Nebraska Categorical Exclusion Guidance

July 2026

NEBRASKA
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DEPARTMENT OF TRANSPORTATION

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Acronyms, Abbreviations, and Terms

ACM	Asbestos Containing Materials
APE	Area of Potential Effects
APP	Avian Protection Plan
AWJ	Agency with Jurisdiction
BFE	Base Flood Elevation
CE	Categorical exclusions are used to document actions that, based on past experience with similar actions, do not involve significant environmental impacts.
CFR	Code of Federal Regulations
CLG	Certified Local Government
Control Number	The NDOT assigned identification number for the project
Document Author	The primary author of a document, whether developed internally at NDOT, or externally by a Local Public Agency or consultant. Refer to NDOT's *NEPA Documentation Quality Assurance/Quality Control Manual* for more information regarding document author experience requirements for preparing NDOT CE documentation.
EDU	Environmental Documents Unit
EDU Supervisor	The NDOT Environmental supervisor that oversees the EDU
Environmental Section Manager	The NDOT supervisor that oversees all the units within the NDOT Environmental Section
FHWA	Federal Highway Administration
LEP	Limited English proficiency
LPA	Local Public Agency
LRTP	Long-range Transportation Plan
LWCF	Land and Water Conservation Fund
Matrix	*2023 Programmatic Agreement Among the Federal Highway Administration, U.S. Fish and Wildlife Service, Nebraska Department of Transportation, and Nebraska Game and Parks Commission for the Determination of Effects to State and Federally Listed Species from the Federal-Aid Highway Program*
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
DWEE	Nebraska Department of Water, Energy and Environment
NDOT	Nebraska Department of Transportation

NDOT NEPA Specialist	NDOT Environmental Section staff with Professional Qualified Staff (PQS) certification for "NEPA Specialist" as administered by the NDOT Environmental Section Training Plan.
NEDS	Nebraska Environmental Documentation System
NEPA	National Environmental Policy Act
NEPA Team Lead	NDOT supervisor who oversees NEPA Specialists
NGPC	Nebraska Game and Parks Commission
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NRI	Nationwide Rivers Inventory
PA	Programmatic Agreement
PQS	Professionally Qualified Staff
Project Name	The official project name
Project Number	The federal-aid number assigned to the project
ROW	right-of-way
Section 106	Section 106 of the National Historic Preservation Act of 1966
SHPO	State Historic Preservation Officer
STIP	State Transportation Improvement Program
T&E	Threatened and Endangered
THPO	Tribal Historic Preservation Officer
TMP	Toxic metal-based paints
TIP	Transportation Improvement Program
USC	United States Code
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

This *Nebraska Categorical Exclusion Guidance* details the documentation requirements of an NDOT Level 1, 2, and 3 Categorical Exclusion Determination including the questions that must be asked, the answers that must be stated, what answers mean in relation to categorical exclusion (CE) thresholds, and information that must be included for the determination to be complete prior to approval. This guidance does not describe the documentation requirements for Minor CEs, Environmental Assessments, or Environmental Impact Statements. See the Nebraska Department of Transportation (NDOT) *Environmental Procedures Manual,* Chapters 4-6 for the requirements of these National Environmental Policy Act (NEPA) analyses and Chapter 2 for information on making a NEPA class of action determination.

CE is used to describe a category of actions that, based on FHWA's experience with similar actions, normally do not involve significant environmental impacts (23 CFR 771.117(a)). See Section 4.1 *Definition of a Categorical Exclusion* in the *Environmental Procedures Manual* for more information.

NDOT participates in the CE Assignment Program authorized by 23 United States Code (USC) 326, which allows FHWA to assign to a state FHWA's responsibilities for determining whether a project is categorically excluded from preparation of an environmental assessment or environmental impact statement. NDOT assumed FHWA's responsibilities for CE determination through a Memorandum of Understanding (MOU) with the FHWA Nebraska Division titled *State Assumption of Responsibility for Categorical Exclusions* (CE Assignment MOU). This MOU applies to the following:

- Activities listed in 23 CFR 771.117(c);
- Example activities listed in 23 CFR 771.117(d);
- Any activities added to the (c) or (d) list through FHWA rulemaking (CE Assignment MOU, Stipulation I.B); and
- CEs adopted pursuant to 42 USC 4336: Department of Energy's (DOE) electric vehicle charging stations CE.

NDOT also participates in another NEPA Assignment MOU authorized by 23 USC 327, which allows FHWA to assign to a state FHWA's responsibilities for CEs that document activities that are not listed in 23 CFR 771.117 (c) or (d), Environmental Assessments (EAs), and Environmental Impact Statements (EISs). Projects that cross state lines are not assignable under the 327 MOU.

Under these MOUs, NDOT assumes FHWA's responsibilities for environmental review and documentation, interagency and federal resource agency consultation and coordination, and regulatory compliance for all assigned projects, with limited exceptions pertaining to government-to-government consultation with Indian tribes as defined in 36 CFR 800.16(m) and Tribal Consultation (see CE Assignment MOU, Stipulation II.B.1). Additional information on NEPA Assignment is provided in the *Environmental Procedures Manual*, Chapter 1, Overview.

NDOT CEs may be prepared using the Nebraska Environmental Documentation System (NEDS). NEDS is a custom, web-based software application used to create project documentation. For more information on NEDS, including gaining access, refer to the NEDS User Guide.

1.1 CE Level Determination and Impact Criteria

Impact criteria for CE Levels 1, 2, and 3 are presented by resource in Table 1-1. The level of analysis, documentation, and review increases with CE level which correlates with the complexity of the project and the context and intensity of potential impacts, as follows:

- CE Level 1 actions: CE Level 1 projects include (c) list actions (23 CFR 771.117(c)) and may not exceed Level 1 impact criteria.
- CE Level 2 actions: CE Level 2 projects include (c) list actions that exceed Level 1 impact criteria. Level 2 impact criteria may not be exceeded for any CE Level 2 project.
- CE Level 3 actions: CE Level 3 projects include (c) list actions that exceed Level 2 impact criteria. CE Level 3 projects also include (d) list actions (23 CFR 771.117(d)).

Projects that meet or exceed any Level 1 impact criterion are not eligible for processing as a CE Level 1 action and, at a minimum, a CE Level 2 action must be evaluated. Similarly, projects that meet or exceed any Level 2 impact criterion are not eligible for processing as a CE Level 1 or CE Level 2 action and, at a minimum, a CE Level 3 action must be evaluated. The context and intensity of potential impacts should always be considered when determining appropriate level of documentation.

Table 1-1. Categorical Exclusion Impact Criteria

Resource	Level 1 Criteria (qualifies as a CE Level 1 if none of the below criteria are exceeded)	Level 2 Criteria (meeting any of the criteria below would require a CE Level 2)	Level 3 Criteria (meeting any of the criteria below would require a CE Level 3)
ROW and property	No acquisition of permanent easement or ROW	Any acquisition of permanent easement or ROW	Acquisition of greater than 4 acres per linear mile
			Any removal of major property improvements
			Any residential or nonresidential displacement
Section 4(f)	No "use" or no exception to "use" of property protected under Section 4(f)	"Use" that is either *de minimis* or covered by a programmatic evaluation	Individual Section 4(f) Evaluation
		Any exception	
Section 6(f)	N/A	No 6(f) conversion	Any 6(f) conversion
Farmland	N/A	N/A	NRCS determines there will be farmland impacts
Water and Ecological Resources			
Wild and Scenic Rivers and National Recreational Rivers	Certain 23 CFR 771.117(c) activities (1–25) that occur in, across, or adjacent to a protected river with a finding of no impact	N/A	Certain 23 CFR 771.117(c) activities (26, 27, or 28) that occur in, across, or adjacent to a protected river, regardless of impact finding
	Not considered an impact on a protected river by the agency with jurisdiction, regardless of category		Any activity that is considered an impact on a protected river by the agency of jurisdiction, regardless of category

Resource	Level 1 Criteria (qualifies as a CE Level 1 if none of the below criteria are exceeded)	Level 2 Criteria (meeting any of the criteria below would require a CE Level 2)	Level 3 Criteria (meeting any of the criteria below would require a CE Level 3)
Floodplain and floodway	A rise in the base flood elevation of less than 1 foot	N/A	A greater than 1 foot rise in the base flood elevation
	No rise in a floodway		Any rise in a floodway
	No 23 CFR 771.117(c) activities (26, 27 or 28) that result in a floodplain encroachment other than functionally dependent uses or actions that facilitate open space use		Certain 23 CFR 771.117(c) activities (26, 27 or 28) that result in a floodplain encroachment other than functionally dependent uses or actions that facilitate open space use
Wetlands and waters of the U.S.	0.5 acre or less of permanent wetland impact	Greater than 0.5 acre of permanent wetland impact	N/A
	Clean Water Act Section 404 Non-notifying Nationwide Permit	Clean Water Act Section 404 Nationwide Permit Pre-Construction Notification	Clean Water Act Section 404 Individual Permit
	No Rivers and Harbors Act Section 10 Permit	N/A	Rivers and Harbors Act Section 10 Permit
	No Rivers and Harbors Act Section 9 Coast Guard Permit	N/A	Rivers and Harbors Act Section 9 Coast Guard Permit
Threatened and endangered species	"No effect" determination; "May affect" determination that does not require further consultation with resource agencies	"May affect, not likely to adversely affect" determination that requires further consultation with resource agencies	"May affect, likely to adversely affect" determination for threatened and endangered species or critical habitat that requires further consultation with resource agencies.
	NOTE: If 23 CFR771.117(c) activities 26, 27, or 28 apply and the effect determination is "May affect, likely to adversely affect," CE-3 will be triggered regardless of whether coordination with the agencies occurred.		
Human and Social Resources			
Historic properties	No potential to cause effects or a finding of no historic properties affected	Finding of "no adverse effect"	Finding of "adverse effect"
Hazardous materials	Low potential for encountering hazardous materials during construction	Medium potential for encountering hazardous materials during construction	High potential for encountering hazardous materials during construction
	No soil disturbance below or beyond pre-existing roadway fill in an active Superfund site	N/A	Soil disturbance below or beyond pre-existing roadway fill in an active Superfund site
Traffic noise	Not a Type I project under NDOT's Noise Policy	N/A	Type I project under NDOT's Noise Policy
Roadway	Addition of through-lane capacity less than 1 mile in length	N/A	Addition of through-lane capacity 1 mile or more in length

