

ODOT NEPA Assignment Language Guidance

Prepared by Ohio Department of Transportation, Office of Environmental Services

Last Updated: 11/17/16

In accordance with the Memorandum of Understanding (MOU) pursuant to 23 U.S.C. 327 between Federal Highway Administration (FHWA), an administration in the United States Department of Transportation (USDOT), and the Ohio Department of Transportation (ODOT), executed December 11, 2015, the following language must be included in all environmental documents produced by ODOT. This guidance provides the necessary language, includes examples of documents, and provides sample documents highlighting the language. The language should be the same font size as the signature line for emails and correspondence documents.

Section 3.1.2 of the MOU states:

“On the **cover page** [emphasis added] of each environmental assessment (EA), finding of no significant impact (FONSI), environmental impact statement (EIS), and record of decision (ROD) prepared under the authority granted by this MOU, and for any memorandum corresponding to any categorical exclusion (CE) determination it makes, ODOT shall insert the following language in a way that is conspicuous to the reader or include it in a CE project record:

“The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT.”

For Categorical Exclusions, the language will be automatically placed on the cover page when a PDF is made from the Online CE System. However, other documents require the language to be added manually.

Section 3.1.3 of the MOU states:

“ODOT is required to disclose the above language to the public and agencies, as part of agency outreach and public involvement procedures, including any notice of intent or scoping meeting notice...”

In accordance with Section 3.1.3, Districts or the project sponsor are required to distribute information explaining NEPA Assignment to the public on projects assigned under the MOU. OES has developed brochures and poster boards to be used for this purpose. The brochures shall be made available for public meetings related to NEPA Public Involvement. The poster boards are available and can be used for display at public meetings related to NEPA Public Involvement. The above language must be included in the notice for public involvement events.

Additionally, the above language should be included in all correspondence with the agencies with the exception of correspondence regarding arranging meetings or correspondence that is non-decisional in nature.

Section 3.2.3 of the MOU states:

“The USDOT Secretary’s responsibilities for government-to-government consultation with Indian tribes as defined in 36 CFR 800.16(m) are not assigned to or assumed by ODOT under this MOU. The FHWA remains responsible for all government-to-government consultation, including initiation of government-to-government consultation, unless otherwise agreed as described in this Part. A notice from ODOT to an Indian tribe advising the tribe of a proposed activity is not considered” government-to-government consultation” within the meaning of this MOU. If a project-related concern or issue is raised in a government-to-government consultation process with an Indian tribe, as defined in 36 CFR 800.16(m), and is related to NEPA or another Federal environmental law for which ODOT has assumed responsibilities under this MOU, and either the Indian tribe or FHWA determines that the issue or concern will not be satisfactorily resolved by ODOT, then FHWA may withdraw the assignment of all or part of the responsibilities for processing the project. In this case, the provisions of subpart 9.1 concerning FHWA initiated withdrawal of assignment shall apply. This MOU is not intended to abrogate, or prevent future entry into, any agreement among ODOT, FHWA, and a tribe under which the tribe agrees to permit ODOT to administer government-to-government consultation activities for FHWA. However, such agreements are administrative in nature and do not relieve the FHWA of its legal responsibility for government-to-government consultation.”

Project related correspondence/coordination that goes to the federally recognized tribes shall include the following language in a way that is conspicuous to the reader:

“The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT. Per Section 3.2.3 of the previously referenced Memorandum of Understanding, FHWA retains responsibility for government-to-government consultation with federally recognized Indian Tribes.”

Please note: Correspondence with federally recognized tribes will only be conducted by OES. Districts/consultants may not consult directly with the federally recognized tribes.

Section 3.2.5 of the MOU states:

“On the cover page of each biological evaluation or assessment, historic properties or cultural resources report, section 4(f) evaluation, or other analyses prepared under the authority granted by this MOU, ODOT shall insert the following language in a way that is conspicuous to the reader or include in a CE project record...”

All technical analyses and reports prepared for a NEPA document, including those prepared by consultants on behalf of ODOT must include, on the cover page, the NEPA Assignment language referenced above in section 3.1.2.

