

INSTRUCTIONS FOR PREPARING

CATEGORICAL EXCLUSION DETERMINATION [As per 23CFR771.117(d)]

These instructions and example text are tools to aid LPAs and consultants in correctly addressing the topics on the CE2 form and within a written/documented CE2.

Plans development shall be accordance with FHWA Order 6640.1A.

Job Number:

Route:

County:

Project Termini and Length: Describe location using cross streets for reference, not station numbers. State the length of the project.

Attach a map or aerial photo showing the existing alignment and proposed alignment, and the environmental study area. The map should be able to allow anyone not familiar with the project area to navigate to the project location. A vicinity map, designating the location of the project in relation to major cities and highways may be needed to further clarify/identify the project location.

Project Environmental Study Area – suggest adding this into the document so a larger area could be evaluated to allow for easier reevaluations if changes to the project occur later on.

Project Description: Provide a detailed description of the project, for example “*The project will realign the roadway horizontally and vertically to straighten the curve and reduce the grade of the incline along the corridor, which is currently a challenge to tractor-trailers attempting to ascend the hill. This work will include grading, drainage and paving.*” Briefly describe the need and purpose for the improvements. Briefly describe existing elements such as sidewalks, fencing, bridges, culverts, etc. that are present in the area and may be impacted. Briefly explain the reasoning and benefit of the proposed project.

STIP/TIP and anticipated project schedule: If the project is within a Metropolitan Planning Organization (MPO), note the latest date the project appears in a ONEDOT approved STIP/TIP or Amendment to the STIP/TIP must be included. At a minimum, a next phase of the project must be identified in the STIP and/or TIP for NEPA approval. This is to ensure the project has public sponsorship, is consistent with planning requirements and is fiscally constrained. State the anticipated schedule for implementing the project.

Current ADT: year and number

Future ADT: year and number

Right of Way Required (Acres):

Existing ROW: ___ acres

New ROW: ___ acres

Temporary Easements: ___ acres

Permanent Easements: ___ acres

→ *If the LPA chooses to use local funds to acquire right of way or donates right of way and wants federal funds to plan/build the project, NEPA compliance is required because the project will use federal funds. If the LPA purchases the right of way with local funds and later wants to use federal funds for construction, the right-of-way purchase must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act.*

Identify any publicly owned property impacted by the project and the extent of the impact.

Displacements (Number and Type): If there are displacements, FHWA will need to know how many, what kind (business or residential), and number of people relocated.

Community Impacts: Determine if any sensitive/protected populations are present in the project area. Provide a brief description of impacts, if any, to minorities, low-income populations, and the community in general. Most projects will be small and will have minimal to no impacts.

If there are any impacts to the sensitive populations, determine if those impacts are disproportionately high and adverse. Relocation services must be provided to all impacted households without discrimination under guidance of the Uniform Act. Refer EPG 136.6.4.12.

Example impact description—*“This project will affect 6 properties and relocate a cemetery entrance. Based on the current description of the project, no negative socioeconomic impacts are anticipated. Project impacts are expected to be minimal, since there are no residential and commercial relocations. The proposed improvement is in a rural area and will not alter the community through splitting, negatively impact community cohesion, hamper community service provision, or drastically alter travel patterns and emergency vehicle movement. (explain the impacts, no matter how minimal) Temporary disruptions in travel patterns (describe length and duration) and travel time may occur during project construction; however, the long-term benefits of improved access and travel time should far outweigh short-term impacts.”*

Describe any outreach efforts made to reach the impacted community, including detour information. Summarize any substantive comments received and how they were/will be addressed. List any commitments coming out of this outreach in the commitment section.

Benefits of the project include travel safety and the associated travel efficiencies as well as potential increased economic development opportunities for businesses. Overall, the impacts associated with this project are expected to be positive. During the construction phase of the proposed project, temporary disruptions in travel patterns and travel time may occur; however, the long-term benefits of improved access and travel time should far outweigh these short-term impacts.

If there are any commercial or residential displacements, the following text must be included:

“All acquisitions will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (referred to as the Uniform Act) of 1970, as amended. The Uniform Act and Missouri state laws require that just compensation be paid to the owner(s) of private property taken for public use. The Uniform Act is carried out without discrimination and in compliance with Title VI (the Civil Rights Act of 1964), the President’s Executive Order on Environmental Justice, and the Americans with Disabilities Act. Relocation services will be provided to all impacted households without discrimination under guidance of the Uniform Act.