Resource	Level 1 Criteria (qualifies as a CE Level 1 if none of the below criteria are exceeded)	Level 2 Criteria (meeting any of the criteria below would require a CE Level 2)	Level 3 Criteria (meeting any of the criteria below would require a CE Level 3)
Traffic disruption	Minor traffic disruptions such as road, bridge or ramp closures that are less than 30 working days	Minor traffic disruptions such as road, bridge or ramp closures that are greater than 30 working days and up to 135 working days	Major traffic disruptions such as road, bridge or ramp closures that are greater than 135 working days
	No associated road, bridge or ramp closures resulting in a substantial change to the environmental consequences of the action	N/A	Associated road, bridge or ramp result in a substantial change to the environmental consequences of the action
	Out-of-direction travel 10 miles or less in urban areas or 30 miles or less in rural areas		Out-of-direction travel greater than 10 miles in urban areas or greater than 30 miles in rural areas
	No temporary or permanent interference with known local special events or festivals		Temporary or permanent interference with known local special events or festivals
	No temporary or permanent adverse effect on through-traffic dependent business		Temporary or permanent adverse effect on through-traffic dependent business
	No permanent traffic pattern changes or disruptions		Permanent traffic pattern changes or disruptions
Access disruption	Complete closure of access to residential properties for 5 or fewer working days	Complete closure of access to residential properties for greater than 5 working days and up to 10 working days	Complete closure to residential properties for greater than 10 working days
	No closure of business access during operational hours	N/A	Closure of business access during operational hours
	No access restrictions to emergency service facilities or providers		Access restrictions to emergency service facilities or providers
	No change in the functionality of adjacent properties		Change in the functionality of adjacent properties
Unresolved controversy	No known public or agency controversy on human, natural, or economic grounds	N/A	Known public or agency controversy on human, natural, or economic grounds

Note: N/A means that there are no specific CE criteria to elevate to this level.

1.2 Multiple Projects

For convenience and streamlining, NDOT may elect to process multiple projects as one CE during project development. In other cases, it may be necessary to process multiple projects together as they constitute one federal action. This occurs when a project on its own either does not have logical termini or independent utility, or the project would restrict consideration of alternatives for other reasonably foreseeable transportation improvements (See Chapter 3, Project Development and Documentation of

the *Environmental Procedure Manual*). In either scenario, the reason for the decision to process multiple projects together in a single NEPA document needs to be clearly described in the CE.

2.0 CE Document

2.1 General

Project Name, Control Number, and Project Number

The project name, control number, and project number must be stated.

Location, Study Area, and Logical Termini

The CE document must include the following project specific info:

- A brief description of the location of the project, including the roadway name or highway number; nearest city, town, or village, if applicable; and the county in which the project is located;
- Project start and end in narrative format, conveyed utilizing distance to nearby landmarks, highways or intersections as necessary;
- A brief description of the environmental study area; and
- How the logical termini were determined.

A project location figure depicting the project location should be attached to the CE. Further information about figure requirements is provided in Section 3 of this guidance document.

STIP Identification

A project must be included in the current approved State Transportation Improvement Program (STIP) or amended STIP prior to CE approval. If a project is listed in the current STIP or amendment, provide the date. For projects located within Metropolitan Planning Organization (MPO) boundaries for Omaha (Omaha-Council Bluffs Metropolitan Area Planning Agency), Lincoln (Lincoln MPO), South Sioux City (Siouxland Interstate Metropolitan Planning Council), or Grand Island (Grand Island Area Metropolitan Planning Organization), the project must be listed in the most recent Transportation Improvement Program (TIP) or amended TIP that has been incorporated by reference in the current approved STIP or its approved amendment. This reference is in the cover letter of the STIP or STIP amendment. If the TIP has not been referenced, contact the NDOT Program Management Division to determine the schedule for including the TIP in a STIP amendment. Additionally, the cost and scope must be accurately represented in the most recently approved TIP. Projects from the Transportation Alternatives List, Minor Safety Projects List, and Recreational Trails List are incorporated by reference in the NDOT STIP; for these types of projects, ensure that the project is included in the most current applicable list. If a project is not listed in the most current STIP, TIP, or other applicable list above, coordinate with NDOT Program Management.

Federal funding requires that the project be included in the STIP prior to CE approval; therefore, only the date of the STIP is applicable. The TIP information may be useful to find the appropriate STIP, but the date of the TIP should not be stated. Ensure that the STIP date is verified and updated throughout the review and approval process.

The NDOT STIP and references to the MPO TIPs can be found on the NDOT website.

LRTP Conformance

If a project (state or LPA) is included within an MPO boundary, the project cost and scope must be accurately represented in the most recently approved MPO's Long-Range Transportation Plan (LRTP) or Metropolitan Transportation Plan (MTP). LRTP and MTP are considered interchangeable terms, and

LRTP will be used within this guidance document. The MPO will coordinate with the NDOT MPO Liaison in the Strategic Planning Division to maintain project scope and cost accuracy, as well as fiscal constraint for the project in the MPO LRTP, to demonstrate MPO TIP/MPO LRTP consistency. The NDOT MPO Liaison will review the MPO TIP and MPO LRTP for consistency each time the MPO submits a new MPO TIP (annually) or MPO LRTP (every 5 years) or an administrative modification/amendment to an existing MPO TIP or MPO LRTP that impacts the project's cost, scope, or funding.

- If the MPO TIP and MPO LRTP are found to be consistent, the NDOT MPO Liaison will develop the appropriate approval/concurrence letter and submit the administrative modification/amendment to FHWA/FTA as well as the MPO and NDOT Program Management and Local Assistance Divisions.
- If the MPO TIP and MPO LRTP are found to be inconsistent, the NDOT MPO Liaison will coordinate with the MPO to initiate an amendment and update the appropriate MPO TIP or MPO LRTP.

The NDOT MPO Liaison will refer to the most current STIP Development Guidelines found at https://dot.nebraska.gov/media/21hc2mkm/stip-pd-guidelines.pdf to determine consistency. FHWA defines "fiscally constrained" as a demonstration of sufficient funds (federal, state, local, and private) to implement proposed transportation system improvements as well as to operate and maintain the entire system through the comparison of revenues and costs.

Subsequent Phase

State the subsequent federally funded project phase as shown in the fiscally constrained STIP or TIP. Federal rules require that the project be funded through the next project phase prior to CE approval.

Estimated Cost

Include the total estimated cost shown in the current STIP or TIP. For projects that use federal aid for preliminary/final engineering, ROW acquisition, and/or construction, include the total federal-aid expenditures requested for the project. If the project is using (c)(23) as the activity, state the total amount of federal funds found in the cost breakdown in the STIP or TIP. If the total federal funds cost is close to the federal limit identified in 23 CFR 774.117(c)(23) (adjusted annually), consult with the NDOT Program Management Division to determine whether project cost estimates are likely to increase.

NOTE: For multiple projects that are reviewed in one CE, include the combined project cost in this block and place the individual costs in the Project Document notes.

2.2 Project Description

The project description will be developed by the roadway designer, LPA project responsible charge, or consultant consistent with *NDOT Project Description Template*. The document author should ensure that the project description adequately describes project features and construction activities commensurate with the CE Level and/or potential to impact identified study area resources.

The project description should not include location information that was previously discussed in the Location and Study Area block (mile markers, etc.); stationing; plus signs (+); references to determinations at plan-in-hand; or references to specific amounts or locations (for example, inches of a grade raise and number of culverts).

2.3 Purpose and Need

The purpose and need statement is included only if the project is a CE Level 3, would obtain a Clean Water Act Section 404 Nationwide Permit 23 *Approved Categorical Exclusions*, or has a Section 4(f)

Programmatic Evaluation or higher. The purpose and need should clearly identify and describe the underlying problem or deficiency (for example, congestion, safety, system linkage) and explain why the project is necessary (for example, to provide system continuity, to improve capacity, and to correct safety or roadway deficiencies). Ensure that all references to dates, such as bridge determinations, are up-to-date throughout project development.

The following sections will determine the level of the CE if it has not already been determined by the 23 CFR 771.117 action type. Each section should be considered individually for CE level and then reconsidered as a whole after completing a CE. The CE level for one section does not necessarily affect the CE level of another. For example, if Section 2.4 is a CE Level 2, Section 2.5 is a CE Level 1, and Section 2.6 is a CE Level 3, the document as a whole is a CE Level 3.

2.4 Right-of-Way and Property Impacts

ROW and Property Impacts include sections 1 through 4: ROW & Easements, Section 4(f), Section 6(f), and Other Property Impacts.

Right-of-Way and Easements

For CE Level 1 actions, no permanent ROW or easement acquisition or relocations can occur. For CE Level 2 actions, no acquisition of more than minor amounts of ROW (that is, 4 acres per linear mile), no removal of major property improvements, or no residential or non-residential displacements can occur. Examples of major property improvements include residential and business structures, functional garages or outbuildings, or other features that would change the functional utility of the property. Removal of minor improvements, such as fencing, landscaping, sprinkler systems, and mailboxes, would be allowed.

A displacement would occur if any owner, occupant, or tenant is required to move from a dwelling (including mobile homes), or to move from a business or farm/ranch as a result of the project. When a project results in a relocation, coordination will occur with the EDU Supervisor or the NEPA Team Lead to verify the appropriate level of NEPA documentation.

ROW and easement data can be obtained from the NDOT ROW Designer (preferred), Roadway Design Division, or the design consultant.

CE Questions

1.1: Will the action require the acquisition of temporary easements?

- NO: The project review is eligible for a CE Level 1.
- YES: The project review is eligible for a CE Level 1. Question 1.7 and Blocks 1.4–1.6 must be answered to further determine the CE level for this section.

1.2: Will the action require the acquisition of permanent right-of-way or easements?

- NO: The project review is eligible for a CE Level 1.
- YES: The project review is elevated to a CE Level 2. Questions 1.3 and 1.7 and Blocks 1.4–1.6 must be answered to further determine the CE level for this section.

1.3: Will the action result in acquisition of greater than 4 acres per linear mile *(estimated)* or the removal of major property improvements?

- NO: The project review remains eligible for CE Level 2. Blocks 1.4–1.6 and Question 1.7 must be completed to further determine the CE level for this section.
- YES: The project review is elevated to a CE Level 3. Blocks 1.4–1.6 and Question 1.7 must be completed.

NOTE: The document author will coordinate with the NDOT NEPA Specialist (if applicable), project designer, and NDOT Right of Way Division to determine the average ROW and easement acquisition per mile. Projects that are less than 1 mile in length are assumed to be a full mile for this determination and cannot exceed 4 acres per mile.

1.4: Describe the type of property required for ROW and/or potential impacts on major property improvements:

Describe the property(ies) affected and general disposition (residential, business, farm/ranch, apartment/rental property, occupied or vacant, functional or dilapidated, etc.) of the property. This should include any modifications or relocations of major improvements that affect the continued functionality of the property. Include any potential changes in functional utility of the property due to access changes or restrictions, loss of parking, or land use changes that may occur as a result of the project.

1.5: Estimated Acres of Permanent ROW and Easements:

Provide the total acres of permanent ROW and easements required for project construction. Round to the nearest hundredth.

1.6: Estimated Acres of Temporary Easements:

Provide the total acres of temporary easements required for project construction. Round to the nearest hundredth.

1.7: Will the action result in any residential or non-residential displacements?

- NO: The project review remains eligible for CE Level 1 or 2. This section is complete.
- YES: The project review is elevated to a CE Level 3 or higher class of action. Block 1.8 must be completed.

1.8: Describe the displacements:

Describe the displacements and estimated number of relocations, including whether the displacements are residential or non-residential. If the project involves a residential displacement, describe the adequacy of replacement housing in the area. If the project involves a non-residential displacement, describe the type or activity of the business or farm and availability of replacement sites in the area. Describe any unusual circumstances, substantial controversy over the relocations, and any history of controversy of past relocations. The appropriateness of proceeding with the action as a CE, given the relocations, must be documented. A project that may result in any relocations cannot be processed as a (c) listed activity. If the number of relocations is significant or has unusual circumstances, a CE is not appropriate. In determining whether the number of relocations is significant or has unusual circumstances, the following should be considered: substantial controversy (do the people who would be relocated object), and the history of controversy associated with past relocations in the area.

With respect to 23 CFR 771.117(d)(12), hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. As a result, projects utilizing (d)(12) should only result in a limited number of relocations and must comply with the specific criteria listed in 23 CFR 710.503.

1.9: ROW & Easements Mitigation

Describe any mitigation measures and their responsible parties associated with Questions 1.1–1.8.

Section 4(f)

Section 4(f) properties are existing or planned publicly owned parks, recreation areas, or wildlife and waterfowl refuges, or any significant historic sites (listed in, or eligible for listing in, the National Register of Historic Places [NRHP]) officially designated as such by a federal, state, or local agency. The Section 4(f) analyses and approvals are conducted and documented according to the *NDOT Guidance for Completing the Section 4(f) Review Process in Nebraska for Federal-Aid Projects* (NDOT Section 4(f) Guidance). The Section 4(f) process occurs prior to the submittal and finalization of the CE determination. Further information regarding Section 4(f) can be found in the NDOT Section 4(f) Guidance and the FHWA Section 4(f) Policy Paper.

When completing a CE, the document author should consult the Section 4(f) property identification documentation (see NDOT Section 4(f) Review Guidance), and Section 4(f) Exception, *de minimis*, Programmatic Evaluation, and/or Individual Section 4(f) Evaluation documentation to answer the questions.

For CE Level 1 actions, the project cannot involve a Section 4(f) use (temporary or permanent) or a determination of a Section 4(f) Exception. If the project results in a use of a Section 4(f) property or if a determination is made that the property qualifies for an exception to the requirement for Section 4(f) protection, the project will (at a minimum) be elevated to a CE Level 2. For CE Level 2 actions, the project cannot result in a Section 4(f) use greater than a Section 4(f) Exception, *de minimis* impact, or Programmatic Evaluation.

CE Questions

2.1: Will the action result in a Section 4(f) use or qualify for Section 4(f) Exception?

- NO: The project review is eligible for a CE Level 1. If Section 4(f) properties are in the study area, Blocks 2.3 and 2.4 will be completed.
- YES: The project review is elevated to a CE Level 2. Question 2.2 must be answered to further identify the CE level for this section.

2.2: Will the action result in an Individual Section 4(f) Evaluation?

- NO: The project review remains eligible for a CE Level 2. Complete Blocks 2.3 and 2.4.
- YES: The project review requires a Section 4(f) Individual Evaluation and a CE Level 3 or higher class of action.

2.3: Describe resources, impacts, and the coordination conducted with officials/agencies:

If no Section 4(f) properties have been identified, this block can be left blank or a statement may be added stating that there are no Section 4(f) properties in the Study Area. If a Section 4(f) property(ies) exists but will be avoided by the project (that is, there is no use), list the property(ies) that were assessed during the Section 4(f) analysis. Briefly discuss why there would be no use and how the property would be avoided during construction (for example, marked as a sensitive area on plan sheets). If a Section 4(f) property(ies) exists and there will be a use, note the nature of the use or impact; note whether the use or impact would interfere with the activities, features, or attributes of the property that make it eligible for Section 4(f) protection; and describe the coordination with the Official with Jurisdiction, including concurrence dates. Additionally, include the Section 4(f) determination and the EDU Supervisor or the NEPA Team Lead approval date for each property.

2.4: Section 4(f) Mitigation:

Describe any mitigation measures and responsible parties associated with the Section 4(f) property. Such measures may include project design minimization efforts, marking properties as sensitive areas in project plans, listing a property as an avoidance area in the contract documents, resource modification, or relocation or replacement, and should be taken directly from the Section 4(f)

documentation.

Section 6(f)

Recreational properties that have used federal financing from the Land and Water Conservation Fund (LWCF) Act are considered to be Section 6(f) properties. For CE Level 1 actions, the project cannot result in a Section 6(f) conversion (that is, changing the land use to something other than recreation). If LWCF funds were used to acquire property or to improve property that will be converted by the project, the project does not qualify for a CE Level 1 analysis.

If there are no recreational Section 4(f) properties in the study area, then a search for Section 6(f) facilities is not necessary. Properties that qualify for Section 4(f) protection because they are historic will not have LWCF funding. If a Section 4(f) analysis is needed (for example, Exception or *de minimis*), coordination with the Nebraska Game and Parks Commission (NGPC) should be completed to determine if LWCF funds were used for a given property. NGPC has been delegated the authority over the LWCF program in Nebraska. NGPC must be contacted to determine if a Section 6(f) property is present and has the potential to be impacted by a project; searches of the National Park Service or NGPC websites are not sufficient to satisfy this review requirement. Further information regarding Section 6(f) properties can be found in the *NDOT Resource Analysis Guidance – Land and Water Conservation Fund Recreation Areas (Section 6(f)).*

If a conversion of a Section 6(f) property(ies) to other uses will occur as a result of the project and replacement lands are required, a CE Level 3 or higher class of action is required. If a project will not result in a conversion but will result in an impact (for example, temporary easements or traffic/access disruptions), mitigation may be required.

CE Questions

3.1: Are there any Section 6(f) Land and Water Conservation Fund Act properties within the study area?

- N/A: There will be no use of Section 4(f) properties, and no Section 6(f) analysis is required. The project review is eligible for CE Level 1. If further reasoning is needed for an N/A, include it in Block 3.3.
- NO: The use of a Section 4(f) property(ies) in the study area will occur. Coordination was completed with NGPC to determine the presence of Section 6(f) properties, but no Section 6(f) properties were identified. Coordination will be attached to the CE, and a brief discussion of the coordination will be included in Block 3.3. The project review is eligible for CE Level 2.
- YES: Question 3.2 must be answered to further identify the CE level for this section.

3.2: Will the action result in a conversion of a Section 6(f) property?

- NO: The project review is eligible for CE Level 2. Coordination with NGPC was completed and is attached to the CE. Complete Block 3.3 and include any required mitigation and their responsible parties in Block 3.4.
- YES: The project review is elevated to a CE Level 3. Complete Blocks 3.3 and 3.4.

3.3: Describe resources, impacts, replacement lands (if applicable), and the coordination conducted with officials/agencies:

Identify all Section 6(f) resources that were assessed during the analysis, note the nature of the impact, and note whether the impact would be considered a conversion. Additionally, describe the coordination with the Agency(ies) with Jurisdiction (AWJ), and include coordination dates.

3.4: Section 6(f) Mitigation:

Describe any mitigation measures and their responsible parties associated with the Section 6(f) resource impact. Such measures may include project design avoidance or minimization efforts, resource modification, or relocation or replacement.

Other Property Impacts

Federal and Tribal Lands

The document author must check land ownership to determine whether the project occurs within or directly adjacent to federal lands (for example, Oglala National Grassland, Valentine National Wildlife Refuge) or tribal lands (for example, Santee Sioux Indian Reservation, Winnebago Indian Reservation). If there is a presence, a letter will be sent to the AWJ for federal land, or the NDOT NEPA Specialist will begin tribal consultation when on tribal land. NEPA consultation with tribes is facilitated by the Section 106 Specialist (see the *Environmental Procedures Manual*, Chapter 10, for further information regarding tribal coordination). Documentation of coordination must be uploaded to the project file. Federal and tribal lands coordination under Section 106 of the National Historic Preservation Act (Section 106) and Section 7 of the Endangered Species Act will be documented in their respective sections.

CE Question

4.1: Will the action take place on or adjacent to tribal lands or other federal lands?

- NO: Discussion of this topic in Block 4.7 is not needed.
- YES: Coordination needs to occur with the AWJ or tribe. In Block 4.7, include the name of the property, the name of the entity that owns/manages the land(s), the date(s) of coordination, and a brief discussion of the actions resulting from the coordination. Any commitments should be included in Block 4.8.

Utilities

If any federal funds are used to relocate utilities, or if the project contractor will be responsible for utility relocation, the relocation is considered a federal action subject to NEPA review. Generally, state-sponsored projects would not include federal funds for utilities, and locally sponsored projects may include federal funds for utilities. To determine if a project will use federal funds for utility relocations, consult the project coordination meeting (PCM) minutes or contact the NDOT NEPA Specialist.

