

# Chapter 4

## Categorical Exclusion



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# Chapter 4 Categorical Exclusion

## NEPA ASSIGNMENT– CE Assignment vs. Full Assignment

The Nebraska Department of Transportation (NDOT) entered CE Assignment pursuant to [23 USC 326](#) on September 5, 2018. Under CE Assignment, NDOT assumed FHWA responsibilities for determining whether specific projects are categorically excluded from the requirement to prepare an EA or EIS. NDOT, rather than FHWA, now makes CE determinations for most projects (for exceptions, see [Chapter 1, Overview](#), Section 1.5). All EAs and EISs, as well as CE determinations not assignable to NDOT under [23 USC 326](#), continue to be formally approved by FHWA. Once full NEPA Assignment under [23 USC 327](#) is in place, all types of environmental approvals (CE, EA, and EIS, with limited exceptions; see [Chapter 1, Overview](#), Section 1.5) will be made by NDOT.

This chapter provides an overview of actions classified as categorical exclusions (CE) and explains the documentation required by the Nebraska Department of Transportation (NDOT). [Chapter 2, Class of Action](#), explains the process used to determine the class of action for a given project.

### 4.1 Definition of a Categorical Exclusion

The Council on Environmental Quality (CEQ) defines categorical exclusion in [40 Code of Federal Regulations \(CFR\) 1508.4](#) as “a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations ([§ 1507.3](#)) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.”

The Federal Highway Administration (FHWA) describes CEs as actions that meet the above CEQ definition and, based on past experience with similar actions, do not involve significant environmental impacts. The term significant as used in NEPA is defined at [40 CFR 1508.27](#) and requires consideration of both context and intensity. The FHWA CE definition in [23 CFR 771.117\(a\)](#) states that CE actions do not:

Categorical exclusions are actions that meet the Council on Environmental Quality definition and do not involve significant environmental impacts.

- Induce significant impacts on planned growth or land use for the area
- Require the relocation of significant numbers of people
- Have a significant impact on any natural, cultural, recreational, historic, or other resource
- Involve significant air, noise, or water quality impacts
- Have significant impacts on travel patterns
- Individually or cumulatively have any significant environmental impacts

A CE is not a waiver of National Environmental Policy Act (NEPA) review. Rather, it is one type of NEPA review that is applied to actions that meet the above criteria. It is the least intensive procedural review and is applied to the majority of NDOT-administered projects in Nebraska.

### 4.1.1 Unusual Circumstances

If an action involves unusual circumstances, it may not meet the requirements of a CE and may instead require the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) ([23 CFR 771.117\(b\)](#)). Such unusual circumstances include:

- Significant environmental impacts
- Substantial controversy on environmental grounds (see [Chapter 2, Class of Action](#), Section 2.2.1, for more information)
- Significant impacts on properties protected by Section 4(f) of the U.S. Department of Transportation Act of 1966 or Section 106 of the National Historic Preservation Act of 1966
- Inconsistencies with any federal, state, or local law, requirement, or administrative determination relating to the environmental aspects of the action

Any action that normally would be classified as a CE but involves unusual circumstances requires additional environmental studies to determine if the CE classification is appropriate. Should there be any unusual circumstances identified for a project, the NDOT NEPA Specialist consults the

Any action that normally would be classified as a CE but involves unusual circumstances requires additional environmental studies to determine if the CE classification is appropriate.

Environmental Documents Unit (EDU) Manager, who determines if the CE classification remains appropriate or should be elevated to an EA or an EIS. If applicable, documentation of the new class of action and rationale for the change will be developed, approved by the NDOT EDU Manager, and included in the project file (see [Chapter 2, Class of Action](#), Section 2.4, for more information). Until NEPA Assignment, NDOT will consult with FHWA to approve a change in class of action to an EA or an EIS.

### 4.1.2 The (c) and (d) Lists

Within the FHWA CE regulations ([23 CFR 771.117](#)) are two lists of actions that are anticipated to have little or no environmental impact and that do not usually involve unusual circumstances. As a result, these actions typically meet the criteria for a CE. The actions, found in [23 CFR 771.117\(c\)](#) and (d), are referred to as (c) list and (d) list actions, respectively.

