



U.S. Department of Transportation  
**Federal Railroad Administration**

**FRA Categorical Exclusion** Companion Guide  
**Revised** January 2022

## **Background**

The National Environmental Policy Act (NEPA) requires federal agencies to consider the potential environmental impacts of their proposed actions (see 40 Code of Federal Regulations (CFR) parts 1500–1508). In certain circumstances, an agency may determine that its action is categorically excluded from further review under NEPA. Categorical exclusions (CEs) are categories of actions (i.e., types of projects) that an agency has determined, based on its experience, typically do not individually or cumulatively have a significant effect on the human environment and which generally do not require the preparation of either an environmental impact statement (EIS) or an environmental assessment (EA). The Federal Railroad Administration (FRA) has established several CEs, which are listed at 23 CFR part 771.116.

FRA makes the final decision on whether a CE is the appropriate class of action for a proposed project or whether an EA or EIS is necessary. FRA typically makes this decision based on information provided by the project sponsor that has developed a CE worksheet to help organize this information.

## **Purpose**

This document is intended to serve as a companion to FRA’s CE worksheet. The CE worksheet assists FRA in identifying if a proposed project fits one of the categories of actions that are excluded from detailed environmental review. However, even if a project fits within one of the identified categories of an excluded action, FRA may nonetheless determine it is not eligible for a categorical exclusion if the project involves unusual circumstances.<sup>1</sup> In instances where a CE is not appropriate, an EA or EIS will be prepared in accordance with guidance provided by FRA environmental staff.

### **I. Project Description**

Section I of the FRA CE worksheet contains basic project information, including the project title, type of grant, or FRA action triggering NEPA.

The “Description of Project” section should describe the project components, with a focus on elements of the project that have potential to affect environmental resources positively or negatively; relevant project background; anticipated construction activities; utility relocations; and/or any changes to rail service. If known, include the proposed construction schedule and total project cost.

The “Property Acquisition” section should explain current property ownership and proposed acquisitions specific to the project. It should cover temporary easements for construction or any other purpose and permanent acquisitions. The discussion should include any prior or ongoing outreach to property owners, as well as any concerns or opposition members of the public have identified for the project. Additional outreach discussion should be presented below under the Public Notification

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<sup>1</sup> Unusual circumstances defined at 23 CFR 771.116 (b) 1-4



section. Note that acquiring property before FRA has completed the NEPA process may jeopardize federal financial participation in the project.

## **II. FRA Categorical Exclusion**

Section II identifies the applicable FRA CE, found at 23 CFR part 771.116, or identify another applicable CE (e.g., CEs established by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) found respectively at 23 CFR 771 part 117 or 118). FRA may request the applicant or project sponsor submit additional documentation to demonstrate that the specific conditions or criteria for the CEs are met and no unusual circumstances are present. In some cases, more than one CE category can be listed for a proposed project as appropriate.

If no FRA, FHWA, or FTA CE applies, or there are multiple project components that do not fit within a CE category, contact FRA environmental staff.

## **III. Discussion of Effects**

Section III contains the information necessary to inform FRA's determination on whether a CE is the appropriate class of action for the proposed project. Section III also helps identify the required technical studies needed to aid in this determination and the compliance with other federal, state, or local laws applicable to the project. For example, required technical studies may include a cultural resources report consistent with Section 106 of the National Historic Preservation Act; a use and alternatives analysis consistent with Section 4(f) of the U.S. Department of Transportation Act; and a biological assessment or evaluation consistent with Section 7 of the Endangered Species Act.

To complete the CE worksheet, coordination with resource agencies may be necessary, but be advised that only FRA or another federal agency should initiate consultations, if required, for the project, pursuant to federal laws. Project sponsors may coordinate with FRA's environmental staff early in the project planning process to identify which (if any) additional consultations, permits, or technical studies are needed for environmental compliance.

Based on the review of resource topics and potential effects, check the box next to each resource topic that would **not** be affected and does not require further discussion or analysis prior to signature approval. Generally, this is based on initial research of the presence or absence of the resource(s) in the affected environment and should consider the nature of the project and potential for effects if the resource is present. If effects are not clear, present a discussion of the potential concerns under the appropriate resource section below.

