

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 determined that technical resource reviews from the following Professionally Qualified Staff (PQS) are required for actions that comply with the terms and conditions of this MCE: Threatened and Endangered Species and Section 106. A T&E PQS determination of “No Effect” or “May Affect, Not Likely to Adversely Affect” is allowable with this MCE if no consultation with the resource agencies was required. A Section 106 determination of “undertakings with Minimal Potential to Cause Effects”, resulting in *no historic properties affected* is allowable with the MCE. Activities addressed by this MCE, which are not part of a larger undertaking, shall be administered in accordance with following criteria to satisfy NDOT’s CE assignment responsibilities.

Scope of Work – Electric Vehicle (EV) Charging Stations

Activities include:

- Installing new EV Charging Station(s): Level 1, Level 2, and/or Direct Current (DC) Fast Charging
- Modifying existing EV Charging Station(s): Level 1, Level 2, and/or Direct Current (DC) Fast Charging
- Operating existing EV Charging Station(s): Level 1, Level 2, and/or Direct Current (DC) Fast Charging
- Removing existing EV Charging Stations(s): Level 1, Level 2, and/or Direct Current (DC) Fast Charging
- Traffic control necessary for the installation of the pavement markings, including road closures/detours lasting less than 24 hours

The conditions stipulated below for the application of this MCE are set forth in the U.S. Department of Energy’s (DOE’s) Electric Vehicle Charging Stations CE that was adopted by the U.S. Department of Transportation under Section 109 of NEPA. [PL 91-190, As Amended Through PL 118-5](#). DOE’s electric vehicle charging stations CE is codified in DOE’s NEPA procedures as [CE B5.23 of 10 CFR part 1021, subpart D, appendix B](#).

The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, shall be within a previously disturbed or developed area.

Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

“Previously disturbed or developed” refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. 10 CFR 1021.410(g)(1).

In order to apply this MCE, the proposed project must also be one that would not:

1. Threaten the violation of applicable statutory, regulatory, or permit requires for environment, safety, and health, or similar requirements of DOT or Executive Orders;
2. Require siting and construction of major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators);
3. Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;
4. Have the potential to cause significant impacts on environmentally sensitive resources. Environmentally sensitive resources include, but are not limited to:
 - a. Properties of historic, archeological, or architectural significance;
 - b. Protected or listed threatened or endangered species or their habitat;
 - c. Floodplains and wetlands;
 - d. Wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, and wildlife refuges;
 - e. Prime or unique farmland; and
 - f. Special sources of water (such as wellhead protection areas)
5. Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment.

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 along with project-specific commitments included in the Threatened and Endangered Species and Section 106 PQS memos.

To avoid impacts to the community:

- 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. (Contractor)
- The Contractor shall insure recreational trail crossings remain accessible through the use of flaggers. (Contractor)

- The Contractor shall not complete work, stage, stockpile or store materials within the boundaries of public parks, recreation areas and wildlife refuges and access shall be maintained at all times. (Contractor)
- A minimum of one news release shall go to all local and area media, and be posted on the NDOT website, prior to the start of construction work. (NDOT District, NDOT Communications)

To avoid impacts to Wetlands, Waters of the United States, and Stormwater:

- 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. (Contractor)
- The Contractor shall conduct refueling only within non-wetland and non-stream locations. Areas adjacent to wetlands and/or streams will be avoided. The Contractor shall be responsible for cleanup of spilled fuel or any other Hazardous Materials, such as engine oil, hydraulic fluid, antifreeze, etc. 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. The Contractor shall follow Nebraska Department of Environment and Energy (NDEE) notification procedures for all spills in excess of a reportable quantity as defined by NDEE Title 126, Chapter 18.
- Temporary water pollution prevention practices (including sediment and erosion control measures) are required by Nebraska State Title 119. The Contractor shall exercise every reasonable precaution throughout the life of the contract to prevent sedimentation within rivers, streams, impoundments (lakes, reservoirs, etc.), the project site, and adjacent property. (Contractor)

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. (Contractor)
- If contaminated soils/groundwater or unexpected wastes are discovered, The Contractor shall stop all work within the immediate area. The Contractor shall limit access to authorized personnel within the area of the discovery and notify the NDOT Highway Project Manager (HPM). The Contractor shall not re-enter the discovery area until notified by the HPM. At the time of discovery, the HPM and Contractor shall utilize the NDOT Unexpected Waste Action Plan (UWAP) to coordinate appropriate actions. The Contractor is required by NDOT’s Standard Specification section 107.11 (Hazardous Material Discoveries) to handle and dispose of regulated material in accordance with applicable laws. (Contractor)

Individual project 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, see Chapter 2 of the Environmental Procedure Manual (EPM) for guidance on selecting the appropriate Class of 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:	<input type="checkbox"/> Site Map
Project Number:	<input type="checkbox"/> PQS determinations from Threatened & Endangered Species and Section 106
Control Number:	<input type="checkbox"/> Green Sheet
	<input type="checkbox"/> Other (please describe):

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 Environmental 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 the activities will not occur on brick streets or brick highways.

Project Sponsor:

PLEASE PRINT

Signature

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 a Memorandum of Understanding executed between FHWA and the State.

NDOT NEPA Specialist:

PLEASE PRINT

Signature

Date