CE Question

4.2: Will federal funds be used to relocate utilities, or will the project contractor be responsible for the relocation of the utilities?

- UNKNOWN: Include in Block 4.6 a commitment to review the status of utilities, when available, and to ensure that the utility relocation is within the project study area.
- NO: No discussion is required in Block 4.7, and mitigation measures and their responsible parties should be included in Block 4.8.
- YES: Ensure that the new utility location was included in the project study area and was reviewed as part of the impact analyses. Briefly discuss the affected utilities in Block 4.7, and include any pertinent mitigation and their responsible parties in Block 4.8.

The following questions are necessary only when the action is processed for CE Level 2 or CE Level 3 documentation. Ensure that these questions are answered if the project is elevated to a CE Level 2 or CE Level 3 at a later point in development.

Farmland

Federal agencies are required under the Farmland Protection Policy Act of 1981 (FPPA) to evaluate the impacts of federally funded projects that may involve converting prime or unique farmlands to non-agricultural uses, and to consider alternative actions that would lessen the adverse effects of the land conversion. Surficial corridor-type projects that propose new alignment of transportation infrastructure including roads and bridges are subject to FPPA. Maintenance, resurfacing, restoration, complete replacement, or rehabilitation of existing roadways and drainage structures including bridges are exempt from FPPA if the total proposed additional conversion, both direct and indirect, is less than 1.0 acre per mile. See Bulletin Title 310 – Land Use (LNU) by the National Resource Conservation Service (NRCS).

CE Questions

4.3: Would the project convert more than one acre per mile of farmland to a non-farm use? (Based on total project length. For projects less than one mile long, use one mile as the project length).

- NO: The project would not convert more than one acre per mile of farmland. No further information is required.
- YES: The project would convert farmland in exceedance of one acre per mile. Question 4.4 must be answered.

4.4: Would the project convert farmland that is classified as prime, unique or of statewide importance to a non-farm use?

- No: The project would not convert prime or unique farmland or land of state importance to a non-farm use. No further information is required.
- Yes: The project would convert prime or unique farmland or land of state importance to non-farm use. The applicable section of the NRCS-CPA-106 (linear projects) or NRCS-AD-1006 (point projects) form must be completed. Question 4.5 must be answered.

4.5: Does the affected property accumulate 60 points or more in Part VI of the appropriate NRCS Farmland Conversion Impact Rating Form?

- NO: The total score of Section VI is below 60, coordination with NRCS is not required. The CPA-106 or AD-1006 should be placed in the project file and not attached to the CE.
- YES: The total score of Section VI is 60 or above, Coordination with NRCS is required. A discussion of the NRCS coordination should be included in Block 4.7.

4.6: Did NRCS determine the project impacts prime farmland?

- NO: Mitigation of adverse effects to farmland is not required.
- YES: Two additional approximate ROW designs that minimize impacts to farmland must be submitted to NRCS for review and scoring. If the lowest-scoring design is not selected for construction, a discussion of the reasons for the decision must be included in Block 4.7, and the project is elevated to a CE Level 3.

4.7: Describe resources, impacts, and the coordination conducted with officials/agencies:

Include all applicable discussions from Questions 4.1–4.6.

4.8: Other Property Impacts Mitigation

Describe any mitigation measures and their responsible parties associated with Questions 4.1–4.6.

2.5 Water and Ecological Resources

Water and Ecological Resources includes sections 5 through 8: Wild & Scenic Rivers, Floodplain/Floodway, Wetlands & Waters of the U.S., and Threatened and Endangered (T&E) Species.

Wild and Scenic Rivers

The Wild and Scenic Rivers Act established the National Wild and Scenic Rivers System (National System) to preserve rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the benefit and enjoyment of present and future generations. There are two National System designated rivers in Nebraska, the Niobrara National Scenic River and the Missouri National Recreational River. The Nationwide Rivers Inventory (NRI) is a registry of river segments that potentially qualify as national wild, scenic, or recreational river areas. There are nine NRI-listed segments on six waterways in Nebraska.

To determine if a designated Wild and Scenic River segment is in the project area, the document author should visit the Nationwide Rivers Inventory Map. It is the responsibility of the document author to determine whether a project is located within or across the boundaries of a river area designated under the Wild and Scenic Rivers Act. Both of the designated rivers in Nebraska have identified boundaries.

To determine if a river segment listed on the NRI is in the project area, the document author should visit the NRI website. It is the responsibility of the document author to determine whether a project is located within, across, or adjacent to the boundaries (0.25 mile from the river centerline) of a river listed on the NRI.

Following designated river identification and confirmation that a project has the potential to impact a designated river segment or an NRI-listed segment based on scope of work within or adjacent to a boundary, the document author will coordinate with the NDOT NEPA Specialist and NDOT will begin early coordination with the AWJ (that is, National Park Service or U.S. Fish and Wildlife Service [USFWS] for Wild and Scenic Rivers, and National Park Service for NRI-listed segments). Coordination with the AWJ is generally initiated through a letter from NDOT that informs the agency of the nature and location of the project and requests comment. Coordination with the NDOT Wetland Biologist and NDOT Threatened and Endangered Species Biologist should also occur.

To qualify for CE Level 1 or 2, there can be no impact to a designated river or NRI-listed segment. If the AWJ determines the project will not result in an impact to a designated or NRI-listed river segment, the project would remain eligible under CE Level 1 or CE Level 2, as appropriate. For projects that are reviewed under 23 CFR 771.117(c)(26), (27), or (28) and have construction activities in, across, or adjacent to a designated river segment, a CE Level 3 or higher class of action is required regardless of the AWJ impact determination. If the AWJ has determined that project construction activities would result in an impact, a CE Level 3 or higher class of action is required.

CE Questions

5.1: Will the action cross or occur within the boundaries of a designated Wild and Scenic River or a river listed on the Nationwide Rivers Inventory?

- NO: There are no Wild and Scenic River designated or NRI-listed segments within the study area. The project review is eligible for a CE Level 1.
- YES: The document author must answer Questions 5.2 and 5.3 to further identify the CE level for this section.

5.2: For actions processed under 23 CFR 771.117(c)(26), (27), or (28), a Level 3 review will be required.

If the project will be processed under a 23 CFR 771.117(c)(26), (27), (28), this question will be checked

and the CE will be processed as a CE Level 3 regardless of the AWJ determination.

5.3: Is the action considered an impact to the National System of Wild and Scenic Rivers by the Agency of Jurisdiction?

- NO: The project review is eligible for a CE Level 1 or CE Level 3 depending on the answer to Question 5.2. Complete Blocks 5.4 and 5.5.
- YES: The project review is elevated to a CE Level 3 or higher class of action. Complete Blocks 5.4 and 5.5.

5.4: Describe resources, impacts, and the coordination conducted with officials/agencies:

Describe the river resource area, potential construction impacts, coordination conducted with the AWJ, and the results of the coordination. All coordination documentation with the AWJ will be attached to the CE.

5.5: Wild and Scenic River Mitigation:

Discuss any design avoidance or minimization efforts made, or other recommendations agreed upon, with the AWJ and those who will be responsible for completing the efforts.

Floodplain/Floodway

The Federal Emergency Management Agency's National Flood Insurance Program requires participating communities to manage development within designated floodplains to limit increases of the 100-year flood elevation. If a project crosses a mapped Zone A floodplain or floodway, the action cannot cause greater than a 1-foot rise in the Base Flood Elevation (BFE), any rise in a floodplain that potentially impacts an adjacent structure, or any rise in a floodway without a map revision. In some instances, such as when a county does not participate in the National Flood Insurance Program, an area may not be mapped for floodplains. In this instance, Nebraska Administrative Code Title 455, Chapter 1, which defines state minimum standards for floodplain management, will be applied in lieu of Federal Emergency Management Agency floodplain maps. To accurately answer Questions 6.1 and 6.2, review the Floodplain Professionally Qualified Staff (PQS) Memo. When there is no encroachment to a floodplain or floodway, the Floodplain PQS may provide an email, rather than a PQS Memo, confirming the lack of encroachment.

Projects evaluated under 23 CFR 771.117(c)(1–25) are not subject to the paragraph (e) floodplain restraint criteria required for actions processed under 23 CFR 771.117(c)(26), (27), and (28); therefore, minor floodplain impacts, or encroachments, are allowed for CE Level 1 projects. Projects processed under 23 CFR 771.117(c)(26), (27), and (28) will require a CE Level 3 review or higher class of action if they result in a floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths). If the project results in a floodplain encroachment, and the NDOT Floodplain PQS documents the results of a 23 CFR 650.111 analysis within the NDOT Floodplain PQS memo, the analysis shall be summarized in Block 6.5.

CE Questions

6.1: Will the action occur within the boundary of a regulatory floodway, mapped base floodplain, or potential base floodplain in an unmapped community?

- NO: The project review is eligible for CE Level 1.
- YES: Questions 6.2 and 6.3 and Blocks 6.5 and 6.6 must be answered to further determine the CE level.

NDOT PQS Determination Date:

State the date of the PQS Floodplain Statement. For some projects, there may be multiple consultation or PQS review dates. When this occurs, state the original date here and describe the other review dates and the reason for them in Block 6.5. The date here should always match the date of the memo and not supplemental evaluations.

6.2: Will the action cause a greater than 1-foot rise in the BFE, an increase in the potential for property loss and hazard to life, or any rise in a regulatory floodway?

- NO: The project review is eligible for CE Level 1.
- YES: The project review is elevated to a CE Level 3 review or higher class of action.

6.3: Will the actions reviewed under 23 CFR 771.117(c)(26), (27), and (28) result in a floodplain encroachment other than functionally dependent uses or actions that facilitate open space use?

- N/A: The project is being processed as something other than a 23 CFR 771.117(c)(26), (27), or (28). The project review is eligible for CE Level 1.
- NO: The project review is eligible for a CE Level 1 or 3. A functionally dependent use would receive a NO answer.
- YES: The project review is elevated to CE Level 3 or higher class of action.

6.4: Does the project temporarily or permanently alter, occupy, or use a levee or other civil works project constructed by the U.S. Army Corps of Engineers?

- NO: The project will not temporarily or permanently alter a U.S. Army Corps of Engineers Civil Works project
- YES: The project will either temporarily or permanently alter a U.S. Army Corps of Engineers Civil Works project. Complete Blocks 6.5 and 6.6.

