

Instructions to Complete Categorical Exclusions for the Disposal of Excess Land

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NEBRASKA

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DEPARTMENT OF TRANSPORTATION

Introduction

NEPA documentation requirements for the disposal of excess land will be satisfied utilizing the NDOT Form 53: Probable Class of NEPA Action (NDOT-53), with additional documentation as described below. The use of this process may only be utilized for projects where the Probable Class of NEPA action is a Categorical Exclusion.

In the case where the disposal of excess land has the potential for unusual circumstances or the potential to be a higher class of action (EA or EIS), NDOT will submit the NDOT-53 to FHWA to determine the appropriate class of action. Information and guidance on completing a NDOT-53 can be found in the Chapter 2 – Class of Action of NDOT’s Environmental Procedure Manual and The Instructions for Completing the NDOT Form 53: Probable Class of NEPA Action document.

Completing the Categorical Exclusion for the Disposal of Excess Lands:

Upon receiving a request from NDOT’s Right-of-Way Division for the disposal of excess land, the NDOT NEPA Specialist will create a project description and a detailed map for the proposed tract(s) of land. This may include information concerning the purpose and need, and the location and study area for the project. Once the project description and map are created, the NDOT NEPA Specialist will contact the Program Management Division via an email to the Highway Project Programming Analyst, carbon copying the Highway Program Manager and IT Business Systems Supervisor to initiate the programming of the new project.

The NEPA Specialist will provide the following information to Program Management:

- Project Location
- Project Description
- District Reference Post – Begin
- District Reference Post – End
- County

The Highway Project Programming Analyst (HPPA) creates a new entry into the Project Program Management (PPM) database for the project and assigns the project a Control Number and Project Number. At this step an OnBase project file is automatically created and is ready to house environmental documentation. The IT Business Systems Supervisor will then be notified by the HPPA that the project is ready for Clarity. The IT Business Systems Supervisor will then create the project in Clarity by adding the environmental sub-object and notifying all parties involved that the project has been created in Clarity and programmed. Upon creation, the project can be found in Clarity by setting the NDOR Project Category to “Other”, setting the Active toggle to “No” and filtering by the assigned Control Number.

Once programmed, the NDOT NEPA Specialist will prepare the NDOT-53. Preparation of the NDOT-53 includes the attachment of the project description, map of the proposed tract of land, and other relevant information.

The NDOT-53 form will be routed per the NDOT-53 procedures, in addition the NDOT NEPA Specialist will also route the NDOT-53 and attachments to the relevant professionally qualified staff (PQS) for review (e.g. T&E, Section 106, Hazmat, Wetlands). Each resource's PQS will then provide documentation (i.e. a memo or email) establishing their determination of potential project effects. The documentation will be included as attachments to the NDOT-53.

If the PQS have reviewed the project and determined there are no potential significant impacts or unusual circumstances, a NDOT NEPA Specialist or Environmental Project Manager will complete the "Probable Class of NEPA Action" section of the NDOT-53. Within the NDOT comments text box the following statements should be included:

"The approval of the NDOT-53 package serves as a categorical exclusion processed under 23 CFR § 771.117 d (6)."

"The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the NEPA. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to 23 U.S.C. §326 and a Memorandum of Understanding dated September 17, 2021 executed between FHWA and the State."

After approval by the NDOT NEPA Specialist or Environmental Project Manager, the NDOT-53 must go to the EDU manager for final review and approval. The NDOT NEPA Specialist assigned to the project must document the approval dates in Clarity and upload the NDOT-53 form and attachments onto OnBase under Document Type "NDOT PD NEPA Documentation", keyword "Excess Land Disposal".

Approvals

Guidelines for completing the NDOT-53 will be followed in the preparation and finalization of the document, except final approval must come from the EDU Manager or Environmental Section Manager to certify that the NDOT-53 serves as the documentation for the disposal of excess lands in accordance to 23 CFR 711.117 (d)(6).

NDOT-53 Form Attachments

Attachments will include but are not limited to the following:

- **Project Description**
The project description details where and what tracts of land will be sold. It might describe current and past uses of land. The project description could also include the environmental study area.
- **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 boundaries of the tract, and include a north arrow. Multiple

location maps can be attached, if necessary, to show the location. The location map must show enough detail in order for someone from the general public to navigate to the site. Please note that if an aerial location map is not attached to the form, then the package will be rejected.

- **Professional Qualified Staff Documentation**
Documentation (memo or email) from the PQS staff must be attached stating their determination of impacts.

Excess Lands Process:

