

NEPA Introductory Course: Finding of No Significant Impacts

Welcome

Welcome to the National Environmental Policy Act, also known as NEPA, Introductory Course on Finding of No Significant Impact provided by the Florida Department of Transportation's, or FDOT's, Office of Environmental Management.

This training is part of a series of introductory courses that provide guidance on FDOT's process for complying with NEPA, called Project Development and Environment, or PD&E.

Please see the Environmental Management Academy Course Catalog in the FDOT Learning Curve or the OEM website PD&E Training Track for other computer based trainings in this series.

Several of these trainings are referenced throughout this CBT.

A link to these sites can be found on the resources page at the end of this CBT.

The environmental review, consultation, and other actions required by applicable federal environmental laws described in this training are carried out by FDOT pursuant to 23 U.S.C. Section 327 and a Memorandum of Understanding dated December 14, 2016, executed by the Federal Highway Administration and FDOT.

The purpose of this course is to provide instruction on preparing a Finding of No Significant Impact, or FONSI, as described in Part 1, Chapter 7 of the PD&E Manual.

Lesson Outline

This training will have five lessons:

Lesson 1 will provide an overview of the Environmental Assessment and Finding of No Significant Impact, referred to as a FONSI, throughout this training.

Lesson 2 will discuss updating the Environmental Assessment.

Lesson 3 will cover preparing the Finding of No Significant Impact.

Lesson 4 will provide guidance on the Finding of No Significant Impact Review Process.

And Lesson 5 will discuss the actions which take place after document approval.

Lesson 1

Lesson 1 will provide an overview of the Environmental Assessment and Finding of No Significant Impact.

Environmental Assessment (EA)

The NEPA Introductory Course: Environmental Assessment, was a pre-requisite for this training course.

We learned that the primary purpose of an Environmental Assessment, called an EA, is to determine the nature of the environmental impacts associated with a project.

The EA process is guided by Part 1, Chapter 6 of the PD&E Manual.

After the Public Hearing for the EA

The EA course ended with discussion of the public hearing, so we will pick up where we left off.

After the public hearing for the EA has been held, the comment period has closed, and comments have been addressed, the District updates the EA and prepares a Finding of No Significant Impact, or FONSI, if no significant impacts were identified.

After the Public Hearing for the EA

If significant impacts were identified at any point in the project, the District may decide to modify the project scope, consider other alternatives, or, after consultation with OEM, elevate the project Class of Action to an Environmental Impact Statement, or EIS.

If elevated, the District then prepares a Draft Environmental Impact Statement, or DEIS.

Guidance on the DEIS process is provided in Part 1, Chapter 8 of the PD&E Manual, as well as the computer based training - NEPA Introductory Course: Environmental Impact Statement Overview and the Draft Environmental Impact Statement.

Part 1, Chapter 7 of the PD&E Manual

This training, however, focuses on activities when no significant impacts are identified and a FONSI is prepared.

Guidance on this process is provided in Part 1 Chapter 7 of the PD&E Manual.

You may want to have this chapter handy as you go through this training.

This chapter is available on FDOT's Office of Environmental Management, or OEM's, website.

A link to this site can be found on the resources page; it can also connect you to other chapters of the PD&E Manual that are referenced throughout this training.

What is a Finding of No Significant Impact?

The FONSI is the NEPA decision document which briefly describes why the project will not have any significant environmental effect.

This determination is based on the analysis contained in an EA which is incorporated by reference.

The FONSI establishes that no significant impacts will occur because of the project.

It documents the decisions regarding the proposed project, and discusses the rationale employed in reaching project decisions.

What is an EA with FONSI?

The term "EA with FONSI" is used by FDOT since the FONSI is attached to an EA.

The FONSI is supported by information in the EA.

The EA with FONSI documents compliance with the National Environmental Policy Act, or NEPA, and other applicable environmental laws, Executive Orders, and related requirements.

The EA with FONSI also details the rationale behind the alternative selection and the finding itself.

Lastly, the EA with FONSI discusses the environmental issues and reaches appropriate decisions regarding mitigation and other commitments.

Lesson 2

In Lesson 2 we will discuss updating the Environmental Assessment.

Updating the Environmental Assessment

The EA is updated after the 30-day public inspection period, which includes a public hearing.

The District updates the EA to address any changes that have occurred since the document became publicly available.

Comments received during the public inspection period must be addressed by the District and added to the Comments and Coordination section along with responses.