### **A. Affected Environment**

This section defines the project or analysis area and describe the general environmental characteristics of the area. Attach photographs, a map, or a diagram of the project area.

Supporting maps or diagrams are useful to identify locations of critical resource areas such as

wetlands, cultural resources, parks and recreational areas, or noise sensitive receptors (i.e., schools, hospitals, and residences), as applicable. If these types of critical resource areas are present, describe how the proposed project may affect these resource areas within the applicable sections of the CE worksheet.

## **B. Land Use**

This section describes existing land uses in and near the project area. Provide evidence the project is compatible with surrounding land uses and zoning and consistent with applicable land use plans or explain any potential conflicts.

For fixed facilities, attach a map or diagram identifying the location of the proposed project area and the surrounding land uses and zoning.

## **C. Cultural Resources**

To complete Section C, project sponsors should coordinate with FRA environmental staff early in the environmental compliance process. This section should address a project's potential to affect cultural resources and historic properties in support of compliance with Section 106 of the National Historic Preservation Act (Section 106). If another federal agency is involved with the project, early coordination between that agency and FRA should be initiated to discuss the approach for compliance. Coordination with FRA environmental staff may be required to determine the need for a cultural resource technical report.

The project sponsor should first recommend if the project, by its nature, appears to have no potential to affect historic properties and does not require further compliance with Section 106 (36 CFR 800.3(a)(1)). Projects involving ground disturbance, construction, or facility repairs, renovations, or restoration would NOT fall into this category. If the project does not include any of these activities check the "No" box and proceed to Section D. Note: the recommendation of "no potential to effect" must be made purely on the nature of the project and not on the presence or absence of historic properties.

In the next step the project sponsors will recommend if the project is covered by an existing Federal agency program alternative (36 CFR 800.3(a)(2)). The most commonly applicable alternative is the "Advisory Council on Historic Preservation's (ACHP) Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way" (Section 106 Program Comment). The Project sponsor should prepare a memorandum (memo) to FRA environmental staff identifying elements of the scope of work that may qualify as exempt from further Section 106 review according to Section 106 Program Comment. The Exempted Activities List is found in Appendix A of the Section 106 Program Comment. The memo to FRA environmental staff should describe the relevant project scope items, identify the corresponding Exempted Activities List categories, and include any associated supporting documentation to exempt the scope of work from further Section 106 review. If the Exempted Activity requires the work be performed or supervised by a Secretary of the Interior qualified



professional, the Project Sponsor must discuss in the memo how those requirements will be met. FRA environmental staff will verify if the project activities are exempted under the Section 106 Program Comment or if further consultation with a State Historic Preservation Office (SHPO) is necessary. If another type of program alternative applies to the project, it should be noted as such in the worksheet, explained why, with a copy of the relevant program alternative included. If the entire project can be covered under the Section 106 Program Comment or another program alternative, no further analysis should be necessary; proceed to Section D. Note: for a project to be completely covered by the Section 106 Program Comment, no part of the project or its effects can extend beyond the right-of-way, including laydown areas and construction access.

If the project has the potential to affect historic properties and is not covered by the Section 106 Program Comment or another program alternative, the project sponsor should work with a cultural resource professional and FRA Environmental staff to comply with Section 106. FRA environmental staff will work with the Project Sponsor to make a finding of effect under Section 106 and to consult with the SHPO, Tribal Historic Preservation Officer (THPO), Federally Recognized Native American tribes, other consulting parties, and the public. If the project results in adverse effects to historic properties, the project sponsor will work with the FRA environmental staff to identify changes to the project to avoid adverse effects or to develop a Section 106 Agreement Document to mitigate adverse effects (36 CFR 800.6).

The Section 106 process must be completed prior to FRA approval of the CE worksheet. FRA environmental staff will record and attach any correspondence and concurrence related to Section 106 to the CE worksheet. Additional information on the Section 106 compliance process is available at: <https://www.achp.gov/digital-library-section-106-landing/section-106-applicant-toolkit>

#### **D. Parks and Recreational Facilities**

This section describes the recreational uses of the parks and refuges and any potential impacts that may be caused by the proposed project, such as land conversion, disruptions to activities, or visual changes. In this section, project sponsors may use planning documents, maps of the area, and a field visit, if necessary, to identify any parks, recreational facilities, and wildlife or waterfowl refuges in or adjacent to the project area. Provide a map that identifies these areas in proximity to the project.

