

Table of Contents

<u>Section</u>	<u>Page</u>
12.1 SECTION 4(f) PROCESS	12.1-1
Activity No 1: Identify Potential Section 4(f) Resources.....	12.1-3
Activity No 2: Evaluate Potential “Use” of Section 4(f) Resource	12.1-4
Activity No 3: Evaluate Alternatives and Measures to Minimize Harm	12.1-5
Activity No 4: Determine if Section 6(f) is Involved	12.1-6
Activity No 5: Determine Applicability of <i>de minimis</i> Impact Finding	12.1-7
Activity No 6: Determine Applicability of Programmatic Evaluation	12.1-8
Activity No 7: Prepare Individual Section 4(f) Evaluation.....	12.1-9

List of Figures

<u>Figure</u>	<u>Page</u>
Figure 12.1-A — SECTION 4(f) PROCESS.....	12.1-2

Chapter 12

SECTION 4(f)

12.1 SECTION 4(f) PROCESS

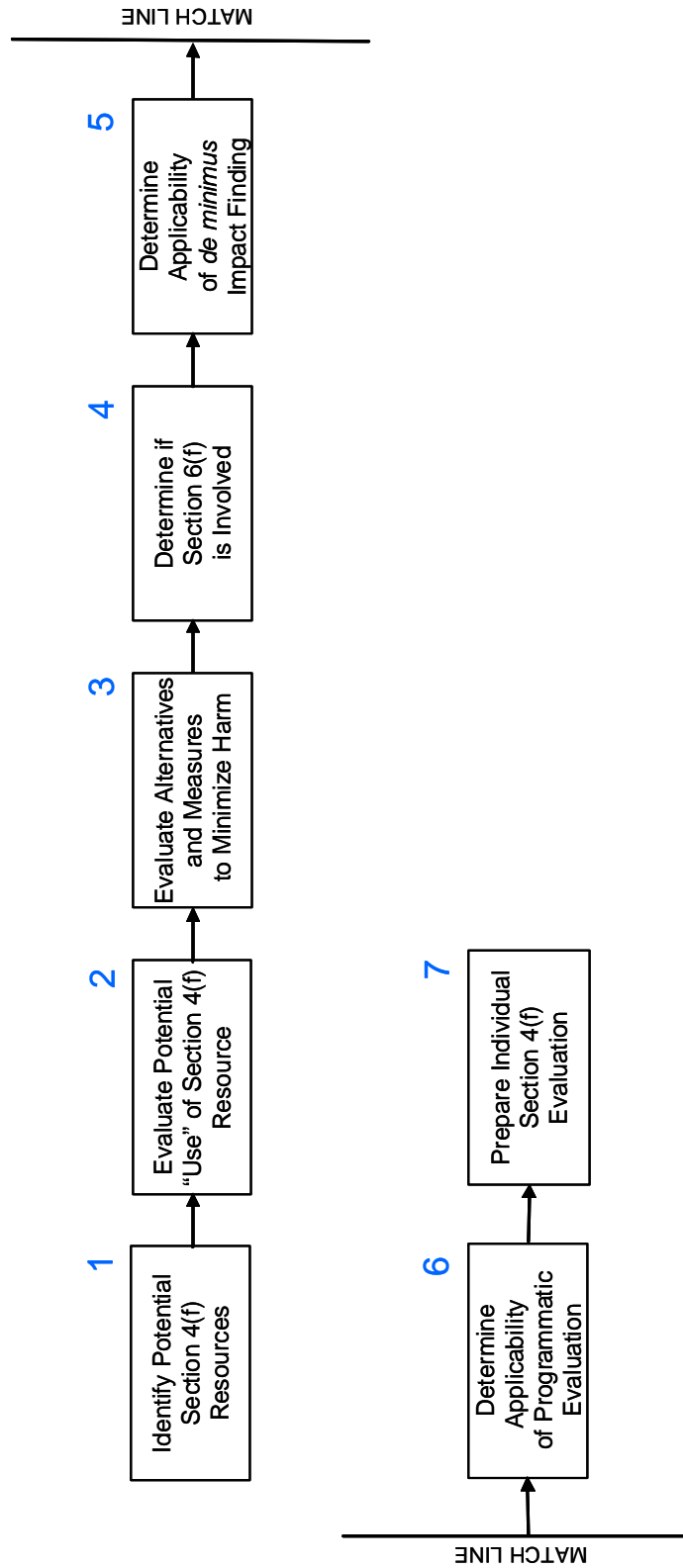


Figure 12.1-A — SECTION 4(f) PROCESS

PROJECT ACTIVITY

Activity Title: Identify Potential Section 4(f) Resources

Activity No.: 1

Activity Description:

The FHWA will determine the applicability of Section 4(f) to specific resources. (See [23 CFR 771.135](#) and the [FHWA Section 4\(f\) Policy Paper](#) for further specific guidance on Section 4(f) applicability, addressing various resource types and Transportation Enhancement Projects).

The Environmental Services Division will identify potential Section 4(f) properties and coordinate Section 4(f) applicability with the FHWA.