An appraisal of fair market value is the basis for determining just compensation to be offered the owner for property to be acquired. The Uniform Act defines an appraisal as a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.”

Farmland Impacts (Type and Area): Farmland assessment is not needed for projects that use existing right of way only. When new right of way or permanent easements are needed, if it is located within city limits and the affected land is entirely developed for uses other than agriculture (e.g., within city limits), a statement to this effect is sufficient for the CE2. If the project requires right-of-way acquisition outside of

established city limits, coordinate with the Natural Resources Conservation Service (NRCS) regional contact to complete the Farmland Conversion Impact Rating (Form AD-1006). Complete Parts I and III of the form, then send an original copy of the form, together with appropriately scaled maps indicating the location of the project, to the NRCS representative. NRCS determines whether the site of the proposed project contains prime, unique, statewide, or locally important farmland. NRCS will complete Parts II, IV, and V of the form for sites where farmland will be converted and will then return the original copy of the form to the applicant, who completes Parts VI and VII. Summarize the results of the rating, for example “*This project, containing approximately 0.74 acre outside city limits, was rated for farmland conversion impact. This acreage was classified as farmland of statewide or local importance. The recorded Part V Relative Value of Farmland to be converted totaled 81 points. The Part VI Site Assessment Criteria was rated 16 points out of a possible 160. The total conversion impact rating was 97 points. This is below the 160-point threshold established for consideration of farmland protection.*”

The project location is not known to be protected from conversion by any state, local government, or private non-profit policy or program. No on-farm investments will be impacted. After project completion, none of the remaining land of the affected farms will become nonfarmable because of interference with land patterns. All farm support services are available to the area and will not be negatively impacted by the project. The project will be fully compatible with existing agriculture.”

Wetland/Stream Impacts: Indicate the area of wetlands (acres or square feet) and streams (acreage below ordinary high water [OHW—drainage with a vegetation line on the bank] and linear feet) the project will impact. National Wetlands Inventory (NWI) maps are available to assist in identifying potential wetland areas and additional information may be obtained from the County Soil Survey. A project site visit is needed to assess potential wetland and/or stream impacts or verify the absence or presence of wetlands. Look for streams, areas of standing water, wetlands, and quantify the area impacted. For example, “*Environmental features within the corridor were reviewed at a screening level using the U.S. Fish and Wildlife Service’s National Wetland Inventory (NWI) maps, United States Geologic Survey (USGS) 7.5-minute topographic maps, the _____ County Soil Survey, and 2010 aerial photographs. A field survey was also conducted on _____.* The jurisdictional wetlands and streams that potentially will be impacted by the roadway realignment are summarized below.

The project area is not within any designated conservation opportunity area and there are no spawning restrictions for the drainage way.

Wetlands: *According to the NWI maps and the field survey there are no wetlands located within the project limits. The _____ County Soil Survey indicates soils in the project area are not hydric.*

Ponds: *According to the NWI maps and the field survey and recent aerial photographs, no ponds are located within the proposed project area.*

Stream/River Crossings: *As identified on the 7.5-minute USGS quadrangle map for Meta, the project will impact one perennial, blue-line stream, tributary to Sugar Creek. Impacts will involve an extension of the existing culvert and associated rock blanket.*

Riparian Corridor: *There is very little existing riparian corridor along the potential stream impact area. The area is pasture on the east and an existing driveway entrance on the west.”*

Wetlands and streams are regulated under Section 404 of the Clean Water Act as well as other laws. The U.S. Army Corps of Engineers (COE) is the principal agency that regulates the excavations or placements of fill in jurisdictional wetlands. These activities should be avoided if possible.

404 Permit Required (Yes/No): If there are any stream or wetland impacts, a 404 permit will be required. If impacts to wetlands and streams are less than ½ acre, the project should be covered under a Nationwide

Permit (NWP). Amounts over that would likely require an individual permit. The COE has jurisdiction over most streams that exhibit an OHW, including ditches that have captured natural streams.

Characterize impacts or lack of impacts, for example, “*Yes. It is likely that impacts will fall under a nationwide 404 permit without notification to the Corps if impacts are below 0.1 acre.*” For more information see [EPG 136.6.4.3](#).

