

that export to the United States, and result in increased unemployment in Nicaragua.

Comments generally supporting the proposed actions urge USTR to do what is necessary to eliminate the acts, policies, and practices. However, like many of the comments opposing the proposed actions, they also suggested a calibrated approach. While acknowledging the need to address the Ortega-Murillo regime's actions, these comments requested that the action be tailored to maximize leverage, while avoiding damage to their specific interests (producing in, importing from, or exporting to Nicaragua) or the livelihoods of Nicaragua's workers.

Considering the public comments and the advice of the Section 301 Committee, the U.S. Trade Representative has determined that appropriate action in this investigation is the imposition of a 15 percent tariff on all imported Nicaraguan goods that are not originating under CAFTA–DR that is phased-in over two years. Accordingly, the tariff will be set at zero percent on January 1, 2026, increase to 10 percent on January 1, 2027, and 15 percent on January 1, 2028.

The U.S. Trade Representative's determination takes into account the many comments that expressed concern regarding the possible impact and disruption to U.S. interests of taking broad action, including the suspension, withdrawal, or prevention of application of benefits of the CAFTA–DR and broad-based tariffs. Specifically, limiting the tariffs to goods that are not originating under CAFTA–DR should limit the impact on U.S. exports to Nicaragua and U.S. companies producing in Nicaragua, while providing increasing pressure on Nicaragua to eliminate its acts, policies, and practices, the two-year phase-in should provide companies with the time to shift operations to other CAFTA–DR countries.

The U.S. Trade Representative will continue to monitor the effects of the trade action and the progress made toward resolution of this matter. Additionally, the U.S. Trade Representative will continue to examine the efficacy of these actions. If it is determined that additional leverage is needed to encourage Nicaragua to eliminate the investigated acts, policies, and practices, the U.S. Trade

Representative will consider taking additional action.

Jennifer Thornton,

General Counsel, Office of the United States Trade Representative.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2025–0466]

Application From the State of Nebraska to the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed MOU and request for comments.

SUMMARY: This notice announces that FHWA received and reviewed an application from the Nebraska Department of Transportation (NDOT) requesting participation in the Surface Transportation Project Delivery Program (Program). This Program allows for FHWA to assign, and States to assume, responsibilities under the National Environmental Policy Act of 1969 (NEPA), and all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal highway projects within the State. The FHWA has determined the application to be complete and developed a draft MOU with NDOT outlining how the State would implement the program with FHWA oversight. FHWA invites the public to comment on NDOT's request, including its application and the proposed MOU, which includes the proposed assignments and assumptions of environmental review, consultation, and other activities.

DATES: Please submit comments by January 12, 2026.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

Federal eRulemaking Portal: Go to www.regulations.gov and follow the online instructions for submitting comments.

Mail: Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

For FHWA: James Simerl by email at James.Simerl@dot.gov, by telephone at 402–742–8462. The FHWA Nebraska Division Office's normal business hours are 8:00 a.m. to 5:00 p.m. (Central Time), Monday–Friday, except for Federal holidays.

For NDOT: Jason Jurgens by email at Jason.Jurgens@nebraska.gov or by telephone at 402–479–4418. State business hours are 8:00 a.m. to 5:00 p.m. (Central Time), Monday–Friday, except Federal and State holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may submit or retrieve comments online through the Federal eRulemaking portal at: www.regulations.gov. The website is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the website.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: www.federalregister.gov and the U.S. Government Publishing Office's web page at: www.govinfo.gov.

Background

Section 327 of title 23, United States Code (U.S.C.), allows the Secretary of the DOT to assign, and a State to assume, the responsibilities under the NEPA (42 U.S.C. 4321 *et seq.*) and all or part of the responsibilities for environmental review, consultation, or other actions required under certain Federal environmental laws with respect to one or more Federal-aid highway projects within the State. FHWA is authorized to act on behalf of the Secretary with respect to these matters.

Under the proposed initial MOU, FHWA would assign to the State, through NDOT, its responsibility of making project-level decisions in

relation to NEPA on highway projects within the State of Nebraska that are proposed to be funded with Title 23 funds or otherwise require FHWA approval, and that require preparation of a categorical exclusion determination, environmental assessment, or environmental impact statement with the exception of the following: (1) highway projects authorized under 23 U.S.C. 202 and 203, highway projects under 23 U.S.C. 204 unless the project will be designed and constructed by NDOT; (2) projects that cross State boundaries; (3) projects that cross or are adjacent to international boundaries; (4) recreational trails projects under 23 U.S.C. 206; and (5) projects advanced by direct recipients of Federal-aid Highway funds other than NDOT, including but not limited to: 1. Competitive grant programs; 2. Direct recipient Tribal project; and 3. Transportation Infrastructure Finance and Innovation Act (TIFIA) Credit Program.

