Instructions for Completing the NDOT Form 53: Probable Class of NEPA Action

April 2026

NEBRASKA

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DEPARTMENT OF TRANSPORTATION

Introduction

The NDOT Form 53: Probable Class of NEPA Action (NDOT-53) will be used to determine the probable level of NEPA documentation required for the project, based upon the most accurate information known about the project and its location when completing the form. Further information and guidance on completing an NDOT-53 can be found in the Chapter 2 – Class of Action of NDOT's Environmental Procedure Manual. If the project scope changes or additional impacts are identified after the NDOT-53 is approved, the level of documentation indicated in the form may no longer be valid. NDOT's Environmental Section shall be contacted to determine if the scope change will affect the level of NEPA documentation indicated in the NDOT-53. During the development and review of the project, new information may be discovered, or changes in regulation may occur, that may require changing the NEPA document type. This change would be determined and documented in coordination with the EDU Supervisor. Completion of a new NDOT Probable Class of NEPA Action Form would not be needed for documentation of this change.

Form Instructions for Local Public Agency (LPA) Transportation Projects:

Upon approval of the project Programming Request Form (NDOT-530) by NDOT Program Management Division, the Local Assistance Division (LAD) will create a GIS record of the location of the project and post the following documents to OnBase:

- Approved NDOT-530 (which should include an aerial location map)
- Project Description (NDOT-182)
- Project Details (NDOT-173)
- Purpose and Need (NDOT-213).

NDOT Environmental will then be notified of the approval and upload by the LAD and begin preparation of the NDOT-53. NDOT Environmental will post the approved NDOT-53 to OnBase and notify NDOT LAD of its approval. The NDOT-53 will include an aerial location map, Project Description, Project Details, and Purpose and Need (contained in either an approved NDOT-530 or a project scoping document) attached to the form.

For questions regarding the submittal of the NDOT-530, please contact the LAD at 402-479-4750.

Form Instructions for State Transportation Projects:

Upon approval of the NDOT-73, NDOT Environmental Section will begin preparation of the NDOT-53 Form. The NDOT-53 Form is approved by the NDOT Environmental Section. The NDOT-53 will have an aerial location map, project description, project details and purpose and need (contained in either an approved NDOT-73 or a project scoping document) attached to the form.

Completing the Probable Class of NEPA Action NDOT Form 53

General Project Information

Date this form was completed: Enter the date when you completed the form and began routing.

Control Number: Enter the Control Number assigned to the project.

Project Number: Enter the Federal-Aid Number assigned to the project located on the NDOT-73, NDOT-530 or found in Clarity.

Project Name: Enter the official project name. This should be the same name as the one in the NDOT-530 Form, NDOT-73 Form or found in Clarity for the project.

LPA Project or State Project: Check the appropriate box.

Local Public Agency or NDOT district and county where project is located: Identify the organization that formally proposes the project and is responsible for project funding, implementation, and evaluation. Also, provide the county where the project is located. State projects will list the District and county the project is located in.

Form Questions

Question 1: Check "yes" for this question if the project would include construction, extension, or relocation of a new roadway.

- Question 1a: Check "yes" for this question if the project would create a new roadway with four or more lanes.

Question 2: Check "yes" for this question if the project would create a new access controlled freeway.

Question 3: Check "yes" if it is likely the project would construct a new interchange.

Question 4: This question would result in a "yes" answer if the project would disturb any ground (natural ground or fill material) outside the existing paved roadway.

Question 5: Adding capacity to an existing roadway is defined as adding thru lanes to a roadway. This question should be answered "yes" if the project will do any of the following: creating a fly-by or a passing lane, an auxiliary or turn lane that is equal to or greater than one mile in length, or adding a thru lane to a roadway.

Question 6: If the project would close a roadway, bridge, or access to through traffic for more than three consecutive days, then this question would result in a "yes" answer.

Question 7: Check "no" for this question if any and all ground disturbance for the project is limited to the fill material locations only, not to exceed the depth of the existing fill material. If it is likely the project would disturb ground that is not fill material, check "yes".

