefore is not required to obtain local permits. Notwithstanding, , if an FDOT project has a direct impacts 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 (DEP, 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 27, 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**. If a project involves a bridge over navigable waters of the U.S., the U.S. Coast Guard (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**. As the Lead Federal Agency, either the USACE or USCG must prepare a **National Environmental Policy Act (NEPA)** document in support of their **NEPA** action (permit). If either agency participates as a Cooperating Agency in a FHWA **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 **FHWA NEPA** document, or 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 27, 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 the NMFS and/or the USFWS following the **ESA Section 7** consultation process outlined in [Part 2, Chapter 27, Protected Species and Habitat](#). If a given project is determined to have the potential to affect essential fish habitat the USACE or USCG will solicit comment from the NMFS ([Part 2, Chapter 11, Essential Fish Habitat](#)). For projects that require public notification of the federal action, the EPA may provide comment.

Additionally, when the USACE and USCG act as the issuing agency authorizing a permit for a transportation project will be required to comply with **Section 106** of the **National Historic Preservation Act of 1966 (NHPA)**. This is also the case when consultation is triggered through **Section 10 of the ESA** when an incidental take permit through the USFWS or NMFS is needed. **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 12, Archaeological and Historic Resources](#)).

12.2.1.1 United States Army Corps of Engineers

The USACE regulates the discharge of dredged and fill material into waters of the United States, including wetlands, under **Section 404** of the **CWA**. 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.

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 **Natural Historic Preservation Act (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 NWPs, 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**. NWPs 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 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 DEP 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 DEP 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 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 United States Code (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 administers the permitting program for bridge and causeway construction under a variety of statutes, including **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.

The USCG approves the location and plans of bridges and causeways and imposes necessary 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, etc.).

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. Longer construction times can be requested and substantiated with good reasons.

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 determine whether the waterway is navigational and jurisdictional and provide 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 etc.). 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 DEP and WMDs are the primary state wetland permitting agencies for FDOT projects. WMDs issue ERPs for most FDOT projects; whereas, DEP 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 DEP and the WMDs are required to consider the effects of their agency action (issuance or denial of a permit) on historic resources. 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 (DEP, 2015a)**. These requirements include consultation and findings letters from the Florida Division of Historical Resources. See [Part 2, Chapter 12, Archaeological and Historical Resources](#) for more information.

12.2.2.1 Environmental Resource Permitting

Under the authority of **Section 373.4131, F.S.**, the Florida DEP and Florida's five WMDs implemented **Chapter 62-330, 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 (DEP, 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 NFWMD, 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 of 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, alteration, 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 DEP 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 DEP.

DEP 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 DEP after issuance of the ERP.

12.2.2.3 National Pollutant Discharge Elimination System

As authorized by the **CWA**, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. The EPA delegated to the DEP the authority to implement the NPDES stormwater permitting program in the State of Florida (in all areas except Indian Country lands). DEP's authority to administer the NPDES program is contained in **Section 403.0885, Florida Statutes**. 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 DEP 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., DEP

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 the DEP'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 Program \(SSWMP\)**](#) 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 DEP 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, FA.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 the DEP'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 the DEP'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 operating agreement between USACE, DEP, 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 the DEP in coordination with other agencies early in the planning process for transportation projects (see [Part 2, Chapter 25, 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 Line

The DEP manages a Coastal Construction Control Line (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 coastal construction control line and fifty-foot setback. For projects within the CCCL, FDOT should coordinate with the DEP 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, F.A.C.**

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

The DEP'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 the DEP 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 protected species permit types required for transportation projects. See [Part 2, Chapter 27, 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 **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 (See **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. Incidental take permit applications are contingent upon a **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 (See **Figure 12-3**).

The species discussed below (American bald eagle, Florida burrowing owl, and osprey) are not subject to **ESA** review, but they 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 their populations 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 typically authorize the removal of inactive nest (i.e. nests that do not contain eggs or flightless young) and may require the permittee to build a replacement nesting platform/structure of comparable or better quality than the compromised nest support. The FWC may issue "blanket" permits for the removal of

inactive nests to account for FDOT's need to maintain structures commonly used by ospreys for nesting. 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. The FDOT Project Manager should coordinate with the District Environmental Office and if necessary, the State Environmental Management (SEMO) 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**.

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 Manager 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 Environmental Screening Tool (EST). [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#) 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 CEs may occasionally need environmental permits. For these projects, complete a [Type 1 Categorical Exclusion Checklist, Form No. 650-050-12](#) ([Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#)). 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, list the anticipated permits in Section E. Anticipated Permits of the [Non-Major State Action Checklist \(Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery\)](#). For these projects 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 CEs 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 CEs.

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 resource 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 ETAT 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 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. Resource 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, Federal Highway Administration Class of Action Determination](#), qualifying projects must complete the ETDM Programming Screen and may also have completed the Planning Screen. If a Planning Screen took place, the Programming Screen will build upon information from the Planning Screen.

12.3.2.2.1 Identification of Potential Permitting Needs

If the project went through a Planning Screen, the ETAT may reconsider potential permits that were identified. If the project did not go through 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 resource agency ETAT members may identify additional permits, or agree with the types of potential permits identified in the PED. Potential permits identified by the resource agency ETAT are recorded in the “Anticipated Permits” section of the **Programming Screen Summary Report**.

12.3.2.2.2 Opportunities for Mitigation

Through early coordination, a 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 resource agency providing the comments, the discussion of mitigation opportunities may be in the Wetlands, 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 get an idea of 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 resource 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, resource 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," "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 18, Wetlands and Other Surface Waters](#) and [Part 2, Chapter 27, 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 may also request that SEMO review the draft **NRE** prior to agency submittal. At the conclusion of the PD&E process, the **NRE** is submitted to the Lead Federal Agency along with the Environmental Document.

Some PD&E projects may follow the principles of the Statewide Acceleration Transformation (SWAT) process. The SWAT process is a project management initiative that streamlines the FDOT project preconstruction 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 10, State, Local or Privately Funded Project Delivery](#).

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. 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 18, 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 18, 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 DEP 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 32, 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 Categorical Exclusion (CE) and State Environmental Impact Report (SEIR)** – For Type 2 CEs permits needed for the project are listed in Section 6. E, “Required Permits.” For SEIRs permits needed for the project are listed in the Anticipated Permits section. They are also documented in the applicable Impact Evaluation section (Wetlands, 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 FHWA has determined that a USCG permit is required in accordance with **23 CFR Part 650, Subpart H**. 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 that are anticipated for the project are documented in the Anticipated Permits section, as well as the applicable Impacts section (Wetlands and other Surface Waters, Protected Species and Habitat, Navigation, etc.) as a part of the discussion of coordination with the resource agency requesting the permit. See [Part 2, Chapter 8, Environmental Consequences or Impacts](#) and [Part 1, Chapter 6, Environmental Assessment](#) for more detail on how to prepare these sections of the EA.

3. **Environmental Impact Statement (EIS)** – Permits that are anticipated for the project are documented in the Anticipated Permits section, as well as the applicable Environmental Consequences 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 2, Chapter 8, Environmental Consequences or Impacts](#) and [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 Final Environmental Impact Statement (FEIS). In the DEIS this section is titled “List of Other Government Actions Required” and in the FEIS it is titled “Other Government Actions and Anticipated Permits”. See [Part 2, Chapter 3, EIS Executive Summary/FONSI](#) for more detail on how to prepare these sections of the EIS Executive Summary.

12.3.4 Reevaluation

Any changes after approval of the Environmental Document must be documented in a Reevaluation per [Part 1, Chapter 13, Reevaluations](#). Specific to permitting, the reevaluation 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 reevaluation 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 **Reevaluation Form** ([Part 1, Chapter 13, Reevaluations](#)).

12.3.5 Design and Permitting

Upon finalization of the PD&E phase, a project is advanced to the Design phase. Coordination meetings between the Environmental and Design Offices should be held when the project transitions from PD&E to Design. This provides an opportunity for the environmental staff to share information obtained during PD&E that can assist in project design or permitting. It is recommended that the Permit Coordinator attend the internal coordination meetings.

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. 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 Design-Build method where the design and construction are combined in a single contract. If the environmental permits have not been obtained prior to procurement of Design-Build firm, then FDOT must work closely with the selected Design-Build firm on obtaining permits. This includes oversight/review of the contractor throughout the permitting process. Whether Design-Bid-Build or Design-Build, the District as the permittee is responsible for reviewing, approving, and signing permit applications.

For Design-Build projects that require a permit modification, the permitting process follows the steps described in **Section 12.3.5.2**, just as with Design-Bid-Build projects, and FDOT retains oversight/review responsibility during the permitting process, which is championed by the Contractor. In either case, the Construction phase follows design and permitting, as described in **Section 12.3.6**. For a Design-Build project, if the contractor prepares the permit application, FDOT is still responsible because it is an FDOT project and FDOT is the permittee.

For Local Agency Program (LAP) projects not on the State Highway System (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

Wetland mitigation options for unavoidable impacts will have been considered during PD&E and described in the Environmental Document. Following PD&E, 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 offset 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 Design-Build projects permits may be obtained during procurement (in advance of project letting) or by the Design-Build 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 time 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 20, Water Quality Impact Evaluation](#) and [Part 2, Chapter 24, Drainage and 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 Reevaluations. **Figure 12-1** and **Figure 12-2** include links to web sites that itemize typical permit types and application content for DEP, 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 the 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 are generated in house (or by District wide or general consultant staff) for in-house Design-Bid-Build projects. Consultants may prepare application packages for Design-Build and Design-Bid-Build projects. 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 DEP 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, DEP 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, DEP or WMD staff will request a title determination from DEP'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 DEP copies and forwards the application to the USACE to initiate the federal permitting process. Joint application forms are available on line on WMD or DEP (**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 Administrator should coordinate with the USACE, and WMD or DEP.

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, 2014a)** and the application review process is described in the **Bridge Permit Processing Procedure (USCG, 2014b)**. 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 DEP 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 DEP 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**.

Stormwater Pollution Prevention Plan (SWPPP) 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 several items: **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. **Chapter 120, F.A.C.** requires an agency (DEP or the WMD) to notify an applicant of any apparent errors or omissions and request additional information needed to clarify the 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 the DEP 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 also has been granted.

Unlike the state process, the federal permitting process is not bound by a statutory time-clock for permit issuance. However, like the state process, both USACE and USCG notify an applicant of any 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 3-6 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 (i.e., USFWS, NMFS, EPA, and others) 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.

The USACE and USCG are required to evaluate potential impacts of a proposed action on any federally listed threatened or endangered species or its designated critical habitat. These evaluations often require coordination with the USFWS and/or NMFS pursuant to

Section 7 of the ESA – as described in detail in [Part 2, Chapter 27, Protected Species and Habitat](#).

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 DEP 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 named listed wildlife species **Rule 62-330.302(1), F.A.C.** 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 **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, 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 a 21-day time limit 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 Sovereign 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 DEP or WMD staff will provide the applicant (FDOT) with the information for publishing such a notice.

For FWC species permits, if the FWC receives a petition regarding its agency action, the FWC will notify the permittee. Upon such notification, the permittee shall cease all work authorized by this permit until the petition is resolved.

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 FTP site:

<ftp://ftp.dot.state.fl.us/permitsandorutilityworkschedules/>. 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 Engineering & Inspection 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, post-construction notification and reporting, etc. They may be tracked using 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 project hand-off 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 to guidance provided in the manual, the Construction Office should coordinate with the Environmental Office and Permit Coordinator to ensure permit condition familiarity and to ensure that intent and timeline of the environmental permit conditions are being met.

During the Construction phase, a contractor may request to modify 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. With FDOT approval,

the contractor may move forward with such a proposed permit modification, and FDOT will provide review and approval of the application, as described in **Section 12.3.5.2.2**.