The assignment would give the State the responsibility to conduct environmental review, consultation, and other related activities for project delivery under the following laws and requirements:

Air Quality

- Clean Air Act (CAA), 42 U.S.C. 7401–7671q, with the exception of project level conformity determinations (42 U.S.C. 7506)

FHWA-Specific

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135
- Programmatic Mitigation Plans, 23 U.S.C. 169 with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

Fisheries and Wildlife

- Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d
- Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d
- Migratory Bird Treaty Act, 16 U.S.C. 703–712
- Endangered Species Act of 1973, 16 U.S.C. 1531–1544

Hazardous Materials Management

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675
- Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 9671–9675
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k

Historic and Cultural Resources

- Archeological Resources Protection Act of 1979, 16 U.S.C. 470(aa)–470(mm)
- Native American Grave Protection and Repatriation Act, 25 U.S.C. 3001–3013; 18 U.S.C. 1170
- Archeological and Historic Preservation Act, 54 U.S.C. 312501–312508
- National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101, *et seq.*
- Section 4(f) of the Department of Transportation Act of 1966 [Section 4(f)], 23 U.S.C. 138, 49 U.S.C. 303 and implementing regulations at 23 CFR part 774

Noise

- FHWA noise regulations in 23 CFR part 772
- Noise Control Act of 1972, 42 U.S.C. 4901–4918

Parklands and Other Special Land Uses

- Land and Water Conservation Fund Act, 54 U.S.C. 200302–200310
- Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. 138, 49 U.S.C. 303 and implementing regulations at 23 CFR part 774

Social and Economic Impacts

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act, 7 U.S.C. 4201–4209

Water Resources and Wetlands

- Clean Water Act, 33 U.S.C. 1251–1387 (sections 319, 401, 402, 404 and 408)
- Emergency Wetlands Resources Act, 16 U.S.C. 3901 and 3921
- FHWA wetland and natural habitat mitigation regulations, 23 CFR part 777
- Flood Disaster Protection Act, 42 U.S.C. 4001–4130
- General Bridge Act of 1946, 33 U.S.C. 525–533
- Rivers and Harbors Act of 1899, 33 U.S.C. 401–406
- Safe Drinking Water Act, 42 U.S.C. 300f–300j–26
- Wetland Mitigation, 23 U.S.C. 119(g) and 133(b)(14)
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287

The Secretary's responsibilities for government-to-government consultation with Indian Tribes, as defined in 36 CFR 800.16(m), are not assigned to or assumed by NDOT under the proposed MOU. FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian Tribes. The NDOT

will conduct routine consultation with Indian Tribes and understands that an Indian Tribe has the right for government-to-government consultation with FHWA upon request.

Nothing in the proposed MOU shall be construed to permit NDOT's assumption of the Secretary's responsibilities for conformity determinations required by Section 176 of the CAA (42 U.S.C. 7506) or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

The assignment under this part does not alter the scope and terms of the Section 326 MOU signed on September 12, 2024, between NDOT and FHWA. As applicable, NDOT will conduct all environmental reviews authorized under the terms of that MOU.

On the cover page of all environmental analyses prepared under the authority granted by this MOU, NDOT shall insert the following language in a way that is conspicuous to the reader, or include it in a CE project record: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by NDOT pursuant to 23 U.S.C. 327 and a MOU dated [MMDDYYYY] and executed by FHWA and NDOT.

The NDOT will also disclose to the public, agencies and Tribes as part of agency outreach and public involvement procedures, the above disclosure.

The NDOT will not make any determination that an action constitutes a constructive use of a Section 4(f) property under 49 U.S.C. 303 and 23 U.S.C. 138 without first consulting with FHWA and obtaining approval of such determination.

A copy of the proposed MOU may be viewed on the docket at www.regulations.gov, as described above, or may be obtained by contacting FHWA or the State at the addresses provided above. A copy also may be viewed on NDOT's website at <https://dot.nebraska.gov/business-center/environment/nepa-assignment/>.

The FHWA Nebraska Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU. FHWA and NDOT may revise the MOU based on substantive comments and will make the final MOU available to the public.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.117.

