

Programmatic Agreement
between
The Federal Highway Administration-Nebraska Division
. and
The Nebraska Department of Roads
for

Activities Identified by 23 CFR 771.117(c)(1) that do not Involve or Lead Directly to Construction

The Federal Highway Administration-Nebraska Division (FHWA) and the Nebraska Department of Roads (NDOR), have developed this Programmatic Agreement (PA) to outline the policy and procedure for environmentally approving certain federally-funded actions that do not involve or lead directly to construction or ground disturbance, as identified in 23 CFR 771.117(c)(1).

WHEREAS, the Division Administrator, FHWA, is the “Agency Official” responsible for compliance with the National Environmental Policy Act (NEPA) and implementing regulations (23 CFR 771);

WHEREAS, NDOR and FHWA have jointly been invited to concur in this PA;

WHEREAS, NDOR, as the statewide recipient of the federal-aid program, is responsible for compliance with all federal laws and regulations pursuant to 23 CFR 1.36;

WHEREAS, this PA is consistent with the Statewide Long Range Plan, the Statewide Transportation Improvement Program (STIP), and applicable Metropolitan or Rural Planning Organizations’ Transportation Improvement Programs (TIP’s) and Long Range Transportation Plans, and is exempt from regional air quality conformity determinations (40 CFR parts 51 and 93);

WHEREAS, the FHWA has delegated approval authority of certain Categorical Exclusion (CE) activities to NDOR, as described in the *Programmatic Agreement for the Review and Approval of the NEPA Categorically Excluded Transportation Projects* (PCE Agreement) between FHWA and NDOR, dated 12/17/08;

WHEREAS, Part B of the PCE Agreement allows for exceptions to the PCE Agreement by FHWA;

WHEREAS, this PA will cover action types that would be classified as a PCE under the PCE Agreement and will create an exception to the requirement to complete a NEPA Determination Form for actions covered by this PA;

WHEREAS, FHWA will monitor the use of this PA and retains the authority to revoke approval authority upon discovery of misapplication of the PA or non-compliance with any federal law or regulation or the stipulations of this PA;

NOW THEREFORE, the FHWA and NDOR agree that activities addressed by this PA, which are not part of a larger undertaking, shall be administered in accordance with the following in order to satisfy FHWA’s NEPA responsibilities.

Based on past experiences with similar actions, the FHWA has determined that the actions identified in 23 CFR 771.117(c)(1) that do not involve or directly lead to construction do not involve significant environmental impacts.

Activities classified under 23 CFR 771.117(c)(1), include but are not limited to:

- Planning and technical studies,
- Grants/funding for training and research activities,
- Funding for law enforcement and training [i.e., salaries, equipment purchase, and information materials],
- Funding for the development of Information Technology support materials [i.e., programs, guidelines, software],
- Funding for NDOR and Local Transportation Assistance Program training and equipment,
- Funding for byways information and marketing material,
- Safe Routes to School education/outreach (non-infrastructure) projects.

Based on the nature of these activities, FHWA does not anticipate negative impacts to natural, cultural, historic, recreational resources from these activities; these activities do not negatively impact air, noise, water quality, or travel patterns, and do not present any negative cumulative impacts. FHWA has determined that these types of activities do not

