

## Minor Categorical Exclusion for At-Grade Railroad Crossing Improvements

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

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

NDOT has determined that project-specific NEPA documents and technical resource reviews are not required for actions that comply with the terms and conditions of this MCE. Activities addressed by this MCE, which are not part of a larger undertaking, shall be administered in accordance with the following criteria to satisfy NDOT's CE assignment responsibilities.

This *MCE for At-Grade Railroad Crossing Improvements* addresses activities classified under 23 CFR 771.117(c).

### Scope of Work

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

- Installing/replacing light bulbs
- Installing/replacing signs on existing posts
- Installing signs on new posts within the existing fill section
- Installing/replacing lights, gates, circuitry, or structures within the existing fill section, not to exceed the depth of the existing fill (including circuitry bungalows, etc.)
- Traffic control necessary for the at-grade railroad crossing improvements, including road closures/detours lasting less than 24 hours
- Other (please explain):

Based on the nature of *At-Grade Railroad Crossing Improvement* activities, NDOT does not anticipate negative impacts to natural, cultural, historic or recreational resources; these activities do not negatively impact air, noise, water quality, hazardous materials, or travel patterns, and do not present any negative cumulative impacts. NDOT has determined that *At-Grade Railroad Crossing Improvement* activities do not affect listed species, historic properties, wetlands or Waters of the U.S., nor do they use Section 4(f) properties. NDOT experience has demonstrated that these types of activities do not generate controversy on environmental grounds.

Application of this MCE is dependent upon adherence with the following commitments. These Commitments shall be included in project-specific "Green-Sheets" and/or project agreement documents.

To eliminate possible indirect impacts to species sensitive to nighttime lights:

- Except for work within fully developed, urbanized areas, nighttime work with lights is prohibited.

To avoid impacts to undetected archeological resources:

- Work is limited to in-kind replacement/repair (signs to signs, gates to gates, etc.) with any and all ground disturbance limited to fill material locations only, not to exceed the depth of the fill material.

To avoid impacts to the community:

- Through access shall be maintained at all times for the rail line. Any closures to the roadway will be for short duration (less than 24 hours) with an alternate access route adequately signed. Emergency services shall be given adequate notice of any closures.
- Access must be maintained at all times to any and all public parks, recreation areas, and wildlife refuges.

To avoid unanticipated impacts:

- The Contractor shall not stage, store, waste or stockpile materials and equipment in undisturbed locations, or in known/potential wetlands and/or known/potential streams that exhibit a clear "bed and bank" channel. Potential wetland areas consist of any area that is known to pond water, swampy areas or areas supporting known wetland vegetation or areas where there is a distinct difference in vegetation (at lower elevations) from the surrounding upland areas.
- Staging and/or stockpiling areas for construction supplies and Contractor's equipment shall be located in areas that are frequently disturbed such as, but not limited to, field entrances, crop fields, abandoned roadway, farmsteads and roads. If this is not possible, the contractor shall coordinate with NDOT Environmental with a site plan showing the desired staging/stockpile location(s), which will be sited in such a way as to avoid impacting protected species.

To avoid hazardous material concerns:

- Any items that may contain hazardous materials, such as lead-based paint or mercury, must be properly handled and disposed of as outlined in the standard specifications.
- If contaminated soils and/or water or hazardous materials are encountered, the Contractor shall follow the NDOT Unexpected Waste Action Plan (2023). The Contractor is required by NDOT's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws.

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

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

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

## NDOT Project Specific Verification

Date: \_\_\_\_\_ List of Attachments:  
Project Name/Activity: \_\_\_\_\_  Site Map  
Project Number: \_\_\_\_\_  Other (please describe):  
Control Number: \_\_\_\_\_

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

- The Project Sponsor has verified the project activities are not part of larger undertaking.
- The Project Sponsor has verified that Conservation Commitments listed in this MCE have been included in project Green Sheets and/or appropriate project agreement documents.
- The NDOT NEPA Specialist has verified that no unusual circumstances have been identified.
- The NDOT NEPA Specialist has verified these activities occur entirely within the operational roadway right-of-way and are consistent with 23 CFR 771.117(c)(22).

### Project Sponsor:

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*PLEASE PRINT*

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*Signature*

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*Date*

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

The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under 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 the Second Revised Memorandum of Understanding executed between FHWA and the State.

### NDOT Environmental Specialist:

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*PLEASE PRINT*

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*Signature*

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*Date*