Environmental Assessment Cover Page

The District should remove the signed EA cover page and add a divider page containing the words "Environmental Assessment" in the center of the page.

This may also include "and Individual Section 4(f) Evaluation" if an Individual Section 4(f) is also included.

This divider page should be placed between the FONSI and the EA.

Updating Sections of the Environmental Assessment

Next, the Project Description and Purpose and Need Section is updated.

It is important to ensure the current accuracy of the planning consistency information, as Planning Consistency should be achieved prior to signing the FONSI.

Part 2 Chapter 1 of the PD&E Manual provides information on how to update this section.

In the Alternatives Section, the Preferred Alternative subsection should be updated.

Guidance on updating this information is provided in Part 2, Chapter 3 of the PD&E Manual.

Next, update the Comments and Coordination Section to include a summary of comments along with a response to each substantive comment received during the Environmental Document review period.

This should include documentation of coordination and consultation that has occurred since the public inspection period.

Be sure to add new concurrence and coordination letters to the Appendix of the EA.

This would be any new letters or correspondence since the EA was prepared.

You should also delete the Concluding Statement subsection, since it is no longer applicable.

Then add a new subsection titled Public Hearing.

New Public Hearing Subsection

The new Public Hearing section should include the date, time, and place of the hearing; the format of the hearing; and the start and end time.

It should include the comments received, both written and oral, on the proposed actions, and the District response to those comments.

It should reference comments and responses that are in the Appendix.

Updating Sections of the Environmental Assessment

The next section is the Commitments section.

It is important to ensure that this Section of the EA is updated to include any commitments made by FDOT since the EA was prepared.

Any new commitments require internal coordination and, once coordinated with the appropriate District offices, are included in the EA with FONSI and transmitted to the next phase of project development in accordance with FDOT's Project Commitment Tracking Procedure.

See Part 2, Chapter 22, of the PD&E Manual for more information.

Lastly, the Appendix is modified and organized into pre-hearing and post-hearing sections, adding to the post-hearing section as applicable.

Lesson 3

In Lesson 3 we will discuss how to prepare the Finding of No Significant Impact.

Cover Page

Shown here is the FONSI cover page, which is only prepared using the Statewide Environmental Project Tracker, or SWEPT.

The cover page includes basic project information such as the project name, any cooperating agencies, the project numbers, the project location, and a brief description of the project.

It should be noted that the cover page includes this NEPA Assignment statement.

"The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to

Title 23 U.S.C. section 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.”

Once the FONSI has been reviewed by OEM and approved, the Director of the Office of Environmental Management signs the cover page in SWEPT.

Also included at the bottom of the cover sheet is the contact information for the project contact persons at the District and OEM.

As mentioned earlier, this cover page is an FDOT form that must be prepared in SWEPT.

A sample of the form is provided as a visual in Part 1 Chapter 7 of the PD&E Manual.

Cover Page with Section 4 (f) Involvement

If the project has Section 4(f) Involvement, the title of the cover page includes either Final Section 4(f) *de minimis* Approval or Final Section 4(f) Evaluation

These cover pages are also prepared in SWEPT and sample forms are provided in the PD&E Manual.

Finding of No Significant Impact Content

The Finding of No Significant Impact determination is automatically included on the cover page of all FONSI.

It documents the decision reached by OEM regarding the proposed project.

It states: The FDOT Office of Environmental Management has determined that this project will not have any significant impact on the human environment.

Note: Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

The Finding of No Significant Impact is based on the attached Environmental Assessment which has been independently evaluated by FDOT OEM and determined to adequately and accurately discuss the environmental issues and impacts of the proposed project.

It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required.

Finding of No Significant Impact

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

The FONSI should include discussion of those issues for which significance was in question **only**, and the determination that impacts were not significant.

The FONSI should also briefly describe the preferred alternative and reference the appropriate section of the EA for more information rather than re-stating text already in the EA.

Lesson 4

In Lesson 4 we will provide an overview of the Finding of No Significant Impact Review Process.

Overview of the Finding of No Significant Impact Review Process

This diagram shows an overview of the FONSI Review Process, which begins with updating the EA and drafting the FONSI.

The District does a quality control review, then submits the EA with FONSI to OEM, who also submits it to Legal for review.

The District also sends it to Cooperating Agencies separately.

After this review, the District updates the documents and re-submits them for OEM and Legal Office approval.

Documents Submitted for Review and Approval

Now let's get into more detail on this review process.

