

Topic: e-NEPA, Procedure for electronic submittal of EIS to USEPA for Publication in the Federal Register

ENVIRONMENTAL PROCESS NOTICE

Purpose: The purpose of this EPN is to provide procedural guidance to the Florida Department of Transportation (FDOT), Puerto Rico Highway Transportation Authority (PRHTA), and Virgin Islands Department of Public Works (VIDPW) for submitting Draft, Final and Supplemental EIS documents for public availability review and publication in the Federal Register per federal and state requirements to comply with new electronic filing requirements outlined by USEPA in its August 24, 2012 Guidance.

References and Related Documents: *e-NEPA Electronic Submittal of Environmental Impact Statements to EPA* (July 31, 2012, email transmittal from Gerald Solomon, Director, FHWA Office of Project Development and Environmental Review to all FHWA Division Offices).

Federal Register/Vol.77, No 165/Friday, August 24, 2012, Environmental Protection Agency [ER-FRL9004-7], Amended Environmental Impact Statement filing System Guidance for Implementing 40 CFR 1506.9 and 1506.10 of the Council on Environmental Quality's Regulations Implementing the National Environmental Policy Act.

USEPA Web Site: <http://www.epa.gov/compliance/nepa/submiteis/index.html>

Applicability: U.S. Environmental Protection Agency (USEPA) Guidance published in the Federal Register August 24, 2012, updates the current guidelines to incorporate changes necessary to implement the e-NEPA electronic filing system. Use of e-NEPA is applicable to federal agencies submitting a Draft, Final and Supplemental Environmental Impact Statement (EIS) documents to the USEPA for publication in the Federal Register for purposes of public availability in compliance with CEQ Regulations 40 CFR 1506.9 and 1506.10, and Federal Highway Administration's (FHWA) implementing regulation 23 CFR 771.123(i), and 23 CFR 771.125(g).

Background: Historically in Florida, publication of the Draft, Final and Supplemental EIS documents with USEPA has been the delegated responsibility of the FDOT which is the agency producing the NEPA document in compliance with 23 CFR 771. This practice of delegated responsibility has been in existence since the 1980s and is now changing per USEPA's e-NEPA Guidance. For, PRHTA and the VIDPW, there is no recent history of procedural implementation for the EIS aspect of NEPA implementation. e-NEPA is USEPA's on-line tool for submitting EIS documents electronically for publication in the Federal Register. The system has been designed by USEPA for electronic filing and the elimination of the need to mail hard copies of EIS documents to USEPA for publication, circulation and archiving.

As of October 1, 2012, USEPA no longer accepts paper copies or compact discs (CDs) of EISs for filing purposes. e-NEPA meets EPA's requirements for EIS filing. All EIS submissions to the *Federal Register* must be made by a federal agency through e-NEPA.

FDOT, PRHTA, and the VIDPW will have to coordinate the publication of Draft, Final and Supplemental EIS documents with the FHWA Florida Division Office to ensure that the documents are published in a timely manner and that the date used for public comment is based on the date of publication of the Notice of Availability in the Federal Register. Publication in the Federal Register does not eliminate the requirement for additional publications for public availability purposes as required by 40 CFR 1506.9 and 23 CFR 771.

Content: All EISs must be filed no earlier than they are transmitted to commenting agencies and made available to the public. This will assure that the EIS is received by all interested parties by the time the EPA Notice of Availability appears in the *Federal Register*, and therefore allows for the full minimum review periods prescribed in 1506.10. USEPA amended the EIS Filing System Guidelines (PDF) (3 pp, 202K, About PDF) on August 24, 2012. Federal

agencies file an EIS by submitting the document with *e-NEPA*, including appendices. Material which is incorporated into the EIS by reference is not required to be filed with USEPA.

Once received by USEPA, each EIS is given an official filing date and checked for completeness and compliance with 1502.10 of the CEQ Regulations. If the EIS is not "complete" (i.e., if the documents do not contain those elements outlined in 1502.10 of the CEQ Regulations), USEPA will contact the lead agency to obtain the omitted information or to resolve any problems prior to publication of the Notice of Availability in the *Federal Register*.

Agencies often publish (either in their EISs or individual notices to the public) a date by which all comments on an EIS are to be received. Agencies should ensure that the date they use is based on the date of publication of the Notice of Availability in the *Federal Register*. If the published date gives reviewers less than the minimum review time computed by USEPA, then USEPA will send the agency contact a letter explaining how the review period is calculated and the correct date by which comments are due back to the lead agency. This letter also encourages agencies to notify all reviewers and interested parties of the corrected review periods.

All EIS documents will be submitted to USEPA for publication in the Federal Register through the Florida FHWA Division office e-NEPA point of contact (FHWA POC). Please note that using e-NEPA for filing does not affect agencies' responsibilities for public distribution of EISs.

1. After approval of the EIS documents by FHWA for public availability, FDOT, PRHTA, or VIDPW will submit the approved Draft, Final or Supplemental EIS and supporting documents in PDF format to the FHWA Florida Division office via CD/DVD, FTP site, secure website or other approved method for uploading and/or archiving. Multiple discs can be used if necessary.
2. PDF files posted to e-NEPA can be no larger than 50MB. If the document is larger, please divide it into chapters or subchapters, as necessary. FHWA will not be responsible for compressing or dividing files to meet 50MB maximum size. If files exceed 50MB limit, FHWA will notify the sender to compress or divide the file as needed then resubmit.
3. All documents must be searchable. Most PDFs files, other than scanned documents, are already searchable. For documents with unsearchable text, please run an optical character recognition.
4. All PDF files should have chapters and subchapters bookmarked and the bookmark view should be displayed upon opening the file.
5. Please submit all documents at least 2 weeks prior to desired Federal Register publication date. FDOT, PRHTA, and VIDPW must coordinate closely with the FHWA POC to ensure that the date of publication is correct and this system flows smoothly in order not to impede the project schedule.
6. Once the EIS document(s) have been posted on the e-NEPA Web Site, a confirmation email verifying submittal is sent to the FHWA POC. This email will be forwarded to the appropriate FDOT District Office, PRHTA, or VIDPW.

Application to Interagency Procedures: This EPN is for e-NEPA publication of FHWA EIS documents in the Federal Register through the USEPA website and procedures.

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Date: 2014.02.11 16:17:09 -0500 Director, Project Development, Florida Division

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History: Original approval, February 2014