The “use” of publicly owned parks, recreational facilities, and wildlife refuges requires additional documentation and coordination under Section 4(f) of the U.S. Department of Transportation Act. Project sponsors should work with FRA environmental staff to verify the presence of properties that require Section 4(f) documentation and coordination within or adjacent to the project area and complete any Section 4(f) reporting or coordination as required per statute (49 U.S.C. 303 and 23 U.S.C. 138).

#### **E. Transportation**

This section describes the existing transportation network in and near the project area and discuss

how the proposed project may benefit or adversely affect local transportation—including but not limited to railway operations, road traffic, or increased demand for parking. Also, briefly describe whether the proposed action includes an increase in the number of trains operated per day, an increase or decrease in operational speeds, an increase or decrease in the length of trains operated, and the associated impacts of these changes.

If new stations or loading facilities are proposed, describe, and document the road traffic impacts from accessing the new or modified site, such as changes to road capacity or parking demand. Indicate the extent/duration of impacts and provide maps or diagrams to illustrate these impacts. Also, summarize and attach documentation of any coordination with affected railroads, transit, or highway authorities.

## **F. Noise and Vibration**

This section describes impacts from noise and vibration. Noise and vibration can come from various sources, such as additional trains, increased speeds, or stationary facilities, and may affect sensitive receptors or noise-sensitive land uses nearby. A ‘receiver/receptor’ is defined by FRA as a stationary far-field position at which noise or vibration levels are specified. Examples of sensitive receptors are residences, hospitals, schools, and parks. If these receptors are nearby, project sponsors should describe current noise conditions in the project area (existing sources of noise) and identify these receptors, including providing a map or diagram that shows their distance from the project area. The closer the receptor is to the project area, the more likely it could be affected by changes in noise levels.

If the proposed project is anticipated to change either the noise or vibration exposure to sensitive receptors, complete and attach a General Noise and/or Vibration Assessment. This assessment analyzes airborne noise or vibration. Use the FTA’s Transit Noise and Vibration Impact guidance manual for rail operations under 120 mph and the FRA High-Speed Ground Transportation Noise and Vibration Impact Assessment guidance manual for high-speed passenger rail operations. Consult with FRA environmental staff on which manual to use for the project if questions arise. Both manuals are found on FRA’s website: <https://railroads.dot.gov/environment/noise-vibration/guidance-assessing-noise-and-vibration-impacts>.

Describe the results of the assessment and any mitigation measures that would alleviate potential impacts, considering both construction and operational impacts.

## **G. Air Quality**

This section describes any impacts to air quality from the proposed project and whether these effects are beneficial or adverse. Include a discussion of impacts to the National Ambient Air Quality Standards (NAAQS) and impacts to areas that meet or do not meet these standards.

The Clean Air Act (CAA) requires the U.S. Environmental Protection Agency (EPA) to set NAAQS for six principal air pollutants (also known as “criteria” air pollutants) which can be harmful to public health and the environment. These pollutants are: carbon monoxide (CO), ozone (O<sub>3</sub>), particulate



matter (PM) – both PM with a diameter  $\leq 10$  micrometers ( $PM_{10}$ ) and PM with a diameter  $\leq 2.5$  micrometers ( $PM_{2.5}$ ), nitrogen dioxide ( $NO_2$ ), sulfur dioxide ( $SO_2$ ), and lead (Pb). The EPA designates areas as meeting or not meeting the NAAQS as attainment or nonattainment areas, respectively. Nonattainment areas that meet the NAAQS are re-designated by the EPA as attainment areas with a maintenance plan and are then referred to as maintenance areas.

Indicate whether the release of any of these emissions will lead to levels that exceed the NAAQS, lead to the establishment of a new nonattainment area, or delay achievement of attainment and provide supporting documentation. Be sure to include relevant analysis for each nonattainment or maintenance area affected by the proposed project.

To determine whether your project is located in a nonattainment or maintenance area for any of the criteria air pollutants, refer to EPA's Green Book: <https://www.epa.gov/green-book>.

