CATEGORICAL EXCLUSION BY DEFINITION CHECKLIST

North Dakota Department of Transportation, Environmental & Transportation Services
SFN 62738 (6-2026)

Project Number	Project Control Number (PCN)	Date
Estimated Cost (Construction and Construction Engineering)		

Although no further National Environmental Policy Act (NEPA) approval is required for this action, the Categorical Exclusion by Definition Checklist (CED) and CED instructions below are intended to identify any additional consultation, coordination, notifications, or permitting that may be required. The CED checklist can only be utilized as environmental documentation for project work types listed within the CATEX by Definition (CED) Work Types.

If the answer is "**Yes**" to any of the questions below, additional documentation of that Subject Area is required, and shall be attached to this CED Checklist, and incorporated into the project as applicable. Contact the Environmental & Transportation Services (ETS) Division for any questions.

Subject Area	Question	Yes	No	Documentation Added to the Project File
Project Location Map	Has a project location map been created and attached, showing the county, highway, and begin/end project limits, including any detours?	◯	◯	
Right of Way	Is temporary right of way required? If yes, attach a figure showing the location(s) and amount(s) needed at each location.	◯	◯	
	Is permanent right of way required? If yes, attach a figure showing the location(s) and amount(s) needed at each location. Additionally, see Subject Areas: Section 4(f) and Section 6(f).	◯	◯	
	If permanent right of way is required, will any right of way thresholds be exceeded? *Right of way thresholds listed in Instructions. If yes, contact the ETS Division for further coordination with the Federal Highway Administration (FHWA).	◯	◯	
Section 4(f)	Is temporary or permanent right of way required from any Section 4(f) properties such as: • Historic Site or Historic District • Publicly owned parks and recreation areas • Wildlife & waterfowl refuges If yes, then the applicable documentation and agency coordination is required.	◯	◯	
Section 6(f)	Does the project require permanent acquisition of real property interest subject to Section 6(f) Land and Water Conservation Funds (LWCF)? LWCF Links: • LWCF Map Application • ND Parks & Recreation LWCF Grant Information If yes, then ETS and agency coordination is required.	◯	◯	

Subject Area	Question	Yes	No	Documentation Added to the Project File
Historic/Cultural Archaeological	Does any proposed work (temporary or permanent) occur off the roadway surface? If yes, complete Section 106 Form linked below and attach to CED. • Section 106 Coordination Form (SFN 62736)	◯	◯	
	Does any proposed work (temporary or permanent) occur on a Structure? If yes, complete Section 106 Form linked below and attach to CED. • Section 106 Coordination Form (SFN 62736)	◯	◯	
Threatened or Endangered Species (T&E)	Complete the attached Endangered Species Act (ESA) Affect Determination Table linked below and attached to CED. Do any categories within the ESA Affect Determination Table require NDDOT biologist review? • NDDOT Threatened, Endangered, and Critical Habitat Affect Determinations • USFWS County Occurrence of ESA Species If yes, contact NDDOT Biologist for further documentation and review.	◯	◯	
Wildlife Accommodations	Will the project require any slope, erosion, riprap, or scour repair underneath the bridge? Note: Only applicable to bridges that cross riparian corridors/ waterways. If yes, contact NDDOT Biologist for further documentation and review.	◯	◯	
Migratory Birds	Does the project involve work on bridges, box culverts, or structural plate pipes? If yes, follow the Migratory Bird section in the instructions.	◯	◯	
Wetlands	Does the project involve work beyond the roadway foreslope, or any other work with potential to have temporary or permanent wetland impacts? If yes, an aquatic resource delineation, jurisdictional determination, mitigation, and permitting may be required with the project. If an aquatic resource delineation was completed, then attach the "Appendix A5 Wetland and OW Impact Table" and ensure the aquatic resource delineation is added to FileNet.	◯	◯	
Floodplain Permitting and Floodway Authorization	Will the project occur within a 100-year floodplain and/or Zone X Area of Special Consideration? • Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) If yes, then a floodplain permit may be required.	◯	◯	
	Will the project occur within a floodway? If yes, then a floodway authorization may be required.	◯	◯	

