

Section 4(f) Coordination with FHWA in Programmatic Categorical Exclusions - An Overview¹

Version: 4/14/2020

	Activity	De Minimis Section 4(f) Evaluation	Programmatic Section 4(f) Evaluation ²	Individual 4(f) Evaluation (Draft) ²	Individual 4(f) Evaluation (Final) ²
	Engage Division on appropriate Section 4(f) path	✓	✓	✓	Not applicable
	FHWA participates in project meetings	✓ ³	✓	✓	✓
	Intent to make de minimis determination (draft, comment resolution)	✓	Not applicable	Not applicable	Not applicable
	Draft document: review, comment, comment resolution	Not applicable	✓	✓	✓
	Final document: review, comment, comment resolution	Not applicable	✓	✓	✓
	Legal sufficiency review	Not applicable	Not applicable	✓ ⁴	✓
	Issuance of standalone Section 4(f) Determination	Official with jurisdiction signature on intent becomes the determination	✓	Not applicable	✓
Time	NEPA document issued	MnDOT	MnDOT	MnDOT	MnDOT

Footnotes:
 ✓ = FHWA engagement and action not delegated as part of 2020 PCE Agreement
¹Assumes a defensible purpose/need and any appropriate evaluation criteria have been used to vet alternative(s) to a point where the likely context and intensity of 4f impacts is known.
²Division will need to have defensible purpose/need, evaluation matrix or SEE impacts assessment to make informed decision about meeting feasible and prudent bar as well as all possible measures to minimize harm.
³For de minimis scenarios, this is likely only to happen if the OWJ does not agree with assessment of impacts or insists upon mitigation to keep resource impacts to a de minimis level; situation dependent.
⁴Technically, a legal sufficiency review is only required on the final Section 4(f) evaluation. The review is sometimes split between the draft and final evaluation via 15 days for each rather than 30 days for just the final.