Water Quality Impacts: Are wells, sinkholes, sensitive streams, springs, or caves present? Will they be impacted? Why or why not? If your project is within an MS4 area, provide documentation satisfying those requirements.

The National Pollutant Discharge Elimination System (NPDES) permit program regulates construction activities where 1 acre or more of land will be disturbed. If the LPA has a general NPDES permit for all their construction activities, this is adequate. If the LPA does not have a valid general permit and will disturb 1 acre or more of land, a project-specific NPDES permit is required. See [EPG 136.6.4.8](#) for more information. For details on the permit process or to determine the specific requirements contact the DNR NPDES Storm Water Program office at (800) 361-4827 or (573) 751-1300 or visit <http://www.dnr.mo.gov/pubs/pub2009.pdf>. A pollution prevention plan may be required when applying for an NPDES permit.

Floodplain Impacts: The base (1%) flood is the flood having a one percent chance of being equaled or exceeded in any given year. The base floodplain is the area of one percent flood hazard within a county or community. The regulatory floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the one percent flood discharge can be conveyed without increasing the base flood elevation more than a specified amount. When available, flood hazard boundary maps (National Flood Insurance Program) and flood insurance studies for the project area are used to determine the limits of the base (1%) floodplain and the extent of encroachment.

State the amount of base floodplain and, if applicable, regulatory floodway (linear feet and acres) the project will cross. The Federal Emergency Management Agency (FEMA) has mandated that projects can cause no rise in the regulatory floodway and a maximum of one-foot cumulative rise for all projects in the base (1%) floodplain. If your project is within the base floodplain or regulatory floodway, you must obtain a floodplain development permit from the local floodplain authority (i.e. city/county). For projects proposed within regulatory floodways, a “no-rise” certificate, if applicable, should be obtained from the city/county prior to issuance of a permit. Example impact statement, “*This project crosses about 600 linear feet of 1% floodplain; of this, approximately 275 linear feet is also in regulatory floodway. A floodplain development permit and “no-rise” certification will be needed.*”

If there will be an encroachment that affects the base flood plain, there must be a summary of the discussion items in 23 CFR Section 650.111(c) and (d) (EPG 136.6.4.6).

Federal Emergency Management Agency (FEMA) Buyout Lands: The Flood Disaster Protection Act of 1973, as amended by the Disaster Relief and Emergency Assistance Act of 1988 (The Stafford Act), identified the use of disaster relief funds under Section 404 for the Hazard Mitigation Grant Program (HMGP), including the acquisition and relocation of flood-damaged property. The Volkmer Bill further expanded the use of HMGP funds under Section 404 to “buy out” flood-damaged property that had been affected by the Great Flood of 1993. There are numerous restrictions on the use of FEMA buyout properties and it is highly recommended that they be avoided. If these properties are impacted, the process can take years to resolve. If you think you may impact these properties, you must first contact State Emergency Management Agency (SEMA) to determine the appropriate process and project delays may be expected.

State whether there any buyout lands in the project area. If so, will the project impact the buyout property?

→ *SEMA/FEMA flood buyout properties will likely have deed restrictions that prohibit transportation projects.*

Air Quality Impacts: The Clean Air Act (CAA) requires the adoption of air quality standards, quality control regions, and state implementation plans. The federal government established the National Ambient Air Quality Standards (NAAQS), to protect public health, safety, and welfare from known or anticipated effects of sulfur dioxide, particulate matter, carbon monoxide, nitrogen dioxide, ozone, and lead. The State of Missouri established additional criteria for hydrogen sulfide and sulfuric acid. Transportation can contribute to four of the six NAAQS pollutants: ozone, carbon monoxide, particulate matter, and nitrogen dioxide. Transportation conformity with the NAAQS, as required by the CAA, ensures that federally funded or approved transportation plans, programs, and projects conform to the air quality objectives established in State Implementation Plans.