- Question 8: Check "yes" for this question if the project would require any right-of-way, permanent easements, or temporary construction easements. Right-of-way refers to land acquired by purchase, gift or eminent domain in order to build and maintain a public road. An easement is a right to use or control the property of another for designated purposes.
  Question 8a: Check "yes" for this question if the project would require acquisition of more than 4 acres of right-of-way *(*including temporary/permanent easements*)* per linear mile of the project.
- Question 8b: Check "yes" for this question if the project would purchase farmland for a permanent right-of-way acquisition.
- Question 8c: Check "yes" for this question if any homes, businesses, or farms would be relocated for the project.

Question 9: Access control rights are defined as the legal right to access a highway at a specified point in the right-of-way line that serves abutting land ownerships. Check "yes" for this question if the project would change access control rights to an existing roadway.

Question 10: Check "yes" for this project if you are aware of or think it is likely there could be public opposition or controversy related to the project.

Question 11: Check "yes" for this question if public outreach is proposed other than what is required for STIP, TIP, identified in the Nebraska Surface Transportation Program Book or the City or County one- and six-year plan, and the State Highway District Program Hearings. If public involvement has occurred, and if comments were received on the project from the public involvement efforts, or if additional public involvement is planned, describe in the additional comments box (extensive comments should be summarized in an attachment).

Question 12: Section 4(f) properties are defined as a publicly owned park, recreation area, or wildlife and waterfowl refuge, or any historic site (includes historic bridges and properties eligible for NRHP listing) officially designated as such by a Federal, State, or local agency. Check "yes" for this question if there are any Section 4(f) properties that: directly abut project activities; may be acquired for easements or right-of-way; or may be impacted by access restrictions.

- Question 12a: Check "yes" for this question if any of the following conditions are anticipated: (A) land from a Section 4(f) property would be permanently incorporated into a transportation facility; (B) the project would involve a temporary occupancy of Section 4(f) property; or (C) when there is a possible proximity impact of a Section 4(f) resource. A proximity impact of a Section 4(f) resource occurs when the transportation project does not incorporate land from a Section 4(f) resource, but the project's proximity impacts are so severe that the Section 4(f) resource is substantially impaired. Examples of proximity impacts: the viewshed is impaired; there is an elevated noise level in proximity to an outdoor amphitheater, campground, historic

site, urban park, or wildlife watching area; there is a restriction of access; or if there are vibration impacts.

Question 13: Check "yes" for this question if: (A) there are any known historic structures adjacent to the project; or (B) if the project could potentially impact listed or potentially eligible historic properties, archaeological sites or traditional cultural properties. A listed historic resource refers to the National Register of Historic Places (NRHP). Properties listed in the Register include buildings, highway bridges, irrigation ditches, railroads, mines, trails and wagon roads, roadway features and landscapes that are significant in American history, architecture, archeology, engineering, and culture. A potentially eligible historic property includes structures 50 years or older, archaeology sites, cultural sites, etc., that have not yet been placed on the list.

Question 14: The list of eligible historic bridges in Nebraska can be accessed at https://dot.nebraska.gov/projects/environment/preservation/

Question 15: Based on your knowledge and past experiences, check "yes" for this question if there are any State or Federally listed Threatened or Endangered Species or critical habitat in the project area. For additional assistance, contact NDOT Threatened and Endangered Species Biologists.

Question 16: Check yes if the project crosses state lines.

Question 17: Check no if the project would not fit a (c) or (d) listed project category as described in 23 CFR 771.117. If the project does not fit a (c) or (d) list category, determine whether the project may be assigned under the Section 327 MOU. Projects that cross state lines are not assignable under the 327 MOU. Projects that cross state lines and fit the (c) or (d) list are assignable under the Section 326 MOU.

Question 18: If the project occurs within a tribal land, please indicate in the comments box which tribe owns the property and begin coordination as outlined in Chapter 10 of the Environmental Procedures Manual. If the project occurs within federally owned land, discuss in the comments box and begin coordination accordingly.

Question 19: Check all of the boxes that apply, indicating any water body types located within the project limits. The project limits are defined as the area estimated to be potentially impacted by the project. Generally, this area is defined by the length (from start to end points) and the width of the project that would likely be disturbed by construction activities.