NOTE: The U.S. Army Corps of Engineers Section 408 program allows another party, such as a local government, company, or individual, to alter, occupy or use a USACE Civil Works project with permission. In addition to levees, common civil works projects in Nebraska also include floodwalls, dams, reservoirs, federally maintained waterways, and federally maintained river training structures. The document author will consult the NDOT-73, Project Coordination Meeting (PCM) minutes and Plan-in-Hand Report to determine if a civil works project is within 500 feet of the project footprint. If a civil works project is present, the NDOT NEPA Specialist will coordinate with the NDOT Hydraulics engineer or Local Assistance Division project engineer. For project work that would alter, occupy or use a civil works project, the document author should ensure that these potential authorization issues are addressed and documented appropriately.

6.5: Describe resources, effects, and the coordination conducted with officials/agencies:

Describe the resources (location and name of associated waterway[s] and civil works projects), impacts and any coordination conducted with officials/agencies. The document author should review the available floodplain information (for example, emails, certifications, hydraulics reports) and/or coordinate with the NDOT Hydraulics Engineer or design consultant to complete this block. Summarize the findings from the NDOT Floodplain PQS memo in this block.

6.6: Floodplain/Floodway or Civil Works Mitigation:

If a floodplain permit is required but not obtained by the time the CE document is ready for approval, include a commitment to obtain the permit(s) prior to construction. Other applicable floodplain and civil works mitigation and their responsible parties should be included here.

Wetlands and Waters of the U.S.

Waters of the U.S., including wetlands, waterways, lakes, natural ponds, and impoundments, are regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act, which requires a permit to authorize the discharge of dredged or fill material into waters of the U.S. (33 USC 1344). Federal regulations require that impacts on wetlands and other waters of the U.S. be avoided and minimized to the extent practicable. DWEE regulates surface water quality standards in Nebraska in accordance with Nebraska Administrative Code Title 117, Nebraska Surface Water Quality Standards. Further information regarding wetlands and water resources is available in the *NDOT Wetland and Water Resource Procedure Document*.

If no work will occur within a wetland or other water of the U.S., or if the project qualifies for a non-notifying Nationwide Permit, the project is eligible for a CE Level 1 review. In addition, a project can have a cumulative impact of up to 0.5 acre of permanent wetland impacts and remain eligible for a CE Level 1 review. Projects requiring a pre-construction notification or result in cumulative permanent impacts greater than 0.5 acre will require a CE Level 2 review or higher class of action. Projects that result in an application for (1) an Individual Section 404 Permit, (2) a Section 10 Permit from the U.S. Army Corps of Engineers, OR (3) a Section 9 Permit from the U.S. Coast Guard, will be elevated to a CE Level 3 or higher class of action.

CE Questions

7.1: Are there wetlands, stream channels, or other waters within the study area?

- NO: The project review is eligible for CE Level 1. Complete Blocks 7.8 and 7.9.
- YES: Questions 7.2–7.7 must be answered to determine the appropriate CE level for this section.

NDOT PQS Determination Date:

7.2: Will the action result in wetland impacts in accordance with Section 404 of the Clean Water Act and/or Nebraska Administrative Code Title 117?

- NO: The project review is eligible for a CE Level 1. Question 7.3 and Block 7.4 are not applicable. Complete Questions 7.5–7.7 and Blocks 7.8 and 7.9.
- YES: Questions 7.3–7.7 must be answered to determine the appropriate CE level for this section.

7.3: Will the action result in greater than 0.5 acre (total permanent) of wetland impacts?

- NO: The project is eligible for CE Level 1. Complete Questions 7.5–7.7 and Blocks 7.4, 7.8 and 7.9.
- YES: The project review is elevated to CE Level 2. Questions 7.4–7.7 must be answered to further determine the appropriate CE level for this section.

7.4: Estimated Permanent Wetlands Impacts (acres):

Include the estimated total permanent acres of wetland impacts resulting from the project. Round to the nearest hundredth.

7.5: If the project is processed with a Nationwide Permit, is a Pre-construction Notification required?

- NO: The project review is eligible for CE Level 1 or 2.
- YES: The project review is elevated to CE Level 2. Questions 7.6 and 7.7 must be answered to further determine the appropriate CE level for this section.

- N/A: An Individual Permit is required, or there are no impacts on streams or wetlands.

7.6: Anticipated Permit(s):

- State the anticipated permit type(s). If a permit is not required, state "N/A".

7.7: Will the action require an Individual Permit (IP) or Section 10 Permit from the U.S. Army Corps of Engineers or a Section 9 Permit from the U.S. Coast Guard?

- NO: The project review is eligible for a CE Level 1 or 2. Complete Blocks 7.8 and 7.9.
- YES: The project review is elevated to CE Level 3 or higher class of action. The document author should proactively initiate coordination with the EDU Supervisor or the NEPA Team Lead when the need for an Individual Section 404 permit or a Section 9 or Section 10 permit is required to determine the appropriate level of NEPA analysis. Complete Blocks 7.8 and 7.9.

NOTE: The only Section 9 and 10 water in Nebraska is the Missouri River. For any work occurring in, across, or in the vicinity of the Missouri River, the document author should ensure these potential permit issues are addressed and documented appropriately. Contact the NDOT Wetland Biologist for help in determining Section 9 and 10 permit needs and requirements.

7.8: Describe resources, potential impacts, and any coordination conducted to date with officials/agencies:

Include a general discussion about the level of delineation or determination conducted (for example type of review and date the review was conducted). Briefly describe all impacts, including the type of wetlands or waters of the U.S., Title 117 waters, Section 9 and 10 resources, and the reason for the impact. Identify other permit strategies as warranted. Include coordination conducted with appropriate resource or regulatory AWJ over the identified resources. Give a brief description of any mitigation proposed to offset unavoidable wetland impacts, including the wetland bank being used. All information should be provided to the document author by the NDOT Wetland Biologist assigned to the project. If a notifying Nationwide Permit is received prior to CE approval, note the date the permit was approved.

7.9 : Wetlands/Waters of the U.S. Mitigation:

Discuss any design avoidance or minimization efforts made, or other mitigation efforts agreed upon, with resource or regulatory AWJ and those who will be responsible for completing the efforts.

Threatened and Endangered Species

NDOT, USFWS, and NGPC participate in a Programmatic Agreement (PA) for the Endangered Species Act and the Nebraska Endangered Species Conservation Act compliance*, Programmatic Agreement for the Determination of Effects to State and Federally Listed Species from the Federal-Aid Highway Program, and the Nebraska Biological Evaluation Process for the Federal-Aid Transportation Program*, commonly referred to as the Matrix. The Matrix process, and associated tools, will be used for federal Endangered Species Act and Nebraska Endangered Species Conservation Act compliance for projects. Furthermore, projects within the range of the American Burying Beetle (ABB) are subject to the parameters of the Nebraska ABB Programmatic Agreement (ABB PA). Similarly, projects within the range of federally listed bat species are subject to the FHWA Nationwide Bat Programmatic Agreement (BPA).

Further information regarding state or federally threatened or endangered (T&E) species and the parties involved in the agreement is provided in the Matrix document and PAs. The Biological Assessment will be used to answer the questions in this section.

For CE Level 1 actions, impacts on state or federal T&E species resulting in a "May Affect" determination with resource agency coordination cannot occur. For CE Level 2 actions, impacts on state or federal T&E species resulting in a "May Affect, Likely to Adversely Affect" determination with resource agency

coordination cannot occur. The project would be elevated to a CE Level 3 or higher class of action.

Generally, the BPA programmatically results in a "May Affect, Not Likely to Adversely Affect" determination with no further coordination required and would remain CE Level 1 eligible. The ABB PA could produce a "May Affect, Likely to Adversely Affect" determination that does not require further coordination, which may also remain CE Level 1 eligible. If further coordination with USFWS or NGPC is required per the ABB PA or BPA, the project cannot be processed as a CE Level 1 action. Also, if 23 CFR771.117(c) activities 26, 27, or 28 apply to the project and the effect determination is "May Affect, Likely to Adversely Affect," CE-3 will be triggered regardless of whether coordination with the agencies occurred.

CE Questions

8.1: Effect Determination and Consultation

The following information is required, as applicable: Species within range where suitable habitat exists in the Study Area, the effect determination for those species, the evaluation method (e.g. Matrix, ABB PA, BPA), whether agency consultation was required, and if so, the agency and concurrence date.

NDOT PQS Determination Date:

8.2: Has it been determined that there is suitable habitat within 0.5 mile of the environmental study area for bald or golden eagles?

- NO: No mitigation is needed.
- YES: Ensure that the appropriate mitigation from the NDOT Threatened and Endangered Species Biologist is included in Block 8.7.

8.3: Will this project comply with the Migratory Bird Treaty Act (MBTA) in accordance with NDOT's Avian Protection Plan (APP) and Biological Evaluation Matrix Appendix A?

NDOT has developed an APP for compliance with the Migratory Bird Treaty Act. All projects, including LPA projects using federal-aid administered by NDOT, must apply and follow the NDOT APP during project construction.

- NO: The project does not comply with the MBTA and APP. Coordination with the USFWS will be required. Provide a summary of the coordination in Block 8.6 and ensure that any specific mitigation measures and their responsible parties are included in Block 8.7.
- YES: The project complies with the MBTA and APP. Compliance with the APP is established by Section 107.01 in the *NDOT Standard Specifications for Highway Construction*, and no mitigation is needed for the CE.

8.4: If a Section 404 Individual Permit is required, coordination under the Fish and Wildlife Coordination Act will occur during the permitting process.

- N/A: A Section 404 Individual Permit is not required.
- Coordination Required: A Section 404 Individual Permit is required, and Fish and Wildlife Coordination Act coordination must occur during the NEPA phase. Provide a summary of potential wildlife resource impacts related to project construction activities in Block8.5. Include any specific mitigation measures and their responsible parties in Block 8.6.

8.5: Summarize any additional agency coordination (other than USFWS and NGPC) conducted as part of the Biological Assessment:

8.6: Species and Habitat Mitigation:

Include all conservation conditions listed exactly as they are written in the Biological Assessment.

2.6 Human and Social Resources

Human and Social Resources includes sections 9 through 15: Historic Properties, Hazardous Materials, Noise, Roadway, Traffic Disruption, Access Disruption, and Public Involvement.