If any portion of the proposed project will take place within a nonattainment or maintenance area, a General Conformity applicability assessment is needed. For proposed projects that are not: 1) covered by Transportation Conformity, 2) [listed as exempt in the rule](#) (ex: Railroad/highway crossing), or 3) on [EPA's presumed to conform list](#); then an estimate of the action's annual non-exempt direct and indirect emissions is needed.

These emissions should be compared to the relevant EPA *de minimis* emission thresholds (see: <https://www.epa.gov/general-conformity/de-minimis-tables>) to determine if further analysis is required. For actions that do not add rail capacity or modify the operational aspect of the rail line, an emissions inventory for just the construction phase is likely all that is needed. For more information on General Conformity, see EPA's General Conformity website at <https://www.epa.gov/general-conformity>.

## **H. Hazardous Materials and Waste**

Project sponsors should identify if the proposed project would involve the use, handling, or movement of hazardous materials as defined in the Hazardous Materials Regulations (49 CFR Parts 100 – 185). If hazardous materials would be used, handled, or transported because of the project, describe the use and measures that would mitigate any potential for release and contamination.

Hazardous materials and waste include petroleum products, pesticides, organic compounds, heavy metals, or other compounds injurious to human health and the environment. These materials could exist in the environment already, such as in previous industrial areas, developed sites, or known hazardous sites, or they could be introduced into the environment from project activities such as construction uses, material transport, or spills.

Identify if any known hazardous sites have been documented in or near the project area and describe current and past uses of the area that could demonstrate the presence of hazardous





materials, such as being previously developed or used for industrial or agricultural production. Contact local officials for property and zoning records to obtain this information and review government sources of known hazardous sites (<https://www.epa.gov/superfund/search-superfund-sites-where-you-live>). If hazardous materials or waste is a concern, detail the results of consultation with the relevant local, state, and/or federal agency regarding the proposed remediation on the CE worksheet. If the project does not pose any concern regarding hazardous sites, provide a basis for this determination, and describe the steps taken to determine that hazardous materials are not present within the vicinity of the project area.

If real property is to be acquired, the project sponsor should complete a Phase I site assessment to determine if contaminated soil and groundwater are present and provide the Phase I assessment documentation to FRA with the completed CE worksheet. A Phase II site assessment may also be required if there is a presence of contaminated soils. Consult with FRA regarding these issues prior to acquiring land or other physical facilities with FRA funds.

## **I. Communities and Environmental Justice**

This section identifies adjacent or nearby communities and associated resources and discuss potential impacts to these communities from the proposed project. This may include any areas of the community that may potentially be disrupted, displaced, or segmented by the project. Indicate and document if there is any known project opposition or outreach to the community about the proposed project.

If nearby communities could be affected, project sponsors should provide an overview of the socio-economic profile of the community. Using U.S. census data (<https://data.census.gov/cedsci/>), describe the community composition of the affected area and determine whether minority populations, low-income populations, elderly, or Native American populations are present. If these populations are present, discuss whether the project could result in disproportionately high or adverse impacts to these environmental justice communities.

Also use this section to describe, if applicable, equity, such as if the proposed project anticipates creating of good jobs with fair wages or labor protections to the surrounding community. Such considerations can include, but are not limited to, the extent to which the project invests in vital infrastructure assets, addresses capital needs to connect farms, factories, and shippers to the rail network, and provides opportunities for families to achieve economic security through rail industry employment.

## **J. Waters of the US**

Describe any potential impacts of the proposed project on wetlands and other waters, considering both impacts from construction and operation of the project. Be sure to include information regarding the location, type, and extent of Waters of the US that may be affected. Provide a basis for this determination and provide measures to minimize adverse impacts and to avoid any disturbance of wetlands and other waters. Coordination with the USACE may be helpful to discuss the project and



any concerns with impacts to Waters of the US.

Additional guidance in determining jurisdictional waters is found at:

National Wetland Inventory (<https://www.fws.gov/wetlands/data/mapper.html>), National Hydrography Dataset (<https://viewer.nationalmap.gov/advanced-viewer/>), Web Soil Survey (<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>), and previous environmental survey reports for the area to identify the potential for waters of the US to be present in the project area. Waters of the US includes streams, wetlands, and other aquatic resources, as defined by the US EPA and US Army Corps of Engineers (USACE). A field verification may be necessary to confirm presence or absence of potential waters of the US in the project area, and a delineation of waters of the US may be needed to support permitting.