- **Question 19a:** If there are any water bodies present in the project limits, then choose the statement that describes how often water is present in them.

- **Question 19b:** Check the box(es) corresponding to any water body that could be impacted by the project if there are any existing within the project limits. Impacts include construction activities in the area of the water body; filling a water body with materials including fill and/or riprap; stream or channel shaping; culvert extensions, placement, or construction; and shoo-fly installation.

Question 20: Check all the statements that apply to wetland areas within the project limits. The project limits are defined as the area estimated to be potentially impacted by the project.

Generally, this area is defined by the length (from start to end points) and the width of the project that would likely be disturbed by construction activities.

- Question 20a: Check "yes" for this item if any of the areas identified in Question 20 would be affected by the project. A resource would be affected if project activities would likely occur within the resources boundary. The Wetland Reserve Program is a voluntary program of the Natural Resource Conservation Service that offers landowners compensation for protecting, restoring, and enhancing wetlands on their property.

Question 21: Check the box(es) describing any known or potential hazardous materials present within or adjacent to (within a 0.10 mile) the project limits. The project limits are defined as the area estimated to be potentially impacted by the project. Generally, this area is defined by the length (from start to end points) and the width of the project that would likely be disturbed by construction activities.

Question 22: Check this box to show that the project appears to satisfy logical termini and independent utility per 771.111(f)(1-3) criteria, which will be verified in final environmental documentation.

Question 23: Check this box to confirm that you have attached an aerial location map with the project location labeled, with enough detail that a member of the public could locate the project.

Form Approvals

- The form preparer must sign the Probable Class of NEPA Action Form; other NDOT staff will complete the sections below the Form Preparer's signature section.

- Probable Class of NEPA Action: NDOT NEPA Specialist or Environmental Project Manager will complete this section and take into account the reviews of the sections mentioned above as they recommend the Probable Class of NEPA Action. If none of the predefined classes of action apply to the project, they will leave the boxes unchecked, explain the reasons in the comment box, and forward the form to the EDU Supervisor. The EDU Supervisor will enter the probable class of action in their comment box.

- NDOT EDU Supervisor Determination on Recommended Probable Class of NEPA Action: The EDU Supervisor will review the recommended NEPA class of action and/or indicate the probable class of action, as appropriate. If the EDU Supervisor finds that the project is not assignable under either the Section 326 or 327 MOU, the NDOT-53 will be sent to FHWA with a recommended class of action.

Form Use and Project Development

- The NDOT-53 process and form are required to be used on most State and Local projects that are recipients of federal aid. Projects documented with a Minor Categorical Exclusion (MCE) form typically do not require a NDOT-53 to be completed. The exception is the *MCE for Pavement Repairs & Treatment within Existing Roadway*, which requires a completed NDOT-53. Projects approved through an Emergency Relief (ER) declaration also do not require an NDOT-

53. For ER Actions, a designation of the probable Class of Action can be found in the Detailed Damage Inspection Report. For more information on MCEs or ER projects, please see Chapter 4 – Categorical Exclusions of the Environmental Procedures Manual or the Nebraska Guidance on Emergency Relief Projects.

- Should NDOT determine, as NEPA documentation is developed, that the original class of action is no longer appropriate, a change in the class of action will be made. Documentation of the new class of action and rationale for the change will be developed, approved by the NDOT EDU Supervisor, and included in the project file. See Chapter 2 – Class of Action of the Environmental Procedures Manual for more info.

Form Attachments

- Aerial project location map
  A location map must be attached to this form. The map MUST be an aerial photo of the project area, clearly identify the start and end points of the project, and include a north arrow. Multiple location maps can be attached, if necessary, to show the project location. The location map must show enough detail in order for someone from the general public to navigate to the project site. Please note that if an aerial location map is not attached to the form, the package will be rejected.

- Project Description and Purpose and Need
  For Local Projects: The completed Program Request *(NDOT-530)* Form, along with the Project Description, Project Details, and Purpose & Need documents.

  For State Projects: The NDOT-73 or project scoping document.