The District should first complete the Environmental Document Submittal Form in SWEPT.

The District then submits the EA with FONSI using FDOT's Electronic Review and Comments system, or ERC.

The public hearing transcript and new materials incorporated by reference must be uploaded into SWEPT.

Detailed guidance on the OEM review process (including legal review) can be found in Part 1, Chapter 7 of the PD&E Manual, as well as the computer based training NEPA Assignment: Why is NEPA Assignment Important - Part 2.

The EA with FONSI should also be submitted to agencies identified as Cooperating Agencies for the project through the Environmental Screening Tool, or EST.

This submittal should take place at the same time the document is submitted to OEM, if possible.

When OEM approves the EA with FONSI, they grant what is called Location and Design Concept Acceptance, or LDCA.

This is the final approval of the FONSI, allowing the project to be advanced to the next phase.

Knowledge Check A

We have now completed the first four lessons of the NEPA Introductory Course: Finding of No Significant Impact.

The following quiz will complete this segment of the training.

Question 1

Which of the following is a separate document attached to the EA, which serves as the decision-making document for the project and identifies the preferred alternative?

- a. **Finding of No Significant Impact**
- b. 23 United States Code, Chapter 1
- c. ETDM Programming Screen Summary Report
- d. EA with FONSI cover letter

Question 2

True or False:

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

False. The Finding of No Significant Impact delegates responsibility to FDOT, not FHWA

Question 3

True or False:

Appropriate sections of the EA are modified to reflect changes since public inspection of the EA.

True. The EA is modified to include new information.

Question 4

The Comments and Coordination section is updated to include:

- a. project demographic information
- b. a summary of comments along with a response to each**
- c. A Preferred Alternative subsection
- d. A list of attendees and their preferred language for responses

Question 5

The Appendix should be updated and separated into which of the following sections?

- a. A and B sections
- b. Preferred Alternative and No-Build Alternative sections
- c. Pre-Hearing and Post-Hearing sections**
- d. Purpose and Need sections

Question 6

After a public hearing, any new materials should be added to which section?

- a. Preferred Alternative section
- b. Pre-Hearing section
- c. Post-Hearing section**
- d. Purpose and Need section

Question 7

True or False:

After preparing the EA with FONSI, the District conducts a quality control review.

True. District quality control is an important step in preparing the EA with FONSI.

Question 8

True or False:

The OEM review is conducted through the ERC system.

True. The ERC system facilitates the OEM review and approval.

Lesson 5

In Lesson 5 we will discuss the actions which take place after document approval.

Actions after Document Approval

Some of the actions that typically occur after approval of the EA with FONSI are:

- Public notification of project LDCA
- Re-evaluations between each federal funding phase
- Hand-off meetings prior to design
- Project Design
- Environmental permitting and any NEPA follow-up actions
- and Commitment compliance documentation

Public Notification

After document approval, the District publishes an announcement in one or more local newspapers informing the public that LDCA has been granted to the project and the project is being advanced.

This announcement is made in the same local newspaper or papers originally used for the public hearing notification.

It is recommended that project websites or other electronic means be used to make the EA with FONSI available.

The EA with FONSI is then sent to recipients of the EA, other interested state and federal agencies, other stakeholders, and those who submitted substantial comments to the EA, typically through the EST.

The District may also prepare a Limitation of Claims Notice.

Limitation of Claims Notice - 23 U.S.C. 139(I)

The Limitation of Claims is described in Title 23, Part 139(I) of the United States Code.

It includes a provision for limiting the timeframe for filing claims and seeking judicial review of permits, licenses, or approvals issued by federal agencies, for a highway or public transportation capital project.

This federal code limits filing a claim to 150 days from notice.

Upon submittal of the EA with FONSI to OEM, the District should discuss with OEM and the Office of General Counsel the need for publication of a Limitation of Claims Notice.

The Limitation of Claims Notice is prepared by the District and then submitted to OEM.

OEM then provides the Federal Highway Administration, or FHWA, with the project information needed to publish the notice in the Federal Register.

Re-evaluation

A Re-evaluation documents whether changes have occurred since approval of the EA with FONSI.

Re-evaluations are required under Title 23 of the Code of Federal Regulations, Section 771.129(c), to ensure there has not been a significant change in the project design, project limits, scope, or environmental impacts.

A Re-evaluation Form is prepared in SWEPT for an EA with FONSI.