A Clean Water Act permit (i.e., Section 404) may be required from the USACE depending on the impacts to Waters of the US, and a corresponding water quality certification from the State would be required pursuant to Section 401. Attach relevant decision correspondence, concurrences, and/or copies of permits. Consult with FRA environmental staff on the need for a delineation of waters of the US and permits for the project.

## **K. Floodplains**

In this section assess the presence of major streams that cross through the project area, as they may indicate floodplains that have not been mapped at a higher level.

Review the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs) maps to determine whether the project is located within a 100-year floodplain or other special flood hazard area. Most known floodplains have been mapped and are available for review at local zoning or planning commission offices or online at the FEMA Map Service Center: <https://msc.fema.gov/portal/home>.

If the project area does not overlap a mapped floodplain or designated special flood hazard area and does not involve impacts to streams or changes in the existing pattern of water runoff, then a detailed analysis is not required.

If major streams cross through the project area or research indicates mapped floodplains or flood zones in the project area, assess current concerns with flooding and possible flooding induced by the proposed project due to its impact on floodplain capacity, such as by raising the grade through a floodplain or installing a facility in the floodplain that may not adequately convey flood flows. Include a detailed analysis of any risk to, or resulting from, the action; the impacts on natural and beneficial floodplain values; and the degree to which the action provides direct or indirect support for development in the floodplain. Additionally, discuss measures to minimize harm or to restore or preserve the natural and beneficial floodplain values affected by the project.



## **L. Water Quality**

In this section describe if the proposed project may impact water quality and provide the basis for the determination. Consider the proximity of surface waters and existing concerns with water quality in those waters. Rail projects can impact water quality by increasing runoff, discharging pollutants into stormwater runoff, generating wastewater, or altering surface or sub-surface drainage patterns. Indicate whether the project is adjacent to protected waters (states often have mapping resources to identify these), essential fish habitat, or drinking water resources.

Maps of essential fish habitats are available at:

<https://www.fisheries.noaa.gov/resource/map/essential-fish-habitat-mapper>

If a project may affect ground water, one or more aquifers, or a recharge area, consult with the appropriate water resource district hydrologist early in the planning stages. Additionally, initiate early consultation with the EPA Regional Administrator if the project has direct or indirect contamination of a sole or principal source aquifer, a recharge zone for such an aquifer, or a related streamflow source zone that has been designated or for which a petition for designation is being processed.

Construction activities can cause discharges of pollutants into stormwater runoff, which can enter nearby surface waters and contribute to water quality concerns. Wastewater discharge can also impair surface and ground water resources. Pursuant to Section 402 of the Clean Water Act, discharges must be permitted under the National Pollutant Discharge Elimination System (NPDES). Construction General Permits have been issued by the U.S. EPA and many states to cover certain discharges from construction activities. Other NPDES general permits may also be available and apply to the project. Review permitting options and determine the type of NPDES permit(s) that may be required for the project.

## **M. Navigable Waterways**

In this section determine whether any navigable waterways are in or near the project area. Navigable waterways are defined by the USACE as those waters of the US that are subject to the ebb and flow of the tide shoreward to the mean high-water mark—and that are presently used, have been used in the past, or may be susceptible to use for transport of interstate or foreign commerce. Projects that affect navigable waterways are subject to permitting and review. Assess the nature of impacts to navigable waters and coordinate with the applicable regulatory agency to determine the need for permits.

The U.S. Coast Guard issues bridge permits for bridges and causeways that are constructed across navigable waters, pursuant to Section 9 of the Rivers and Harbors Act. The U.S. Army Corps of Engineers reviews structures that could obstruct the navigable capacity of navigable waterways and may issue a permit pursuant to Section 10 of the Rivers and Harbors Act. More information can be found at: <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit->



[Application-Process/](#) and <https://www.epa.gov/cwa-404/section-10-rivers-and-harbors-appropriation-act-1899>.