For projects within the St. Louis MPO area, the LPA will work with the MPO and MoDOT Air Quality specialist/point of contact to determine the level of analysis required. If a local project is determined to be regionally significant, conformity will be demonstrated through an established process for inclusion in a metropolitan Transportation Improvement Program (TIP). For example, *“The proposed project is in an area where the State Implementation Plan (SIP) requires transportation control measures. The St. Louis metropolitan area is classified as a “non-attainment” area for ozone (O₃) and fine particulate matter (PM_{2.5}). This means that current air quality conditions are not in compliance with the National Ambient Air Quality Standards (NAAQS) for the aforementioned pollutant. The study area is classified as an “attainment” or “unclassifiable” area for sulfur dioxide, particulate matter, and carbon monoxide. This means that current air quality conditions are in compliance with the NAAQS for the aforementioned pollutants.*

The project is included in the East-West Gateway Council of Government’s (EWGCOG’s) 2012–2015 Transportation Improvement Program as #5524-12 and thus meets the requirements of 40 CFR part 93 for transportation conformity.”

LPA projects outside the St. Louis Metropolitan Planning Organization (MPO) area generally will not meet the definition of “regionally significant” as described in 23 CFR 450.104. *“The project is located in a non-classified area as defined by the Environmental Protection Agency through the Clean Air Act. Therefore, the conformity requirements of 40 CFR part 93 do not apply to this project and no further action is needed.”*

Noise Impacts: If a project is considered a Type I project, as defined in MoDOT’s Noise Policy ([EPG 136.6.4.13](#)), then a noise analysis must be conducted following the MoDOT Noise Policy and Procedures.

State whether a noise analysis has been conducted and summarize the results. Include the number of sensitive noise receptors in the study area, what the current and projected noise levels are, identify which ones have impacts, and indicate if noise abatement was determined feasible and reasonable (why or why not). Include any commitments resulting from the noise analysis in the commitments section. The final Noise Study must be included as an attachment before NEPA approval.

If no noise study will be performed, state why it is not needed. For example, *“This project is not a Type I project, and therefore no further noise analysis is required.”*

Cultural Resources/Section 4(f) Historic Sites: Section 106 of the National Historic Preservation Act requires identifying and evaluating historic properties that may be affected by the proposed project. Section 4(f) of the Department of Transportation Act protects some historic sites from use for highway projects

unless there are no feasible and prudent alternatives. These resources include buildings and bridges as well as archaeological sites that warrant preservation in place.

Summarize the background research conducted for the proposed project area to identify previously recorded historic properties (e.g., archaeological sites, buildings, bridges, etc.). Summarize the results, identifying any properties (and their eligibility criteria/characteristics) that are listed on the National Register of Historic Places (NRHP) or that have been determined to be eligible for the NRHP that are directly, or indirectly affected by the project. These resources may require a Section 4(f) evaluation. State what the determination of project effect is (No historic properties affected, No adverse effect, or Adverse effect) and then state the SHPO concurrence date for the determination of project effect. If there was an adverse effect determination, then state the date the MOA or PA was executed. Include any commitments (i.e., the project sponsors shall comply with the terms and conditions/stipulations in the MOA/PA; or the contractor shall not disturb the ground from “a” milepost to “b” milepost; etc.). For 4f impacts, describe the type of “use” of the 4f resource/s, how the “use” is or will be addressed per the MoDOT 4f EPG process, coordination and concurrence from officials with jurisdiction (which could be more than the SHPO), and list any applicable commitments.

An executed PA, MOA or SHPO concurrence must be completed prior to NEPA approval.

Parkland Section 4(f)/6(f) Involvement (Types and Area): Identify publicly owned lands (e.g., city parks, boat access, sporting facilities, picnic tables, and school playgrounds) in the vicinity of the project. Describe in detail how the project will impact any identified public lands. If there is a use other than de minimis, have any feasible and prudent alternatives that would avoid the use of such public lands been identified? (See EPG 136.6.4.2.5).

Monies from the Land and Water Conservation Fund (LWCF) Act have been used to purchase or improve some public parks. Any park project funded by the LWCF Act is protected by an established Section 6(f) boundary encompassing the entire facility or portions of the facility. Using 6(f) lands for transportation purposes requires extensive coordination with other state and federal agencies.

Temporary, permanent, and aerial easements on parkland are all subject to Section 4(f) and Section 6(f) considerations. **This includes the contractor using the public land as a staging area to park equipment or storage.*

4(f) and 6(f) must be completed prior to NEPA approval.