Guidance on Re-evaluations is provided in Part 1, Chapter 13 of the PD&E Manual, as well as the computer based training NEPA Introductory Course: Re-evaluations.

Design – Sharing of Information

It's important to share project information documented during the PD&E Study, and any subsequent re-evaluations, prior to designing the project.

This is because NEPA compliance must be tracked and maintained throughout the life of a project, not just during a PD&E Study or Re-evaluation.

Hand-off meetings are an efficient and effective way to share information between and among Project Managers and teams for different project phases.

They help maintain NEPA compliance from one project phase to the next.

After the PD&E phase ends, the Design team should review the EA with FONSI.

The PD&E Project Manager, environmental staff, and other members of the PD&E team with specialized knowledge of the project, should meet with the Design Project Manager and design team to discuss the project conditions, conceptual design, and commitments.

The logistics and schedule of any additional required assessments or analyses could also be coordinated at this time.

A handoff meeting should also be conducted between Design and Construction.

The Design team should also review the Preliminary Engineering Report to ensure all necessary actions are implemented and documented at the appropriate time.

The Preliminary Engineering report is a technical document that is summarized and referenced in the EA with FONSI.

It is important that any pending environmental analysis is considered during the development of the scope of services for project design.

Design – Environmental Office Involvement

During the Design phase, the District Environmental Office conducts any required Re-evaluations and plan reviews.

Typically, the Environmental Office reviews the 30%, 60%, 90% and Plans, Specifications, and Estimates, or PS&E, plans submittals.

Generally, permit applications are prepared and submitted based on 60% plans.

Right of Way needs are also determined at the 60% plans stage.

During these plans review, the environmental specialist compares the project design to the Project Commitment Record and approved Environmental Document or last Re-evaluation to identify major design changes or new right of way needs, and to ensure commitment fulfillment.

Staff from the Environmental Office should attend phase review meetings if held by the District, to share information and coordinate any necessary supplemental assessments or permitting requirements.

Any comments related to the project design, or considerations for the designer, are entered into the Electronic Review and Comments, or ERC system.

Design – Environmental Permitting

As discussed previously, permits are typically applied for during the Design phase, and coordination initiated earlier in project development, continues with agencies.

Also, the project mitigation plan is refined and finalized based on agency coordination and the final impacts resulting from the project footprint.

Types of Permits

There are several types of commonly required permits for transportation projects.

The State Environmental Resource Permit, and the Federal Section 404 permit for Dredge and fill of wetlands are required for projects that have involvement with wetlands.

For projects that involve navigable waterways, a United States Coast Guard Bridge Permit and United States Army Corps of Engineers Navigable Waters permit are needed.

Further detail on environmental permits that may be needed for FDOT projects can be found in Part 1, Chapter 12 of the PD&E Manual.

Other NEPA Actions During Design

Other NEPA Actions that commonly occur during the Design phase may include:

- Finalization of Section 7 Endangered Species Act consultation with the US Fish and Wildlife Service

- Wetland jurisdictional determination

- Quantification of wetland impacts using the Uniform Mitigation Assessment Method, or UMAM
- Coordination with permitting agencies regarding mitigation
- Noise wall surveys and preparation of the Noise Study Addendum
- and Level II Contamination Assessment

Knowledge Check B

You have now completed the NEPA Introductory Course: Finding of No Significant Impact.

The following quiz will complete this training.

Question 1

The District must publish an announcement of LDCA in the same local newspapers used for the public hearing notification informing the public that:

- a. The project has received LDCA
- b. The project is being advanced.
- c. **Both a and b**
- d. None of the above

Question 2

The District re-evaluates the project at each project phase to:

- a. **Provide assurance there has not been a significant change in the project.**
- b. Modify the project limits.
- c. Document the scope
- d. Remove unnecessary commitments

Question 3

True or False:

During the Design phase, the District Environmental Office conducts any required Re-evaluations and plan reviews.

True. During Design the District Environmental Office will do a Re-evaluation as well as review Plans.

Resources

The Office of Environmental Management maintains a central library of training materials as well as documents and publications including manuals, handbooks, guidelines and agreements.

Key references pertinent to this training include:

- the Environmental Management Academy Course Catalog
- the PD&E Manual
- and the StateWide Environmental Project Tracker

Links to documents listed here are included on the Resources Page.

Conclusion

You have now completed the NEPA Introductory Course on Finding of No Significant Impacts.

Thank you for your time and attention.