



2025 PCE Agreement Interim Guidance

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Overview and Applicability

On March 10, 2025, ODOT and FHWA signed a new [Programmatic Categorical Exclusion \(PCE\) Agreement](#) that includes several changes to the terms and requirements of the previous PCE Agreement. Substantive changes include:

- 1) Changes to PCE kickouts¹ - addition of one kickout, deletions of two kickouts, and revisions to existing kickout language (Section IV.A.2.b);
- 2) Addition of FHWA PCE consult clauses (Section IV.A.3); and
- 3) Changes to “PCE Determination” and “PCE Approval” terminology.

Projects starting the environmental review process on or after March 10 must comply with all terms and requirements of the new 2025 PCE Agreement. Projects with the environmental review process in-progress as of March 10 (i.e., projects with a signed Environmental Prospectus or PCE Determination Form) must transition to the 2025 PCE Agreement [as described in this guidance](#). This guidance does not apply to projects with a PCE Approval Document or CE Closeout signed prior to March 10.

The NEPA Program is working with FHWA to develop a complete implementation plan for the 2025 PCE Agreement, including finalizing detailed procedures and planning internal and external training to ensure everyone understands the changes and how to apply them. In the meantime, this interim guidance provides an overview of the new 2025 PCE Agreement and directions for compliance until more detailed procedures are available.

Call-out boxes note key information and areas where work is still in progress, procedures continue to be discussed, or feedback is requested.

Changes to PCE Kickouts

The 2025 PCE Agreement includes one new kickout and revisions to the language of several existing kickouts. Two kickouts were also removed. These changes are detailed in strike-through (for deleted language) and underline (for added language) below.

Deleted Kickouts

- ~~Involves unusual circumstances as described in 23 CFR 771.117(b);~~
- ~~Is controversial. In cases when controversy is anticipated, ODOT will discuss the potential for controversy with FHWA to determine if the project can be processed under this Agreement.~~

¹ The term “kickouts” refers to the impact thresholds listed in the PCE Agreement that determine whether ODOT can classify and approve a CE on behalf of FHWA.

Revised Kickouts

- Results in a determination of adverse effect on historic properties ~~protected by~~ pursuant to Section 106 the National Historic Preservation Act (54 U.S.C. § 306108) (NHPA) ~~by FHWA~~;
- Requires a U.S. Coast Guard bridge permit (33 U.S.C. § 401);
- Requires a formal Wild and Scenic River Section 7(a) consultation with, and determination from, the official river administering regulatory agency;
- Requires the acquisition of more than minor amounts of right-of-way or displacement of ~~owners and/or tenants, businesses, nonprofit organizations and/or residents~~;
- Does not conform to the State Implementation Plan which is approved or promulgated by the U.S. Environmental Protection Agency in air quality non-attainment areas;
- Requires an individual project-level formal consultation under Section 7 of the Endangered Species Act ~~because the project cannot be processed with the Federal Aid Highway Programmatic Biological Opinion with USF&WS and NMFS~~;
- ~~Is identified subsequent to the execution of this agreement by FHWA via written notification to ODOT.~~ Is required by FHWA to be processed as a CE for reasons that are not reflected in the above impact thresholds.

New Kickout

- Involves capacity expansion by construction of a new highway or local roadway where none existed previously or by addition of new through lanes (excludes bus on shoulder improvements and passing lanes).

Consult Clauses

If a PCE project will result in impacts exceeding one or more of the “consult clause” thresholds in Section IV.A.3 of the 2025 PCE Agreement, ODOT is required to consult with FHWA to confirm the PCE classification is appropriate prior to completing the PCE Determination and Approval Form. Consultation is required if the project:

- Is defined as a “Type I project” per 23 CFR 772.5 and the current ODOT Noise Manual for purposes of a noise analysis;
- Will result in more than 1.5 acres of impacts to wetlands and waters.
- Will result in detours of more than 20 minutes out of direction travel for any mode. (*Note: referring to the out of direction travel time for ODOT’s designated/signed detour*)
- Requires more than 10 percent of a parcel for parcels under 10 acres in size, 1 acre for parcels 10 to 100 acres in size and 1 percent of the parcel for parcels greater than 100 acres in size or acquisition will impair existing land functions (such as net loss of parking, and substantial loss of residential front yards). (*Note: referencing only permanent ROW acquisition and permanent loss of parking*)
- Is anticipated to result in controversy on environmental grounds.