The (c) list includes actions that meet both the CEQ criteria for CE and FHWA's CE regulatory definition in [23 CFR 771.117\(a\)](#). Common (c) list actions include construction of bicycle and pedestrian lanes, paths, and facilities; projects that take place entirely within the existing operational right-of-way (ROW); projects that receive less than \$5,000,000 in federal funds<sup>1</sup>; resurfacing, restoration, and rehabilitation (3R) projects; highway safety or traffic operations improvement projects; and bridge rehabilitation, reconstruction, or replacement projects.

The (d) list includes examples of additional actions that meet CEQ and FHWA criteria for a CE but require additional documentation to support the CE determination. Common (d) list actions include 3R projects; highway safety or traffic operations improvement projects; and bridge rehabilitation, reconstruction, or replacement projects that are precluded from the (c) list due to one or more of the following ([23 CFR 771.117\(e\)](#)):

- Acquisition of more than a minor amount of ROW, or any residential or non-residential displacement

<sup>1</sup> Actual allowable federal funding is adjusted annually and is identified at [https://www.environment.fhwa.dot.gov/projdev/FAST\\_ACT\\_Section1314\\_Implementation\\_Guide.asp](https://www.environment.fhwa.dot.gov/projdev/FAST_ACT_Section1314_Implementation_Guide.asp).

- Need for a U.S. Coast Guard bridge permit or a Clean Water Act Section 404 or Rivers and Harbors Act Section 10 Individual Permit
- An adverse effect on a historic property, a use of a Section 4(f) property that is not *de minimis*, or the likelihood to adversely affect threatened or endangered species or critical habitat
- Major traffic disruptions
- Changes in access control
- Floodplain encroachment (other than functionally dependent uses); actions that facilitate open space use; or construction activities in, across, or adjacent to a river component designated or proposed for inclusion in the National Wild and Scenic Rivers System

“New and reconstructed” highway projects (as defined by NDOT) may be consistent with (d) list actions, depending on project scope.

Based on project scope, the document author initially identifies and documents the appropriate (c) or (d) list action. As designated in Section 4.5, Table 4-2, the document approver is ultimately responsible for ensuring that the appropriate action is assigned.

## 4.2 CE Assignment

NDOT assumed FHWA’s responsibilities for CE determination through a Memorandum of Understanding (MOU) with the Nebraska Division of FHWA, dated September 5, 2018, titled [State Assumption of Responsibility for Categorical Exclusions](#) (CE Assignment MOU). CE Assignment applies to only 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 1B)

NDOT assumed FHWA’s responsibilities for CE determination through a Memorandum of Understanding (MOU) with the Nebraska Division of FHWA, dated September 5, 2018, titled *State Assumption of Responsibility for Categorical Exclusions*.

CEs not assigned to NDOT under the CE Assignment MOU continue to be processed in accordance with the processes contained in this *Environmental Procedures Manual* (Manual), with the exception that review and approval are retained by FHWA (see [Chapter 1, Overview](#), Section 1.5.3).

## 4.3 Public and Agency Coordination

Coordination with the public and pertinent resource agencies is essential in the NEPA decision-making process. Such coordination can help determine the appropriate NEPA class of action (see [Chapter 2](#)), the particular CE level (as warranted), and the environmental resources and project considerations important to the local community. As further detailed in [Chapter 9, Public Involvement Procedures](#), NDOT performs coordination activities that are commensurate with project scope and that comply with applicable regulations and agreements.

## 4.4 Preparing the Categorical Exclusion

In preparing CEs, document authors work with NDOT Professionally Qualified Staff (PQS) and other technical resource specialists to analyze direct, indirect, and construction-related project effects on the human, physical, and natural environment. Document authors also identify and prescribe appropriate mitigation measures, document findings using NDOT’s Nebraska CE Smartform

(see Section 4.4.2), and obtain CE approval as well as other appropriate approvals (see Section 4.5) or confirm reasonable assurance that such approvals are obtainable. The documentation prepared is to demonstrate that the project meets the criteria for a CE (see Section 4.1). Documentation, review, and approval requirements vary depending on the level of CE (Minor CE and CE Levels 1, 2, and 3), as described in the following sections.

