

418 NEPA for Preliminary and Advanced Investigations

Introduction

ODOT often conducts geotechnical and other environmental investigations prior to or early in a project's design phase to provide timely and appropriate information to inform design decisions. When these investigations involve FHWA funding or are conducted for a project that involves FHWA funding or other FHWA nexus, the REC or EPM must consider how to apply the procedural requirements of NEPA and related laws and authorities, including the need for relevant environmental clearances, approvals, permits and/or regulatory coordination. This guidance details ODOT's standardized process for documenting such considerations.

Applicability

The procedures herein are applicable to studies, testing, and/or investigations that involve FHWA funding or are conducted for a project that involves FHWA funding or other FHWA nexus. This guidance does not apply to studies, testing, and/or investigations conducted to inform early design decisions without the use of Federal funds.

Complying with NEPA and Related Laws and Authorities

Early investigations often involve ground-disturbing activities, including but not limited to:

- Geotechnical drilling, subsurface boring, and/or other geological/geotechnical explorations;
- Placing piezometers in the ground to measure soil movement, soil moisture changes, water levels, etc.;
- Investigations to determine unstable slopes or liquefiable/compressible soils;
- Investigations for hazardous materials sites¹; and/or
- Advanced wetlands investigations and/or delineations.

¹ Section 5.3 of the HazMat Program Manual (May 2024) addresses Advanced Investigations and uses the term "HazMat Advanced Investigations" to describe Hazardous Materials Surveys, Phase I or Phase II Site Assessments or PSIs, advanced soil or groundwater investigations, waste management evaluations, etc. The activities described as Advanced Investigations in this guidance may include these types of HazMat Advanced Investigations, but the two documents use the term "advanced investigation" in different ways.

When these investigations include FHWA funding or another FHWA nexus, they must comply with NEPA. For early investigations, ODOT's process for determining and documenting the requirements of NEPA and related laws and authorities depends on whether the investigation work is a "stand-alone" project occurring well in advance of project development, or part of a larger project that is already in project development. ODOT uses the terms advanced investigations and preliminary investigations to distinguish between these two categories of early investigations and provide clarity on meeting and documenting the requirements of NEPA and related laws and authorities. Each category is discussed in more detail below.

Advanced Investigations

ODOT defines the advanced investigation process as a collection of a range of detailed data, investigation, studies, testing, detailed scope verification or negotiation/agreements prior to project kickoff or during very early stages of project development, prior to Design Acceptance Package (DAP).² Advance investigations occur well in advance of a future project's development and are considered discrete projects with independent utility and logical termini. As such, advanced investigation projects with a FHWA nexus must prepare NEPA documentation.

FHWA has a CE category - 23 CFR § 771.117(c)(24) - intended to be used for geotechnical studies and early investigations that involve ground disturbance:

[23 CFR 771.117\(c\)\(24\)](#) *Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.*

When an advanced investigation project with a FHWA nexus consists of the actions described in 23 CFR 771.117(c)(24) and does not exceed the impact thresholds (i.e., kickouts) identified in Section IV.A.1.b of ODOT's PCE Agreement, the "ODOT-FHWA Advanced Investigations (AI) PCE Documentation" (Form # 734-5445) (AI PCE Form) is used to document NEPA classification, determination, and approval, as well as and document that other relevant environmental requirements have been addressed (e.g., Section 106, ESA, etc).

In rare instances, an advanced investigation project with a FHWA nexus could consist of actions described in another CE category (e.g., 23 CFR 771.117(c)(1)) or the advanced investigation activities could exceed the PCE Agreement kickouts. For those projects, the AI PCE Form should not be used and ODOT's standard process and documentation for an NGD PCE, PCE, or

² TSB18-01(B), 11/01/2018

CE would apply, as appropriate. See [Section 420 of the ODOT NEPA Manual](#) for more information.

If an advanced investigation project does not have a FHWA nexus (e.g., is using state funds), the AI PCE Form is not required; however, other Federal, state, and local environmental requirements could still apply. Please contact ODOT NEPA Program staff with questions regarding the applicability of NEPA and other environmental requirements.

Use of the AI PCE Form

This section includes information and instructions for using the AI PCE Form. The AI PCE Form can only be used to process PCE projects that are described in 23 CFR 771.117(c)(24) and that are discrete actions with independent utility and logical termini. This typically occurs when investigations will be used to inform the design, scope, or location of a future project that is not yet in a Preliminary Engineering (PE) phase or planned for construction. Advanced investigation projects are usually conducted in a PLANNING phase or other PRE-STIP/DRAFT STIP phase. To assist in determining whether a project is an advanced investigation project that can use the AI PCE Form, refer to the “Advanced or Preliminary Investigation Screening Tool” in [Appendix A](#) and/or contact ODOT NEPA Program staff.

The AI PCE Form is processed and approved by ODOT with no project-level FHWA review or approval required. ODOT staff and managers who prepare and/or approve the AI PCE Form must meet the minimum qualifications detailed in Section IV.A.8.a-c of the 2015 PCE Agreement. This guidance refers to ODOT staff meeting these qualifications as “Qualified Preparers” and “Qualified Approvers”.

NHPA Section 106, ESA, and other resource findings for each advanced investigation project must be made by, or in consultation with, ODOT staff resource specialists, as applicable and appropriate. Any applicable resource consultation and/or findings documentation must be filed in the appropriate ProjectWise region project files.

Step-by-step instructions for processing the AI PCE Form are listed in [Table 1](#).

Table 1. AI PCE Form Steps

| Who Completes the Step? | Steps in the Process |
|---|--|
| REC / Qualified Preparer | Prepare draft AI PCE Form, Section 1 – When adequate information is available to classify a project as a PCE and confirm that use of the AI PCE Form is appropriate, complete Section 1 of the draft AI PCE Form. Prepare standard Project Vicinity Map, which is a required attachment to the AI PCE Form. |
| REC / Qualified Preparer; ODOT staff resource specialists | Complete Section 2. Advanced Investigations Supporting Environmental Compliance - As part of drafting the AI PCE Form, the REC will consult with ODOT staff resource specialists, as applicable and appropriate. Any applicable resource consultation evidence (i.e., email, correspondence and/or findings documentation) must be filed in the appropriate ProjectWise region project files. |
| REC / Qualified Preparer | REC Preparer Signature - Electronically sign/date the AI PCE Form. |
| REM/Qualified ODOT Approver | ODOT Approver Signature – The ODOT Region Environmental Manager (REM) (or their designated Qualified staff, such as the Region’s designated and Qualified Environmental Lead) confirms that use of the AI PCE Form is appropriate and that it is complete and accurate. The REM/Qualified ODOT Approver electronically signs and dates the AI PCE Form. |
| REC / Qualified Preparer | Submittal to NEPA Program - Submit the AI PCE Form and required attachments to the NEPA Program by creating a “set” in the CE_PCE_NGD_Projects folder within Project Wise. |
| REC / Qualified Preparer | Request FHWA Funding - Email the Project Leader/Local Agency Liaison that FHWA authorization of funding can be requested. |

Preliminary Investigations

In the context of determining and documenting the requirements of NEPA and related laws and authorities, ODOT uses the term “preliminary investigations” to refer to investigation activities occurring as part of the PE phase for a Federal-aid project that is already in project development. To assist in determining whether investigation activities should be considered preliminary investigations, refer to the “Advanced or Preliminary Investigation Screening Tool” in [Appendix A](#) and/or contact ODOT NEPA Program staff.

Preliminary investigations are part of preliminary design needed to define the general project location, design concepts, and/or other parameters for final design for a project and preliminary design activities may be conducted prior to a NEPA decision per [FHWA Order 6640.1A \(10/1/2010\)](#). Therefore, the NEPA documentation/decision for the project covers preliminary investigation work and separate NEPA documentation is not required.

However, when preliminary investigations for a project involve ground-disturbing activities, the relevant environmental clearances, approvals, permits and/or regulatory coordination must be considered and, if necessary, obtained before the ground disturbance and prior to the project’s NEPA approval.

When preliminary investigations involving ground disturbance are anticipated in advance of the overall project NEPA approval, the REC or EPM should complete the “Preliminary Investigations” section of the project’s Environmental Prospectus (Questions 81 – 83) to document the potential environmental clearances, approvals, permits and/or regulatory coordination. Guidance for completing the Preliminary Investigations section of the Environmental Prospectus is included in the “GUIDANCE for the ODOT ENVIRONMENTAL PROSPECTUS”, linked at the top of the Environmental Prospectus form itself.

When environmental clearances, approvals, permits and/or regulatory coordination are required for preliminary investigations on projects classified as CEs, including PCEs, the preliminary investigation work should be described in the Project Description section of the *PCE Approval Document* or *CE Closeout Document*. In addition, the discipline narrative table in the *PCE Approval Document* or *CE Closeout Document* (as applicable) should describe the environmental clearances, approvals, or permits required for the preliminary investigations (see [Section 426.18 of the NEPA Manual](#)).

When environmental clearances, approvals, permits and/or regulatory coordination are required for preliminary investigations on projects that require preparation of an Environmental Assessment or Environmental Impact Statement, they should be documented in

the draft and/or final NEPA document. The ODOT EPM should work with ODOT NEPA Program staff and FHWA OR Division to confirm the appropriate approach to documenting these clearances for each project.

When considering and documenting the relevant environmental clearances, approvals, permits and/or regulatory coordination for preliminary investigations, any information pertaining to, or findings for, NHPA Section 106, ESA, and other resources must be provided by or in consultation with the applicable ODOT staff resource specialists.

Appendix A

Advanced or Preliminary Investigation Screening Tool

For the purposes of meeting and documenting the requirements of NEPA and related laws and authorities, answer the following questions to assist in determining whether early investigation activities should be considered preliminary investigations or advanced investigations. The total score in each column will indicate whether activities should be considered preliminary or advanced investigations.

| | Yes | No |
|---|--------------------------|--------------------------|
| 1. Are the early investigation activities planned to inform the design, scope, and location of a <i>future</i> STIP project not yet planned for PE or construction? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do the early investigation activities have a separate key number? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Does the schedule for the early investigation activities conclude prior to the start of the PE phase for a future project? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do the early investigation activities have a kickoff meeting where no additional PE-level design is included in the scope of work? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Do the early investigation activities utilize a separate EA funding account? | <input type="checkbox"/> | <input type="checkbox"/> |
| Total Score | | |

- **Total Score = 5 Yes** - If the total score is five in the “Yes” column (i.e., all yes answers), it is likely that the early investigation activities should be considered advanced investigations and the “ODOT Advanced Investigations NEPA Form” (Form # 734-5445) should be prepared.
- **Total Score = 5 No** - If the total score is five in the “No” column (i.e., all no answers), it is likely that the early investigation activities should be considered preliminary investigations. Complete the “Preliminary Investigations” section of the project’s Environmental Prospectus and list required environmental clearances, approvals, or permits in the NEPA documentation as described in Section 418 of the ODOT NEPA Manual.
- **Total Score < 5 Yes or No** - If the total score is less than six in either column, please coordinate with ODOT NEPA Program staff to determine how to categorize the early investigation activities and apply the procedural requirements of NEPA and related laws and authorities.