



NEPA Section 4(f) Guidance

Introduction

Pursuant to 23 United States Code 327 and the implementing Memorandum of Understanding (MOU) executed on XX, the Maine Department of Transportation (MaineDOT) has assumed, and the Federal Highway Administration (FHWA) has assigned its responsibilities under the National Environmental Policy Act (NEPA) for highway projects and Local Agency Program (LAP). MaineDOT's assumption includes all highway projects in Maine with FHWA federal funding or other FHWA federal action. This assumption of FHWA responsibilities or NEPA Assignment includes responsibility for environmental review, interagency consultation, and approval of NEPA actions. MaineDOT will be the Lead Federal Agency for MaineDOT-sponsored highway projects.

The following provides guidance for Section 4(f) of the U.S. Department of Transportation Act and provides for identifying historic property to determine the appropriate level of coordination that is required.

Section 4(f) of the Department of Transportation Act (49 U.S.C. 303 and the implementing regulations at 23 CFR Part 774) prohibits the use of land of significant publicly owned public parks, recreational areas, wildlife and waterfowl refuges, and land of a historic site for transportation projects unless the Federal transportation agency determines that there is no feasible and prudent avoidance alternative and all possible planning to minimize harm has occurred.

MaineDOT Historic Coordinators are responsible for assessing and ensuring compliance with Section 4(f) under NEPA Assignment. Section 4(f) information is provided to and discussed with the Team Leader. This information is incorporated into the overall NEPA decision.

1.0 Section 4(f) Initial Project Question and Documentation

The following question is required to be answered by the MaineDOT Historic Coordinator (HC).

1. Are there U.S. DOT funds involved in the project (Is Section 4(f) required)?

A Yes response to Question 1 requires a review of Section 4(f) properties (go to 2.0). A No response concludes the Section 4(f) assessment. All actions will be processed and documented in MaineDOT's ProjEx database.

2.0 Section 4(f) Properties

After identifying U.S. DOT Funding in the project, the HC is required to answer the following question:

2. Are there Section 4(f) properties?

Refer to the Section 4(f) SOP and FHWA guidance on determining 4(f) properties.

A Yes response to Question 2 requires the HC to review the right of way to determine if property rights are required on any Section 4(f) property or if an adverse effect will occur on a historic transportation structure (go to 3.0).



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A No response concludes the Section 4(f) assessment. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

3.0 Section 4(f) Use

After identifying Section 4(f) properties, the HC is required to answer the following question:

3. Is there a Use of a Section 4(f) property?

Refer to Section 4(f) SOP and FHWA guidance on determining Use.

A Yes response to Question 2 requires the HC to review the right of way, and effects and correspond with the Owner with Jurisdiction to determine the proper documentation level (go to 4.0).

A No response concludes the Section 4(f) assessment. All actions will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

The HC and the ENV Team Leader will review project plans, 4(f) resources, and right-of-way at the Preliminary Design Report (PDR) stage.

4.0 Section 4(f) Documentation and Approval

After determining the Section 4(f) documentation level, the HC will write the document and submit it to the NEPA Manager for quality review and to the Environmental Office Director for approval. All documents and approvals will be processed and documented in MaineDOT's ProjEx database and MaineDOT's Environmental CPD e-file.

Under NEPA assignment, a legal review will be conducted by MaineDOT's Legal Office and legal sufficiency by the Maine Attorney General's Office. The NEPA Manager will conduct a quality review of the draft Section 4(f) document.

Refer to Section 4(f) SOP and FHWA guidance on documentation and approval.

5.0 Links and Standard Operating Procedures

Section 4(f) of the Department of Transportation Act of 1966 ([49 U.S.C. 303](#))
Regulation ([23 CFR 774](#))

FHWA Section 4(f) Guidance

<https://www.environment.fhwa.dot.gov/legislation/section4f.aspx>

MaineDOT maintains a Section 4(f) Standard Operating Procedure.