#### 4.4.1 Minor Categorical Exclusions

NDOT has determined that the following seven (c) list activity types are categorically excluded and do not require documentation other than a memorandum documenting that the project meets the requirements for that activity type as described in Appendix B, Minor Categorical Exclusions:

- Statewide bridge inspections
- At-grade railroad crossing improvement activities
- Sign installation and replacement activities
- Lighting and signal repair and replacement activities
- Pavement marking activities
- Activities identified by [23 CFR 771.117\(c\)\(1\)](#) that do not involve or lead directly to construction
- Pavement repair activities

Some of these minor CEs have stipulations as to when they apply (for example, not all sign installation or signal replacement activities qualify), and most include standard conditions or mitigation measures that must be included to qualify as a Minor CE.

For these project types, a document author completes the applicable memorandum (see Appendix B). While a consultant is qualified to prepare a Minor CE memorandum, as a matter of practicality this memorandum is typically prepared by NDOT staff. An NDOT NEPA Specialist reviews the completed memorandum to verify that the project fits the activity type and does not exceed any NDOT CE policy thresholds.

#### 4.4.2 Nebraska Categorical Exclusion Smartform

NDOT developed and uses its Smartform to document considerations for CE projects that are not eligible for a Minor CE (see Section 4.4.1). The Smartform is a custom, web-based software application that document authors use to document project impacts and mitigation on CE Levels 1, 2, and 3 (see Section 4.4.4). Use of the Smartform results in complete CE documentation when combined with the necessary attachments. The Smartform includes programming logic and streamlines CE preparation in the following ways:

The Smartform is a custom, web-based software application that document authors use to document project impacts and mitigation on CE Levels 1, 2, and 3. Use of the Smartform results in complete CE documentation when combined with the necessary attachments.

- Adapts to user input – As document authors respond to questions, the Smartform may reveal or hide subsequent questions based on previous responses.
- Dynamically reviews resource impact criteria – The Smartform updates and informs the document author of the necessary CE level as each question is answered.
- Provides links to resource-specific guidance – The Smartform provides document authors with quick access to guidance documents.

The Smartform is divided into eight primary sections, identified on tabs near the top of the form. Most primary sections document project impacts on specific resources, while other sections document administrative or general project information. Some of the primary sections contain resource-specific subsections and associated questions. See the [Nebraska Categorical Exclusion Guidance](#) for additional information.

### 4.4.3 PQS Memos and Other Attachments

NDOT staff prepare PQS memos to document the technical resource analysis performed during NEPA coordination (see [Chapter 8, Technical Resource Analysis](#)). These PQS memos, along with additional, supporting information, must be attached to the CE or retained in the project file. In addition to PQS memos, CE attachments may include maps, figures, permits, and agency correspondence. The [Nebraska Categorical Exclusion Guidance](#) provides detailed information on CE attachments and other documentation that is retained in the project file.

### 4.4.4 CE Level Determination and Impact Criteria

NDOT uses three levels of CE based on activity type and project impact criteria. 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.

For projects that do not qualify for a Minor CE and that do not involve unusual circumstances, NDOT uses three levels of CE based on activity type and project impact criteria. Impact criteria for CE Levels 1, 2, and 3 are presented by resource in Table 4-1. 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 (see Table 4-1).
- **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 (see Table 4-1).
- **CE Level 3 actions:** CE Level 3 projects include (c) list actions that exceed a Level 2 impact criteria. CE Level 3 projects also include (d) list actions ([23 CFR 771.117\(d\)](#)).

In addition to having elevated review and approval requirements (see Section 4.5), CE Level 2 and CE Level 3 require consideration of farmland conversion analysis in accordance with the Farmland Protection Policy Act and air quality analysis; see the [Nebraska Categorical Exclusion Guidance](#) for further detail. Such analysis is not performed for CE Level 1 actions because such actions do not involve ROW acquisition (or associated farmland conversion) or the potential to adversely affect air quality. All other resources are analyzed and documented regardless of CE level.