## **N. Coastal Zones**

In this section, if the proposed project is located within a coastal zone, determine if the project's state is participating in the National Coastal Zone Management Program. For a list of participating states and territories, see: <https://coast.noaa.gov/czm/mystate/>.

If the project's state is participating, provide evidence that the project is consistent with the coastal management plan and obtain written concurrence from the administering state agency, which is typically the state Department of Natural Resources or equivalent agency.

## **O. Important Farmlands**

In this section review soil and farmland data for the project area to determine if any important farmlands (prime, unique, statewide or local importance) are present. Note that the land may not currently be used as farmland, but it may still qualify as farmland under one of these categories. It may be helpful to coordinate with appropriate Natural Resources Conservation Service (NRCS) state office or USDA State Land Use Committee staff to discuss the project and obtain data or sources for data.

If important farmlands are present, address impacts to the land such as from conversion or use conflicts. The NRCS Farmland Conversion Impact Rating Form AD-1006 must be completed and submitted to the NRCS for approval if important farmlands will be converted to nonagricultural uses (see: [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1045394.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf)).

Local NRCS staff and/or FRA staff can provide assistance in making farmland determinations and determining if farmland may be converted as part of the project. If this resource is within the project area, include the NRCS Important Farmlands Inventory/Important Farmlands Maps (see: [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/nra/nri/results/?cid=nrcs143\\_014\\_052](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/nra/nri/results/?cid=nrcs143_014_052)) or other relevant maps and the NRCS Statewide list of soil mapping units and results of standard soil surveys (see: <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>) with the CE worksheet.

Attach relevant decision correspondence, concurrence letters, and/or permit copies to the completed CE worksheet. Find your local NRCS contact online: <http://www.nrcs.usda.gov/about/organization/regions.html>

## **P. Listed Species**

This section is used to determine the potential for federally listed species or their habitat to occur in the project area, first compile a resource list from U.S. Fish and Wildlife Service (FWS) via the Information for Planning and Consultation tool (<https://ecos.fws.gov/ipac/>) and review National Marine Fisheries Service (NMFS) species lists if the area may be within NMFS' jurisdiction

(<https://www.fisheries.noaa.gov/species-directory/threatened-endangered>).

These lists will identify threatened, endangered, candidate, and proposed species as well as designated or proposed critical habitat that may occur in the project area. In addition, the online critical habitat mapper may be useful to review (<https://ecos.fws.gov/ecp/report/table/critical-habitat.html>). This is a first-level review of species concerns to comply with the Endangered Species Act. If critical habitat, listed species, or their habitat may be present and affected by the project, a biological evaluation or assessment may be needed to support consultations with FWS and/or NMFS, and this section should summarize the results of that document and process.

If no critical habitat is shown as overlapping the project area, check the appropriate box and proceed to review the individual species. If critical habitat overlaps, a field visit should be conducted by a biologist to assess conditions in the project area and determine if the primary constituent elements or essential habitat features for the species with critical habitat are present. Further analysis of modifications to those features is necessary if they are present.

For listed, candidate, or proposed species, review their habitat preferences to determine if their habitat may be present in the project area and review available data on species occurrences, such as through a State Fish and Wildlife Department. A field visit conducted by a biologist is the best way to confirm the potential for species to occur. If a clear determination can be made that no listed species have potential to occur in the project area or be affected by the project, document that in the worksheet and proceed to the next section.

If listed, candidate, or proposed species or their habitat could be affected, describe the potential effects and coordinate with the FRA environmental staff on the consultation requirements. Section 7 of the Endangered Species Act requires FRA to ensure that no federally funded or authorized railroad projects will jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. FRA or another federal agency, if one is involved in the project, will consult with FWS or NMFS if needed. For local USFWS Endangered Species Program contacts by region, see: <https://www.fws.gov/endangered/regions/index.html>.

#### **Q. Public Safety**

This section describes the potential safety and security impacts of the proposed project. This may include the safety and security of employees, passengers, and pedestrians as well as the safety and security of vehicles, platforms, or stations, and security of the project and its facilities as well as any potential construction safety concerns. This should also include any safety impacts, positive or negative, from modal shifts or new threats.