Historic Properties

NDOT, the State Historic Preservation Office (SHPO), and the Advisory Council for Historic Preservation entered into the *Programmatic Agreement among The Federal Highway Administration, The Nebraska State Historic Preservation Officer, The Advisory Council on Historic Preservation, and The Nebraska Department of Transportation to Satisfy the Requirements of Section 106 for the Federal-Aid Highway Program In The State of Nebraska* (Section 106 PA). The Section 106 PA procedures and associated tools will be used for Section 106 compliance for CEs. Further information regarding the Section 106 process and the parties involved in the agreement are provided in the Section 106 PA.

For CE Level 1 actions, the project cannot result in Section 106 effects other than a "No Potential to Cause Effects" or a "No Historic Properties Affected" determination. If the project results in an effect other than what is identified above, the project will be elevated to a CE Level 2 or higher class of action. For CE Level 2 actions, the project cannot result in an "Adverse Effect" on any historic property under Section 106 of the National Historic Preservation Act. If the project results in an "Adverse Effect," the project will be elevated to a CE Level 3 or higher class of action. The document author must review the NDOT Section 106 Tier PQS Memo for the project determination and pertinent resource information.

CE Questions

9.1: Are there any properties listed in, or eligible for listing in, the NRHP in the area of potential effects (APE)?

- NO: The project review is eligible for a CE Level 1. Projects reviewed under an NDOT Section 106 Tier I PQS Memo or projects reviewed under a "No Historic Properties Affected – Minimal Potential to Cause Effects to Historic Properties" Tier II PQS Memo will be answered with NO. Answer Question 9.2.
- YES: Question 9.2 must be answered to determine the CE level for this section.

9.2: Project Effects Determination:

State the appropriate effects determination:

- *No Potential to Cause Effects:* The project review is eligible for a CE Level 1.
- *No Historic Properties Affected:* The project review is eligible for a CE Level 1. Complete Blocks 9.3 and 9.4, if applicable. This determination will be selected for both "No Historic Properties Affected" determinations *AND* "No Historic Properties Affected – Minimal Potential to Cause Effects to Historic Properties" determinations.
- *No Adverse Effect:* The project review is elevated to a CE Level 2. Complete Blocks 9.3 and 9.4.
- *Adverse Effect:* The project review is elevated to a CE Level 3 or higher class of action. Complete Blocks 9.3 and 9.4.

NDOT PQS Determination Date:

State the date of the NDOT Section 106 PQS signature. For some projects, there may be multiple

consultation or PQS review dates. When this occurs, state the original date here and describe the other review dates and the reason for them in Block 9.3. The date located here should always match the date of the memo and not supplemental evaluations.

Consultation with SHPO:

- NO: Consultation with SHPO did not occur.
- YES: Consultation with the SHPO was completed, and concurrence dates should be included.

Consultation with the THPO and CLG:

- NO: Consultation with the respective entity did not occur.
- YES: Consultation with the THPO or CLG was completed. Designate whether a response was received and, if so, the date of the response.

9.3: List NRHP-eligible resources or NRHP-listed resources, impacts, and consultation:

Discuss the NRHP-eligible or NRHP-listed properties or districts found within the APE as listed in the Section 106 Tier PQS Memo, along with the Criterion under which the property is eligible for listing in the NRHP. In addition, a brief disclosure of potential impacts must be included, as applicable. If, per the Section 106 PA, additional consultation occurs with parties other than SHPO, THPO, or CLG, or more than one CLG or THPO is required for the project, briefly summarize the consultation that occurred and include the response dates.

9.4: Historic Property Mitigation:

Include all mitigation measures as included in the Section 106 PQS Memo.

Hazardous Materials

For CE Level 1 actions, the project cannot result in hazardous materials impacts other than a low potential for encountering hazardous materials based on a records review and visual survey (if needed) or disturb soil below or beyond preexisting roadway fill within an active Superfund Site. If the project results in a medium potential for encountering hazardous materials, the project will be elevated to a CE Level 2 or higher class of action. For CE Level 2 actions, the project cannot result in a high potential for encountering hazardous materials during construction or disturb soil below or beyond preexisting roadway fill within an active Superfund Site. If the project results in a high potential, the project will be elevated to a CE Level 3 or higher class of action.

CE Questions

10.1: Is the project exempt from an HMR according to NDOT's Hazardous Materials Review Guidance?

- NO: Questions 10.2–10.5 must be answered to determine the CE level for this section.
- YES: The project review is eligible for a CE Level 1. State the NDOT PQS Determination Date, and complete Block10.7

10.2: What is the potential for an action to encounter hazardous materials?

State the appropriate potential:

- Low: The project review is eligible for a CE Level 1. Answer Questions 10.3–10.5, and complete Blocks 10.6 and 10.7.
- Medium: The project review is elevated to a CE Level 2. Answer Questions 10.3–10.5, and complete Blocks 10.6 and 10.7.

- High: The project review is elevated to a CE Level 3 or higher class of action. Answer Questions 10.3–10.5, and complete Blocks 10.6 and 10.7.

10.3: There is potential for the project to encounter toxic metal-based paint (TMP).TMP standard specifications shall apply to the proposed project.

- N/A: The project will not disturb components that contain TMP. Answer Questions 10.4 and 10.5 to further determine the CE level for this section.
- YES: Components of a structure containing TMP are being disturbed (for example, removal or cleaning of painted components). Answer Questions 10.4 and 10.5 to further determine the CE level for this section, and include TMP-specific mitigation in Block 10.7.

10.4: Asbestos Containing Materials (ACM) have been identified on project structures or utilities (or components). ACM specifications will be included in the contract by special provisions.

- N/A: ACM was not identified on the project. Answer Question 10.5 to further determine the CE level for this section.
- YES: ACM was identified on a project structure and may be encountered during construction. Answer Question 10.5 to further determine the CE level for this section, and include ACM-specific mitigation in Block 10.7.

10.5: Will any soil disturbance occur below or beyond preexisting roadway fill within an active Superfund Site?

- NO: The project review is eligible for a CE Level 1 or 2 if this project review has not already been determined to be a CE Level 3 in this section. State the determination date of the NDOT Hazardous Materials PQS.
- YES: The project review is elevated to a CE Level 3 or higher class of action.

NDOT PQS Determination Date:

10.6: Describe potential conflicts and the coordination with officials/agencies:

For a CE Level 1 project, state the number of potential contamination sites reviewed and that the likelihood of impact for each site is low. For CE Level 2 or 3 projects, note the number of low potential sites and briefly describe medium and high potential contamination sites that may be encountered during construction, along with the likelihood of impact at the site and any consultation with resource agencies such as the U.S. Environmental Protection Agency or DWEE.

10.7: Hazardous Materials Mitigation:

Include any mitigation and their responsible parties.

Noise

The proposed project will be processed as a CE Level 3 or higher class of action if the project is classified as a Type I project per 23 CFR 772 and the *NDOT Noise Analysis and Abatement Policy*. If there is a scope change that involves shifting the travel lanes, adding travel lanes, or extending a turn lane that is greater than 1 mile in length since the time the NDOT Noise Specialist reviewed the project, additional coordination with the NDOT Noise PQS is required. The document author should coordinate with the NDOT Noise Specialist and review the Noise Study, if applicable, for the project to find the information needed to complete this section. Further information regarding noise is provided in the *NDOT Noise Analysis and Abatement Policy* and the *NDOT Traffic Noise Analysis Guidance Manual*.

CE Questions

11.1: Does the project qualify as a Type I Project under NDOT's Noise Policy?

- NO: The project review is eligible for CE Level 1, and this section is complete.
- YES: The project review is elevated to CE Level 3 or higher class of action, and Questions 11.2–11.4 must be answered.

11.2: Based on the noise analysis, does the project qualify for abatement?

- NO: Discuss in Block 11.3 why noise abatement was not feasible and/or reasonable.
- YES: Summarize the results of the noise analysis in Block 11.3.

11.3: Summarize the results of the noise analysis:

Briefly summarize the impacted noise receptors, the range of noise levels for those receptors, and whether noise abatement is feasible and reasonable. In addition, summarize any noise abatement public stakeholder meetings.

11.4: Noise Mitigation:

Include any commitments to construct noise abatement if applicable.

Roadway

For CE Level 1 and CE Level 2 actions, the project cannot add through-lane capacity. An increase to through-lane capacity can be described as physically adding through traffic lanes, grade separation for either roads or railroads, or adding auxiliary lanes that are at least 1 mile long or are made continuous through a series of successive interchanges. Right turn lanes and auxiliary lanes less than 1 mile in length, or center turn lanes (regardless of length) are not considered capacity-adding activities.

CE Questions

12.1: Will the action result in the addition of through-lane capacity?

- NO: The project review is eligible for CE Level 1.
- YES: The project review will be elevated to a CE Level 3 or higher class of action.

12.2: Roadway Comments

Briefly summarize proposed through-lane capacity additions.

12.3: Roadway Mitigation

Describe any mitigation measures and their responsible parties associated with Questions 12.1 and 12.2.

Traffic Disruption

The document author must consider both temporary and permanent traffic disruptions when analyzing a project. Traffic management phasing will have an environmental impact, either beneficial or adverse, as a result of the changes in driver expectancy. In addition, the public's perception of traffic management and phasing may be influenced by factors such as disruption encountered during construction. If a detour will be used to construct a project, potential impacts and improvements to detour routes must be assessed during the PQS reviews.

For CE Level 1 actions, the project cannot result in traffic disruptions requiring road, bridge, or ramp closures that are greater than 30 working days in duration. If the project results in traffic disruptions greater than 30 working days in duration, the project will be elevated to a CE Level 2 or higher class of action. Additionally, the project cannot result in road, bridge, or ramp closures that substantially change

the environmental consequences of the action. For example, a road closure resulting in a designated detour may impact NRHP-eligible brick streets due to increased traffic or improvements to the designated detour route. Projects with detours will be considered on a case-by-case basis to ensure that routes under the mileages specified above do not cause additional impacts on a community (for example, cohesion, protected populations, emergency services). Examples of potential impacts from overlapping detours would be similar to those listed above for detours generally but could also include other disruptions due to the increase in number of vehicles. For CE Level 1 and CE Level 2 actions, the project cannot result in adverse (out-of-direction) travel greater than 10 miles in urban areas (population of 5,000 or greater) or 30 miles in rural areas.

