



NEPA Assignment Self-Assessment #3 4/1/2017 through 3/31/2018

Prepared by the Ohio Department of Transportation, Office of Environmental Services

June 26, 2018

Executive Summary:

This Self-Assessment is to ensure the Ohio Department of Transportation (ODOT) is compliant with the 23 USC 327 Memorandum of Understanding (MOU) between ODOT and the Federal Highway Administration (FHWA). As required by Section 8.2.5 of the MOU, ODOT must submit a Self-Assessment Report prior to each FHWA annual audit. The current Self-Assessment was prepared for the third audit.

The Review Team conducted a self-assessment of ODOT's environmental and NEPA processes, and of projects approved between April 1, 2017 and March 31, 2018. The Review Team reviewed projects from all 12 Districts and the Ohio Rail Development Commission (ORDC), and conducted a survey with three state and three federal partner agencies, focusing on NEPA processes, roles, and responsibilities. The Review Team also assessed ODOT's program management processes within the Office of Environmental Services (OES), the Districts, and the ORDC by using checklists.

Overall, ODOT is compliant with the MOU and all assumed laws and regulations. However, the Review Team identified Non-Compliance with Executive order 11990 (See page 4 for details).

Results of the Self-Assessment:

General Compliance Results				
Action Area	In compliance: Self-Assessment shows that the state is in compliance with these areas (Include Best Practices, if any).	Observations: Self-Assessment shows potential items that pose a clear and direct compliance issue with a law/regulation or one that if not addressed, could lead to a future full compliance issue.	Findings: Self-Assessment shows non-compliance with these areas.	Not Applicable: This area was not observed during this Self-Assessment period.
Clean Air Act (CAA), 42 U.S.C.	X			

Action Area	In compliance: Self-Assessment shows that the state is in compliance with these areas (Include Best Practices, if any).	Observations: Self-Assessment shows potential items that pose a clear and direct compliance issue with a law/regulation or one that if not addressed, could lead to a future full compliance issue.	Findings: Self-Assessment shows non-compliance with these areas.	Not Applicable: This area was not observed during this Self-Assessment period.
Compliance with the noise regulations at 23 CFR part 772	X			
Endangered Species and Habitat (<i>i.e.</i> Section 7 of the Endangered Species Act of 1973, Fish and Wildlife Coordination Act, 16 U.S.C., Migratory Bird Treaty Act, 16 U.S.C.)	X			
Section 106 of the National Historic Preservation Act of 1966	X			
Section 4(f) of the Department of Transportation Act of 1966	X			
Native American Grave Protection and Repatriation Act (NAGPRA)				X
Farmland Protection Act (FPPA)	X			
Clean Water Act	X			
Wild and Scenic Rivers Act	X			
Land and Water Conservation Fund (LWCF) Act	X			

Action Area	In compliance: Self-Assessment shows that the state is in compliance with these areas (Include Best Practices, if any).	Observations: Self-Assessment shows potential items that pose a clear and direct compliance issue with a law/regulation or one that if not addressed, could lead to a future full compliance issue.	Findings: Self-Assessment shows non-compliance with these areas.	Not Applicable: This area was not observed during this Self-Assessment period.
E.O. 11990, Protection of Wetlands			X (See Findings on Page 4)	
E.O. 11988, Floodplain Management	X			
E.O. 13690, Federal Flood Risk Management Standard (FFRMS)	X			
E.O. 12898, Environmental Justice	X			
Section 601 of 42YSC 200(d) (Title VI)	X			
Other	X			

In Compliance:

The Review Team found ODOT’s Self-Assessment to be satisfactory overall. District staff illustrated their knowledge of policies and OES guidance documents and how to use them to produce NEPA documents compliant with the laws and regulations assumed under the 23 USC 327 MOU. ODOT has training, guidance, and agency agreements to detail the processes in place to ensure compliance with all state and federal regulations. In addition, all guidance documents are updated to facilitate any changes required by the MOU and NEPA Assignment. Since ODOT had robust programmatic agreements (PA) with various environmental agencies prior to NEPA Assignment (Categorical Exclusion PA, Section 106 PA, etc.), ODOT-OES and District staff have been able to easily continue NEPA studies and approvals with minimal changes, allowing ODOT to remain compliant.