#### **R. Mitigation**

This section describes all mitigation measure commitments that are incorporated into the proposed project to address identified impacts. Mitigation measures should be developed in coordination with



applicable resource agencies and FRA, so groups can identify and work through possible sources of conflict and develop agreements to advance these projects. Describe any plan developed to monitor and enforce the proposed mitigation.

Mitigation measures include (as defined by 40 CFR 1508.20):

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

### **S. Public Notification**

Detail any outreach efforts that have occurred to notify the public about the proposed project in this section (e.g., board meetings, open houses, and special hearings). Additionally, indicate other opportunities for the public to comment on the proposed project, even if these were not efforts directly undertaken by the project sponsor (e.g., media coverage, city or town council meetings) or through NEPA-related actions.

### **T. Other Resource Areas and Impacts**

This section is optional to complete if the project affects another resource area, not listed on the CE worksheet, describe the resource and the project's potential impacts on that resource in this section.

For example, climate change. If applicable, describe how the proposed project addresses climate change, such as if the project reduces emissions, promotes energy efficiency, increases resiliency, and recycles or redevelops existing infrastructure.

This section is can also be used if it's appropriate to describe direct/indirect impacts and cumulative effects as defined by CEQ in 40 CFR 1508.8 More information is found:

<https://www.environment.fhwa.dot.gov/nepa/QAimpact.aspx>

### **U. Related Federal, State, or Local Actions**

Determine if the proposed project requires any additional actions (e.g., permits) by other agencies. Attach copies of relevant correspondence. It is not necessary to attach voluminous permit applications if a single cover agency transmittal will indicate that a permit has been granted. Permitting issues should be described in the relevant resource discussion on the CE worksheet.

**Section 106 of the NHPA:** <https://railroads.dot.gov/rail-network-development/environment/final-section-106-program-comment-rail-rights-way> and <https://www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106>

**Clean Water Act:** <https://www.epa.gov/laws-regulations/summary-clean-water-act>

**Rivers and Harbors Act:** <https://www.fws.gov/laws/lawsdigest/riv1899.html>

**Migratory Bird Treaty Act:** <https://www.fws.gov/laws/lawsdigest/migtrea.html>

**Endangered Species Act:** <https://www.fws.gov/endangered/laws-policies/>

**Magnuson-Stevens Fishery Conservation and Management Act:**  
<https://www.fisheries.noaa.gov/topic/laws-policies#magnuson-stevens-act>

**Safe Drinking Water Act:** <https://www.epa.gov/sdwa>

**Section 4(f) Department of Transportation Act:**  
<https://www.environment.fhwa.dot.gov/legislation/section4f.aspx>

**Section 6(f) Land and Conservation Act:** <https://www.nps.gov/subjects/lwcf/protection.htm>

*Additional permit and links to specific resources are found on FRA's website:*  
<https://railroads.dot.gov/rail-network-development/environment/fra-legislation-regulations>



## **23 CFR part 771.116 FRA Categorical Exclusions. (for use after November 28, 2018)**

(a) CEs are actions that meet the definition contained in 40 CFR 1508.4, and, based on FRA's past experience with similar actions, do not involve significant environmental impacts. They are actions that do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require FRA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) Actions that FRA determines fall within the following categories of FRA CEs and that meet the criteria for CEs in the CEQ regulation (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after FRA approval. FRA may request the applicant or project sponsor submit documentation to demonstrate that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result.

(1) Administrative procurements (e.g., for general supplies) and contracts for personal services and training.

(2) Personnel actions.

(3) Planning or design activities that do not commit to a particular course of action affecting the environment.

(4) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(5) Internal orders, policies, and procedures not required to be published in the Federal Register under the Administrative Procedure Act, 5 U.S.C. 552(a)(1).

(6) Rulemakings issued under section 17 of the Noise Control Act of 1972, 42 U.S.C. 4916.

(7) Financial assistance to an applicant where the financial assistance funds an activity that is already completed, such as refinancing outstanding debt.

(8) Hearings, meetings, or public affairs activities.

(9) Maintenance or repair of existing railroad facilities, where such activities do not change the existing character of the facility, including equipment; track and bridge structures; electrification,



communication, signaling, or security facilities; stations; tunnels; maintenance-of-way and maintenance-of-equipment bases.