For LAP projects, the LAP agency is also required to adhere to construction requirements outlined in **Section 8.2** of the [Construction Project Administration Manual, Topic No. 700-000-000](#).

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 critically important for FDOT to assure that construction contractors, and/or Design-Build 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 Administrator 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 Administrator 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 DEP 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 DEP/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 Administrator 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

- 33 Code of Federal Regulation (CFR) § 115.70. Advance Approval of Bridges.
<https://www.gpo.gov/fdsys/granule/CFR-2010-title33-vol1/CFR-2010-title33-vol1-sec115-70>
- 23 CFR Part 650, Subpart H, Conditions for determining if an activity requires a USCG permit. <https://www.gpo.gov/fdsys/pkg/CFR-2009-title23-vol1/pdf/CFR-2009-title23-vol1-part650-subparH.pdf>
- 33 CFR Part 230. Procedures for Implementing NEPA can be accessed at
<http://www.gpo.gov/fdsys/granule/CFR-2012-title33-vol3/CFR-2012-title33-vol3-part230>
- 33 CFR § 323.2(d). The definition of discharge of dredge material can be accessed at
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part323.pdf>
- 33 CFR § 323.2(d)(2)(ii). The definition of incidental fallback can be accessed at
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part323.pdf>
- 33 CFR § 323.2(e). The definition of fill can be accessed at
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part323.pdf>
- 33 CFR § 323.2(f). The definition of discharge of fill material can be accessed at
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part323.pdf>

- 33 CFR § 325.2(b)(2). Processing applications. Standard Procedures. Coastal Zone Management consistency can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-sec325-2.pdf>
- 33 CFR Part 328. Definition of waters of the United States can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part328.pdf>
- 33 CFR § 330.4(d)(1). Navigation and Navigable Waters. Conditions, limitations, and restrictions. Coastal zone management consistency determination can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2012-title33-vol3/xml/CFR-2012-title33-vol3-sec330-4.xml>
- 40 CFR § 230.10(d), Requirement for practical steps to be taken to minimize potential adverse impacts on aquatic ecosystems prior to permitting the discharge of dredged or fill material in said systems. <https://www.gpo.gov/fdsys/granule/CFR-2012-title40-vol26/CFR-2012-title40-vol26-sec230-10>
- 40 CFR §§ 1500-1508. NEPA Process <http://www.gpo.gov/fdsys/granule/CFR-2011-title40-vol33/CFR-2011-title40-vol33-part-id1102/content-detail.html>
- 50 CFR Part 17. Endangered and Threatened Wildlife and Plants. <https://www.gpo.gov/fdsys/granule/CFR-2010-title50-vol2/CFR-2010-title50-vol2-part17>
- 50 CFR Part 21, Migratory bird permits. <https://www.gpo.gov/fdsys/granule/CFR-2000-title50-vol1/CFR-2000-title50-vol1-part21>
- 50 CFR § 22.3, Definitions supporting eagle permits. <https://www.gpo.gov/fdsys/granule/CFR-2011-title50-vol8/CFR-2011-title50-vol8-sec22-3>
- 50 CFR § 22.26, Regulations authorizing eagle disturbance permit. <https://www.gpo.gov/fdsys/granule/CFR-2009-title50-vol6/CFR-2009-title50-vol6-sec22-26>
- 50 CFR Part 226. Designated Critical Habitat. <https://www.gpo.gov/fdsys/pkg/CFR-2011-title50-vol9/xml/CFR-2011-title50-vol9-part226.xml>
- 50 CFR § 600.10. Wildlife and Fisheries Definitions can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title50-vol10/xml/CFR-2011-title50-vol10-sec600-10.xml>
- Chapter 18-21, Florida Administrative Code (F.A.C.), Sovereignty Submerged Lands Management

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

Environmental Protection Agency (EPA). 2015. Section 404 Permit Program.
<http://www.epa.gov/cwa-404/section-404-permit-program>

Federal Highway Administration (FHWA). 2014. Memorandum of Agreement between the United States Coast Guard and the Federal Highway Administration to Coordinate and Improve Bridge Planning and Permitting

Florida Department of Environmental Protection (DEP). 2015. Reference and Design Aids for the Environmental Resource Permit Applicant's Handbook Volume I.
<https://www.dep.state.fl.us/water/wetlands/forms/62-330/DesignAidsAH-I.pdf>

Florida Department of Transportation (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

FDOT. 2011b. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Suwannee River Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 10/1/2011-9/30/2016

FDOT. 2012. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Florida Fish and Wildlife Conservation Commission and the Florida Department of Transportation and the Federal Highway Administration. 1/1/2012-12/31/2016

- FDOT. 2012. Florida Department of Transportation Statewide Stormwater Management Plan. http://www.dot.state.fl.us/statemaintenanceoffice/NPDES_StormWater.shtm
- FDOT. 2013a. Efficient Transportation Decision Making Manual, Topic No. 650-000-002. <http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>
- FDOT. 2013b. Environmental Mitigation Payment Processing Handbook. http://www.dot.state.fl.us/emo/pubs/Mitigation%20Payment%20Handbook_10%202013.pdf
- FDOT. 2014a. FDOT Plans Preparation Manual, Volume I, Topic No. 625-000-007. <http://www.dot.state.fl.us/rddesign/PPMManual/2014PPM.shtm>
- FDOT. 2014b. FDOT Plans Preparation Manual, Volume II, Topic No. 625-000-008. <http://www.dot.state.fl.us/rddesign/PPMManual/2014PPM.shtm>
- FDOT 2015a. Agency Operating Agreement for Continuing the Efficient Transportation Decision Making Process in Florida Between Southwest Florida Water Management District and the Florida Department of Transportation and the Federal Highway Administration. 6/1/2015-5/31/2020
- 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. Current Version. Construction Project Administration Manual, Topic No. 700-000-000. <http://www.dot.state.fl.us/construction/Manuals/cpam/CPAMManual.shtm>
- FDOT. Current Version. Local Agency Program Manual, Topic No. 525010-300. http://www.dot.state.fl.us/programmanagement/LAP/LAP_TOC.shtm
- Florida Fish and Wildlife Conservation Commission. 2008. Bald Eagle Management Plan
- Northwest Florida Water Management District. 2013. Environmental Resource Permit Applicant's Handbook, Volume II
- Part IV, Florida Statutes (F.S.), Establishes the state water regulation program in Florida (i.e., the Florida Water Resources Act of 1972)

Rule 62-330.010(4), F.A.C., Ties the use of the Applicant's Handbook to the state-wide environmental resource permit (ERP) program

Rule 62-330.020, F.A.C., Defines activities that do not require state ERP permitting

Rule 62-330.051(4), F.A.C., Describes bridges, driveways, and roadways that are exempt from ERP permitting

Rule 62-330.051(9), F.A.C., Describes pipes or culvert that are exempt from ERP permitting

Rule 62-330.056(7), F.A.C., Conditions and assumptions upon which a conceptual approval permit is issued

Rule 62-330.301(1)(d), F.A.C., Conditions for Issuance of Individual and Conceptual Approval Permits

Rule 62-330.302(1), F.A.C., Additional Conditions for Issuance of Individual and Conceptual Approval Permits

Rule 68A-1.004(79), F.A.C., Establishes the state definition of "take"

Rule 68A-4.001, F.A.C., Establishes state of Florida wildlife and freshwater fish prohibitions

Rule 68A-9.002, F.A.C., Establishes permits to take wildlife or freshwater fish for justifiable purposes

Rule 68A-13.002, F.A.C., Adoption of federal Migratory Bird Treaty Act as state rule

Rule 68A-27.003, F.A.C., Designation of endangered and threatened species prohibitions

Rule 68A-27.005, F.A.C., Designation of species of special concern prohibitions and permits

Section 334.03, F.S., Definitions

Section 335.02, F.S., FDOT exemption from county, municipal, or special district regulation

Section 373.019(27), F.S., Definitions

Section 373.413(6), F.S., Describes the intent of the legislation to give FDOT flexibility in stormwater management design due to the need to balance limitations imposed by linear projects and expenditure of public funds

Section 373.4131, F.S., State-wide environmental resources permitting rules

Section 373.4137, F.S., Mitigation requirements for specified transportation projects

Section 373.441, F.S., Role of counties, municipalities, and local pollution control programs in permitting process, delegation

Section 403.0885, F.S., Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program

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Southwest Florida Water Management District. 2013. Environmental Resource Permit Applicant's Handbook, Volume II

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Suwannee River Water Management District. 2012. Environmental Resource Permit Applicant's Handbook, Volume II

United States Army Corps of Engineers (USACE). 2014. Department of the Army Jacksonville District Source
<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

USACE. 2015a. Obtain a Permit. Source of Form 4345 and instructions can be accessed at
<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx>

USACE. 2015b. Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408 can be accessed at
http://www.publications.usace.army.mil/Portals/76/Publications/EngineerCirculars/C_1165-2-216.pdf

United States Code, Title 16 U.S.C. Sections 703-712, Migratory Bird Treaty Act

United States Coast Guard (USCG). 2014a. Office of Bridge Programs, Bridge Permit Application Guide. http://www.uscg.mil/hq/cg5/cg551/CP_16591_3C.pdf

USCG. 2014b. Bridge Permit Processing Procedure.
<http://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

United States Environmental Protection Agency (EPA). 2015. Section 404 Permitting.
<http://water.epa.gov/lawsregs/guidance/cwa/dredgdis/>

12.5 HISTORY

1/12/1999

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.	DEP (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</i> (68A - 27.003 F.A.C.)	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, 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.
DEP	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
U.S. Fish and Wildlife Service (USFWS)	American Bald Eagle		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
		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:

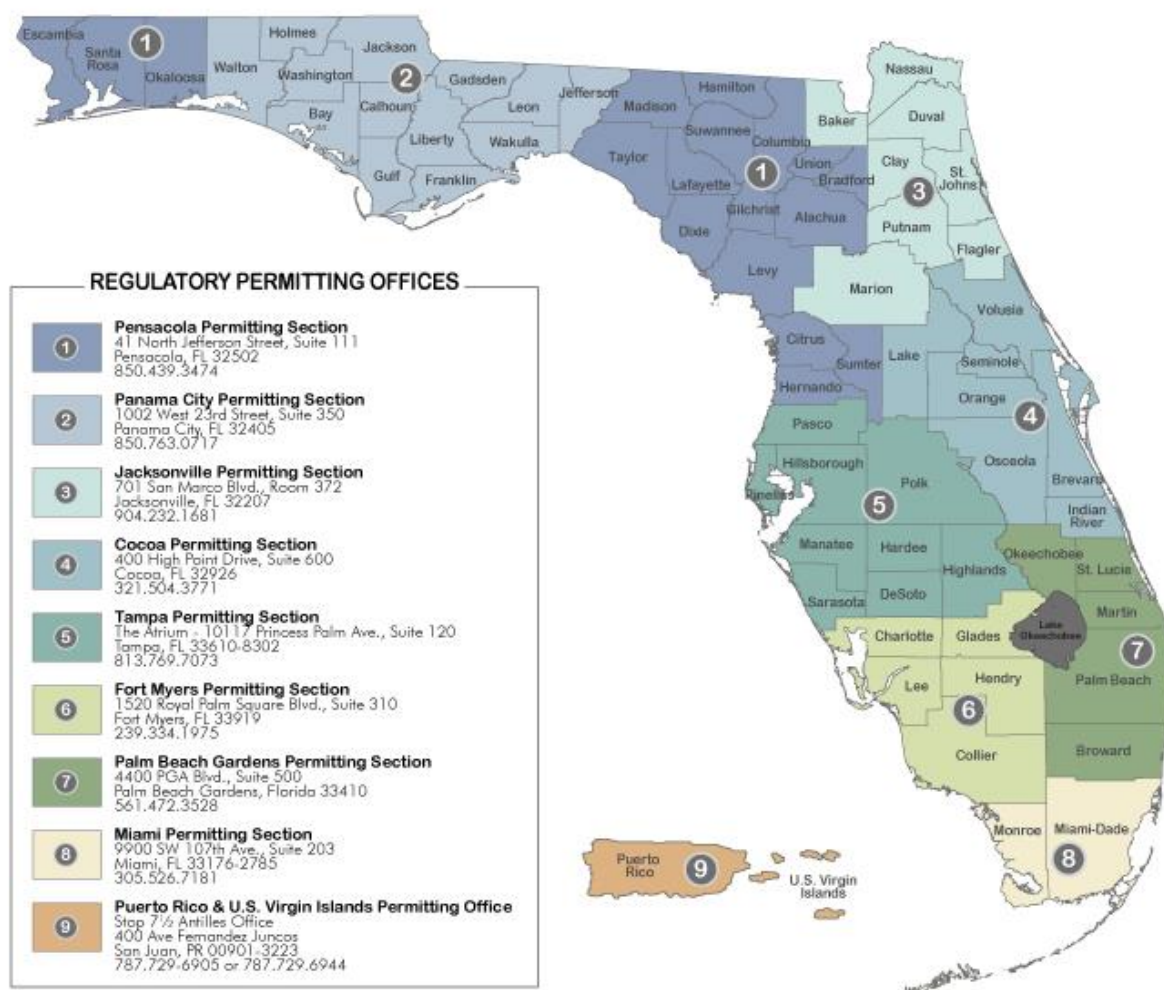
United States Coast Guard

- 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:

DEP'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 DEP) 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

http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/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.sjrwmd.com/handbooks/pdfs/PIM_incl_volII.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 DEP 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 DEP, 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 DEP'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 27, 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/290095/buowguidelines2009.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 at 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:

<http://www.fws.gov/southeast/es/hcp2.htm> 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)

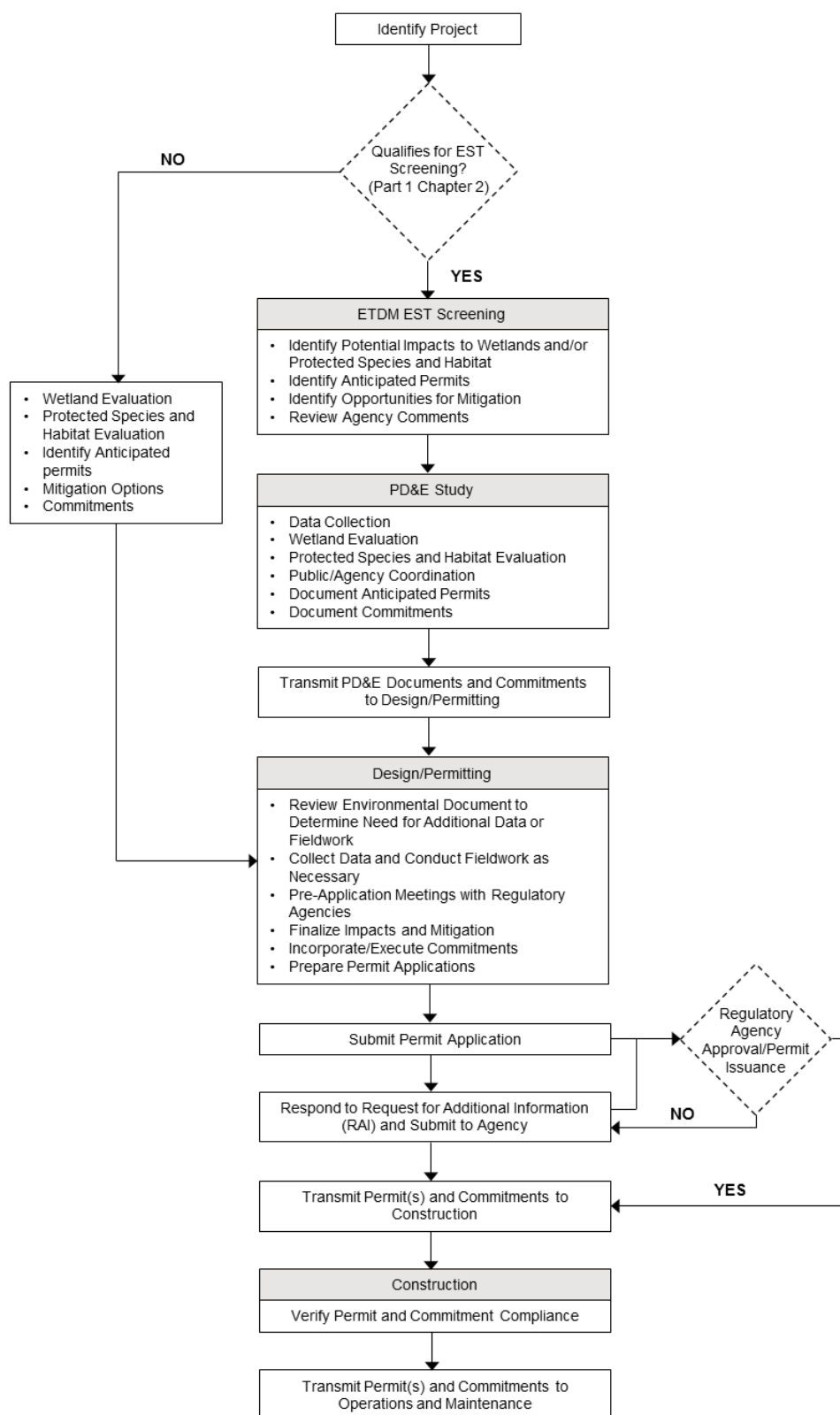


Figure 12-4 Typical Permitting Process

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 _____

<http://www2.dot.state.fl.us/proceduraldocuments/forms/informs/65004001.pdf>

Figure 12-5 Permit Transmittal Memorandum

PART 1, CHAPTER 13

REEVALUATIONS

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PART 1, CHAPTER 13

REEVALUATIONS

13.1 OVERVIEW

The reevaluation process outlined in this chapter fulfills the Federal Highway Administration (FHWA) consultation requirement under **23 Code of Federal Regulations (CFR) § 771.129** which provides criteria to determine the continued validity of the originally approved Environmental Document. This chapter ensures compliance with applicable federal and state laws prior to advancing the project to the next major phase [e.g., Design, Right Of Way (ROW) or Construction]. The reevaluation process also provides a status update for commitments made by the Florida Department of Transportation (FDOT) during subsequent project implementation phases. The FDOT applies the same reevaluation process for state-funded projects as detailed in [Part 1, Chapter 10, State, Local, or Privately Funded Project Delivery](#).

A Reevaluation documents whether or not changes have occurred to a project since the approval of the original Environmental Document. Reevaluations are required for federal projects prior to advancing to the next major phase.

Reevaluations for Type 2 Categorical Exclusions (Type 2 CEs), Environmental Assessments (EAs) with Finding of No Significant Impacts (FONSIs), Environmental Impact Statements (EISs), Supplemental Environmental Impact Statements (SEISs), or the Record of Decision (ROD) are conducted per **Section 13.2.1**. Reevaluations for Type 1 Categorical Exclusions are conducted according to **Section 13.2.2**. Federal projects which have a state-funded phase or segment(s) also require reevaluation. The Reevaluation process is shown in **Figure 13-1**.

Project managers in subsequent phases 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 they may require more time for 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. The Project Manager of this phase should, whenever possible, minimize project changes that could impact agreed upon mitigation or commitments made during the PD&E Study. The Project Manager should take into account changes that will require additional interagency coordination or public involvement, as well as the identification of new impacts requiring additional evaluation.

13.2 PROCEDURE

Reevaluation of an approved Environmental Document is required prior to the request for FHWA action (i.e., 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.

Reevaluations are necessary:

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
3. Any time there are major design/project changes during a design-build project
4. Any time a project changes from the federal process to the state process, or vice-versa

Reevaluations to advance subsequent production phases may serve to advance a single or multiple project segments; however, the entire project limits covered in the approved final Environmental Document must be considered in the Reevaluation. If project limits are extended or reduced subsequent to approval of the final Environmental Document, then those changed limits are also considered in the Reevaluation.

23 CFR § 771.129(a) and (b) provides specific directions for Draft and Final EIS Reevaluations:

Draft Environmental Impact Statement (DEIS): (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.”

Final Environmental Impact Statement (FEIS): (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.”

23 CFR § 771.129(c) provides specific guidelines for Reevaluations of approved Environmental Documents:

For approved ROD, FONSI, or CE designation: the FDOT “shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved Environmental Document or CE designation remains valid for the

requested Administration action.”

The procedure provided in this chapter satisfies the consultation requirements of **23 CFR § 771.129(a)(b) and (c)**.

It should be noted that Design-Build firms assigned to a project cannot perform Reevaluations, make findings, or make decisions on that project. They are only authorized to prepare information that will support the preparation of the Reevaluation by the District (see [Design-Build Request for Proposals](#) boilerplate, available from the Office of Construction).

13.2.1 Reevaluation of Type 2 CE, EA with FONSI, and EIS Projects

Reevaluations are initiated by the District through consultation with the FHWA Transportation Engineer and completion of a **Reevaluation Form** to determine whether the Environmental Document remains valid. This consultation includes discussion of phase status, changes in design, changes in existing conditions, issue/resource impact status, laws, or regulations that may affect the project, permitting, and commitments. It is important to begin the reevaluation process early enough to provide sufficient time for completion prior to the needed authorization.

Consultation with FHWA also helps determine whether the form will require FHWA signature. If through consultation it is determined that no changes (“changes in impact status or document compliance” or “major design changes and revised design criteria”) are identified, the District will proceed with the project, document the results of this consultation on the **Reevaluation Form (Figure 13-2)**, and add it to the project file. A FHWA signature on the form is not required. If FHWA requests to review the Reevaluation, the form is sent to them for signature.

If there have been changes in impacts, the District and FHWA should determine the level of analysis necessary and whether public involvement is required to advance the project. If the project is an EIS (draft or final), a SEIS may need to be prepared (**Section 13.2.1.3**).

13.2.1.1 Reevaluation Preparation

The Reevaluation documentation is contingent upon the project phase status, changes in impact, and the reason for the Reevaluation (e.g., design change). Documentation can be as simple as filling out the **Reevaluation Form** in **Figure 13-2** and verifying that there have been no changes. Additional information supporting the Reevaluation should be attached to the **Reevaluation Form**.

If a Reevaluation involves new or additional impacts to a resource (wetlands, etc.), coordination with the responsible agency is necessary, especially when a permit or permit modification is needed. Resource agency input may be necessary to establish validity of new information regarding a resource they regulate or oversee.

The Reevaluation documents compliance with any laws which have come into effect since the approval of the original final Environmental Document or most recent Reevaluation. It should document any change in project conditions or scope, and/or impact determinations. The Reevaluation should also document updates to the status of existing commitments and identify new commitments. Environmental commitments are reviewed as part of the Reevaluation process and will be incorporated into the project, as appropriate. Changes to PD&E commitments should be coordinated and documented according to **Procedure 700-011-035, [Project Commitment Tracking](#)**.

