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Chapter 457

Section 4(f) Evaluation

457.01 Introduction

This chapter includes information needed for projects that will use or otherwise impact any “Section 4(f) property”, as defined in the glossary in this section. The procedures for identifying such impacts and any potential mitigation for such impacts are described in Chapter 450 and Chapter 456. In particular, this chapter describes the requirements, guidance, and procedures for determining if a Section 4(f) evaluation is needed, and for preparing one when needed (i.e., to document the lack of a feasible and prudent avoidance alternative to using the Section 4(f) property and demonstrate that the project includes “all possible planning” to minimize harm to the Section 4(f) property resulting from the use). See also Section 411.12 for guidance on preparing Section 4(f) evaluations along with NEPA documents.

(1) Summary of Requirements

As shown in Figure 457-1, whenever a transportation program or project requires the use of Section 4(f) property, as well as funding or approval from a USDOT agency (such as the FHWA or FTA), and the USDOT agency determines that the program or project will have more than a de minimis impact on the Section 4(f) property, then the USDOT agency must determine if there is a feasible and prudent avoidance alternative to using the Section 4(f) property. (A feasible and prudent avoidance alternative avoids using Section 4(f) property and does not cause other severe problems of a magnitude that outweighs the importance of protecting the Section 4(f) property.)

*Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the WSDOT Environmental Services Office (ESO) home page: http://www.wsdot.wa.gov/environment/
Figure 457-1: Process for Analyzing Any Transportation Program or Project (or Alternative Program or Project) for Compliance With Section 4(f)

This process is required for any transportation program or project that requires FHWA or FTA funding or approval. In each case, the key process steps identified by questions that must be answered by FHWA and/or FTA include:

1. Evaluate the project or program in accordance with 23 CFR 774 and any existing programmatic Section 4(f) evaluations that apply. They may also require coordination between the program of a transportation program or project, the FHWA and/or FTA, and any officials with jurisdiction in accordance with 23 CFR 774.5.

2. Is there any Section 4(f) property in the immediate vicinity of the transportation program or project?
   - Yes: Proceed with Design and Environmental Review and prepare a Section 4(f) Evaluation to document the lack of a feasible and prudent avoidance alternative and demonstrate that the program or project includes all possible planning to minimize harm to the Section 4(f) property. If all feasible alternatives require the use of Section 4(f) property, this involves identifying the alternative that causes the least overall harm.
   - No: Document this determination. FHWA/FTA can approve this program or project under the de minimis impact provision.

3. Would the transportation program or project require the use of Section 4(f) property, if approved?
   - Yes: Document this determination. No further analysis for compliance with Section 4(f) is needed.
   - No: Document this determination. No further analysis for compliance with Section 4(f) is needed.

4. Is this based on a finding that there would be no adverse use of the property?
   - Yes: Proceed with Design and Environmental Review and prepare a Section 4(f) Evaluation to document the lack of a feasible and prudent avoidance alternative and demonstrate that the program or project includes all possible planning to minimize harm to the Section 4(f) property. If all feasible alternatives require the use of Section 4(f) property, this involves identifying the alternative that causes the least overall harm.
   - No: Include all possible planning in the program or project to minimize harm to the Section 4(f) property.

5. Has all possible planning been included in the program or project to minimize harm to the Section 4(f) property?
   - Yes: Proceed with Design and Environmental Review and prepare a Section 4(f) Evaluation to document the lack of a feasible and prudent avoidance alternative and demonstrate that the program or project includes all possible planning to minimize harm to the Section 4(f) property. If all feasible alternatives require the use of Section 4(f) property, this involves identifying the alternative that causes the least overall harm.
   - No: Include all possible planning in the program or project to minimize harm to the Section 4(f) property.

* This is assumed for historic sites under a de minimis impact determination.