(10) Emergency repair or replacement, including reconstruction, restoration, or retrofitting, of an essential rail facility damaged by the occurrence of a natural disaster or catastrophic failure. Such repair or replacement may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the rail facility's original construction.

(11) Operating assistance to a railroad to continue existing service or to increase service to meet demand, where the assistance will not significantly alter the traffic density characteristics of existing rail service.

(12) Minor rail line additions, including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards or right-of-way, provided that such additions are not inconsistent with existing zoning, do not involve acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail lines or rail facilities.

(13) Acquisition or transfer of real property or existing railroad facilities, including track and bridge structures; electrification, communication, signaling or security facilities; stations; and maintenance of way and maintenance of equipment bases or the right to use such real property and railroad facilities, for the purpose of conducting operations of a nature and at a level of use similar to those presently or previously existing on the subject properties or facilities.

(14) Research, development, or demonstration activities on existing railroad lines or facilities, such as advances in signal communication or train control systems, equipment, or track, provided that such activities do not require the acquisition of a significant amount of right-of-way and do not significantly alter the traffic density characteristics of the existing rail line or facility.

(15) Promulgation of rules, the issuance of policy statements, the waiver or modification of existing regulatory requirements, or discretionary approvals that do not result in significantly increased emissions of air or water pollutants or noise.

(16) Alterations to existing facilities, locomotives, stations, and rail cars in order to make them accessible for the elderly and persons with disabilities, such as modifying doorways, adding or modifying lifts, constructing access ramps and railings, modifying restrooms, and constructing accessible platforms.

(17) The rehabilitation, reconstruction or replacement of bridges, the rehabilitation or maintenance of the rail elements of docks or piers for the purposes of intermodal transfers, and the construction of bridges, culverts, or grade separation projects that are predominantly within existing right-of-way and that do not involve extensive in-water construction activities, such as projects replacing bridge components including stringers, caps, piles, or decks, the construction of roadway overpasses to replace at-grade crossings, construction or reconstruction of approaches or embankments to bridges, or construction or replacement of short span bridges.

(18) Acquisition (including purchase or lease), rehabilitation, transfer, or maintenance of vehicles or equipment, including locomotives, passenger coaches, freight cars, trainsets, and construction, maintenance or inspection equipment, that does not significantly alter the traffic density characteristics of an existing rail line.



(19) Installation, repair, and replacement of equipment and small structures designed to promote transportation safety, security, accessibility, communication, or operational efficiency that take place predominantly within the existing right-of-way and do not result in a major change in traffic density on the existing rail line or facility, such as the installation, repair, or replacement of surface treatments or pavement markings, small passenger shelters, passenger amenities, benches, signage, sidewalks or trails, equipment enclosures, and fencing, railroad warning devices, train control systems, signalization, electric traction equipment and structures, electronics, photonics, and communications systems and equipment, equipment mounts, towers and structures, information processing equipment, and security equipment, including surveillance and detection cameras.

(20) Environmental restoration, remediation, pollution prevention, and mitigation activities conducted in conformance with applicable laws, regulations, and permit requirements, including activities such as noise mitigation, landscaping, natural resource management activities, replacement or improvement to stormwater oil/water separators, installation of pollution containment systems, slope stabilization, and contaminated soil removal or remediation activities.

(21) Assembly or construction of facilities or stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities, and result in approximately less than ten acres of surface disturbance, such as storage and maintenance facilities, freight or passenger loading and unloading facilities or stations, parking facilities, passenger platforms, canopies, shelters, pedestrian overpasses or underpasses, paving, or landscaping.

(22) Track and track structure maintenance and improvements when carried out predominantly within the existing right-of-way that do not cause a substantial increase in rail traffic beyond existing or historic levels, such as stabilizing embankments, installing or reinstalling track, re-grading, replacing rail, ties, slabs and ballast, installing, maintaining, or restoring drainage ditches, cleaning ballast, constructing minor curve realignments, improving or replacing interlockings, and the installation or maintenance of ancillary equipment.

(d) Any action qualifying as a CE under 771.117 or 771.118 may be approved by FRA when the applicable requirements of those sections have been met. FRA may consult with FHWA or FTA to ensure the CE is applicable to the proposed action.