Projects that meet or exceed any Level 1 impact criterion (see Table 4-1) are not eligible for processing as a CE Level 1 action. At a minimum, a CE Level 2 action must be evaluated. Projects that meet or exceed any Level 2 impact criterion (see Table 4-1) are not eligible for processing as a CE Level 1 or CE Level 2 action. At a minimum, a CE Level 3 action must be evaluated, and the NDOT EDU Manager or Environmental Section Manager will be consulted to determine if an EA or EIS is required.

The context and intensity of potential impacts should always be considered when determining appropriate level of documentation.

**Table 4-1. 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)
<i>Right-of-Way (ROW) and Property Impacts</i>			
<i>NOTE – Environmental impacts associated with temporary easement may elevate the CE level.</i>			
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 exception to “use” of property protected under Section 4(f)	“Use” that is either <i>de minimis</i> or covered by a programmatic evaluation	Individual Section 4(f) Evaluation
		Any exception	
Section 6(f)	No conversion	Any conversion; coordinate with EDU Manager	N/A
<i>Water and Ecological Resources</i>			
Wild and Scenic Rivers and National Recreational Rivers	Certain <a href="#">23 CFR 771.117(c)</a> activities (1–25) that occur in, across, or adjacent to a protected river with a finding of no impact	N/A	Certain <a href="#">23 CFR 771.117(c)</a> 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
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 <a href="#">23 CFR 771.117(c)</a> activities (26, 27 or 28) that result in a floodplain encroachment other than functionally dependent uses or actions that facilitate open space use		Certain <a href="#">23 CFR 771.117(c)</a> activities (26, 27 or 28) that result in a floodplain encroachment other than functionally dependent uses or actions that facilitate open space use

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)
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	No Rivers and Harbors Act Section 10 Permit	Rivers and Harbors Act Section 10 Permit
	No Rivers and Harbors Act Section 9 Coast Guard Permit	No Rivers and Harbors Act Section 9 Coast Guard Permit	Rivers and Harbors Act Section 9 Coast Guard Permit
Threatened and endangered species	"No effect" determination or "may affect" determination that does not require further consultation with resource agencies (in accordance with the NDOT Matrix)	"May affect" determination that requires further consultation with resource agencies (in accordance with the NDOT Matrix)	"May affect, likely to adversely affect" determination for threatened and endangered species or critical habitat
<i>Human and Social Resources</i>			
Historic properties	No historic properties present or finding of "no adverse effect"	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	No soil disturbance below or beyond pre-existing roadway fill in an active Superfund site	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
Air quality	No Mobile Source Air Toxics Level III effects	N/A	Mobile Source Air Toxics Level III effects
	Project not regionally significant in a designated non-attainment area		Project is regionally significant in a designated non-attainment area
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	No traffic disruption or minor traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days	Minor traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days and up to 135 working days	Major traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 135 working days
	No associated temporary roads, detours, or ramp closures result in a substantial change to the environmental consequences of the action	N/A	Associated temporary roads, detours, or ramp closures 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 greater than 5 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
Environmental justice	No environmental justice populations present, or no impact on environmental justice populations per NDOT's Environmental Justice Policy	Adverse impact on environmental justice populations per NDOT's Environmental Justice Policy	Disproportionately high and adverse impacts on environmental justice populations <sup>a</sup>
Unresolved controversy	No known public or agency controversy on human, natural, or economic grounds	Known public or agency controversy on human, natural, or economic grounds (CE level or elevated NEPA classification to be determined by NDOT)	

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

<sup>a</sup> Projects that result in disproportionately high and adverse impacts on environmental justice populations may necessitate an EA or an EIS.

#### 4.4.5 CE Completion and Submittal

Upon completion of all Smartform fields, receipt of all applicable PQS memos, and development of all other attachments, the document author prints the CE from the Smartform, signs the “Prepared by” signature block of the CE form, obtains the project sponsor signature (representative from NDOT’s Roadway Design Division or LPA local official), and compiles the CE and attachments into one .pdf portfolio. The document author provides the CE portfolio to the appropriate NDOT reviewer as described in Section 4.5.

In the case of a consultant document author and in accordance with NDOT’s [NEPA Documentation Quality Assurance/Quality Control Manual](#), the consultant must provide a “Consultant QC Certification Statement” along with CE submittal to NDOT. This statement certifies that a thorough, internal quality control review was performed by a qualified professional prior to submittal to NDOT.

