

SECTION 4(f) Factor Sheet

06-11-2019

Wisconsin Department of Transportation

Alternative:	Preferred: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> None identified	Project ID:
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If you are completing this Factor Sheet, the complete environmental document along with all the Section 4(f) material must be routed through the Bureau of Technical Services, Environmental Process and Documents Section (BTS-EPDS) liaison before the environmental document is signed.

Complete a copy of this factor sheet for each Section 4(f) resource for each alternative carried forward for detailed analysis. If more than one alternative will have the same impacts to a Section 4(f) resource, those alternatives may be described on the same sheet, but should be indicated in the Alternatives box above.

When applicable, the information on this Factor Sheet should be consistent with what is included on the Environmental Document Template, the Section 6(f) or Other Special Funding Factor Sheet, the Historic Factor Sheet, the Community Factor Sheet, and any other related factors. Additionally, Tribal Factors may need to be addressed on the Other Factor Sheet. If there is discussion of indirect or cumulative impacts on this Factor Sheet, be sure they are also reflected in the indirect impacts and cumulative impacts discussion in the environmental document.

If you have any questions concerning this Factor Sheet consult your Region Environmental Coordinator (REC) or BTS-EPDS liaison.

For further guidance see 23 CFR 774 and the FHWA Section 4(f) Policy Paper, <https://www.ecfr.gov/cgi-bin/text-idx?SID=59ba7a466eb8baa896eed7edb7210018&mc=true&node=pt23.1.774&rgn=div5>, <https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.aspx> or FDM Procedure 20-45-5, Section 4(f) <http://wisconsindot.gov/rdwy/fdm/fd-20-45.pdf#fd20-45-5>

1. Resource Name:

2. Location:

Map attached here:

3. Ownership and/or Agency with Jurisdictional Authority:

Officials with jurisdiction can include a municipality, parks department, National Park Service, SHPO, THPO, Fish and Wildlife Service, etc. Your REC or BTS-EPDS Liaison can help you to identify the correct officials. Or you can refer to the Section 4(f) Policy Paper.

4. Type of Resource:

- Park
- Recreational lands
- Wildlife Refuge
- Waterfowl Refuge
- Historic/Archaeological site eligible for the National Register of Historic Places (NRHP)
- Other – Identify:

For assistance in defining if the resource is Section 4(f) seek guidance from your REC or BTS-EPDS liaison. For specific definitions of each of the resources types see:

<https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.aspx#ident>

5. Briefly describe use of the resource:

Use is defined in 23 CFR 774.17 as follows:

Except as set forth in §§774.11 and 774.13, a “use” of Section 4(f) property occurs:

- (1) When land is permanently incorporated into a transportation facility;

(2) When there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose as determined by the criteria in §774.13(d); or

(3) When there is a constructive use of a Section 4(f) property as determined by the criteria in §774.15.

6. Type of Section 4(f) Documentation

- Section 4(f) Exception or questions of Section 4(f) Applicability (Proceed to Questions 7, then 11)
- De minimis* (Proceed to Questions 8, then 11)
- Programmatic Section 4(f) (Proceed to Questions 9, then 11)
- Individual Section 4(f) (Proceed to Questions 10, then 11)

For specific definitions of each of these types of 4(f) see 23 CFR 774 and:

<https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.aspx#ident>.

7. 23 CFR 774.11 applicability and 23 CFR 774.13 exceptions to Section 4(f) approvals:

FHWA has identified various instances when a Section 4(f) analysis might not be necessary for a potential Section 4(f) resource. These instances are listed below: (check the exception to Section 4(f) that applies to the resource AND check the conditions to ensure that they are met). Supporting documentation for use of the exception checked below is attached here:

This information will be reviewed by the BTS-EPDS liaison to assure reasonableness.

- The resource, in its entirety, is not significant per 23 CFR 774.11(c). The officials with jurisdiction have provided information to support this indication.
- Multiple Use. Where Federal lands or other public land holdings (e.g., State forests) are administered/managed for multiple uses per 23 CFR 774.11(d). Section 4(f) only applies to the portions of the resource that function as, or as designated as significant park, recreation, or wildlife and waterfowl purposes. The officials with jurisdiction have provided information to support this indication.
- Section 4 (f) does not apply per 23 CFR 774.11 (h)The resource is formally reserved for a future transportation facility and temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, and as a result the interim activity, regardless of duration, will not subject the resource to Section 4(f).
- Joint Planning. When a resource is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established, and concurrent or joint planning occurs, then any resulting impacts will not be considered a Section 4(f) use. Formal reservation of a Section 4(f) resource for future transportation use can be demonstrated by any of the documents described at 23 CFR 774.11(i).
- Section 4(f) does not apply to the use of historic transportation facilities in certain circumstances per 23 CFR 774.13(a) Any of the following criteria must be met:
 - (1) Common post-1945 concrete or steel bridges and culverts that are exempt from individual review under 54 U.S.C. 306108 (Section 106).

Bridges that do not qualify for this Section 4(f) exception may be found on the following list:

https://www.environment.fhwa.dot.gov/env_topics/historic_pres/bridges_list.aspx

- (2) Improvement of railroad or rail transit lines that are in use or were historically used for the transportation of goods or passengers, including, but not limited to, maintenance, preservation, rehabilitation, operation, modernization, reconstruction, and replacement of railroad or rail transit line elements, except for:
 - (i) Stations;
 - (ii) Bridges or tunnels on railroad lines that have been abandoned, or transit lines not in use, over which regular service has never operated, and that have not been railbanked or otherwise reserved for the transportation of goods or passengers; and
 - (iii) Historic sites unrelated to the railroad or rail transit lines.

- (3) Maintenance, preservation, rehabilitation, operation, modernization, reconstruction, or replacement of historic transportation facilities. Include necessary documentation to support this determination based on consultation under 36 CFR 800.5, that:
 - (i) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, or this work achieves compliance with Section 106 through a program alternative under 36 CFR 800.14; and
 - (ii) The official(s) with jurisdiction over the Section 4(f) resource have not objected to the Administration conclusion that the proposed work does not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, or the Administration concludes this work achieves compliance with 54 U.S.C. 306108 (Section 106) through a program alternative under 36 CFR 800.14.
- Section 4(f) does not apply per 23 CFR 774.13(b). Archeological sites that are listed in or determined eligible for the National Register when (both conditions must be satisfied):
 - (1) The archeological resource is important primarily because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where it is decided in agreement with the official(s) with jurisdiction, not to recover the resource; and
 - (2) The official(s) with jurisdiction over the Section 4(f) resource have been consulted and have not objected to the finding in paragraph (b)(1) above.
- Section 4(f) does not apply per 23 CFR 774.13(c). Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archeological resources in § 774.9(e), the Administration may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section.
- Section 4(f) does not apply per 23 CFR 774.13(d). Temporary occupancies of land that are so minimal as to not constitute a use. All the following conditions must be satisfied:
 - (1) Duration must be temporary, *i.e.*, less than the time needed for construction of the project, and there should be no change in ownership of the land;
 - (2) Scope of the work must be minor, *i.e.*, both the nature and the magnitude of the changes to the Section 4(f) property are minimal;
 - (3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
 - (4) The land being used must be fully restored, *i.e.*, the property must be returned to a condition which is at least as good as that which existed prior to the project; and
 - (5) There must be documented agreement from the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.
- Section 4(f) does not apply per 23 CFR 774.13(e). Projects for the Federal lands transportation facilities described in 23 U.S.C. 101(a)(8).
- Section 4(f) does not apply per 23 CFR 774.13(f). Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
 - (1) Trail-related projects funded under the Recreational Trails Program, 23 U.S.C. 206(h)(2);
 - (2) National Historic Trails and the Continental Divide National Scenic Trail, designated under the National Trails System Act, 16 U.S.C. 1241- 1251, with the exception of those trail segments that are historic sites as defined in § 774.17;
 - (3) Trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and

- (4) Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation.
- Section 4(f) does not apply per 23 CFR 774.13(g). Transportation enhancement activities, transportation alternatives projects and mitigation activities, where (both must be checked):
 - (1) The use of the Section 4(f) property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for Section 4(f) protection; and
 - (2) The official(s) with jurisdiction over the Section 4(f) resource agrees in writing to paragraph (g)(1) of this section.

8. 23 CFR 774.7(b) Finding of *de minimis* Impact

Indicate which Finding of *de minimis* impact applies (attached here: _____)

- Finding of *de minimis* impact on a Historic Property

The template for a Finding of *de minimis* on a historic property can be found here:

<http://wisconsin.gov/Documents/doing-bus/eng-consultants/cnslt-rsrcs/environment/historicdeminimis.docx>

- Finding of *de minimis* impact on Parks, Recreation Areas and Wildlife and Waterfowl Refuges

The template for a Finding of *de minimis* on a Parks, etc., can be found here: <http://wisconsin.gov/Documents/doing-bus/eng-consultants/cnslt-rsrcs/environment/parkdeminimis.docx>

9. 23 CFR 774.3(d) Programmatic Section 4(f) Evaluation

The templates for the Programmatic Section 4(f) can be found here: <https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Indicate which Section 4(f) Programmatic Evaluation(s) applies (attached here: _____)

- Independent bikeway or walkway construction projects
- Historic Bridges
- Park minor involvement
- Historic site minor involvement.
- Net Benefit to Section 4(f) Property

10. 23 CFR 774.3 Individual Section 4(f) Evaluation

- Draft Individual Section 4(f) evaluation approved on _____ . (Attached here _____)
- Final Individual Section 4(f) evaluation approved on _____ . (Attached here _____)

You may only have a Draft Individual Section 4(f) evaluation when the draft ER or the EA is approved. The Individual Section 4(f) must be signed prior to the final ER or the FONSI.

For an Individual Section 4(f) Evaluation, additional coordination is required, talk to your REC or BTS-EPDS liaison and refer to FDM 20.45 <https://wisconsin.gov/rdw/fdm/fd-20-45.pdf#fd20-45-5>

Refer to 23 CFR 774.5(a) and 23 CFR 774.7(d) for additional information related to review timing.

11. Was special funding (Federal funds such as Land and Water Conservation Fund Act, Dingell Johnson Act, Pittman-Robertson Act or State funding sources) used to acquire the land or to make improvements on the property?

- No, special funding was not used for the acquisition or enhancement of this property.
- Yes, complete the Section 6(f) and Other Unique Properties Factor Sheet.

All environmental commitments made to avoid, minimize or compensate for impacts must be included in Question 23 of the ER and EA Template, Section 5 of the PCE Template or Question XII of the CEC Template.