Threatened and Endangered Species: Describe current site conditions (as observed during a field visit) and summarize the findings from early coordination with the MDC and the FWS (see also [EPG 136.6.4.5](#)). Specify any spatial, seasonal, or temporal restrictions or design modifications (Job Special Provisions) that will be needed to avoid negative impacts. For example, *“Correspondence with the FWS (date) and a review of the Heritage Database information from the MDC did not reveal any threatened, endangered, or otherwise sensitive species or critical habitat within the project area. However, the FWS indicates that the project is within the known breeding range of the federally listed, endangered Indiana bat (*Myotis sodalis*) and federally threatened northern long-eared bat (*Myotis septentrionalis*). A site visit indicates a forested riparian corridor of mature trees in the project area. A new alignment for the bridge will result in the removal of forested habitat. Therefore, a qualified biologist has conducted a habitat assessment and determined that the project will impact suitable Indiana and northern long-eared bat summer habitat. As a conservation measure, trees that qualify as suitable summer habitat will be removed during winter months (November 1 – March 31) when bats are in hibernation. Based on this conservation measure, “not likely to adversely affect” determinations have been made for Indiana and northern long-eared bats. MoDOT agreed with these determinations and submitted a biological assessment to the USFWS on 12/18/2018 (attached). The USFWS provided written concurrence for these determinations on 1/15/2019*

(attached). The winter tree clearing conservation measure will be included as a Job Special Provision in the contract.. The existing bridge also has a colony of swallows nesting on the underside of the deck. The Migratory Bird Treaty Act protects nesting swallows. Protection measures will be followed for demolition of the existing bridge to avoid negatively impacting swallows during the breeding season.”

Hazardous Waste: Conduct a thorough database search (see [EPG 136.6.4.10](#)) and a field check (if necessary) to determine the presence of hazardous and solid waste sites in the project corridor and what the anticipated impacts to those sites are. Summarize the sources consulted and results of the reviews. Identify any protective measures put in place to prevent impacts. Identification and avoidance of hazardous waste impacts are required to prevent unnecessary project delays and added costs. *If a listed site is impacted by the project, determine the extent of impact and what steps are needed to move forward.*

For example, “A hazardous waste records review was conducted for the project area. The following sources were searched for potential hazardous and solid waste concerns: Federal Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS); Environmental Protection Agency (EPA) Emergency Response Notification System (ERNS); Missouri Department of Natural Resources (DNR) Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites in Missouri; DNR Missouri Hazardous Waste Treatment, Storage, and Disposal Facilities List; DNR Missouri Historical Hazardous Waste Generators List; DNR Solid Waste Facilities List; and DNR Leaking Underground Storage Tank (LUST) List. No listed sites were found within the proposed project area.

There is one service station with active underground petroleum storage tanks at the intersection of Routes TT and F. This facility is eligible for a Petroleum Storage Tank Insurance Fund Policy. Also, a service center with an underground storage tank closed in place is adjacent to Route F. Neither of these sites has known leakage. The project will not impact these sites.

MoDOT personnel have found no other potential hazardous waste sites in the project area. Any unknown sites that are found during project construction will be handled in accordance with applicable federal and state laws and regulations.

Should regulated solid or hazardous wastes be found unexpectedly during construction activities, the LPA construction inspector will direct the contractor to cease work at the suspect site. The construction inspector will contact the appropriate environmental person to discuss options for remediation. The environmental person, the construction office, and the contractor will develop a plan for sampling, remediation if necessary, and continuing project construction. Independent consulting, analytical, and remediation services will be contracted if necessary. If necessary, the Missouri Department of Natural Resources will be contacted for coordination and approval of required activities. In excavations where hazardous atmospheres could reasonably be expected to exist, such as in areas where hazardous substances are stored nearby, the contractor is responsible for appropriate worker safety precautions, as required by the Occupational Safety and Health Administration (OSHA).”

Commitment section – any next steps or promises made to public or agencies to address impacts, close out compliance (such as obtaining permits), etc. need to be listed here. Commitments are to be stated in a specific and enforceable manner that identifies who is responsible for doing what and when. Commitments should be listed within each impact section and worded the same in the commitment section. They should also be listed as they appear in the document.

Attachments – only attach supporting information that is referred to within the document and that is important to show/document how conclusions were drawn. Attachments should be included in the order they are listed or referenced within the document.

Examples include: Noise Study, 106 clearance letters, agency/public involvement, etc.