Subject Area	Question	Yes	No	Documentation Added to the Project File
Sovereign Lands	Will the project take place on sovereign lands? • ND State Water Commission - Sovereign Land Brochure If yes, a Sovereign Land Permit may be required.	◯	◯	
Airports	Does the project intersect the glide path of an airport? • North Dakota Airport Locations Map If yes, then a notification may need to be provided to the FAA. See Design Manual Section III-17.	◯	◯	
Local Public Agencies	Does the project go through, or is it immediately adjacent to any community, either incorporated or unincorporated? If yes, email General SOV Letter 1 to city officials and attach a copy of the letter.	◯	◯	

INSTRUCTIONS BEGIN ON THE FOLLOWING PAGE

INSTRUCTIONS - PLEASE REMOVE ALL INSTRUCTION PAGES FOR FINAL CED

I. TITLE BLOCK ITEMS

Project Number and PCN
The Project Number(s) and PCN(s) listed here should also correspond to those listed on the Determination and Approval form (SFN 18878). All work types associated with the Project Number(s)/PCN(s) shall be of those listed with the CATEX by Definition (CED) Work Types.

Date
This should be the date the checklist is complete, and the date should also correspond to the date listed on the *Determination and Approval Form (SFN 18878)*.

Estimated Cost (Construction & CE)
An estimated cost (construction & CE) should be provided for each Project/PCN listed on this checklist. Cost estimates should follow the Design Manual I-11.10 Engineering Cost for preliminary reports and contain, as stated, 10% engineering plus 5% contingency (total 15%) for each Project/PCN.

Documentation added to the Project File: This column should contain the additional information to document the Subject Areas that have "Yes" marked. If there is more than one Subject Area marked "Yes", please include a cover sheet before each Subject Area and list what is included for that Subject Area on the cover sheet. All "Documentation added to the Project File" needs to be included with the CED Checklist document.

II. SUBJECT AREA ITEMS

Right of Way
Temporary easements are allowed for CED projects; however, permanent ROW acquisition with a CED project needs to be within the following permanent ROW thresholds:

- Ten (10) acres or less per linear mile (not an average)
- Three (3) acres or less per bridge, intersection, or interchange
- No permanent acquisition of Federal fee-title land or trust lands
- No acquisitions that result in displacement of the owner(s) or tenant(s)
- No acquisition of land for hardship or protective purposes
- No early acquisition pursuant to Federal acquisition project (23 U.S.C. 108(d))
- No acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act of 1965, the Federal Aid in Fish Restoration Act, or the Federal Aid in Wildlife Restoration Act

If permanent ROW acquisition is anticipated, contact ETS to help determine/coordinate if acquisition is within the above thresholds. Provide the location of the action, including beginning and end Reference Points, a description of the action, and locations where permanent ROW is required.

Documentation added to the Project File: Please include a figure(s) showing the proposed right of way location(s) and size(s) of the impact(s), Section, Township, Range, and Reference Point(s) labeled. The figure(s) should be listed in the column *"Documentation added to the Project File,"* and also included in the column "Permanent ROW" and/or "Temporary ROW," along with the total amount.

Section 4(f)
A temporary "use" or a permanent "use" that can be covered using *"de minimis"* or a *"Nationwide Programmatic"* is the only allowed impact for Section 4(f) properties on CED projects. Individual Evaluations for Section 4(f) require a higher-level NEPA document. The entrance to a Section 4(f) property must remain open, or it would be considered a Section 4(f) impact. Please see the Design Manual for additional information on Section 4(f).

List the Section 4(f) Properties with an impact ("use") and see the requirements below based on the type of impact:

Temporary Use
A *Section 4(f) Temporary Occupancy Letter Template* must be filled out and submitted to the Official with Jurisdiction (OWJ) for concurrence for "use".

Documentation added to the Project File: Include the letter sent to the OWJ and their concurrence, state "Letter to OWJ" and "Concurrence from OWJ". Include a figure showing Section 4(f) property(s) and where the "use" is, then state "Section 4(f) Figure(s)".