Sean McMaster,

Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2025–02; Track Is Clear Determination During Shoving or Pushing Movements Across Highway-Rail Grade Crossings Equipped Only With Flashing Lights or Passive Warning Devices

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2025–02 to emphasize the importance of determining that the “track is clear” prior to shoving or pushing movements across highway-rail grade crossings (crossings) equipped only with flashing lights or passive warning devices. This advisory focuses specifically on the need for adequate job briefings and visual assessments before railroad equipment traverses a crossing, the action required if a “track is clear” determination cannot be made, and the need for railroads to evaluate certain crossings to determine if it is feasible for an employee riding a shove move to make the track is clear determination. Recent accidents demonstrate that railroads and their employees may require additional training and operational testing to ensure sufficient understanding and compliance with “track is clear” procedures, and in some cases operating rules and/or bulletins need to be updated to require stop and flag at certain crossings. To address these concerns, FRA is recommending that railroads and railroad employees take certain actions to improve the safety of shoving or pushing movements over crossings equipped only with flashing lights or passive warning devices.

FOR FURTHER INFORMATION CONTACT:

Christian Holt, Staff Director, Operating Practices Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 366–0978.

Disclaimer: This Safety Advisory is considered guidance pursuant to DOT Order 2100.6A (June 7, 2021). Except

when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not binding in any way. This document does not revise or replace any previously issued guidance.

SUPPLEMENTARY INFORMATION:

Significant Incidents

On April 23, 2020, in Northlake, Illinois, a Union Pacific Railroad Company remote control operator (RCO) with 21 years of service was fatally injured while controlling and protecting the point of a remote control shove movement during daylight hours. Video footage of the accident indicated the fatally injured employee was riding on the equipment being shoved. The rolling equipment was moving towards a passively protected industry crossing equipped only with crossbuck signs. When the equipment was approximately one-and-a-half railcar lengths from the crossing, the RCO waved his arm at a semi-truck approaching the crossing and initiated an emergency brake application. The equipment the RCO was riding did not stop before entering the crossing and collided with the semi-truck.

On October 29, 2021, in Houston, Texas, a Watco Rail Services brakeman with less than one year of service was fatally injured while protecting the point of a shove movement during nighttime hours. The brakeman was riding the point of the shove movement as the train was approaching a private grade crossing and acknowledged via radio that the engineer was clear to continue shoving. A few seconds later, a semi-tanker truck turned onto the passively protected crossing without yielding, colliding with the lead railcar on which the brakeman was riding.

On March 7, 2023, in Cleveland, Ohio, a Norfolk Southern Railway Company conductor with 18 years of service was fatally injured when the black tank car he was riding was struck by a dump truck at a passively protected private crossing in a steel plant. The incident occurred at night; however, the yard was lighted, and the conductor had his lantern on. Prior to the incident, the conductor was in communication with the engineer via radio.

On December 4, 2025, in Ontario, California, a Union Pacific Railroad brakeman riding the leading end of a shove movement on an industrial lead was fatally injured when the train collided with a semi-truck at a grade crossing equipped only with flashing lights. Although the accident is still under investigation, preliminary information indicates that the brakeman

was positioned opposite the RCO who was controlling the movement. Initial findings suggest the train entered the crossing without confirming the track was clear.

These accidents each involved operations which required compliance with 49 CFR 218.99(b)(3). Section 218.99(b)(3) requires a crewmember or other qualified employee to provide “point protection” when rolling equipment is being shoved or pushed. In providing point protection, the crewmember or other qualified employee must make a visual determination that the “track is clear” before conducting the shoving or pushing movement. Determining that a “track is clear” requires ensuring that all intervening public and private highway-rail grade crossings, pedestrian crossings, and yard access crossings are protected. *See* 49 CFR 218.93 (defining “track is clear”). Another element of the “track is clear” requirement is the visual assessment to determine the absence of vehicular traffic approaching or stopped at these crossings. Such assessments must consider any visual impediments that would prevent the complete assessment of the crossing and the roadway access to the crossing. If, for any reason, a complete visual assessment of the crossing cannot be performed, the shoving or pushing movement must not proceed over the crossing. This includes situations where weather conditions (*e.g.*, fog, heavy rain), or obstructions like vegetation, buildings, or vehicles that might make turns off parallel roads, limit the ability to perform a visual assessment of the crossing. In such cases, protection must be provided by a designated and qualified employee who is stationed at the crossing and can communicate with any train traversing the crossing. Similarly, if point protection is provided with the aid of technology, “the technology must work as intended and most malfunctions of the technology should be detectable, and result in abandoning the use of the technology for determining point protection until the malfunction can be corrected.” *See* 49 CFR part 218, app. D. The regulation puts the burden on the railroad to protect crossings during shoving or pushing movements and thus prevent foreseeable accidents that can occur when point protection is inadequate.

Unlike trains with locomotives in the lead position, which are highly conspicuous with headlights, ditch lights, bells, and horns, rolling equipment being shoved or pushed is typically much less conspicuous. Motorists stopped at or approaching