Best Practices:

ODOT’s program management, document and records management, training program, and legal sufficiency review processes are compliant with the MOU and assumed laws. ODOT partnered with its resource agencies to develop escalation procedures in preparation for NEPA Assignment; however there has never been a need to implement these procedures. Additionally, further guidance documents and training courses were offered to prepare and

provide information to environmental staff and consultants. ODOT ensures all environmental staff and consultants who work on ODOT projects have the required training and/or prequalification for the work they are performing, and enforces the processes described in OES guidance materials. Furthermore, ODOT's record retention exceeds what is required by FHWA and Ohio Department of Administrative Services policies.

Observations (Areas of Concern):

All of ODOT's observations are minor issues that could potentially lead to future compliance concerns. ODOT is confident these issues have either already been addressed, or will be addressed and remedied in the immediate future.

- **Environmental Commitments:** ODOT needs to continue to improve upon the way Environmental Commitments are written. Newly released guidance and training should help in this area and the results should be evident in our next audit.
 - a. Some districts are including items in the CMS as ECs and some districts are not writing ECs in a manner that is enforceable and/or actionable.
 - b. We must remember to include a commitment to obtain a waterway permit, if one is required but not obtained prior to NEPA approval.
 - c. We must remember to utilize standard commitments and follow the guidance for writing commitments if a standard commitment is not available.
 - d. The Environmental Commitments Tab must be completed for every project with environmental commitments.
- **Project Details:** The NEPA Start Date must be entered on the Project Details Tab in EnviroNet for every project.
- **Cultural Resources:** When processing a project under Appendix A the SHPO map must be uploaded to the project file.
- **Ecological:** The "Disposition of Agency Comments" form must be uploaded for every project that is not eco-exempt to address the conditions of the MOA.
- **Stage of Design:** A statement, using the standard language sent out by OES, must be included regarding at which stage of design (or the project footprint) the project was approved and the footprint or plans must be uploaded to the project file.
- **File Management and Documentation:** Follow File Management and Documentation Guidance and ensure correct dates are entered into the tabs in EnviroNet.

Findings (Non-Compliance)

The Review Team identified one area of non-compliance. There were three districts, each with one project, for which the Wetland Findings Form was not uploaded to the project file. This is non-compliant with Executive Order 11990. This was addressed by the district uploading the form and doing a letter re-evaluation to acknowledge the fact that the decision was reconsidered with this information included in the record and the decision remained the same. In the future, the Wetland Findings Form is being built into EnviroNet so this will no longer be an issue when released.

Performance Measures:

The following is a discussion on how ODOT complied with all other components of the MOU.

Compliance with NEPA and other Federal environmental statutes and regulations:

As discussed above, other than three isolated project-level instances, ODOT is compliant with NEPA and other Federal environmental statutes and regulations.

Quality Control and Quality Assurance for NEPA decisions:

Quality control and quality assurance occurred for all required documents and NEPA approvals. ODOT conducted reviews for all technical reports and documents for each NEPA document level as well as peer reviews for all D-level and above documents. Districts or consultants prepared discipline specific reports and OES approved each report or technical document before the NEPA document was approved. ODOT also instituted a peer-review process for all D-level and above documents on March 24, 2016. Depending on the level, the document is either peer-reviewed at the district level (D1) or at OES (D2 and higher) for discipline specific reviews. All peer-review processes are documented in EnviroNet. If peer-review occurred after the interim guidance was issued and prior to the EnviroNet updates, a memo-to-file was included in the project file documenting peer-review.

Relationships with agencies and the general public:

ODOT conducted a survey with the Ohio Department of Natural Resources (ODNR), the Ohio Environmental Protection Agency (OEPA), the Ohio History Connection's State Historic Preservation Office (SHPO), the United States Army Corps of Engineers (USACE), the United States Environmental Protection Agency (USEPA), and the United States Fish and Wildlife Service (USFWS) and discussed the results at our annual Partnering Meeting in January 2018. Overall, the responses were positive regarding the agencies' professional relationship with ODOT, the materials ODOT submits, and ODOT's compliance with the laws each agency regulates. The overall rating results were 3 Excellent Ratings, 1 Very Good Rating, and 1 Good Rating. None of the agencies selected an overall rating of "Fair" or "Poor". Based upon comments received by ODNR as part of the survey, ODOT and ODNR met to discuss ways to foster communications between the agencies. Reasonable timeframes for response by ODOT to ODNR communications were established. Also, planned enhancements to EnviroNet were discussed that will improve the efficiency and quality of the coordination process and interactions between the two agencies. Both agencies continue to partner on process improvements moving forward.

Increased efficiency and timelines in completion of NEPA process:

U.S. Fish and Wildlife Service (USFWS) BA Processing

Though there have been no formal BAs processed during this review period, ODOT continues to move at much faster pace under NEPA Assignment. ODOT's Section 7 consultation process is much more streamlined because we are working directly with USFWS.