Permanent Use
Required for a permanent easement or permanent ROW from the Section 4(f) property:

- *De Minimis*
  1. Requires approval from FHWA allowing *de minimis* to be used for the Section 4(f) impact, which can be used for temporary and/or permanent "uses".
  2. Public Involvement – need to document how this was completed, when, where, and the audience. Complete a Public Involvement Report using the template in the Design Manual References and Forms page.
  3. Concurrence from the OWJ - Include a letter or email to the OWJ and OWJ letter or email back concurring with the impacts.

Documentation added to the Project File: Need documentation showing FHWA approval to use de minimis, either with an email or letter, stating "FHWA Approval". Need documentation showing how Public Involvement was completed – state "Public Involvement Report". Need "Concurrence from OWJ" and "Letter to OWJ".

- *Nationwide Programmatic Section 4(f) Evaluation*
  1. Ensure the impacts of the action fit within the Nationwide Programmatic requirements. If a Nationwide Section 4(f) Evaluation for Historic Bridges is used, a higher-level NEPA document is required – please complete a Documented CATEX. Documentation added to the Project File: state "Nationwide Programmatic Section 4(f) Evaluation – and which one was used".

  a) If a Net Benefit to a Section 4(f) Property is used, Public Involvement is required. Documentation showing how public involvement was completed is required. Include when, where, and the audience. **Documentation added to the Project File:** state "Public Involvement".

  b) Nationwide Programmatic Section 4(f) Evaluations typically require studying alternatives that avoid the Section 4(f) property. These must be included with the Nationwide Programmatic Section 4(f) Evaluation. **Documentation added to the Project File:** state "Alternatives".

  2. The ETS Liaison will review the Nationwide Programmatic Section 4(f) Evaluation prior to submitting to FHWA. FHWA must approve the completed Nationwide Programmatic before the CED Checklist is considered complete.

Section 6(f)
If the action requires the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act, then direct coordination will need to be conducted with ETS and potentially the State Liaison Officer (SLO) with North Dakota Parks and Recreation. The SLO will determine if there are impacts or if land will need to be replaced. If there are impacts or land acquired from Section 6(f) properties, coordinate with the ETS Division for Section 6(f) documentation and required FHWA approval.

Land and Water Conservation Fund link: https://www.parkrec.nd.gov/business/grants/land-and-water-conservation-fund

Documentation added to the Project File: Attach any correspondence used for coordination and determination of eligibility for Section 6(f) properties. Attach any Section 6(f) documentation required for FHWA approval, and coordinate with the ETS Division.

Historic/Archeological
-Does any proposed work (temporary or permanent) occur off the roadway surface? Y/N
-Does any proposed work (temporary or permanent) occur on a Structure? Y/N

If you answered "Yes" to either question in the CED Checklist, complete and submit the Section 106 Coordination Form (SFN 62736). After receiving the Section 106 Coordination Form, an ETS Cultural Representative shall review the information submitted within the form and respond to the Consultant or Lead Designer with the applicable area of potential effect (APE) and level of survey efforts needed for Section 106 consultation, or if the project can be exempted from further consultation with regard to Section 106. Projects with appreciable potential to affect historic properties may require a Class III survey and consultation with the SHPO/THPO.

Documentation added to the Project File: Enter the SHPO reference number and the Section 106 determination into the column, or if an Excepted Project exempt from further review. Attach completed Section 106 Coordination form, documentation submitted to SHPO (SOV Letter 5 or SFN 52561). Include response(s)from SHPO/THPO.

Threatened or Endangered Species

Complete the ESA Affect Determination Table located on the references and forms page: NDDOT Threatened, Endangered, and Critical Habitat Affect Determinations. If NDDOT Biologist Review is required for any species/critical habitat, a Section 7 Affect Determination Package (or other documentation) will be prepared by the NDDOT Biologist for internal projects, or by a consultant for external projects. Documentation completed by consultants should be sent to the NDDOT Biologist for review. A programmatic biological assessment may be required in some cases.

Documentation added to the Project File: Attach the completed ESA Affect Determination Table and any additional documentation required by the NDDOT Biologist. Depending on the documentation required, state "ESA Affect Determination Table", "Section 7 Affect Determination Package", "PBA (Programmatic Biological Assessment) project approval page", or "FHWA/ USFWS Project Submittal Form".