Regulations and Guidance

[23 CFR 771.135\(b\)](#) (Early evaluation)
[23 CFR 771.135\(c\)](#) (Significance determination)
[23 CFR 771.135\(d\)](#) (Multiple-use lands)
[23 CFR 771.135\(e\)](#) (Historic sites)
[23 CFR 771.135\(f\)](#) (3R projects and historic transportation facilities)
[23 CFR 771.135\(g\)](#) (Archeological sites)
[23 CFR 771.135\(h\)](#) (Late designation/change in significance determination)
[FHWA Section 4\(f\) Policy Paper](#), March 1, 2005, "Section 4(f) Applicability"
 23 USC 103(c)(5) "Exemption of Interstate System"
 FHWA SAFETEA-LU: 6007 "Questions and Answers on the Exemption of the Interstate System"

PROJECT ACTIVITY

Activity Title: Evaluate Potential "Use" of Section 4(f) Resource

Activity No.: 2

Activity Description:

The Environmental Services Division will evaluate the project's effects to identify use of land from a Section 4(f) resource. The Environmental Services Division will coordinate with the officials having jurisdiction of the Section 4(f) resources and with the FHWA. For historic sites, the Environmental Services Division will coordinate with the State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO), the FHWA, and, as applicable, the Advisory Council on Historic Preservation. See [Chapter 11](#) for more information on the Section 106 compliance process.

Regulations and Guidance

[23 CFR 771.135\(p\) "Use"](#)

[FHWA Section 4\(f\) Policy Paper](#), March 1, 2005, "Section 4(f) Applicability"

[36 CFR Part 800 "Protection of Historic Properties"](#)

PROJECT ACTIVITY

Activity Title: Evaluate Alternatives and Measures to Minimize Harm

Activity No.: 3

Activity Description:

The Environmental Services Division, in cooperation with the FHWA and the Project Management Team, will evaluate alternatives that would avoid use of land from Section 4(f) properties and measures to minimize harm if there are no feasible and prudent alternatives that would avoid use of Section 4(f) land.

Regulations and Guidance

[23 CFR 771.135\(a\)](#) (Feasible and prudent alternative and all possible planning to minimize harm)

[FHWA Section 4\(f\) Policy Paper](#), March 1, 2005, "Section 4(f) Evaluation; Alternative Analysis"

PROJECT ACTIVITY	
<u>Activity Title:</u>	Determine if Section 6(f) is Involved
<u>Activity No.:</u>	4
<u>Activity Description:</u>	
<p>The Environmental Services Division will coordinate with the Nevada Department of Conservation and Natural Resources (DCNR) Land and Water Conservation Fund (L&WCF) State Liaison Officer to determine if an affected site has been acquired or improved with L&WCF funds.</p> <p>Where conversion of land acquired or improved with Section 6(f) funds is proposed, the Environmental Services Division, in cooperation with the Project Management Team, will initiate action to locate suitable replacement land in accordance with the conversion requirements.</p>	
<u>Regulations and Guidance</u>	
36 CFR 59.3 "Conversion Requirements"	

PROJECT ACTIVITY

Activity Title: Determine Applicability of *de minimis* Impact Finding

Activity No.: 5

Activity Description:

For unavoidable use of Section 4(f) land, the Environmental Services Division, in cooperation with the FHWA and the Project Management Team, will evaluate whether the proposed use would result in *de minimis* impacts, and coordinate the findings with the jurisdictional officials and the public.

Regulations and Guidance

23 USC 138 "*De Minimis* Impacts"

[FHWA "Questions and Answers on the Application of the Section 4\(f\) *De Minimis* Impact Criteria"](#)

PROJECT ACTIVITY

Activity Title: Determine Applicability of Programmatic Evaluation

Activity No.: 6

Activity Description:

For each use of Section 4(f) land that is not subject to a *de minimis* Impact Finding, the Environmental Services Division, in cooperation with the FHWA and the Project Management Team, will determine applicability of a Programmatic Section 4(f) Evaluation.

The conditions for applicability of the Programmatic Section 4(f) Evaluations relate to the type of project, the severity of impacts to 4(f) property, the evaluation of alternatives, the establishment of a procedure for minimizing harm to the 4(f) resource, adequate coordination with appropriate entities and the NEPA class of action. There are five approved Nationwide Programmatic Section 4(f) Evaluations, as follows:

1. [“Programmatic Section 4\(f\) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges”](#);
2. [“Final Nationwide Section 4\(f\) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands and Wildlife and Waterfowl Refuges”](#);
3. [“Final Nationwide Section 4\(f\) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites”](#);
4. [“Section 4\(f\) Statement and Determination for Independent Bikeway or Walkway Construction Projects”](#); and
5. [“Section 4\(f\) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4\(f\) Property”](#).

Approval procedures are included in each programmatic evaluation.

PROJECT ACTIVITY

Activity Title: Prepare Individual Section 4(f) Evaluation

Activity No.: 7

Activity Description:

An Individual Section 4(f) Evaluation will be prepared (to include a Draft and a Final) when the use of a Section 4(f) resource is not subject to a *de minimis* Impact Finding and does not meet the criteria for use of any of the programmatic 4(f) evaluations.

The Section 4(f) Evaluation will be provided to the officials with jurisdiction over the Section 4(f) property and the US Department of the Interior for review and comment.

The FHWA Nevada Division Administrator approves Final 4(f) Evaluations.

See [Section 2.3 "Preparing An Administrative Record."](#)

Regulations and Guidance

[23 CFR 771.135 "Section 4\(f\)"](#)

[FHWA Section 4\(f\) Policy Paper](#), March 1, 2005

[FHWA Environmental Guidebook](#)

[FHWA Technical Advisory T6640.8A](#)