Project Process Savings:

The following table outlines each environmental action that would have previously been submitted to FHWA for review prior to implementation of NEPA Assignment. During our Self-Assessment, we identified all approved projects that would have gone to FHWA for review and approval (Including all D3, EA, and EIS projects, as well as the actions [such as 4(f), UPIAR, etc.] for complex D1 and D2 projects). The FHWA review time for most of the actions would have been 30 days except for some of the Section 4(f) actions (de minimis impact finding, no

use, etc.) and the Air/Noise Conformity (PM 2.5) documents which would have been for a 15 day non-objection period. Additionally, most items are submitted to FHWA more than once for back-checks, which is typically a 15 day review period. The overall reduction in project review time during our self-assessment period is an estimated 2355 days.

<i>Actions that would have gone to FHWA for review/approval</i>	<i>Total # of Reviews</i>
<i>PDP Documents Reviewed</i>	
Draft Purpose & Need (D3 & higher)	2
Alternatives Evaluation Report (D3 & higher)	2
Feasibility Study (D3 & higher)	2
<i>NEPA Documents Reviewed/Approved</i>	
Categorical Exclusion (D3)	2
Environmental Assessment	1
Environmental Impact Statement	0
Environmental Assessment Re-Evaluation	1
Environmental Impact Statement Re-Evaluation	1
<i>Section 4(f)</i>	
Section 4(f) Miscellaneous Documents	21
De minimis Impact Finding	16
Programmatic Evaluation	0
Individual Evaluation	0
<i>Air Quality Conformity PM2.5 Documents Reviewed</i>	
Air Quality Conformity PM2.5 Documents Reviewed	2
<i>Ecological Actions</i>	
<i>Ecological Documents Reviewed</i>	
Biological Assessment and/or Biological Opinion (ESA - Sec 7)	0
<i>Other Actions</i>	
<i>EJAR Documents Reviewed</i>	
Underserved Populations Impact Analysis Report	0
<i>Cultural Resources Actions</i>	
<i>Section 4(f) Documents Reviewed</i>	
Section 4(f) Miscellaneous Documents	21
De minimis Impact Finding	8
Programmatic Evaluation	2
Individual Evaluation	2
<i>Section 106 Actions</i>	
Adverse Effects sent to ACHP - effects	4
Adverse Effects sent to ACHP - MOA	4

ODOT's overall program has increased to \$2.4 billion dollars. Even with ODOT's program growth, we are primarily focused on small "fix it first" type projects which means less overall FHWA reviews required per project. However, despite these changes, ODOT continues to realize savings from the NEPA Assignment Program.

The following table shows the conservative estimated cost savings realized as a result of entering into NEPA Assignment. We used our Dashboard numbers as a starting point because the report includes the calculated numbers for all projects OES staff worked on during this review period, including actions for NEPA documents that were not approved during this review period.

From there, we took the numbers from our analysis and divided them up into small, medium or large projects and followed the formula listed in each of the groupings. The total cost savings realized as a result of NEPA Assignment during our Self-Assessment period is an estimated \$5.61 Million.

Project Size	# of Actions	# Days Saved per Review	Total # Days Saved
Small	61	15	915
	6	45	270
	5	60	300
	72	120	1485
Medium	2	15	30
	11	45	495
	0	60	0
	13	120	525
Large	1	15	15
	2	45	90
	4	60	240
	7	120	345
TOTAL	92	360	2355

		# Days Saved	Amount Saved (Millions)
Small (<\$20M)		1485	
- Concurrent Reviews	35%	520	
		<hr/>	
		965	
- Critical Path Reviews	15%	145	\$2.54
Average Project Amount	\$4		
# Projects	48		
Total Cost (Millions)	\$197		
Inflation Rate	3.2%		
Annual Savings (Millions)	\$6.30		
# Months	12		
Monthly Savings (Millions)	\$0.53		
# Days	30		
Daily Savings (Millions)	\$0.02		

		# Days Saved	Amount Saved (Millions)
Medium (\$20M-\$149M)		525	
- Concurrent Reviews	30%	158	
		<hr/>	
		368	
- Critical Path Reviews	25%	92	\$1.67
Average Project Amount	\$34		
# Projects	6		
Total Cost (Millions)	\$204		
Inflation Rate	3.2%		
Annual Savings (Millions)	\$6.53		
# Months	12		
Monthly Savings (Millions)	\$0.54		
# Days	30		
Daily Savings (Millions)	\$0.02		