Examples of documents requiring the NEPA Assignment language include, but are not limited to:

- Notice of Intent
- Environmental Assessments
- Draft Environmental Impact Statements
- Finding of No Significant Impacts
- Final Environmental Impact Statement/Record of Decision
- Categorical Exclusion documents
- Technical reports developed for any environmental document (ex: Ecological Survey Reports)
 - These reports include those prepared by ODOT staff AND consultants
- Public involvement materials developed for Section 4(f), including Official with Jurisdiction Letters
- Public involvement materials developed for Section 106, including consulting party and stakeholders letters
- Property owner notification letters sent pursuant to ODOT's Public Involvement Manual
- Project related correspondence with resource agencies

Sample CE Cover Page:



Ohio Department of Transportation
District Address and Phone Number

Categorical Exclusion Document
for
County-Route-Section Number PID 00000

CE Level: #

Approved: Month, day, year

Prepared by: District #

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Sample Environmental Assessment Cover Page:

Example NEPA Language

Project Name
Environmental Assessment Document
County-Route-Section Number (PID 00000)
Township, County, Ohio

[Insert Photo]

[PREPARED FOR:]

[IN CONJUNCTION WITH:]

[PREPARED BY:]

[Date]

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT.

Sample Public Involvement Meeting Letter:



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

[Date]

Re: Open House Public Involvement Meeting
[Project Name]
ODOT Project: [County-Route-Section Number; PID 00000]

Dear Public Official/Property Owner/Interested Citizen:

The Ohio Department of Transportation (ODOT) plans the replacement of two (2) bridges over the [River Name] along [Route] in [Township], [County], to better serve the needs of the traveling public.

The transportation project is scheduled for construction in [date]. The estimated construction cost is approximately [cost]. The proposed transportation project will require the closure of [route] for [time period]. Detailed closure and detour route information will be available at the public involvement meeting.

This letter is to inform you that an Open House Public Involvement Meeting will be held on [date], from [time] at [location].

To facilitate construction, temporary and new permanent right-of-way will need to be acquired from certain properties. Approximately 0.111 acre of temporary and 0.111 acre of permanent right-of-way will be acquired.

The purpose of this public involvement meeting is to present and discuss the proposed [project name] improvement project with the general public, residents, business and property owners, and public officials, and to solicit public comments regarding the proposed improvements and its social, economic, and environmental impacts. In compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (codified as 36 CFR 800), ODOT also requests information regarding the presence of any known cultural resources in the vicinity of the project. Cultural resources include prehistoric and historic archaeological sites, historic bridges, historic buildings, sites, and districts.

This public meeting is an opportunity to provide your comments. Therefore, we encourage your attendance. The final date for submission of comments is [date].

[Insert where summary of comments will be posted and where to view the comments]

[Insert contact information for comments, and contact for questions/concerns regarding project]

[Insert signature]

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT.

Sample pamphlet for public distribution:

The Ohio Department of Transportation has assumed the Federal Highway Administration's responsibilities under the National Environmental Policy Act (NEPA).

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and

If you have questions or concerns, please contact:

Jacque Annarino
NEPA Assignment Coordinator
614-466-1484
OES@dot.ohio.gov

Or visit the NEPA Assignment webpage at:

<http://www.dot.state.oh.us/NEPA-Assignment/>

Last Updated: 12/14/15

NEPA Assignment and ODOT

What you need to know about ODOT's Assumption of the Federal Highway Administration's responsibilities under the National Environmental Policy Act



Sample Letter to an Agency



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

January 05, 2016

Commander (DPB)
Ninth Coast Guard District
1240 East 9th Street
Cleveland, Ohio 44199-2060

Subject: [Project]
Section 9 Determination

Dear Commander:

The Ohio Department of Transportation (ODOT) has enclosed information on the [C-R-S] project which proposes to replace the County Road 38 Bridge over the Sandusky River, a Section 9 water, in Seneca County, Ohio. Work will include widening the bridge from 28 feet to 32 feet; cofferdams, cribs, and sheeting will be used in the river for the two piers; piles will be driven for the abutments; clean, non-erodible material will be used for a temporary work pad and cofferdams; the work pad and cofferdams will be removed when work is completed.

The project starts January 1st and ends March 15th. The replacement activities are not anticipated to involve any permanent fill within the Sandusky River. The navigation channel will not change in vertical or horizontal clearances and will remain open during work. It is not anticipated that a Section 9 Bridge Permit will be required for the replacement project.

Please see the attached information to assist you in determining whether the Coast Guard will exercise jurisdiction for bridge administration purposes on the [C-R-S] project. If you have any questions or concerns, please contact [ODOT Employee] at [Phone] or via e-mail at [Email].

Respectfully,

[Insert Signature]

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 11, 2015, and executed by FHWA and ODOT.

www.transportation.ohio.gov

ODOT IS AN EQUAL OPPORTUNITY EMPLOYER AND PROVIDER OF SERVICES

Sample Email to Agency

