**Programmatic Section 4(f) Evaluation Annotated Outline** (revised 02/2023)

**General Guidance:**

1. Before proceeding with the preparation of a Programmatic Section 4(f), make sure that you have evaluated whether the “use” of the Section 4(f) resource can be determined to be de minimis. It is almost always more streamlined and more efficient to use a de minimis determination to comply with Section 4(f) than a Programmatic Section 4(f) Evaluation. See Chapter 20 of the Standard Environmental Reference and the Annotated Outlines for more information regarding de minimis.
2. The streamlining benefit of a Programmatic Section 4(f) Evaluation over an individual 4(f) is the elimination of the requirement to coordinate with the Department of Interior and as appropriate the Department of Agriculture and the Department of Housing and Urban Development. *Interagency coordination is still required with the agency having jurisdiction over the resource*. It does not require a legal sufficiency or HQ review. Lastly, there is no need to do a draft and then a final Programmatic Section 4(f) evaluation; however, the Programmatic Section 4(f) Evaluation must be completed and approved before the NEPA document is approved. There is no requirement to publicly circulate a Programmatic Section 4(f) Evaluation; however, on a project-by-project basis, consideration should be given to doing so.
3. All other requirements of a Section 4(f) evaluation, however, must be met, including consideration and documentation of prudent and feasible avoidance alternatives AND of all possible measures to minimize harm to the resource. Programmatic Section 4(f) Evaluations do not exempt projects from meeting the requirements of Section 4(f) nor do they in any way relax the need to analyze avoidance alternatives and include all possible measures to minimize harm; this includes the required balancing tests.

The project file and the environmental document must contain documentation that the requirements of Section 4(f) have been fulfilled and how the project meets the applicability requirements of the programmatic 4(f). Again, the programmatic evaluations only streamline the coordination process, not the documentation process.

There are five programmatic Section 4(f) evaluations. They are listed below and can be found on [FHWA’s Nationwide Section 4(f) Programmatic Evaluations webpage](https://www.environment.fhwa.dot.gov/legislation/section4f/4fnationwideevals.aspx):

* Independent Walkway and Bikeways Construction Projects
* Historic Bridges
* Minor Involvements with Historic Sites
* Minor Involvements with Parks, Recreation Areas and Waterfowl and Wildlife Refuges
* Net Benefits to a Section 4(f) Property

**Title Sheet**

Enter district-county-route-postmiles

Enter EA/EFIS

Enter Federal Aid Number for Local Assistance projects

Enter short descriptive phrase consistent with project alternative(s) such as “widen” or “improve” or “rehabilitate” and general description of project location

# Programmatic Section 4(f) Evaluation

Submitted Pursuant to 49 USC 303

THE STATE OF CALIFORNIA

Department of Transportation as assigned

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Enter name Date of Approval

Enter Title

**GUIDANCE:** If this Programmatic Section 4(f) Evaluation is being done for a 23 USC 326 Categorical Exclusion, insert the following language:

The environmental review, consultation, and any other actions required by applicable Federal laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 326.

**GUIDANCE:** If this Programmatic Section 4(f) Evaluation is being done under 23 USC 327 NEPA Assignment, insert the following language:

The environmental review, consultation, and any other actions required by applicable Federal laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated May 27, 2022 and executed by FHWA and Caltrans.

**Writing the Programmatic Section 4(f) Evaluation**

1. List applicable technical report(s) along with their completion date(s).
2. The Programmatic Section 4(f) evaluation should be organized as follows:

* Introduction
* Description of proposed project (include all alternatives)
* List and description of Section 4(f) property
* Impacts on Section 4(f) property (discuss impacts caused by each alternative)
* Applicability of the Programmatic
* Avoidance alternatives and other findings
* Measures to minimize harm to Section 4(f) Property
* Coordination
* Letters and other correspondence

## Introduction

**GUIDANCE:** Include the following boilerplate language in the introduction.

Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 USC 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.”

Section 4(f) specifies that the Secretary [of Transportation] may approve a transportation program or project . . . requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the federal, state, or local officials having jurisdiction over the park, area, refuge, or site) only if:

* there is no prudent and feasible alternative to using that land; and
* the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

## Description of Proposed Project and Alternatives

1. Discuss the proposed project, including each build alternative and the no-build alternative.
   1. Many Programmatic Section 4(f) Evaluations require a specific set of alternatives to be considered. Make sure that you check which alternatives must be considered and then study and discuss them in the Evaluation.
   2. Give enough detail so that the reader can understand the proposed project and alternatives. If the Programmatic is part of the environmental document, then refer the reader to the appropriate section of the environmental document for more detailed information.
2. Briefly discuss the purpose and need for the project. If the Programmatic is part of the environmental document, then refer the reader to the appropriate section of the environmental document for additional information.

