

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

**FINAL NATIONWIDE SECTION 4(F) EVALUATION AND APPROVAL FOR FEDERALLY-AIDED
HIGHWAY PROJECTS WITH MINOR INVOLVEMENTS WITH HISTORIC SITES**

This programmatic Section 4(f) evaluation has been prepared for projects which improve existing highways and use minor amounts of land (including non-historic improvements thereon) from historic sites that are adjacent to existing highways. This programmatic Section 4(f) evaluation satisfies the requirements of Section 4(f) for all projects that meet the applicability criteria listed below. No individual Section 4(f) evaluations need be prepared for such projects. (Note a similar programmatic Section 4(f) evaluation has been prepared for projects which use minor amounts of publicly owned public parks, recreation lands, or wildlife and waterfowl refuges).

The FHWA Division Administrator is responsible for reviewing each individual project to determine that it meets the criteria and procedures of this programmatic Section 4(f) evaluation. The Division Administrator's determinations will be thorough and will clearly document the items that have been reviewed. The written analysis and determinations will be combined in a single document and placed in the project record and will be made available to the public upon request. This programmatic evaluation will not change the existing procedures for project compliance with the National Environmental Policy Act (NEPA) or with public involvement requirements.

Applicability

This programmatic Section 4(f) evaluation may be applied by FHWA only to projects meeting the following criteria:

1. The proposed project is designed to improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment. This includes "4R1t work (resurfacing, restoration, rehabilitation and reconstruction); safety improvements, such as shoulder widening and the correction of substandard curves and intersections; traffic operation improvements, such as signalization, channelization, and turning or climbing lanes; bicycle and pedestrian facilities; bridge replacements on essentially the same alignment, and the construction

- of additional lanes. This programmatic Section 4(f) evaluation does not apply to the construction of a highway on a new location.
2. The historic site involved is located adjacent to the existing highway.
 3. The project does not require the removal or alteration of historic buildings, structures or objects on the historic site.
 4. The project does not require the disturbance or removal of archeological resources that are important to preserve in place rather than to remove for archeological research. The determination of the importance to preserve in place will be based on consultation with the State Historic Preservation Officer (SHPO) and, if appropriate, the Advisory Council on Historic Preservation (ACHP) .
 5. The impact on the Section 4(f) site resulting from the use of the land must be considered minor. The word minor is narrowly defined as having either a "no effect" or "no adverse effect" (when applying the requirements of Section 206 of the National Historic Preservation Act and 36 CFR Part 800) on the qualities which qualified the site for listing or eligibility on the National Register of Historic Places. The ACHP must not object to the determination of "no adverse effect."
 6. The SHPO must agree, in writing with the assessment of impacts of the proposed project on and the proposed mitigation for the historic sites.
 7. This programmatic evaluation does not apply to projects for which an environmental impact statement (EIS) is prepared, unless the use of Section 4(f) lands is discovered after the approval of the final EIS.

Should any of the above criteria not be met, this programmatic Section 4(f) evaluation cannot be used, and an individual Section 4(f) evaluation must be prepared.

Alternatives

The following alternatives avoid any use of the historic site.

1. Do nothing.

2. Improve the highway without using the adjacent historic site.
3. Build an improved facility on new location without using the historic site.

This list is intended to be all-inclusive. The programmatic Section 4(f) evaluation does not apply if a feasible and prudent alternative is identified that is not discussed in this document. The project record must clearly demonstrate that each of the above alternatives was fully evaluated before the FHWA Division Administrator concluded that the programmatic Section 4(f) evaluation applied to the project.

Findings

In order for this programmatic Section 4(f) evaluation to be applied to a project, each of the following findings must be supported by the circumstances, studies, and consultations on the project:

Do Nothing Alternative

The Do Nothing Alternative is not feasible and prudent because: (a) it would not correct existing or projected capacity deficiencies or; (b) it would not correct existing safety hazards; or (c) it would not correct existing deteriorated conditions and maintenance problems; and (d) not providing such correction would constitute a cost or community impact of extraordinary magnitude, or would result in truly unusual or unique problems, when compared with the proposed use of the Section 4(f) lands.

Improvement without Using the Adjacent Section 4(f) Lands

It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management techniques (including, but not limited to, minor alignment shifts, changes in geometric design standards, use of retaining walls and/or other structures, and traffic diversions or other traffic management measures) because implementing such measures would result in: (a) substantial adverse community impacts to adjacent homes, businesses or other improved properties; m (b) substantially increased roadway or structure cost; QT (c) unique engineering, traffic, maintenance, or safety problems, a (d) substantial adverse social, economic, or environmental impacts; QT (e) the project not meeting identified transportation needs; & (f) the impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Flexibility in the application of American Association of State Highway and Transportation

officials (AASHTO) geometric standards should be exercised, as permitted in 23 CFR 625, during the analysis of this alternative.