13.2.1.1.1 Reevaluation Form

The **Reevaluation Form (Figure 13-2)** is completed for Type 2 CEs, EA with FONSI, EISs, and SEISs, and includes the following sections:

Section 1 - General Information

This section contains information about the originally approved Type 2 CE documentation, EA with FONSI, EIS, ROD, or any supplemental environmental document and the segment(s) being advanced. Information provided under this section includes:

- a. The change in project phase(s) for which the project segment(s) is (are) being reevaluated [i.e., Preliminary Engineering, ROW, and Construction Advertisement]
- b. Document type [Class of Action (COA)] and date of approval of original Environmental Document. Additionally identify prior Reevaluations, their date, and document type.
- c. Project number(s): Federal-aid, Financial Management and Efficient Transportation Decision Making (ETDM) number(s) of the original approved document
- d. Project name, location, and limits covered under the originally approved Environmental Document
- e. Segment of highway being advanced: Federal-aid project number(s), Financial Management number(s), location and limits, and identify if federal or state-funded
- f. Project Segment 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 Reevaluations which constitute a subsequent phase approval for advancement of the project to the next phase. For these types of Reevaluations, complete the table and include appropriate pages from these plans. If more than one segment is to be 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 4 Project Description and Purpose and Need](#).

g. Name of the FDOT preparer

Section 2 – Evaluation of Changes

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 COMMENTS 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 major design changes that have occurred since approval of the original document or most recent Reevaluation. 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 criteria
5. New design variations or 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 including mitigation measures established in the approved Environmental Document along with their current status (completed, modified, added, or no longer applicable). Commitment changes require an

explanation. New commitments can surface from a variety of sources, such as subsequent agency negotiations or permit requirements, or from public involvement. These commitments must be 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 the FDOT are documented. They 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 5 - Status of Permits

This section identifies permits required for the project, provides a summary of their status, and documents any modifications. The status of the permit(s) should be commensurate with the phase of the project and the type of Reevaluation. 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 Reevaluation must coordinate with the District Permit Coordinator to ensure complete documentation and timely permit issuance. If the permit for the advancing segment has not been issued, construction activities cannot begin.

Section 6 - Conclusion

This section contains a statement about the Reevaluation 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 reevaluated as required by 23 CFR § 771. 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.

It is recommended that the project identified herein be advanced to the next phase.

Section 7 – Reviewer Signature Block

The District Environmental Engineer/Manager will sign the Reviewer Signature Block and place it and any consultation documentation in the Project File.

Section 8 - FHWA Concurrence

The District will mark the appropriate box with an X, and fill in the date of the consultation, if applicable.

The District submits the Reevaluation to FHWA, only if FHWA approval is required. The FHWA Division Administrator (or designee) approves the Reevaluation by signing the **Reevaluation Form**.

Section 9 - Attachments

Other supporting information such as summaries of reports and documentation of stakeholder coordination may be attached.

13.2.1.2 Distribution of Approved Reevaluations

When a FHWA signature is needed on the **Reevaluation Form**, the District sends an original and a copy of the signature page to the FHWA Division Administrator. A sample transmittal letter is provided in **Figure 13-3**.

Upon receipt of the approved signature page from FHWA, the District will distribute the Reevaluation to the Design, ROW, and Construction offices, Cooperating Agencies, and others as appropriate. The District Environmental Office will also provide the date of the approved Reevaluation on the [Status of Environmental Certification for Federal Project, Form No. 650-050-13](#), as shown in **Figure 13-4**, which is required as part of the contract file for federal oversight projects.

13.2.1.3 Supplemental Environmental Impact Statements

A supplemental EIS may be necessary **[40 CFR § 1502.9(c)]** whenever the Reevaluation of a DEIS, FEIS/ROD, or FEIS identifies changes, new information, or other project developments resulting in significant environmental impacts not identified in the most recently distributed version of the draft or final EIS. In this situation, the District will coordinate with FHWA to determine the work effort required to allow the project to progress and prepare the SEIS using the same procedures for preparing EISs as described in [Part 1, Chapter 6, Draft Environmental Impact Statement](#) and [Part 1, Chapter 7, Final Environmental Impact Statement](#), respectively.

According to **23 CFR § 771.130(a)** the FHWA 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 Reevaluation may need to be done on an existing SEIS. In this case, it is important to coordinate closely with FHWA.

13.2.2 Type 1 Categorical Exclusion Projects

Type 1 CE reevaluations are not documented on the **Reevaluation Form**, but rather through a re-submittal of the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** when requesting federal authorization. This reevaluation consists of a finding that the initial COA designation remains valid. The **Type 1 Categorical Exclusion Checklist**, found in **Part 1, Chapter 2, Federal Highway Administration Class of Action Determination**, should be reviewed and updated. The results of the checklist are documented in the **Status of Environmental Certification for Federal Project, Form No. 650-050-13** (**Figure 13.4**) which is provided to the District Federal Aid Coordinator.

The District Federal Aid Coordinator or the Federal Aid Management Office notes this information on the **Federal-Aid Project Authorization/Agreement Form (PR-1240 Form)**, which is required as part of the federal-aid funding request package. Acceptance by FHWA of the **PR-1240 Form** authorizes the use of federal funds.

13.3 REFERENCES

23 CFR § 636. Design-Build Contracting.

23 CFR § 771. Environmental Impact and Related Procedures.

40 CFR §1502.9. Draft, Final, and Supplemental Statements.

Federal Highway Administration. Federal-Aid Project Authorization/Agreement Form, PR-1240. <http://flh.fhwa.dot.gov/CFLHD/Chapter1/forms-templates/FormPR1240.pdf>.

Florida Department of Transportation. Design-Build Request for Proposals boilerplate. <http://www.dot.state.fl.us/construction/DesignBuild/DBDocuments/DBDocsMain.shtm>.

Florida Department of Transportation. Plans Preparation Manual, Topic No. 625-000-007 and 008.

Florida Department of Transportation. 2012. Project Commitment Record Form, Topic No. 700-011-35.

Florida Department of Transportation. 2012. Project Commitment Tracking, Topic No. 700-011-035.

U.S. Department of Transportation, Federal Highway Administration, 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>

13.4 HISTORY

10/9/1998, 1/31/2007, 6/20/2011

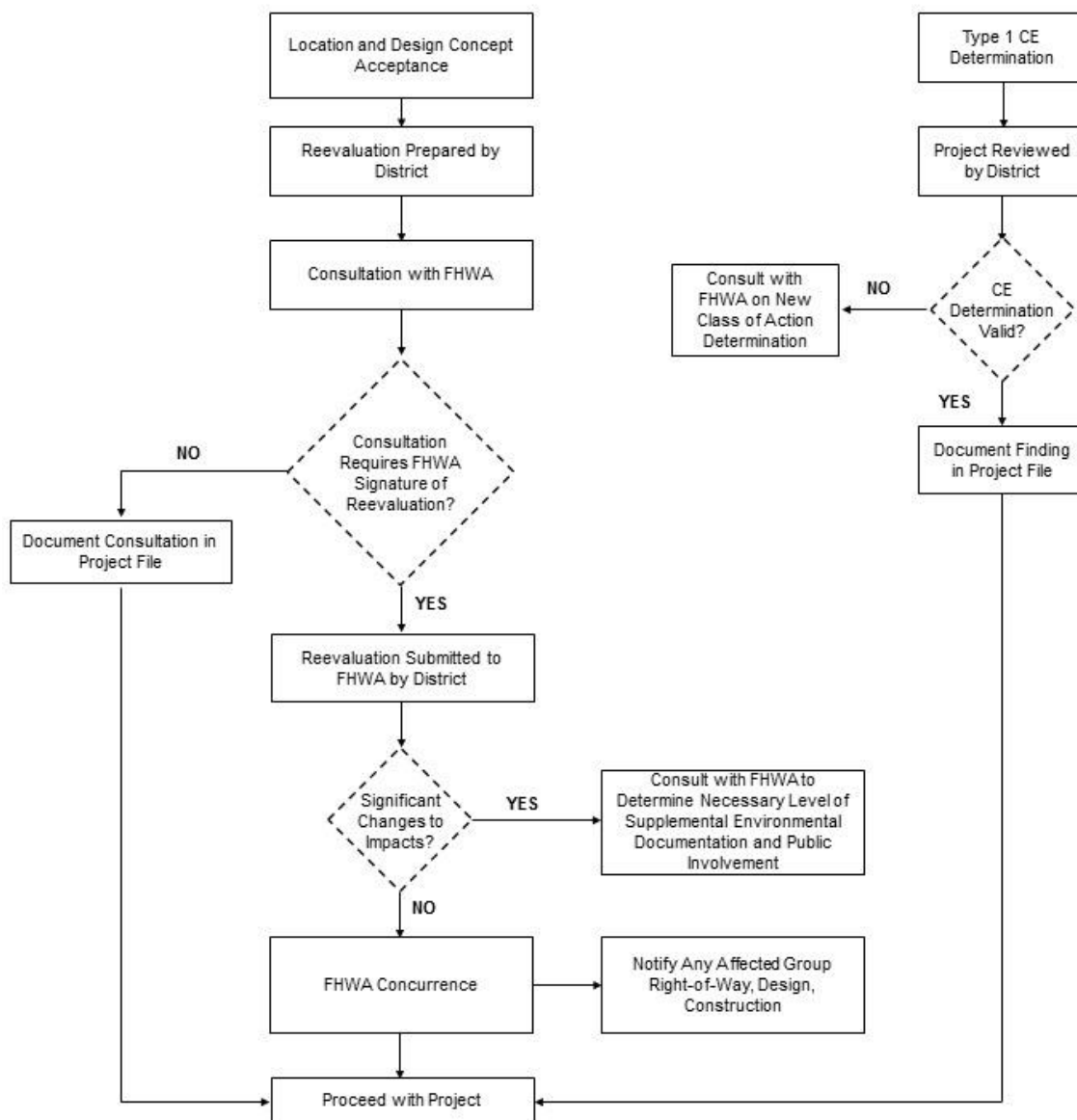


FIGURE 13-1 Reevaluation Process

Florida Department of Transportation REEVALUATION FORM

1. GENERAL INFORMATION (originally approved Environmental Document)

a. Project Phase: _____

b. Document Type and Date of Approval: _____

c. Project Numbers: _____
 Federal Aid FM ETDM

d. Project Name, Location and Limits (from original document):

e. Segments of Highway Being Advanced:

f. Prior Reevaluations: _____

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***

h. Name of FDOT Preparer: _____

FIGURE 13-2 Reevaluation Form (Page 1 of 3)

2. EVALUATION OF CHANGES

	YES / NO		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. Recreation Areas	☐	☐	_____
C. NATURAL			
1. Wetlands and Other Surface Waters	☐	☐	_____
2. Aquatic Preserves and Outstanding FL Waters	☐	☐	_____
3. Water Quality	☐	☐	_____
4. Wild and Scenic Rivers	☐	☐	_____
5. Drainage and Floodplains	☐	☐	_____
6. Coastal Zone Consistency	☐	☐	_____
7. Coastal Barrier Resources	☐	☐	_____
8. Protected Species and Habitat	☐	☐	_____
9. Essential Fish Habitat	☐	☐	_____
D. PHYSICAL			
1. Highway Traffic Noise	☐	☐	_____
2. Air Quality Analysis	☐	☐	_____
3. Contamination	☐	☐	_____
4. Utilities and Railroads	☐	☐	_____
5. Scenic Highways	☐	☐	_____
6. Construction	☐	☐	_____
7. Bicycles and Pedestrians	☐	☐	_____
8. Navigation	☐	☐	_____

FIGURE 13-2 Reevaluation 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 environmental determination have occurred check the following:

- ☐ The above Environmental Document has been reevaluated as required by 23 CFR Part 771. 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.

It is recommended that the project identified herein be advanced to the next phase.