It is important to understand that the consult clauses are thresholds, or triggers, for a discussion with FHWA – they **ARE NOT** the same as PCE kickouts. Exceeding one or more of these thresholds does not mean a project will be required to be processed as a CE. The purpose of the consultation

is to allow FHWA the opportunity to assess risk on the project prior to the PCE classification occurring.

To determine whether a project will exceed the consult clause thresholds, a REC may need to consider potential impacts, particularly ROW acquisitions and/or traffic control needs, earlier in the project development process than in the past. It will not always be necessary, however, to obtain exact quantification of these impacts. If project information is not available with the specificity and detail necessary to determine whether a project will exceed a consult clause, the REC should estimate potential impacts relative to the thresholds and consider whether consultation is appropriate. In these cases, if a project has the potential to (or appears likely to) exceed a consult clause threshold, the REC should go ahead and consult with FHWA rather than spending a substantial amount of time and effort trying to obtain more detailed information to determine whether the consult clause threshold is met or not.

Conducting and Documenting Consultation

Consultation with FHWA must occur via email and should be conducted with the FHWA OR Division Environmental Program Manager (Thomas Parker) or Environmental Protection Specialist (Misty Thorsgard). The ODOT NEPA Program should be cc'd on all consultation emails. As applicable, the REC should share the following types of information with FHWA during a consultation:

- Basic project info (Name, Key #, Location, etc.)
- Project Description
- Consult clause(s) triggered
- Explanation of why the impact triggering the consultation is not substantial enough or does not pose enough of a risk to warrant processing the project as a CE
- (if applicable) Maps and/or other visuals that support the above explanation
- (if applicable) Description of partner and public involvement that has been or will be conducted for the project, including any partner or public feedback specific to the impact triggering the consultation

The above list **DOES NOT** represent information/materials required to be provided to FHWA in writing for every consultation, but rather suggested information to support efficient consultation with FHWA about the PCE classification. If FHWA confirms that the PCE classification is appropriate for the project, the following statement should be completed and included in the Project Description field of the "PCE Determination and Approval Form" (PCED/A):

"This project required consultation with FHWA per PCE Agreement Section IV.A.3 *{insert consultation clause letter}*. *{Thomas Parker or Misty Thorsgard}* confirmed via email on *{insert date}* that the PCE classification for the project is appropriate."

Changes to PCE Terminology and Forms

The 2025 PCE Agreement resulted in changes to PCE terminology and forms.

The “PCE Determination” is now the “PCE Determination and Approval” and is documented on the “PCE Determination and Approval Form” (PCED/A) (Form #734-5466). The PCED/A will be considered classification of the action as a CE per 23 CFR 771.113 and will constitute ODOT’s documentation of reasonable assurance that the requirements of all applicable environmental laws and Executive Orders can be met. Completion of the PCED/A will allow FHWA approval for ODOT’s request to release federal ROW funds for the project (the same function as the previous PCED allowed).

The “PCE Approval” is now the “PCE Validation” and will be documented on the “PCE Validation Document” (PCE-V)(Form #734-5467). The PCE process ends, and FHWA authorization for Construction funds can be requested, when ODOT completes the PCE-V (the same function as the previous PCE Approval Document allowed).

The NEPA Program is in the process of making updates to ODOT manuals, forms, checklists, SOWs, and other documents that use outdated PCE terminology. You may see references to the PCE Determination Form and PCE Approval Document for some time as we work through this process. Until all updates are complete, any reference to, or milestone that uses, the “PCE Determination” should now use the “PCE Determination and Approval”. Any reference to, or milestone that uses, the “PCE Approval” should now use the “PCE Validation”.

The new PCE forms are available on the [NEPA Program website](#) under the “Forms and Templates” tab. The old PCE Determination Form and PCE Approval Document have been retired, and the links are no longer available on the website. Please use the new PCE Determination and Approval Form and the PCE Validation forms moving forward. If you need to transition an in-progress project to new forms, see the [Transitioning In-Progress Projects](#) section below.

Naming conventions for the new PCE forms are now available for use in the Environmental/NEPA discipline section of the ProjectWise naming tool:

- PCED/A: EN_K#####_PCE_DA_##

- PCEV: EN_K#####_PCE_VAL_##

These new naming conventions are at the end of the list of naming conventions for the Environmental/NEPA discipline section of the ProjectWise naming tool. The user will need to scroll to the bottom of the list to find them.