Migratory Bird

If work will take place on bridges*, box culverts, cattle passes, or structural plate pipes 60" or greater, the Migratory Bird Special Provision is required to be included on the plan set.

Documentation added to the Project File: State "Migratory Bird SP" in the column if the project involves work on bridges*, box culverts, or structural plate pipes. If the project is a bridge deck overlay with no potential to dislodge nests, state "No Impact".

*A bridge deck overlay will not require the Migratory Bird Special Provision as long as the activities do not dislodge nests beneath the deck. Work that would result in perforation of the bridge deck, or work beneath the deck that could dislodge nests, will require the Migratory Bird Special Provision.

Wetlands

If the project involves temporary or permanent wetland impacts, an Office or Field Wetland Delineation, Jurisdictional Request, and a Jurisdictional Determination may be required. Temporary and permanent wetland impacts may also require USACE 404 permitting and wetland mitigation. See the Design Manual for additional information and guidance for Wetland Delineations, Jurisdictional Requests, Permitting, and Mitigation process.

Documentation added to the Project File: Completed and attached *Appendix A5 Wetland and OW Impact Table Template and Example* – state "Wetland Table" on the cover sheet before the Wetland and OW Impact Table. Coordinate the wetland table and mitigation with the Tech Support Person or the ETS Liaison. See the Design Manual for additional information on Wetland Delineation, Permitting, and Mitigation process.

Floodplain Permitting and Floodway Authorization

See the FEMA map for floodplain and/or floodway locations: https://msc.fema.gov/portal. If the project is within a floodplain and/or floodway, send an email with the PCN, Project Number, and Project Work Types to your ETS Liaison and Tech Support Person to coordinate any required floodplain permit applications or floodway authorization requests required for your project.

Floodplain Permitting

If a portion of your action is within a 100-year floodplain and/or Zone X Area of Special Consideration, a floodplain permit and associated permit application may be needed. Design Manual References and Forms *Appendix C3 Floodplain Permit Application* will be required to be filled out and submitted.

Floodway Authorization

If work is within a floodway, an additional authorization and associated floodway request are needed prior to the floodplain permit. Design Manual References and Forms *Appendix C4 Floodway Authorization Request* will be required to be filled out and submitted.

Documentation added to the Project File: Include the FIRM(s) showing where the floodplain(s) and/or floodway(s) is/are located within the project area. State "FIRM(S) Attached".

Sovereign Lands
If the project is occurring within North Dakota Sovereign Lands (areas lying within the ordinary high water mark (OHWM) of navigable lakes and streams, including beds and islands), a Sovereign Land Permit will be required. See the Design Manual for additional information on the permitting process, and work with your ETS Liaison or Tech Support Person to coordinate any required Sovereign Land Permit requests or questions.

Navigable waters in North Dakota are as follows:

- Missouri River
- Bois De Sioux
- Cannonball River
- Lake Metigoshe
- Upper DesLacs Lake
- Sheyenne River
- Mouse River
- Knife River
- Yellowstone River
- Painted Woods Lake
- Pembina River
- Long Lake (Bottineau County)
- Red River of the North
- Heart River
- Devils Lake
- Sweetwater Lake
- James River

Documentation added to the Project File: State the navigable water. If the OHWM is not defined by the State Engineers Office, assume the delineated wetland or the delineated other water as the OHWM.

Airports
See the ND Aeronautics Commission website for a map of airports: North Dakota Airport Locations.
Coordinate with the Utilities Engineer from the Design Division – Technical Support Section.

Documentation added to the Project File: If your project will intersect the glide path of an airport, please state “Form 7460-1 is required”.

Local Public Agencies (LPA)
CED projects typically will not require SOV’s. However, they are required to coordinate with the LPA for any project that goes through, or is immediately adjacent to any community of any size, either incorporated or unincorporated. Email or send SOV General Letter 1 to city officials (Mayor, Auditor, Commissioner, Engineer, etc.).

Documentation added to the Project File: Attach a copy of SOV General Letter 1 that was sent to the city officials and their response, if any.