Additionally, CE Level 1 and CE Level 2 actions cannot interfere with known local special events or festivals, either on a temporary or permanent basis. Interference would include any construction activities occurring on the same segment of street used for the festivities that impedes their use, closure of a road used for festivities, closure of access for any duration to an adjacent property used for the festivities during the event, or complete closure of a main route to the town during the festivities. For projects within towns and cities, the document author should check town and/or county websites or speak with local representatives to determine if and when events are planned. If festivities are planned, the document author will document any potential impacts to festivities, and any coordination with local officials in Block 13.8. If mitigation is proposed, include those measures in Block 13.9.

Projects processed as CE Level 1 and CE Level 2 actions cannot result in an adverse effect on through-traffic dependent business, either on a temporary or permanent basis. The determination of adverse effects on businesses cannot be made without coordination with the affected public. This information will be in the Public Involvement Summary Memo. Additionally, CE Level 1 and CE Level 2 actions cannot result in substantial permanent traffic pattern changes or disruptions, such as permanently closing a roadway or roadway intersection, increasing through-lane capacity, creating new intersections, or converting a local street into a higher classification roadway.

For CE Level 3 actions, the document author should be aware of potential continuity or cohesion impacts, either permanently or temporarily as a result of the project. Examples of this could include the separation of a housing complex from its school, park, or community meeting hall. Coordination with the NDOT Civil Rights Office and NDOT Public Involvement PQS should occur during the environmental review process to determine potential continuity or cohesion impacts and appropriate outreach methods. The document author will document any potential continuity or cohesion impacts, and any coordination with local officials in Block 13.8. If mitigation is proposed to reduce or eliminate continuity or cohesion impacts, include those measures in Block 13.9.

CE Questions

13.1: Will the action result in minor traffic disruptions such as road, bridge or ramp closures that are greater than 30 working days?

- NO: The project review is eligible for CE Level 1.
- YES: The project review is elevated to a CE Level 2. Question 13.2 must be answered to determine if the project will result in major traffic disruptions.

13.2: Will the action result in major traffic disruptions such as road, bridge or ramp closures that are greater than 135 working days?

- NO: The project review remains eligible for CE Level 2.
- YES: The project review is elevated to a CE Level 3 or higher class of action.

13.3: Will road, bridge or ramp closures substantially change the environmental consequences of the action?

- NO: The project review is eligible for CE Level 1 if this project review has not already been

determined to be a CE Level 2 or 3 in this section.

- YES: The project review is elevated to CE Level 3.

13.4: Will the action result in adverse travel (out-of-direction) greater than 10 miles in urban areas or 30 miles in rural areas?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated to CE Level 3.

13.5: Will the action result in temporary or permanent interference with known local special events or festivals?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated to CE Level 3.

13.6: Will the action result in temporary or permanent adverse effects on through-traffic dependent business?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated to CE Level 3.

13.7: Will the action result in permanent traffic pattern changes or disruptions?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated to CE Level 3. Blocks 13.8 and 13.9 will be answered, if applicable.

13.8: Traffic disruption comments

Discussions commensurate with the impacts identified above will be included. If no discussions were identified as needed above, leave this block blank. For example, discussions for Questions 13.1 and 13.2 will describe the expected duration of a traffic disruption, identify detour routes, and discuss the social or economic impacts that may result from the traffic disruption. Also note adjacent projects with overlapping schedules and overlapping detours from two or more projects.

13.9: Traffic Disruption Mitigation

Mitigation measures intended to avoid, minimize, or offset traffic impacts will be noted in this block, along with the responsible parties. In addition, commitments to restrict traffic impacts to the impact thresholds from Section 1.1, Table 1-1, will be included in this block.

Access Disruptions

Access is defined as a means of vehicle ingress or egress between a highway and abutting property or an intersecting local public road or street. Access is also defined as entrances or driveways from properties to a public road system.

For CE Level 1 actions, the project cannot result in the complete closure of access to residential properties for greater than 5 working days, complete closure of business access during operational hours (that is, when the facility is open to the public, normal working hours when employees are present, or any time when shipping or receiving materials/products), or access restrictions to emergency service facilities or providers.

For CE Level 2 actions, the project cannot result in the complete closure of access to residential properties greater than 10 working days, complete closure of business access during operational hours, or a permanent change to the functional utility of the property. A change to the functional utility could, for example, occur when an adjacent property requires heavy truck access and the access change is such that heavy trucks could no longer make the revised turn radii into the property. This would change the functionality of the adjacent property. A second example would be if the action results in a permanent access closure to a residential property or a permanent access change to a business. This modification would be considered a change in the functional utility unless the permanent change will not adversely affect the residence or business, which would be determined through coordination with the affected property. Projects with access disruptions will be considered on a case-by-case basis to ensure that disruptions under the timelines specified above do not cause additional impacts to properties affected.

CE Questions:

14.1: Will the action require any access closures to businesses or residences?

- NO: The project review is eligible for CE Level 1.
- YES: Questions 14.2 and 14.4 must be answered to determine the impact of access restrictions.

14.2: Will the action result in complete closure to residential properties for greater than 5 working days?

- NO: The project review is eligible for CE Level 1.
- YES: The project review is elevated to a CE Level 2. Question 14.3 must be answered to determine if the project review will require CE Level 3.

14.3: Will the action result in complete closure to residential properties for greater than 10 working days?

- NO: The project review remains eligible for CE Level 2.
- YES: The project review is elevated to CE Level 3 or higher class of action.

14.4: Will the action result in closure of business access during operational hours?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be a CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated to CE Level 3 or higher class of action.

14.5: Will the action result in access restrictions to emergency service facilities or providers?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section.
- YES: The project review is elevated CE Level 3 or higher class of action.

14.6: Will the action change the functionality of adjacent properties?

- NO: The project review is eligible for CE Level 1 if this project review has not already been determined to be CE Level 2 or CE Level 3 in this section. Blocks 14.7 and 14.8 should be completed.
- YES: The project review is elevated to CE Level 3 or higher class of action. Blocks 14.7 and 14.8 should be completed.

14.7: Access disruption comments:

Disclose whether access closures are anticipated, note the locations and expected duration of access closures, and assess whether any social or economic impacts may result from the closure. If no access disruptions will occur due to project construction, leave this block blank. Additionally, if there will be restrictions to emergency service providers, discuss coordination with the providers. This information will be in the Public Involvement Summary Memo.

14.8: Access Disruption Mitigation:

Mitigation measures intended to address access impacts must be noted in this block. In addition, commitments to limit access restrictions to the impact thresholds from Section 1.2, Table 1-1 also need to be included in this block. Based on the needs of the project and the existing field conditions, additional mitigation specific to the project may be needed.

Public Involvement

In accordance with 23 CFR 771.111, early coordination with appropriate agencies and the public assists in determining the appropriate environmental review, level of analysis, and related environmental requirements. The consideration of diverse viewpoints ensures that the needs and preferences of a community are considered during project development, and enables transportation officials to make informed decisions based on multiple viewpoints. Further information about public involvement is provided in the *Environmental Procedures Manual*, Chapter 9, Public Involvement Procedures.

NDOT, in the course of routine business matters related to its programs, services, or activities will make efforts to reduce language barriers to effectively communicate with all members of the public. NDOT's Limited English Proficiency (LEP) Plan is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964.

The NDOT Public Involvement Specialist will make a preliminary determination on public involvement needs at the PCM 20. If public outreach during the NEPA phase is warranted, coordination will occur with the NDOT Public Involvement PQS to determine the appropriate method of outreach and who will be responsible for the outreach. The NDOT Public Involvement Specialist will provide a Public Involvement Summary Report that summarizes the public involvement process for the project, results of public involvement, and agency outreach, if conducted. This report is shared with the Civil Rights Office.

The document author should proactively initiate coordination with the NDOT Public Involvement PQS and the EDU Supervisor or the NEPA Team Lead to ensure that the proper level of public outreach is conducted to support the NEPA documentation.

CE Questions:

15.1: Public involvement summary:

- If project-specific comments were received during the planning phase of the project, note those in this section.
- If public outreach was conducted during the NEPA phase, a summary describing all outreach efforts performed or planned for the project will be included here (for example, targeted mailing, public information meeting, public hearing). Disclose the date the meeting was held, the time, the location, language requests accommodating how the meeting was advertised, and how many comments were received during the comment period. This information will be located in the project file. The comments and responses will be referenced here. During outreach, if agency or public feedback is received regarding impacts to a specific resource, summarize the comment(s) and response(s) in the applicable subject-matter section within the CE.

15.2: Public Involvement Mitigation:

Mitigation would include commitments for future public involvement or commitments that resulted from public or agency comments that do not fit in technical resource sections above. In addition, if LEP requirements apply to any future outreach, include the commitments specific to public involvement such as the inclusion of LEP during future outreach.

Unresolved Controversy

If, based on public or agency outreach, the project sponsor receives notification of human, natural, or economic impact concerns as a result of the project that are not been resolved through other means (for example, permits, authorizations, agreements, mitigation), the project will be elevated to a CE Level 3 or higher class of action. Examples include public concerns regarding adjacent property flooding, economic impacts during construction, and aesthetic impacts.

If the project sponsor is made aware of an issue raised by the public, business owners, emergency services, etc. that is documented as being resolved through continued coordination, the impact would not be considered an unresolved controversy. If a commitment is made as a means to resolve the issue, include the commitment and a description of the outreach in the most appropriate section of the CE.

CE Questions:

16.1: Based on public involvement carried out per NDOT's procedures, is there any known public or agency controversy on human, natural, or economic grounds associated with the action?

- NO: The project review is eligible for a CE Level 1 for this section.
- YES: The project review is elevated to a CE Level 3 or higher class of action, and Block 16.2 must be completed.

16.2: Unresolved Controversy Comments:

Summarize the controversy, and/or refer the reader to the section of the CE where the discussion is provided. Any discriminatory-related complaints received by the public will be documented and forwarded to NDOT Civil Rights Office for implementation of NDOT's public discrimination complaint procedures, in accordance with NDOT's Title VI Implementation Plan.

