

Minor Categorical Exclusion for At-Grade Railroad Crossing Improvements

Under the *Memorandum of Understanding Between Federal Highway Administration, Nebraska Division and the Nebraska Department of Transportation, State Assumption of Responsibility for Categorical Exclusions*, as authorized by 23 USC §326 (herein referred to as the CE MOU and CE Assignment), the Federal Highway Administration (FHWA) has delegated approval authority of certain Categorical Exclusion (CE) actions to the Nebraska Department of Transportation (NDOT).

NDOT has developed this programmatic Minor Categorical Exclusion (MCE) for document review and approval of certain activities listed under 23 CFR 771.117(c)(8) that, based on past experiences with similar actions, do not involve significant environmental impacts to natural, social, and economic resources.

A Threatened & Endangered Species (T&E) determination of "No Effect" is categorically given to the activities permitted in this MCE through Section I.A.i of the T&E Programmatic Agreement (PA) and a T&E PQS memo is not required. A Section 106 determination of *no historic properties affected* is allowable with the MCE as activities permitted in this MCE pose little potential to cause effects to historic properties per Stipulation VII.B(3)(a) of the Statewide Section 106 PA. A program-wide Section 106 PQS memo has been completed and is attached to the document titled *Instructions for Completing the Minor Categorical Exclusion (MCE) for At-Grade Railroad Crossing Improvements*. Activities addressed by this MCE, which are not part of a larger undertaking, shall be administered in accordance with the following criteria to satisfy NDOT's CE assignment responsibilities.

Scope of Work

Please indicate which of the following activity categories the proposed project best fits:

- Installing/replacing light bulbs
- Installing/replacing signs on existing posts
- Installing signs on new posts within the existing fill section
- Installing/replacing lights, gates, circuitry, or structures within the existing fill section, not to exceed the depth of previously disturbed soils within the railroad right-of-way (including circuitry bungalows, etc.)
- Traffic control, including road closures/detours lasting less than seven (7) calendar days total
- Other (please explain):

Based on the nature of *At-Grade Railroad Crossing Improvement* activities, NDOT does not anticipate negative impacts to natural, cultural, historic or recreational resources; these activities do not negatively impact air, noise, water quality, hazardous materials, or travel patterns, and do not present any negative reasonably foreseeable impacts. NDOT has determined that *At-Grade*

Railroad Crossing Improvement activities do not affect listed species, historic properties, wetlands or Waters of the U.S., nor do they use Section 4(f) properties. NDOT experience has demonstrated that these types of activities do not generate controversy on environmental grounds.

Application of this MCE is dependent upon adherence with the following commitments. References to "Contractor" shall include the identified Sponsor Railroad Company and/or other contractors completing the work on behalf of the Sponsor Railroad Company. These Commitments shall be included in project agreement documents.

To eliminate possible indirect impacts to Threatened & Endangered Species:

- Nighttime work with lights within fully developed, urbanized areas is permitted. If nighttime work is planned between April 15 and August 15, beyond fully developed, urbanized areas, lighting shall be limited to a Nominal CCT of 3000 +/- 300 K, shielded, and directed away from the suitable habitat.
- If federal or state listed species are observed during construction, the Railroad Project Representative will contact NDOT Environmental Section to determine if species conservation conditions would be required prior to continuing project construction activities. Contact NDOT Environmental Section for a reference of federal and state listed species. Coordination with U. S. Fish and Wildlife Service and Nebraska Game & Parks Commission may be required depending on the species identified and construction activities.
- Construction waste/debris will be disposed of in areas or a manner that will not adversely affect state and/or federally listed species and/or designated critical habitat.

To avoid impacts to the community:

- Any closures to the roadway will be for short duration (less than seven (7) calendar days total). Closures or detours shall be adequately signed. Emergency services shall be given adequate notice of any closures.
- If access to public parks, recreation areas, and wildlife refuges is closed, the length of closure should be minimized to the greatest extent possible and coordinated with the affected facility manager.

To avoid unanticipated wetland impacts:

- The Contractor shall not stage, store, waste or stockpile materials and equipment in known/potential wetlands and/or known/potential streams that exhibit a clear "bed and bank" channel. Potential wetland areas consist of any area that is known to pond water, swampy areas or areas supporting known wetland vegetation or areas where there is a distinct difference in vegetation (at lower elevations) from the surrounding upland areas.

To avoid Hazardous Material concerns:

- The Contractor shall follow all applicable Federal, State, and local regulations, as appropriate.

Individual projects actions approved under this MCE shall be reviewed to ensure unusual circumstances as outlined by 23 CFR 771.117(b) do not exist. If an unusual circumstance is identified, a project-specific NEPA document, in compliance with NDOT's Environmental Procedure Manual (EPM) and Nebraska Categorical Exclusion (NECE) guidelines shall be developed to approve the action.

This MCE is consistent with the Statewide Transportation Improvement Program (STIP), and applicable Metropolitan or Rural Planning Organizations' Transportation Improvement Programs (TIPs) and is exempt from regional air quality conformity determinations (40 CFR parts 51 and 93).

Use of this MCE is only allowed if all criteria set forth herein are met.

NDOT Project Specific Verification

Date:

List of Attachments:

Project Name/Activity:

Site Map

Project Number:

Floodplain PQS memo or email

Control Number:

Other (please describe):

The above listed project has been determined to comply with the terms and conditions of this MCE and NDOT has verified the following:

- The Project Sponsor has verified the project activities are not part of larger undertaking.
- The Project Sponsor will verify that Environmental Commitments listed in this MCE have been included in appropriate project agreement documents.
- The NDOT NEPA Specialist has verified that no unusual circumstances have been identified.
- The NDOT NEPA Specialist has verified these activities are consistent with 23 CFR 771.117(c)(8).

Project Sponsor:

PLEASE PRINT

Signature

Date

This is a stand-alone NEPA determination for this project; no further environmental analysis is required. If there is a change in environmental conditions or scope of work, coordination with NDOT Environmental is required to determine if this determination remains valid.

The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under NEPA. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to 23 U.S.C. §326 and a Memorandum of Understanding executed between FHWA and the State.

NDOT NEPA Specialist:

PLEASE PRINT

Signature

Date