## Description of Section 4(f) Property

Include the following:

* Detailed map(s) showing relationship of the Section 4(f) property to the alternative(s).
* Size and location of Section 4(f) property
* Ownership and type of Section 4(f) property, e.g., County of XYZ Park
* Lease, easements, covenants, restrictions that affect ownership
* Function of or available activities on the property
* Description and location of all existing and planned facilities (baseball fields, playgrounds, etc.)
* Access (pedestrian, bicycle, car) and usage (approximate number of visitors)
* Relationship to other similarly used lands in the vicinity (what other parks, recreational facilities or historical structures exist in the area)
* Unusual characteristics of the property that either enhance or reduce its value

## Impacts on Section 4(f) Property

Discuss the impacts on the property for each alternative.

1. Clearly identify (i.e., quantify) and discuss the following effects on each property for each alternative:

* Facilities, functions, and/or activities potentially affected
* Accessibility
* Visual
* Noise
* Vegetation
* Wildlife
* Air quality
* Water quality

1. If the Programmatic Section 4(f) is part of the environmental document, then cross-reference other sections of the document as appropriate.

## Applicability of Programmatic Section 4(f)

There are 5 types of Programmatic Section 4(f) Evaluations, and each has its own unique criteria and restrictions for its use. The "use" and "applicability" sections of the appropriate programmatic must be reviewed and discussed.

In the Programmatic Section 4(f) Evaluation, provide a detailed discussion of how the proposed project and the proposed use meet each of the applicable criteria for the Programmatic Section 4(f).

Note: If any of the following conditions exist, a programmatic evaluation cannot be used for the project:

* Construction of transportation facilities on new alignment;
* Projects for which an EIS is prepared (does not apply to the Net Benefit or to the Historic Bridges Programmatics);
* Specific conditions of each type of programmatic application are not met;
* Proximity impacts resulting in constructive use are involved.

## Avoidance Alternatives and Other Findings

1. For each Section 4(f) resource, identify and discuss any alternatives that would avoid the use of Section 4(f) resources, including the No-Build, new alignments, and design variations. For Programmatic Section 4(f) Evaluations, the alternatives listed in the specific programmatic 4(f) must be evaluated.
2. All of the Programmatics require a specific set of findings to be made. The "Findings” section of the appropriate programmatic must be reviewed and discussed.

## Measures to Minimize Harm to the Section 4(f) Property

1. Discuss all possible planning for measures that are available to minimize the impacts on the property. Document all efforts undertaken even if they seem relatively minor. Summarize and refer readers to the main body of the environmental document as appropriate. All possible planning means all reasonable measures identified in the Section 4(f) Evaluation to minimize harm or mitigate for adverse impacts and effects must be included in the project (23 CFR 774.17 *All Possible Planning* definition).
   1. In evaluating the reasonableness of measures to minimize harm, consider and document the preservation purpose of the statute and:
      1. The views of the officials with jurisdiction over the Section 4(f) property;
      2. Whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the Section 4(f) property and the benefits of the measure to the property; and
      3. Any impacts or benefits of the measures to communities or environmental resources outside of the Section 4(f) property
   2. Measures should be developed in consultation with the official of the agency having jurisdiction over the land and usually involves replacement land, replacement facilities or monetary compensation to enhance the remaining land. For final Section 4(f) Evaluation include letter from the official with jurisdiction concurring with proposed measures.
   3. Review the “Measures to Minimize Harm” section of the applicable programmatic evaluation for any additional measures that must be considered and documented.

## Coordination

Document coordination with the agency having jurisdiction over the resource. NOTE: For Programmatic Section 4(f) Evaluations, only coordination with the official having jurisdiction over the resource is required. Coordination must occur and be documented before the Programmatic 4(f) Evaluation can be approved. Each programmatic outlines what coordination is required; document all coordination requirements.

Document coordination on:

* 1. Significance of property
  2. Primary purpose of the land
  3. Proposed use and impacts
  4. Proposed measures to avoid and /or minimize harm

The official with jurisdiction must agree on the use evaluation and proposed measures to minimize harm.

Note: The net benefit programmatic evaluation requires public involvement activities that are consistent with the specific requirements of 23 CFR 771.111, Early coordination, public involvement and project development. For a project where one or more public meetings or hearings are held, information on the proposed use of the Section 4(f) property shall be communicated at the public meeting(s) or hearing(s). As applicable, document public involvement in this section.

## Letters and Other Correspondence

Attach any letters and other correspondence related to the coordination efforts done for the Programmatic Section 4(f) Evaluation. At minimum, include all letters and correspondence with the official with jurisdiction.

**Additional Sources of Information:**

Regulations

* [23 CFR 774 -Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))](https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-774)

Policy and Guidance

* [Standard Environmental Reference, Chapter 20](https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-20-section-4f)
* [FHWA Section 4(f) Policy Paper, July 20, 2012](https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.aspx)
* [FHWA Section 4(f) Nationwide Programmatics](https://www.environment.fhwa.dot.gov/legislation/section4f/4fnationwideevals.aspx)