7. REVIEWER SIGNATURE BLOCK

Print Name

District approving authority or designee

/ /
Date

8. FHWA CONCURRENCE

FHWA signature required? ☐ Yes ☐ No (date of consultation)_____

Print Name

Federal Highway Administration, Division Administrator

/ /
Date

9. ATTACHMENTS

FIGURE 13-2 Reevaluation Form (Page 3 of 3)

(DATE)

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

Attention: (appropriate representative)

Dear Mr./Ms.:

Name of Project
Location of project
ETDM Number (if applicable)
Financial Management Number
Federal Aid Number
The limits of the project of the approved Environmental Document
The segment(s) being advanced and their phase(s)

The Reevaluation and copy of the signature page are submitted for your review and approval in accordance with the Florida Department of Transportation Project Development and Environment Manual. Please return the signed signature page to the District, after approval.

Please advise this office when we may proceed with the project.

Sincerely,

District Environmental Office

FIGURE 13-3 Reevaluation Transmittal Letter

**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 C.F.R. 771.117 and per Florida's
Programmatic Agreement for Categorical Exclusions effective October, 2015:

☐ 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 C.F.R. 771.121 approved on

☐ A Record of Decision under 23 C.F.R. 771.127 approved on _____

A reevaluation in accordance with 23 C.F.R. 771.129 was (check one):

☐ Approved on _____

☐ Not required.

Signature: _____ Date: _____
Environmental Administrator or designee

FIGURE 13-4 Status of Environmental Certification For Federal Project

PART 1, CHAPTER 14

TRANSIT PROJECT DELIVERY

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PART 1, CHAPTER 14

TRANSIT PROJECT DELIVERY

14.1 OVERVIEW

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 major 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, Federal Highway Administration Class of Action Determination](#), FTA is typically the Lead Federal Agency in the development of transit projects; however, the Federal Highway Administration (FHWA) and the Federal Railroad Administration (FRA) can be involved in the development of transit projects and may serve as the Lead Federal Agency. Each agency has its own set of procedures for ensuring **NEPA** compliance. The Project Development and Environment (PD&E) process is how the Florida Department of Transportation (FDOT) complies with **NEPA** and FTA's Project Development process for capital investments. Given the competitive grant based nature of FTA projects, there is a two-year timeframe to complete the Project Development study. This chapter focuses on the **NEPA** and project delivery requirements for a federally funded, FTA-led transit project. However, the differences between an FTA-led project and an FHWA-led project, as well the differences between a federally funded transit project and a transit project that does not have federal funds or a federal action, are also explained in this chapter.

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 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 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 Federal 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.

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. It is used to document anticipated projects and associated schedules and budgets for FDOT and 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 Section 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 does not have an “in-house” **NEPA** process like FHWA when administering funding through state DOTs. 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 conduct the assessment of each environmental impact area required for the **NEPA** study, particularly for those listed in **Section 14.3.4**. 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

Unlike highway projects, 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 Federal Agency;
2. Project sponsor/FTA grant applicant/FTA grantee;
3. FDOT (Public Transit Office, Environmental Management Office, and District staff);
4. MPOs/TPOs;
5. Transit agencies;
6. Local governments; and,
7. Cooperating, participating, and federal resource agencies.

Typically, the MPO/TPO or a local or regional transit agency identifies projects. Each of these entities may or may not serve as the project sponsor or FTA grant applicant/grantee. The project sponsor will be responsible for conducting the 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. In any case, the project sponsor is responsible for conducting studies in compliance with **NEPA**.

Some of the more important 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 Federal Agency.
2. Identifying stakeholder and agency 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 Federal 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 Federal Agency during the course of the Project Development process.

For FTA-led projects that require an EIS, the roles and responsibilities and the organization and schedule for the coordination among these agencies and the public is discussed in the **Coordination Plan** (see **Section 14.3.4.4.4**). The main goal of the **Coordination Plan** is to expedite and improve the environmental review process by clearly establishing agency roles, responsibilities, and expectations. A review of each of these roles and responsibilities is provided below.

14.2.1.1 Lead Federal Agencies

For transit projects, the Lead Federal Agency is typically FTA; however, as mentioned previously, FHWA, FRA, and other select federal agencies may serve in this role depending on the funding source or federal actions required for the project. In addition to

the Lead Federal Agency, several other agencies may be involved in different capacities such as Cooperating or Participating agencies. All **NEPA** documents require a Lead Federal Agency whose role is to ensure the document is prepared consistent with that agency's federal requirements. The lead agencies must also identify and involve participating agencies [23 U.S.C. § 139(d)]; develop **Coordination Plans** [23 U.S.C. § 139(g)]; provide opportunities for public and participating agency involvement in defining the purpose and need and determining the range of alternatives [23 U.S.C. § 139(f)]; and 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)]. For projects where federal funding is not considered, a **NEPA** document may still be required depending on if a federal action is required. 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 FHWA, 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.

A primary difference between the FTA and FHWA processes is that most transit funding provided by FTA is through one of the grant programs described in **Section 14.4**. Each of these programs has its own set of guidance. Additionally, FTA has considerably more 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 for which both FTA and another federal agency are required to take federal actions, both agencies may serve in a Joint Lead Federal Agency role together. Examples of FTA funded projects where FTA may joint lead with other federal agencies include:

1. FHWA and FTA on a transit project located on the National Highway System (NHS);
2. FHWA and FTA on a transit project that includes a new or modified bridge structure over an interstate corridor;
3. FHWA 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 in accordance with each agency's own **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 Federal 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 of the project.

14.2.1.4 Cooperating Agencies

Cooperating agencies are any federal agency, other than the Lead Federal 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 Federal 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, it is a two-step process, Project Development and Engineering as shown in **Figures 14-2** and **14-3**. For Small Starts projects it 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 achieved and the LPA is included in the MPO/TPO's LRTP Cost Feasible Plan. In addition to preparing the **NEPA** document, sufficient information must be gathered during this phase to develop the formal 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. These approval points for the CIG program are a key difference between the FTA and FHWA 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 14.3.3.6**). 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 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 and 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 and 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 14.3.4** 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 **Sections 14.3.1** and **14.3.2** below. 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 Federal Lead Agency will satisfy **NEPA** requirements.

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 practices 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 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 demand under existing conditions or will not meet future 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 demand, then a decision should be made regarding the use of FTA funds or other federal funds for the project and if these funds are considered, who the primary grant applicant for the federal funding will be.

14.3.1.3 Potential Funding Source Identification

The anticipated costs, availability of local funding, and state and 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 application requirements but to be competitive with other grant applicants from across the country.

FTA is typically the Lead Federal 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 is comprised of discretionary grants (New Starts, Small Starts and Core Capacity), but 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. This chapter focuses on the environmental review requirements of the Project Development phase. 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 will need to 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.

14.3.2 Federal Action Determination

Federal actions are described in [Part 1, Chapter 2, Federal Highway Administration](#)

Class of Action Determination. Even if federal funds are not being used, the project may still have a federal action requiring a **NEPA** document. 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. 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 Federal Agency.

14.3.3 Concept Development and Alternatives Screening

Once a need is identified and a potential project is identified in the early planning stages, 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 concept development and alternatives screening.

14.3.3.1 Coordination with Partners and Lead Federal 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 well 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 Federal Agency, FDOT, and other project partners an opportunity to understand regional needs and the project purpose prior to the Project Development process.

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 Federal 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..

There are several roles and responsibilities associated with the completion of the **NEPA** document. In the case of transit projects, the Lead Federal Agency is typically FTA; however, in certain circumstances, FHWA or FRA may serve in this role. The Lead Federal Agency is typically dependent on the funding source being sought for the project. The Lead Federal Agency works closely with the project sponsor (transit agency or MPO/TPO). The project sponsor is typically the grant recipient for the project while several other agencies may be involved in different capacities such as cooperating or participating agencies. A review of each of these roles and responsibilities is provided in **Section 14.2**.

As soon as practical, the project sponsor should schedule meetings FDOT staff to discuss the appropriate environmental documentation requirements, Lead Federal 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 impact 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 in conjunction with early planning work as a way of securely linking the transportation planning and **NEPA** processes. Early scoping may be appropriate for planning when there are several transit mode 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 14.3.4.4.4**) developed during Project Development. 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.

14.3.3.2 Alternatives Screening

Alternatives screening performed during planning combines best transit corridor planning practices with the information needed to prepare the letter for FTA to consider advancing a project 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 FDOT's Environmental Office 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 the need for FTA or other federal funds for construction are not required to coordinate with FTA. However, project sponsors 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 the 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 phase includes an assessment of a wide range of public transportation or multimodal alternatives to address transportation problems in a corridor or subarea. The alternatives screening phase 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 Federal Agency about 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 at least a resolution of support be acquired from the MPO/TPO and affected local governments. For non-urbanized areas, a similar action by the regional planning council and affected local governments, or both for projects that cross multiple jurisdictions, is recommended. This documentation can be provided to FTA as part of the request to enter Project Development to demonstrate local support for the proposed action. The end result of the alternatives screening phase is to organize and provide sufficient information to prepare an application letter to FTA requesting entry into the Project Development phase. **Section 14.3.3.6** explains the process for requesting entry into Project Development.

14.3.3.3 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 at the same time for a common and comprehensive assessment of the project and any decisions, comments, and issues identified by participants.

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. Comments and recommendations from both screens are recorded in the EST and published in the **Programming Screen Summary Report**. The **Programming Screen Summary Report** provides information to assist with the transition to the PD&E phase. FTA does not currently participate in the ETDM 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. The **Programming Screen Summary Report** 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. While the **Programming Screen Summary Report** is not required by FTA, the information can be repackaged and submitted to FTA to meet the requirements for requesting entry into Project Development.

14.3.3.4 Determine NEPA Class of Action

As discussed in [Part 1, Chapter 2, Federal Highway Administration Class of Action Determination](#), 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 Federal Agency for all projects with a federal action requirement. FTA is typically the Lead Federal Agency for federally funded transit projects and makes the COA decision. For most federal projects other than FTA-led projects, the COA determination is made during the ETDM process and documented in the **Programming Screen Summary Report**. FTA, FHWA, FRA, Federal Aviation Administration (FAA), USCG, or the USACE may serve as the Lead Federal 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 for entry into Project Development:

1. Project description;
2. Summary of prior planning work;

3. The summary of the alternatives screening phase;
4. Final draft purpose and need or a statement of need;
5. A graphic 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.

14.3.3.5 Linking Prior Planning Work with NEPA

Per Federal Regulation **23 CFR 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.

14.3.3.6 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. 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. 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. FTA requires that the Project Development process be completed within two (2) years from the time that FTA approves entry into the Project Development process (for New Starts and Core Capacity projects only). FDOT encourages Small Starts project sponsors to also complete their Project Development within two 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, 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 (Medium rating or better).

In addition, sufficient engineering and design work 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.

14.3.4 FTA Project Development/NEPA

This section discusses the requirements of **NEPA** documents for transit projects with FTA as the Lead Federal Agency. Differences in the **NEPA** requirements of other federal agencies, particularly those of FHWA, are described below. 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. **NEPA** process should not begin until the project

receives approval from FTA to enter Project Development to ensure environmental analysis is counted towards the local match for federal funds. Any environmental work conducted prior to approval from FTA should be at the level sufficient to present to FTA for determination of COA.

14.3.4.1 Evaluation of Environmental Impacts

It is important for **NEPA** practitioners to review this section before initiating any **NEPA** document, especially CEs. FTA's evaluation methods and criteria for most environmental impact areas are different from those of FHWA and other federal agencies. Project sponsors and **NEPA** practitioners should refer to the most recent FTA guidance, where applicable, to ensure that evaluation criteria meet FTA's expectations as well as [Part 2, Chapters 7 through 30](#). Furthermore, it is highly advisable that the project sponsor/FTA grantee discuss the scope and proposed methodology for all **NEPA** documents with the FTA Region IV office prior to conducting any environmental analysis. In most cases, information from the **Programming Screen Summary Report** can be used to support the evaluation of environmental impacts in the **NEPA** document, particularly CEs; however, the entire **Programming Screen Summary Report** should **not** be submitted with the **NEPA** document, since the presentation of some project information in the report may conflict with FTA's **NEPA** requirements.