16.3: Unresolved Controversy Mitigation

Describe any mitigation measures and their responsible parties associated with Questions 16.1 and 16.2.

2.7 Contract Provisions Required

There are several environmental permits that may be required prior to construction obligation. Identify those permits that appear to be appropriate for the proposed project action. CE documents will include the following text pertaining to invasive species, water quality, and reasonably foreseeable indirect impacts.

- Invasive Species: The proposed action will be carried out in compliance with NDOT Standard Specification 107.12. This specification states that the Contractor shall prevent the transfer of invasive plant and animal species. The Contractor shall wash equipment at the Contractor's storage facility prior to entering the construction site. The Contractor shall inspect all construction equipment and remove all attached vegetation and animals prior to leaving the construction site..
- Water Quality: The proposed action will be carried out in compliance with NDOT Standard Specification 107.02(5). This specification is designed to ensure that the Contractor

understands the terms and conditions of the general National Pollutant Discharge Elimination System permit that authorizes the storm water discharges associated with industrial activity from the construction site and their legal responsibility to comply with this permit. Additionally, the proposed action will be carried out in compliance with NDOT Standard Specification Section 204 – Temporary Water Pollution Control, which requires that the Contractor exercise every reasonable precaution throughout the life of the contract to prevent silting of rivers, streams, impoundments (lakes, reservoirs, etc.), the project site, and adjacent properties.

- Indirect Impacts: Indirect effects from this project are not anticipated. This project will not induce growth, change land uses, substantially change travel patterns within a community, or substantially impact water quality, drainage patterns, or other resources of concern.

CE Questions:

17.1: Wellhead Protection Special Provisions:

- NO: A Wellhead Protection Area is not located within or directly adjacent to the study area.
- YES: A Wellhead Protection Area is within or directly adjacent to the project study area. Commitments will be included in the contract to identify these sensitive areas.

17.2: Describe resources, impacts, and the coordination conducted with officials/agencies:

If any of the commitments listed in Question 17.3 require explanation, provide it here.

17.3 Contract Provisions Required Mitigation:

Mitigation would include commitments related to a wellhead protection area or nighttime work.

2.8 Additional Comments

Section 18, Additional Comments, is used to address topics outside of any other section within the CE documents.

CE Questions

18.1 Additional Comments

If there is information or impacts that need to be assessed or disclosed that do not logically fit into another section of the form, note them in this block.

18.2: Additional Mitigation

Mitigation measures intended to address discussion in 18.1 or that do not logically fit into another section of the form must be noted in this block.

2.9 Project Mitigation

All commitments that are stated in their respective section's mitigation block shall be collated in this block. Mitigation commitments must be clear and concise, and include applicable timing, location, and responsible party information. To ensure that the mitigation commitments can be fulfilled, the document author should coordinate with NDOT engineering and construction staff before finalizing the CE determination. As applicable, commitments not to exceed impact thresholds shall be identified in this block.

2.10 CE Level, Paragraph and Activity

Based on the scope of work, identify the proper 23 CFR 771.117 paragraph and 23 CFR 771.117 action

type (activity). If the project is determined to be paragraph (d), the document must be CE Level 3. A CE Level 3 document that falls under the actions described in (c)(26), (27), or (28) must avoid the constraints listed in 23 CFR 771.117(e) to be processed as a (c) listed activity. If these constraints cannot be avoided, the project will be processed as a (d)(13) activity.

The document author is responsible for determining which CE activity to assign a project. In the instance that a project fits under more than one CE activity, the document author will determine which CE activity most closely captures the project's scope of work. If uncertain, the document author should coordinate with the NDOT NEPA Specialist or Environmental Documents Unit (EDU) Supervisor to determine the appropriate activity.

If a project does not meet a (c) or (d) *listed* activity, coordinate with the EDU Supervisor to determine if the project is assignable under the 327 MOU.

2.11 Approval

Document author and project sponsor information including name, email, and organization must be stated. On LPA projects, the project sponsor is a local official or project responsible charge; on state projects, the project sponsor is a representative from NDOT's Roadway Design Division. If the project sponsor information is unknown, coordinate with the NDOT NEPA Specialist. Upon completion of quality control requirements, the document author, the project sponsor, and the NDOT approver sign the CE. Refer to Section 4, Review and Approval for more information regarding QC review and approval procedures.

3.0 Attachments

Attachments will support the CE determination and should include all documentation required by the previous section. This can include concurrence emails, concurrence letters, technical reports, and technical report summaries. A PQS reviewer may complete a supplemental evaluation prior to NEPA approval if there are circumstances that could affect the original determination. If a supplemental evaluation was completed and the PQS provided additional documentation to support the original PQS memo, the documentation should be placed in chronological order following the original PQS memo. If a PQS elected to issue a new memo instead of supplemental documentation, the original PQS memo can be removed and replaced with the new memo.

3.1 Attachment Guidance

If information must be included on attachments or there are attachments that must be included in every CE document, it will be indicated below. The order of attachments discussed corresponds with the order of CE document sections.

Project Location Maps

CE attachments will include at least one project location map and should include, at a minimum, the following information:

- An aerial image depicting the project location with start and end points labeled
- An inset map with the project location or county identified within the state
- North arrow
- Scale bar
- Legend
- Project information: project name, control number, and project number

Section 4(f)

Section 4(f) attachments will include the Section 4(f) property identification documentation if a Section 4(f) property occurs in the Study Area. Other Section 4(f) forms (Exception, *de minimis*, etc.) should be attached if they exist for a project. Any associated attachments with these documents should be included. Public Involvement Summary Memos and Section 106 PQS Tier Memos can be removed from the Section 4(f) form attachments if it will result in duplication of attachments. The document author should verify that those two attachments are included in their respective sections before removing them.

Section 6(f)

Documentation of any required coordination with NGPC is required to be attached.

Other Property Impacts

Farmland

If a project scored equal to or greater than 60 points on Part VI of the CPA-106 or AD-1006 form, the form and NRCS coordination must be attached to the NEPA document. If scores were calculated for a project but the Part VI score was less than 60 points, the appropriate form and coordination (if any occurred) must be uploaded to the project file, but need not be attached to the NEPA document.

Wild and Scenic Rivers

Coordination documents with the AWJ, including associated attachments, should be attached.

Floodplain/Floodway

The required floodplain attachments include the Floodplain PQS Memo, its associated attachments, and applicable floodplain permit(s) received before the CE is approved.

Historic Properties

Attachments for this section should consist of the Section 106 PQS Tier Memo and its associated attachments.

Noise

If the project is eligible as a Type 1 Project and a noise study was completed, the complete noise study should be attached to the CE.

Traffic and Access Disruption

A map depicting the traffic disruption (for example, ramp closures) or detour route should be attached and placed with the other project maps at the beginning of the attachments.

Public Involvement

Public involvement attachments for this section include comments and responses from outreach events that were completed prior to or during the NEPA phase.

4.0 Review and Approval

4.1 Submittal

Prior to finalizing a Nebraska CE for approval, ensure that the project description accurately reflects the scope of the federal-aid activity, that all associated technical documents and reviews were completed using the same project scope, and that the environmental study area of the technical document encompassed the termini points.

The document author will perform the following steps to complete the CE and submit it for review:

- Print the CE to a .pdf file.
- Compile the CE attachments into a single .pdf file. Following the attachment requirements described in Section 3, Attachments.
- Create a .pdf portfolio that contains two files: the CE (with signature) and the CE attachments. If the project is sponsored by an LPA, ensure that the project sponsor has signed prior to submittal.
- Provide the CE portfolio and associated quality control certification, if applicable, to the appropriate NDOT reviewer.

- Consultant submittals should be posted on the NDOT ShareFile site, and a transmittal email sent to the NDOT NEPA Specialist.

4.2 Quality Control and Approval

For CEs authored by consultants, prior to submittal to NDOT, consultants must perform internal quality control. In accordance with NDOT's *NEPA Documentation Quality Assurance/Quality Control Manual*, the consultant must provide a completed consultant QC review form to NDOT with the final CE deliverable. Additionally, a Quality Management Plan that describes the firm's QA/QC procedures must be submitted as part of the annual consultant certification package.

Regardless of CE level, NDOT CE quality control review is performed by an NDOT NEPA Specialist who was not directly involved in preparation of the CE. The reviewer recommends any necessary revisions to the document author, who subsequently revises the CE as appropriate. Multiple review and revision cycles may occur until both the reviewer and document author are satisfied that the CE appropriately documents project activities and impacts. Following this review cycle, the CE is either approved by the NDOT reviewer (CE Level 1 only) or forwarded for approval, as described below. This process is further detailed in NDOT's *NEPA Documentation Quality Assurance/Quality Control Manual*.

CE approval varies by CE level. The following staff are qualified to perform the final review and to approve the varying levels of CEs; when necessary, the CE approver would also provide reasonable assurance that compliance with other applicable federal environmental laws and Executive Orders can be met:

- CE Level 1 determination can be approved by an NDOT NEPA Specialist, an NDOT Environmental Project Manager, the NEPA Team Lead, the NDOT EDU Supervisor, or the NDOT Environmental Section Manager.
- CE Level 2 determination can be approved by an NDOT Environmental Project Manager, the NEPA Team Lead, the NDOT EDU Supervisor, or the NDOT Environmental Section Manager.
- CE Level 3 determination can be approved by the NEPA Team Lead, the NDOT EDU Supervisor, or the NDOT Environmental Section Manager.

The review and approval process for CEs is summarized in Table 1-2.

Table 1-2. NDOT Review and Approval Process for Categorical Exclusions

CE Level	Reviewer[a]	Approver[b]
CE Level 1	NDOT NEPA Specialist	NDOT NEPA Specialist
CE Level 2	NDOT NEPA Specialist	NDOT Environmental Project Manager NEPA Team Lead
CE Level 3	NDOT NEPA Specialist	NDOT NEPA Team Lead

[a] Any NDOT NEPA Specialist not directly involved with preparation of the CE can perform reviews. For LPA or consultant prepared documents, the NDOT NEPA Specialist assigned to the project may act as Reviewer.

[b] The approver listed is the minimum required staff level for approval. Any approver must be an NDOT full-time employee.

After approval, the NDOT NEPA Specialist is responsible for uploading the final approved CE Determination to the project file according to the requirements specified in the NDOT File Management and Documentation Guide.