The new terminology and forms will also be reflected in iCERT when that system is rolled out and available for use.

Quality Assurance and Quality Control

At this time, ODOT and FHWA have not finalized a process for how QA/QC will be conducted for the new PCE Agreement. Until ODOT and FHWA agree to a new or revised QA/QC process and documentation, please continue to follow the existing QC process and use existing QC forms. The NEPA Program is working to get the existing forms revised to reflect the correct terminology and names of forms and will share those as soon as possible.

Transitioning In-Progress Projects

It is important that in-progress projects adhere to the terms of the new PCE Agreement, including transitioning to use of the new forms. This minimizes risk for ODOT and for FHWA and ensures older forms are not in use for extended periods of time. The following procedures apply to projects with an environmental review process in progress prior to the date ODOT and FHWA signed the new PCE Agreement (3/10/2025):

- **Projects with Environmental Prospectus signed prior to 3/10/2025** - Adhere to terms of 2025 PCE Agreement and use new forms. For projects that trigger a consult clause, consult with FHWA and document the consultation by including the following note in the Project Description section of the PCED/A form:

“This project required consultation with FHWA per PCE Agreement Section IV.A.3 {insert consultation clause letter}. {Thomas Parker or Misty Thorsgard} confirmed via {insert consultation method} on {insert date} that the PCE classification for the project is appropriate.”

- **Projects with EP and PCE Determination signed prior to 3/10/2025 (with or without ROW)** - Transition to the 2025 PCE Agreement process and forms. Complete a PCE Determination/Approval form, including the following note as appropriate in the Project Description section:

- **For projects that would NOT have triggered a consult clause:** “Originally, the PCE Determination for this project was signed on {insert date}. To comply with the new PCE Agreement signed 3/10/25, this form is being completed in addition to the original PCE Determination.”
- **For projects that would have triggered a consult clause:** “Originally, the PCE Determination for this project was signed on {insert date}. To comply with the new PCE Agreement signed 3/10/25, this form is being completed in addition to the original PCE

Determination. Although this project would trigger consultation with FHWA per the new PCE Agreement section Section IV.A.3 {insert consultation clause letter}, the original PCE Determination was completed prior to execution of the new PCE Agreement and therefore consultation with FHWA was not required.”

Both the original PCED and the new PCED/A should be retained in ProjectWise and included in the project’s existing PCE set. You do not need to create a new set. Complete a PCE Validation form instead of a PCE Approval Document.

Transitioning in-progress projects to the 2025 PCE Agreement forms does not need to occur immediately unless required by project delivery timelines. New PCED/A forms should be completed within a reasonable timeframe (i.e., within a few months not a few years), but it is fine to work on them over time as schedule and workload allows.

The NEPA Program may be able to help with completing new PCED/A forms and putting them in ProjectWise. If you would like assistance, please contact Melanie Ware to determine NEPA Program availability. You will need to provide a list of project key #s that have existing PCE Determinations in ProjectWise.

Additional Guidance and Next Steps

The NEPA Program is anticipating the following additional guidance and/or next steps to fully implement the new PCE Agreement:

- Update all relevant sections of ODOT NEPA manual and REC Manual
- Work with FHWA to develop more detailed guidance for consulting with FHWA when a consult clause threshold is triggered
- Determine new or revised QA/QC documentation and process with FHWA, update NEPA Deliverables Quality Plan
- Update relevant SSOW standard tasks to reflect new PCE terminology and forms
- Review and, if necessary, update ProjectWise set attributes
- Request updates to ODOT manuals, checklists and other documents using old PCE terminology, including:
 - PS&E Checklist
 - ODOT Highway Design Manual
 - ODOT ROW Manual
 - ODOT ROW Surplus Property forms
 - ODOT DAP Checklist and associated guidance

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- Design-Build RFP Package Pre-Advertisement Submittal QA Checklist
- Project Controls Office (PCO), Phase Gate Delivery Manual
- ODOT Certification Program, Local Agency Guidelines for Certified Local Public Agencies
- Strategic Business Services, Project Delivery Guide
- Develop and deliver internal and external training for ODOT staff, local agencies, and consultants

If you are aware of additional guidance and/or updates that are needed as a result of the new PCE Agreement but not reflected in the above list, please contact the NEPA Program.