### 4.5 Review and Approval

Regardless of CE level, CE review is performed by an NDOT NEPA Specialist who was not involved in preparation of the CE. The reviewer recommends any necessary revisions to the document author, who subsequently revises the

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.

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 (Minor CE and 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:

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

The review and approval process for CEs is summarized in Table 4-2.

**Table 4-2. NDOT Review and Approval Process for Categorical Exclusions**

CE Level	Author <sup>a</sup>	Reviewer <sup>b</sup>	Approver <sup>c</sup>
Minor CE	Document author	NDOT NEPA Specialist <sup>d</sup>	NDOT NEPA Specialist <sup>d</sup>
CE Level 1	Document author	NDOT NEPA Specialist <sup>d</sup>	NDOT NEPA Specialist <sup>d</sup>
CE Level 2	Document author	NDOT NEPA Specialist	NDOT Environmental Project Manager
CE Level 3	Document author	NDOT NEPA Specialist	NDOT EDU Manager

<sup>a</sup> Author refers to the NDOT, LPA, or consultant staff preparing the CE. Staff who author and sign CEs must meet minimum qualifications established by NDOT.

<sup>b</sup> Any NDOT NEPA Specialist not involved with preparation of the CE can perform reviews. When an LPA or consultant prepares a document, they shall perform an independent QC review prior to submittal to NDOT.

<sup>c</sup> The approver listed is the minimum required staff level for approval. Any approver must be an NDOT full-time employee.

<sup>d</sup> Minor CEs and CE Level 1 may be reviewed and approved by the same NDOT NEPA Specialist.

## 4.6 Local Public Agency Projects

NDOT acts as the responsible charge (RC) and administers most LPA projects in Nebraska. In association with RC duties, the EDU either completes environmental analysis in-house or contracts a qualified consultant to do so. When NDOT leads an LPA project, environmental procedures are identical with those of state-administered projects.

Procedures differ when an LPA serves as its own RC. Under this scenario, the LPA is responsible for completing necessary analysis, documentation, review, and project sponsor signature.<sup>2</sup> During development of NEPA documentation, LPAs coordinate and exchange information with the NDOT Environmental Section. Upon completing and signing a CE, the LPA submits the CE to the NDOT Local Projects Section. The Local Projects Section completes an initial review, which is mainly focused on the accuracy of the project description and scope of work. After this review, the Local Projects Section forwards the CE to the EDU. From this point, the review, revision, and approval process described in Section 4.5 is followed.

## 4.7 Laws, Regulations, and Guidance

The following regulations and guidance documents pertain to CEs:

- [23 CFR 771, Environmental Impact and Related Procedures](#)
  - [23 CFR 771.117, FHWA Categorical Exclusions](#)
- [40 CFR 1500–1508, Council on Environmental Quality NEPA Regulations](#)
  - [40 CFR 1508.4, Categorical Exclusion](#)
- [23 USC 326, State Assumption of Responsibility for Categorical Exclusions](#)
- [FHWA, October 30, 1987, Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4\(f\) Documents](#)

<sup>2</sup> In special circumstances, an assigned NDOT NEPA Specialist may assist a Metropolitan Planning Organization (MPO) in completing technical studies supporting CEs. In any circumstance, an MPO can hire a qualified consultant to help complete technical studies and the CE.

- [FHWA, March 30, 1989, Memorandum regarding Categorical Exclusion \(CE\) Documentation and Approval](#)
- [FHWA, March 31, 2017, FAST ACT Sec. 1314 “Categorical Exclusion for Limited Federal Assistance” Implementation Guidance](#)
- [FHWA, May 22, 2017, Memorandum regarding Additional Flexibilities in Categorical Exclusions](#)
- [NDOT, June 2018, \*Nebraska Categorical Exclusion Guidance\*](#)
- [NDOT, August 2018, \*NEPA Documentation Quality Assurance/Quality Control Manual\*](#)
- [NDOT and FHWA, 2018, \*State Assumption of Responsibility for Categorical Exclusions\*](#)