There are notable differences between the environmental impact evaluation categories for the FHWA [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11](#) and the FTA **Categorical Exclusion Checklist (Figure 14-6)**. For example, while both agencies are required to demonstrate compliance with the **Endangered Species Act**, the **Migratory Bird Treaty Act**, and the **Bald and Golden Eagle Protection Act** in all **NEPA** documents, the FHWA [Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11 \(Part 1, Chapter 5, Type 2 Categorical Exclusion\)](#) collectively defines this impact category as "Protected Species and Habitat," while the FTA **Categorical Exclusion Checklist** defines this impact category as "Impacts to Ecologically-Sensitive Areas and Endangered Species." 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 impact disciplines where FTA requires evaluation methodologies and techniques that are different from those of FHWA. For some of the issues, methodologies and techniques are similar to FHWA projects.

14.3.4.1.1 Noise

FTA has noise evaluation requirements that are different from FHWA requirements. For FTA analysis, project sponsors should refer to the **Transit Noise and Vibration Impact Assessment Handbook, FTA-VA-90-1003-06, May 2006**. There are three levels of noise analysis that 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 each of the three levels is specified in the **Transit Noise and Vibration Impact Assessment Handbook**, and include the following:

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***.

14.3.4.1.2 Vibration and Ground Borne Noise

FTA requires that a vibration impact assessment be conducted for most transit rail projects, whereas FHWA has no requirements for vibration assessment. 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 take into consideration 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.

There are three levels of vibration and GBN analysis which 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 each 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***.

14.3.4.1.3 Air Quality

Transit projects funded by FTA or another Lead Federal Agency 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.

14.3.4.1.4 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.

14.3.4.1.5 Safety and Security

Safety and security are concerns with all transit projects and should be addressed in a 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.

14.3.4.1.6 Historic Resources

FTA and FHWA use the same guidance for these resources. For further information, see [Part 2, Chapter 12, Archeological and Historical Resources](#).

14.3.4.1.7 Archaeological Resources

FTA and FHWA use the same guidance for these resources. For further information, see [Part 2, Chapter 12, Archeological and Historical Resources](#).

14.3.4.1.8 Wetlands

FTA and FHWA use the same guidance for these resources. For further information, see [Part 2, Chapter 18, Wetlands and Other Surface Waters](#).

14.3.4.1.9 Ecologically Sensitive Areas and Endangered Species

As noted in **Section 14.3.4.1**, despite different terminology for these impact categories, FTA and FHWA use the same guidance for the impact evaluations for these resources. For further information, see [Part 2, Chapter 27, 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 11, Essential Fish Habitat](#) and [Part 2, Chapter 26, Coastal Barrier Resources](#).

14.3.4.1.10 Water Quality, Wild and Scenic Rivers, Navigable Waterways, and Coastal Zone Management

FTA and FHWA use the same guidance for these resources. For further information, see [Part 2, Chapter 20, Water Quality Impact Evaluation](#), [Part 2, Chapter 23, Wild and Scenic Rivers](#), and [Part 2, Chapter 25, 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 11, Essential Fish Habitat](#) and [Part 2, Chapter 26, Coastal Barrier Resources](#).

Consider any potential impacts to navigable waterways by providing the following information, which FTA will use to make its determination under **23 CFR 650, Subpart H**. 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 or FHWA 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.

14.3.4.2 Categorical Exclusions

The definition of a CE is defined in **40 CFR § 1508.4** and **23 CFR Part 771**. FDOT is not authorized to make CE determinations for FTA. For CEs, FTA Region IV will review and approve the CE checklist and associated documentation. FTA uses the Council on Environmental Quality Regulations (CEQ) term Class II: CEs for projects which, based upon past experience with similar actions, do not individually or cumulatively have a significant environmental effect, and are excluded from the requirement to prepare an EA or an EIS. The definition of CE in **40 CFR 1508.4** and **23 CFR 771** provide further guidance for FHWA and FTA projects. Per the guidance, FHWA and FTA regulations designate 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 FHWA or FTA, and (2) those additional actions that require FHWA or FTA's approval, as applicable, after consideration of documentation demonstrating that CE criteria are satisfied and significant environmental effects will not result from the action. 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 submitted as an attachment 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)***:
 - 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.

Per **23 CFR § 771.118(e)** where a pattern emerges for granting CE status for a particular type of action, FTA will initiate rulemaking proposing to add this type of action to the appropriate list of CEs in **23 CFR § 771.118**.

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 **PIP** to outline the process for community input into the decision-making process but unlike FHWA, 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](#)).

14.3.4.3 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 then conduct 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.

14.3.4.3.1 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 Lead Federal Agency 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 and the document must be made available for public and agency review at least 21 days prior to a public hearing (see [Part 1, Chapter 11, Public Involvement](#)). 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 and is required by **Section 339.155, F.S.** 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 acceptable 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.

14.3.4.3.2 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. This process is different from FHWA, who normally appends a cover letter to the FONSI stating that the location and design concept acceptance has been granted concurrently with approval of the FONSI.

14.3.4.4 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. For FHWA-led projects, refer to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) and [Part 1, Chapter 9, Final Environmental Impact Statement](#).

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.

An EIS must be signed by the FTA Regional Administrator and the authorized official of the local lead or cooperating transit 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.

14.3.4.4.1 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 Federal 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**.

14.3.4.4.2 NEPA Scoping

NEPA scoping or scoping (not to be confused with the early scoping process during the planning phase) is a formal process for projects requiring an EIS. Scoping is required and described in **40 CFR § 1501.7 CEQ Regulations**, as well as detailed in **Part 1, Chapter 8, Draft Environmental Impact Statement** and **Part 1, Chapter 11, Public Involvement**. According to **23 CFR Part 771**, scoping should begin early in the Project Development process. It is in the **NEPA** scoping process that potentially significant environmental impacts and alternatives to avoid or minimize impacts should be 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 should be 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, information from the ETDM screening comments as well as coordination with the Lead Federal Agency 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**.

14.3.4.4.3 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 and context of these **NEPA** documents. 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.

14.3.4.4.4 Coordination Plan

A **Coordination Plan** provides the communication protocol and schedule for coordination among the Lead Federal Agency, 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 Federal Agency. For these FTA-led projects, the **PIP** is a component of the **Coordination Plan** and may be incorporated by reference into the **Coordination Plan**.

14.3.4.4.5 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 FTA DEIS should closely follow the principal EIS components as presented in **Section 14.3.4.4** and in **Figure 14-7**. Refer also to [Part 1, Chapter 8, Draft Environmental Impact Statement](#) for principal components for an FHWA DEIS.

A DEIS must be signed by the FTA Region IV Administrator and the authorized official of the project sponsor and/or cooperating transit 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.

14.3.4.4.6 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 circulation period for the DEIS must be a minimum of 45 days and a public hearing must be held with at least 15 days prior notice (see [Part 1, Chapter 11, Public Involvement](#)). The public hearing for the DEIS must also be conducted to comply with **Section 339.155(5), F.S.**

14.3.4.4.7 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](#)). Unlike FHWA, 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 Federal 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.

14.3.4.4.8 Record of Decision

Following completion of the FEIS, the FTA or other Lead Federal 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. While an FTA-issued ROD and an FHWA-issued ROD contain essentially the same information, FTA has very specific language it prefers to use. 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.

14.3.4.4.9 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 and FHWA should develop a single document that combines the FEIS and ROD.

FEIS Errata Sheet

Under **Title 23 USC § 139**, FHWA and 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. FHWA's and 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, FHWA and 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 FHWA 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 Federal 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 and FHWA, 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 and FHWA 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 ***NEPA*** document would consist of a DEIS, errata sheets, responses to DEIS comments, and the ROD.

14.3.4.5 Request Entry into Engineering

During Project Development, prior to the completion of the environmental review process, 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. **Fixing America's Surface Transportation Act**, or "**FAST Act**," was passed on December 4, 2015. The **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.

FTA is typically the Lead Federal 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

This section outlines the CIG program. 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. The maximum total federal share for New Starts projects is 60% from **Section 5309** funds with up to 80% federal share (with additional funds made up from other sources). 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 of both weekdays and weekend days.

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).

14.5 REFERENCES

23 Code of Federal Regulations (CFR) § 771. Environmental Impact and Related Procedures. <http://www.ecfr.gov>

40 CFR §§ 1500-1508. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. <http://www.gpo.gov/fdsys/granule/CFR-2011-title40-vol33/CFR-2011-title40-vol33-part-id1102/content-detail.html>

23 CFR Part 650. Bridges, Structures, and Hydraulics. <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.7.28>

American Association of State Highway and Transportation Officials (AASHTO)/ America Council of Engineering Companies (ACEC) and Florida Highway Administration (FHWA), Improving the Quality of Environmental Documents, May 2006. http://environment.transportation.org/pdf/nepa_process/QUALITY_NEPA_DOCS.pdf

AASHTO Center for Environmental Excellence, Preparing High-Quality NEPA Documents for Transportation Projects, July 2014. <http://environment.transportation.org/pdf/programs/pg15-1.pdf>

Clean Air Act, 1990 Amendments

Endangered Species Act (ESA) of 1973, as amended 1978, 1979 and 1982. <http://www.fws.gov/endangered/esa-library/pdf/ESAall.pdf>

- Federal Transit Administration (FTA). 2006. Transit Noise and Vibration Impact Assessment. FTA-VA-90-1003-06. http://www.fta.dot.gov/documents/fta_noise-and_vibration_manual.pdf
- FTA. 2011. FTA Project and Construction Management Guidelines http://www.fta.dot.gov/images/content_images/-fta_project_and_cm_guidelines_-_july_2011_update_12-01-26.pdf
- FTA. 2012. Bus and Bus Facilities Fact Sheet. http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Bus_and_Bus_Facilities.pdf
- FTA. 2012. Construction Project Management Handbook. <http://www.fta.dot.gov/documents/FTA-CONSTRUCTION-PRJT-MGMT-HDBK2009.pdf>
- FTA. 2012. Enhanced Mobility of Seniors and Individuals with Disabilities Fact Sheet. <http://www.fta.dot.gov/map21/>
- FTA. 2012. Environmental Justice Policy Guidance for FTA Recipients. FTA Circular, FTA C 4703.1. https://www.fta.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf
- FTA. 2012. Formula Grants for Rural Areas Fact Sheet. <http://www.fta.dot.gov/map21/>
- FTA. 2012. FTA Quality Management System Guidelines. http://www.fta.dot.gov/images/content_images/-final_fta_qms_guidelines_december_2012.pdf
- FTA. 2012. State of Good Repair Fact Sheet. <http://www.fta.dot.gov/map21/>
- FTA. 2012. Urbanized Area Formula Grants Fact Sheet. <http://www.fta.dot.gov/map21/>
- FTA. 2013. Guidelines for Land Use and Economic Development Effects for New Starts and Small Starts Projects. http://www.fta.dot.gov/documents/land_use_and_econdev_guidelines_august_2013.pdf
- FTA. 2013. New and Small Starts Evaluation and Rating Process, Final Policy Guidance. http://www.fta.dot.gov/documents/-ns-ss_final_policyguidance_august_2013.pdf
- FTA. 2013. Section 5309 Capital Investment Grant Program: (New Starts, Small Starts, and Core Capacity Improvements). <http://www.fta.dot.gov/12304.html>
- FTA. 2013. Small Starts Standard Cost Category Workbook. <http://www.fta.dot.gov>
- FTA. 2013. Small Starts Templates, Parts 1 and 2. <http://www.fta.dot.gov>

FTA. 2014. Before and After Study Qs and As. http://www.fta.dot.gov/12304_2613.html

FTA. 2014. Capital Investment Program Frequently Asked Questions: What Should I Submit to FTA if I Wish to Apply for Entry into the Project Development Phase of the Capital Investment Grant Program?
http://www.fta.dot.gov/12304_15522.html#what-should

FTA. 2014. Capital Investment Program Frequently Asked Questions: When May a Project Sponsor Seek Entry into New Starts or Core Capacity Engineering Phase? <http://www.fta.dot.gov/12304-15522.html#when-may>

FTA. 2014. Guidance for Implementation of FTA's CEs (23 CFR. §771.118).
http://www.fta.dot.gov/documents/Section_118_Guidance-November_2014.pdf

FTA. 2015. Capital Investment Program: New Starts, Small Starts and Core Capacity Improvements. <http://www.fta.dot.gov/12304.html>

FTA. 2015. FTA Region IV Website. <http://www.fta.dot.gov/about/region4.html>

FTA. 2015. Grantee Resource Center, FTA, Region IV.
http://www.fta.dot.gov/about/region4_261.html

FTA. August 2015. Reporting Instructions for the Section 5309 Core Capacity Criteria.
<http://www.fta.dot.gov/newstarts>

FTA. MAP-21 Core Capacity Process. <http://www.fta.dot.gov/12304.html>

FTA. New Starts Project Development Process. <http://www.fta.dot.gov/12304.html>

FTA. Small Starts Project Development Process. <http://www.fta.dot.gov/12304.html>

Fixing America's Surface Transportation Act (FAST Act). FTA Overview.
<https://www.fta.dot.gov/funding/grants/fast-act>

Florida Department of Transportation (FDOT). 2013. Accessing Transit: Design Handbook For Florida Bus Passenger Facilities, Version III.
<http://www.dot.state.fl.us/transit/pages/2013accessingtransitfinal.pdf>

Florida Sunshine Law

Moving Ahead For Progress in the 21st Century Act (MAP-21).FTA MAP-21 Resource Center. Transforming the Way We Build, Manage, and Maintain our Nation's Transit Systems. <http://www.fta.dot.gov/map21/>

MAP-21. United States Code (USC) Chapter 53 of Title 49, as amended by MAP-21. Related MAP-21 provisions. 2012. <https://www.transportation.gov/map21>

National Transit Database (NTD) Glossary. <http://www.ntdprogram.gov/ntdprogram/Glossary.htm>

Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users (SAFETEA-LU). Section 6002

Section 339.155, Florida Statutes (F.S.)

Title 23 U.S.C § 101

Title 23 U.S.C. § 139. Section 20005(b). Pilot Program for Transit-Oriented Development Planning