		# Days Saved	Amount Saved (Millions)
Large (>\$150M)		345	
- Concurrent Reviews	30%	104	
		<hr/>	
		242	
- Critical Path Reviews	25%	60	\$1.40
Average Project Amount	\$261		
# Projects	1		
Total Cost (Millions)	\$261		
Inflation Rate	3.2%		
Annual Savings (Millions)	\$8.35		
# Months	12		
Monthly Savings (Millions)	\$0.70		
# Days	30		
Daily Savings (Millions)	\$0.02		

TOTAL SAVINGS \$5.61 Million

Self-Assessment Scope

The Self-Assessment is designed to ensure environmental documents prepared and approved following the execution of the NEPA Assignment MOU between FHWA and ODOT were compliant with the MOU and assumed laws and regulations. Furthermore, the review ensures all projects were approved at the appropriate document level and that all corresponding NEPA activities were conducted in accordance with federal and state regulations. The checklists indicate all areas reviewed for compliance and the associated results. Each district has a checklist based on project reviews. The statewide checklist is based on ODOT's projects overall. Finally, there is one overall ODOT program management checklist.

OES selected 15% of C1 and C2 documents approved between April 1, 2017 and March 31, 2018 to review for each District. All D-level projects approved within the review period were reviewed. The Review Team reviewed projects based on the Project-Specific Checklist and combined all responses into District checklists to reflect the overall results. Districts 4, 5, and 9 also received a more in-depth review which included an interview. Interview questions focused on policies and procedures so the Review Team could obtain a well-rounded view of information on both program management and projects in relation to NEPA Assignment compliance. ODOT also conducted agency surveys with ODNR, OEPA, SHPO, USACE, USEPA, and USFWS.

Self-Assessment Review Team:

Erica Schneider, Assistant Environmental Administrator
Kevin Davis, Environmental Policy Section Supervisor
Doug App, NEPA Documents Coordinator

Veronica Trecuzzi, NEPA Documents Coordinator
Larry Hoffman, Major Projects Coordinator
Heather McColeman, Major Projects Coordinator
Amanda Foley, Environmental Specialist/Permits Coordinator
Jacque Annarino, NEPA Assignment & Public Involvement Coordinator

Previous Self-Assessment Resolution/Follow up

Immediately following Self-Assessment and Audit #2, ODOT-OES presented the results at a District Environmental Coordinators (DEC) meeting and at a consultant Environmental Update Meeting (EUM). Both of these meetings offered ODOT-OES an opportunity to provide an overview of the review's findings. The goal of this initial outreach was to provide the state's environmental workforce an opportunity to start addressing the review findings while OES continued to develop and refine an overall implementation plan to address the review findings in more detail, if applicable. Each district was sent a copy of the ODOT Self-Assessment and FHWA's Audit #2 for review and consideration.

ODOT-OES held meetings with each district individually to review the Self-Assessment and audit results specific to their district and to discuss what action should be taken to address the areas identified for improvement. All districts, ORDC, and OES were provided information regarding areas for improvement.

Both ODOT's Self-Assessment #2 and FHWA's Audit #2 identified several areas for improvement from a statewide perspective. Those areas focused on: Environmental Commitments, Environmental Justice and Public Involvement. To address these areas, ODOT took the following actions:

Environmental Commitments:

- ODOT-OES created a new ES3 position to serve as an Environmental Compliance Program Lead to focus on enhancing our environmental compliance program, including environmental commitment development, communication, and tracking
- ODOT-OES added an Environmental Commitments tab in EnviroNet and issued new Guidance for Writing Environmental Commitments in July 2017, which was subsequently updated in October 2017
- ODOT-OES presented audit results and new guidance at a District Environmental Coordinator Meeting, a Consultant Environmental Update Meeting, at OTEC, and at two District Planning Engineers Meetings

Environmental Justice:

- ODOT-OES created a new ES3 position to serve as an Underserved Populations Program Lead to focus on enhancing our Environmental Justice and Title VI compliance, as well as all other traditionally underserved populations
- ODOT-OES issued new Underserved Populations Guidance in 2017, which was subsequently updated in October 2017 and in January 2018
- ODOT-OES updated its existing training classes (UP, NEPA, CE, PI, and PDP) to address these findings and recently developed an online Underserved Populations Training Class that is expected to be rolled out in July 2018