Alternatives on New Location

It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because (a) the new location would not solve existing transportation safety or maintenance problems; QT (b) the new location would result in substantial adverse social, economic, or environmental impacts (including such impacts as extensive severing of productive farmlands, displacement of a substantial number of families or businesses, serious disruption of established travel patterns, substantial damage to wetlands or other sensitive natural areas, or greater impacts to other Section 4(f) lands); QL (c) the new location would substantially increase costs or engineering difficulties (such as an inability to achieve minimum design standards, or to meet the requirements of various permitting agencies such as those involved with navigation, pollution, and the environment); & (d) such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands. Flexibility in the application of AASHTO geometric standards should be exercised, as permitted in 23 CFR 625, during the analysis of this alternative.

Measures to Minimize Harm

This programmatic Section 4(f) evaluation and approval may be used only for projects where the FHWA Division Administrator, in accordance with this evaluation, ensures that the proposed action includes all possible planning to minimize harm. Measures to minimize harm will consist of those measures necessary to preserve the historic integrity of the site and agreed to, in accordance with 36 CFR Part 800 by the FHWA, the SHPO, and as appropriate, the ACHP.

Coordination

The use of this programmatic evaluation and approval is conditioned upon the satisfactory completion of coordination with the SHPO, the ACHP, and interested persons as called for in 36 CFR Part 800. Coordination with interested persons, such as the local government, the property owner, a local historical society, or an Indian tribe, can facilitate in the evaluation of the historic resource values and mitigation proposals and is therefore highly encouraged.

For historic sites encumbered with Federal interests, coordination is required with the Federal agencies responsible for the encumbrances.

Before applying this programmatic evaluation to projects requiring an individual bridge permit, the Division Administrator shall coordinate with the U.S. Coast Guard District Commander.

Approval Procedure

This programmatic Section 4(f) approval applies only after the FHWA Division Administrator has:

1. Determined that the project meets the applicability criteria set forth above;
2. Determined that all of the alternatives set forth in the Findings section have been fully evaluated;
3. Determined that the findings in this document (which conclude that there are no feasible and prudent alternatives to the use of land from or non-historic improvements on the historic site) are clearly applicable to the project;
4. Determined that the project complies with the Measures to Minimize Harm section of this document;
5. Determined that the coordination called for in this programmatic evaluation has been successfully completed;
6. Assured that the measures to minimize harm will be incorporated in the project; and
7. Documented the project file clearly identifying the basis for the above determinations and assurances.

Issued on: 12/23/86

Approved: /Original Signed By/ Ali F. Sevin, Director Office of
Environmental Policy Federal Highway Administration

**NATIONWIDE SECTION 4(F) EVALUATION FOR MINOR INVOLVEMENTS WITH HISTORIC
SITES BY FEDERALLY AIDED HIGHWAY PROJECTS
~Maryland Division~
APPLICABILITY CHECKLIST**

Federal Project Number _____ - _____ - _____
State Project Number _____
County _____ **Route** _____

Description of Project (p.____) _____

Description of Historic Site (p.____) _____

Description of Project Taking From and Effect on Historic Site (p.____) _____

GENERAL CRITERIA

YES **NO**

1. The scope of the project is one of the following: (circle one)

- a. Improved traffic operation
- b. Safety improvements on essentially the same alignment
- c. Resurfacing, restoration, rehabilitation and reconstruction (4R)
- d. Bridge replacement on essentially the same alignment
- e. Addition of lanes

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2. Is the project on new location?

3. Is the resource adjacent to the existing highway?

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4. Does the project require the removal or alteration of historic buildings, structures, objects?

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5. Does the project disturb or remove archaeological resources which are important to preserve in place rather than to recover?

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6. Is the impact on the 4(f) site considered minor (i.e., no effect, no adverse effect)?

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7. Has the SHPO and ACHP agreed, in writing, with the assessment of impacts and the proposed mitigation?

8. Does the project require the preparation of an EIS?

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ALTERNATIVES CONSIDERED

Indicate where appropriate supporting information is found in the document

YES **NO**

1. The do nothing alternative has been evaluated and is considered not to be feasible and prudent (p._____).

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2. An alternative has been evaluated which improves the highway without any 4(f) taking and it is considered not to be feasible and prudent (p._____).

3. An alternative on new location avoiding 4(f) taking has been evaluated and is considered not to be feasible and prudent (p._____).

MINIMIZATION OF HARM

The project includes all possible planning to minimize harm, including (p._____):

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COORDINATION

1. The proposed project has been coordinated with the following:

a. SHPO (p._____)

b. ACHP (p._____)

c. Local historical groups (p._____)

d. Property Owner (p._____)

e. Coast Guard (if Coast Guard bridge permit is required p._____)

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NOTE: Any response in a box precludes applicability or requires additional information prior to approval. Consult Nationwide 4(f) Evaluation.

The attached document satisfies the criteria of the Nationwide Section 4(f) Evaluation and Approval for Federally Aided Highway Projects with Minor Involvement with Historic Resources, dated December 23, 1986. (Federal Register, Volume 52, No. 160, August 19, 1987, pp. 3118-9). All required alternatives have been fully evaluated and the findings made are clearly applicable to this project. The project includes all possible planning measures to minimize harm and there are assurances that these measures will be incorporated into the project.

Recommended _____ **DATE** _____
Area Engineer/Environmental Specialist

APPROVED _____ **DATE** _____
Environmental Program Manager, Maryland Division