Title 42 U.S.C § 5121

Title 49 U.S.C § 5324

14.6 HISTORY

7/10/2008

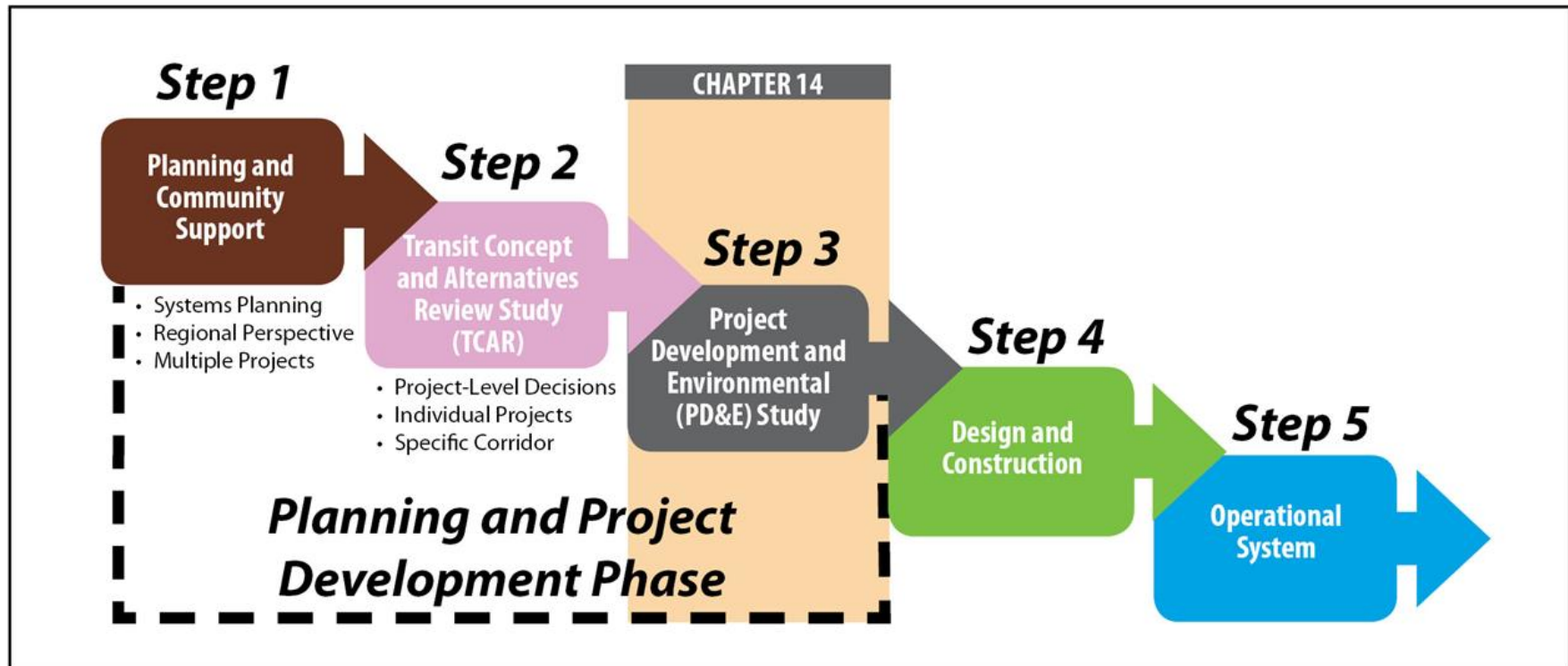


Figure 14-1 Transit Planning and Development Phase

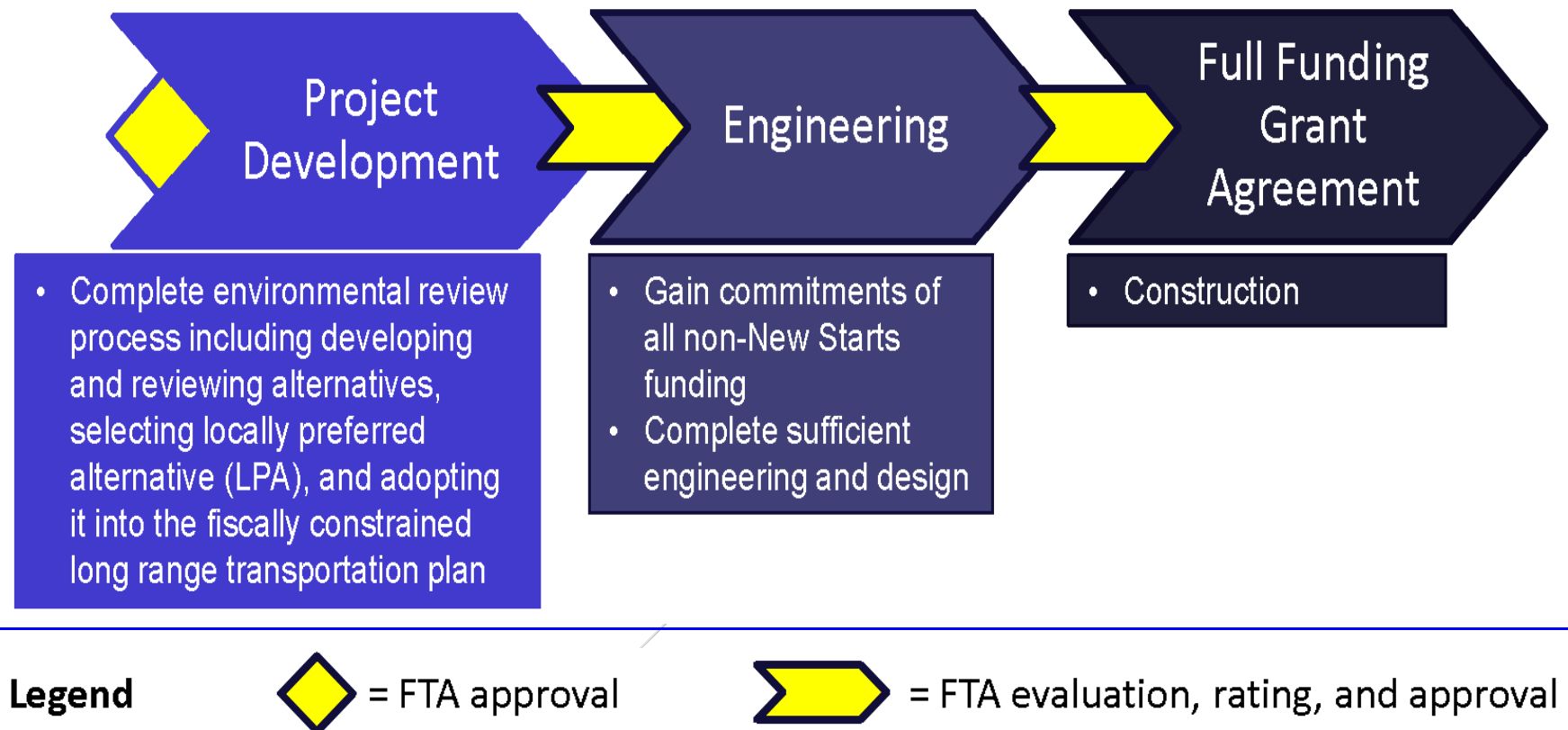


Figure 14-2 New Starts Development Process

MAP-21 Core Capacity Process

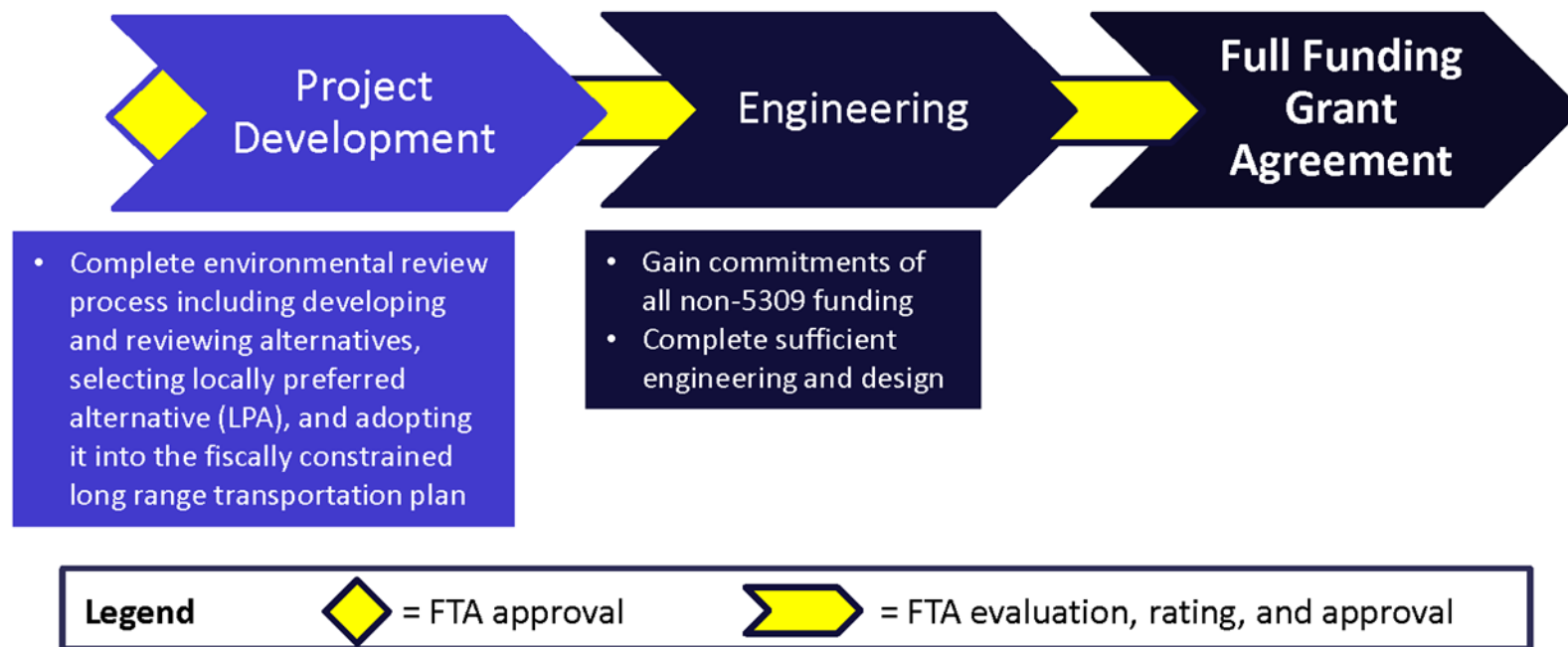


Figure 14-3 Core Capacity Development Process

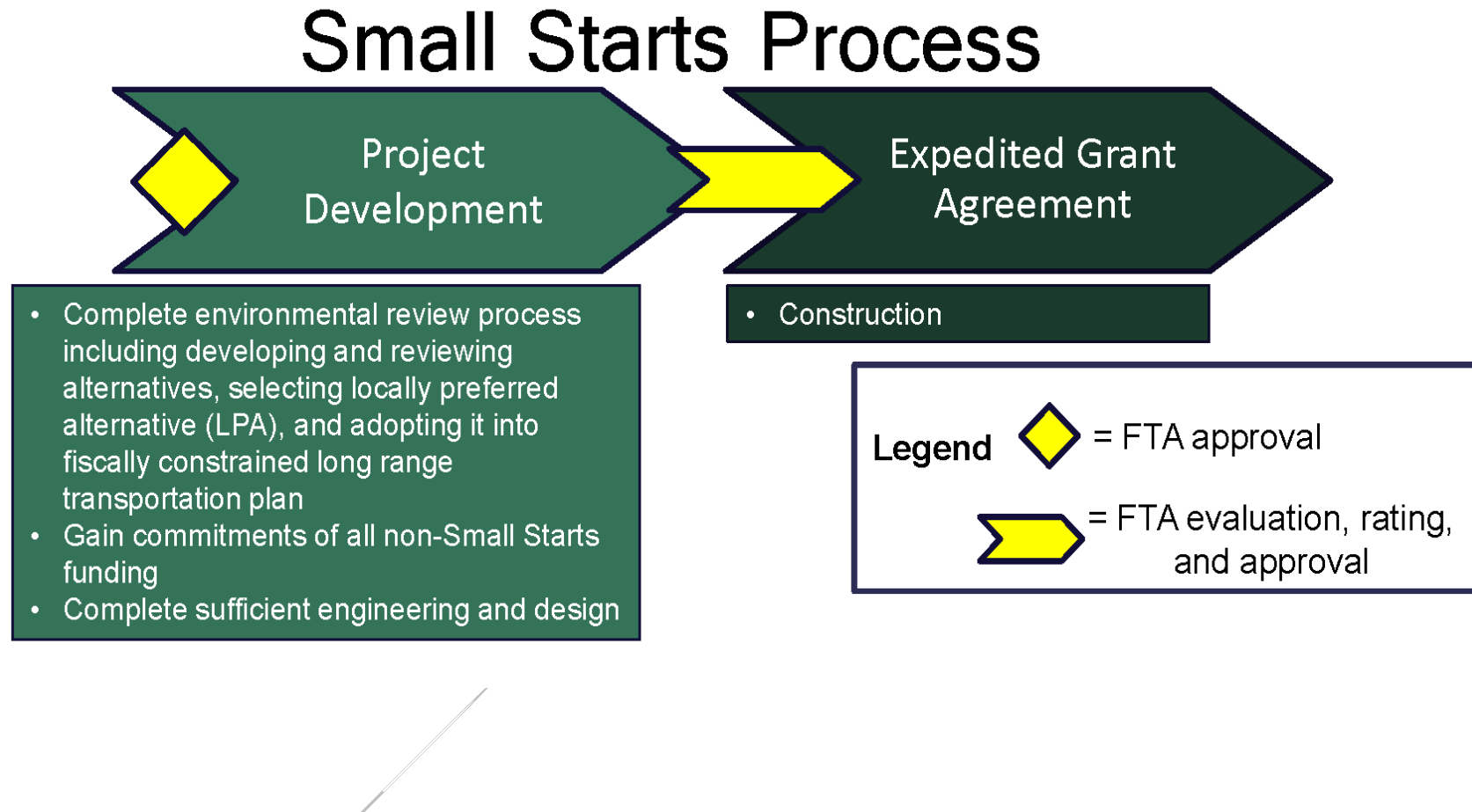


Figure 14-4 Small Starts Development Process

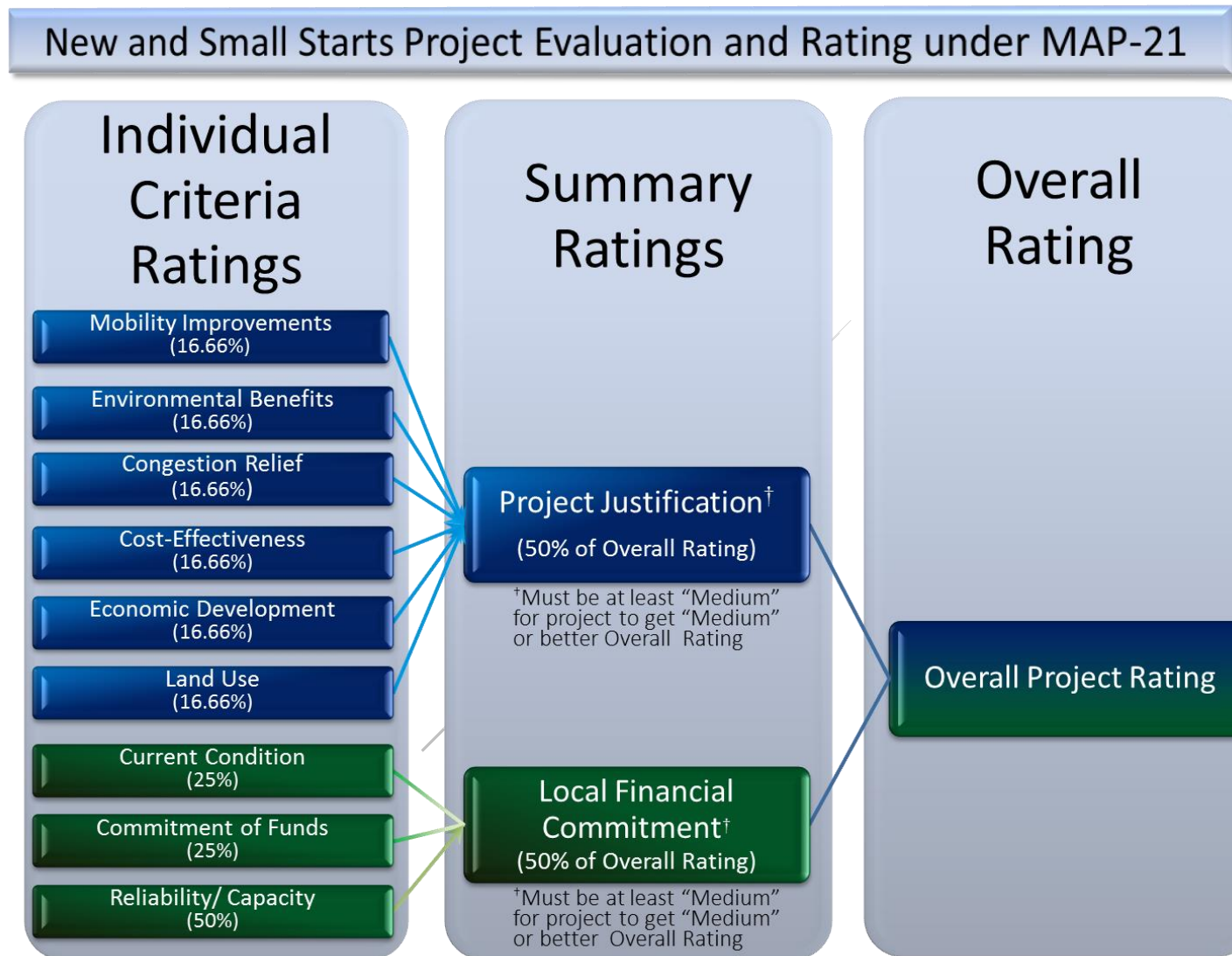


Figure 14-5 New Starts, Core Capacity, and Small Starts Project Evaluation and Rating Under MAP-21

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/regflow/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/stores/servlet/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/vol1/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> ☐ <i>Accept</i> ☐ <i>Return for Revisions</i> ☐ <i>Not Eligible</i>	<i>Reviewed By:</i> <i>Date:</i>
<i>Comments:</i>	
<i>Concurrence by Regional Counsel:</i> ☐ <i>Accept Recommendation</i> ☐ <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	☐ Yes	☐ No
Land Use and Economics	☐ Yes	☐ No
Acquisitions, Displacements, & Relocations	☐ Yes	☐ No
Neighborhoods & Populations (Social)	☐ Yes	☐ No
Visual Resources & Aesthetics	☐ Yes	☐ No
Air Quality	☐ Yes	☐ No
Noise & Vibration	☐ Yes	☐ No
Ecosystems (Vegetation & Wildlife)	☐ Yes	☐ No

Figure 14-8 Environmental Re-Evaluation Consultation Worksheet (Page 2 of 7)

Water Resources	☐ Yes	☐ No
Energy & Natural Resources	☐ Yes	☐ No
Geology & Soils	☐ Yes	☐ No
Hazardous Materials	☐ Yes	☐ No
Public Services	☐ Yes	☐ No
Utilities	☐ Yes	☐ No
Historic, Cultural & Archaeological Resources	☐ Yes	☐ No
Parklands & Recreation	☐ Yes	☐ No
Construction	☐ Yes	☐ No
Secondary and Cumulative	☐ Yes	☐ No

Will the changed conditions or new information result in revised documentation or determination under the following federal regulations?

Endangered Species Act	☐ Yes	☐ No
Magnuson-Stevens Act	☐ Yes	☐ No
Farmland Preservation Act	☐ Yes	☐ No
Section 404-Clean Water Act	☐ Yes	☐ No
Floodplain Management Act	☐ Yes	☐ No
Hazardous Materials	☐ Yes	☐ No
Section 106 National Historic Preservation Act	☐ Yes	☐ No
Uniform Relocation Act	☐ Yes	☐ No
Section 4(f) Lands	☐ Yes	☐ No
Section 6(f) Lands	☐ Yes	☐ No
Wild & Scenic Rivers	☐ Yes	☐ No
Coastal Barriers	☐ Yes	☐ No
Coastal Zone	☐ Yes	☐ No
Sole Source Aquifer	☐ Yes	☐ No
National Scenic Byways	☐ Yes	☐ No
Other	☐ Yes	☐ 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

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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			

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