- ODOT-OES presented audit results and updated guidance and training at a District Environmental Coordinator Meeting, a Consultant Environmental Update Meeting, and during NEPA Chats
- ODOT-OES gave a presentation entitled “Addressing Underserved Populations in ODOT’s Project Development Process” at the ODOT Civil Rights Symposium in April 2017 and another entitled “Designing for Environmental Justice” at the ODOT Civil Rights Symposium in April 2018

Public Involvement:

- ODOT-OES presented audit results and updated guidance re-emphasizing the PI process and documentation required at a District Environmental Coordinator Meeting, a Consultant Environmental Update Meeting, and during NEPA Chats.
- ODOT updated its Public Involvement Requirements, which were approved by FHWA in April 2018 and is currently in the process of making sweeping changes and updates to the PI Manual and templates
- ODOT-OES updated the NEPA File Management and Documentation Guidance in January 2018 to address appropriate documentation of PI activities
- ODOT-OES continues to work on development of a public comment system as part of ODOT’s website redesign project

District Summaries:

OES held meetings with each district individually to review the Self-Assessment and audit results specific to their district and to discuss areas identified for improvement and what actions should be taken to address those areas. The only area identified as needing improvement in the previous Self-Assessments and Audits was District 6 Environmental Commitments. The district was reminded that the Environmental Commitments Tab in EnviroNet must be completed for every project with an Environmental Commitment. OES has issued new guidance for writing Environmental Commitments and the district has made solid improvement in this area and is trending in a positive direction. The projects that did have the tab completed looked good and were considered satisfactory. ODOT feels this particular item will improve significantly in time for our next Self-Assessment and Audit. No district was placed on an action plan following Self-Assessment 2 or Audit 2.

Below is a summary of the areas in each district that were identified as needing improvement in both the first and second Self-Assessment and Audit:

District 1	Following Minimum PI Requirements
District 2	Following Minimum PI Requirements Following File Management Guidance
District 3	Including more detail in Project Descriptions Following Environmental Commitments Guidance
District 4	Following File Management Guidance

District 5	Following Environmental Justice/Underserved Populations Guidance
District 6	Following Minimum PI Requirements Following Floodplain Guidance Following Environmental Justice/Underserved Populations Guidance Following Environmental Commitments Guidance Following File Management Guidance Including more detail in Project Descriptions
District 7	Following Minimum PI Requirements
District 8	Following Environmental Commitments Guidance Following Minimum PI Requirements Following File Management Guidance
District 9	Following File Management Guidance Following Environmental Commitments Guidance
District 10	Following Environmental Justice/Underserved Populations Guidance Following Environmental Commitments Guidance
District 11	Following Minimum PI Requirements
District 12	Including more detail in Project Descriptions Following Environmental Justice/Underserved Populations Guidance Following Minimum PI Requirements Following File Management Guidance Following Environmental Commitments Guidance
OES	Following File Management Guidance Ensuring Correct Dates are entered in EnviroNet

During the past year, in addition to sending emails via the OES Listserv, ODOT-OES provided various new guidance, clarification to existing guidance, and updated guidance at District Environmental Coordinator and Environmental Update Meetings, during NEPA Chats, at LPA Days in some districts, as well as at OTEC and the Civil Rights Symposium. LTAP continues to include updates in their quarterly newsletter. The most impactful changes include updated Environmental Commitment Guidance, Underserved Populations Guidance, Public Involvement Requirements, and several enhancements to EnviroNet.

Overall, the districts, ORDC, consultants, and LPAs have continued to improve and generally do what is asked of them as long as they are provided clear guidance. The ODOT Self-Assessment

and the FHWA Audit #2 identified a number of opportunities to improve ODOT's overall environmental performance. Based on these reviews, several areas were identified for improvement. ODOT-OES brought these items to the attention of each district and provided guidance and coaching regarding how to improve. ODOT-OES held discussions with the environmental staff in each district. All twelve Districts and the ORDC have shown improvement in virtually every area over the last year and are to be commended for their excellent work.

Conclusion:

The Self-Assessment demonstrated that that environmental documents prepared and approved following the execution of the NEPA Assignment MOU between FHWA and ODOT were compliant with the MOU and assumed laws and regulations. Furthermore, all projects were approved at the appropriate document level and that all corresponding NEPA activities were conducted in accordance with federal and state regulations. ODOT continues to monitor the NEPA Assignment Program and updates guidance and training as necessary. ODOT pays particularly close attention to areas needing improvement that were identified in previous Self-Assessments and Audits. We expect to continue to see a positive trend moving forward. ODOT continues to realize savings from the NEPA Assignment Program.