

Section 4(f) DeMinimis Documentation in FHWA Projects – Review Checklist

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District/County _____ Highway _____ CSJ _____

Contractor _____ Submittal Date _____ Reviewed by _____

Historic-age Resource Survey Reports (HRSR) and the relevant sections of NEPA documents with required documentation for determining *de minimis* impacts to Section 4(f) historic properties will be reviewed for compliance with the following checklist, in addition to:

- 23 CFR 774 of the Department of Transportation Act of 1966
- Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- FHWA's *Section 4(f) Policy Paper* dated March 1, 2005
- FHWA's *Guidance for Determining De Minimis Impacts to Section 4(f) Resources* dated December 13, 2005
- FHWA's *Section 4(f) Final Rule* dated March 12, 2008.

Reports and documents submitted with all **YES** responses will be automatically accepted. One or more **NO** responses may result in acceptance pending specified revisions or clarifications, or in rejection depending on the nature of the issue. Reports and documents are comprised of several components that allow TxDOT's Environmental Affairs Division and FHWA to assess whether project-related impacts to Section 4(f) resources meet *de minimis* criteria.

A. Format Criteria	ENV-HIST Comments
<p>1</p> <p><input type="checkbox"/> The NEPA document/HRSR incorporates</p> <ul style="list-style-type: none"> <input type="checkbox"/> Section 4(f) property(ies) documentation <input type="checkbox"/> eligibility evaluation <input type="checkbox"/> determination of effects 	
<p>2</p> <p><input type="checkbox"/> The NEPA document /HRSR include:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Introduction with the Project Description <input type="checkbox"/> Project Need and Purpose <input type="checkbox"/> Right-of-way (ROW) requirements with acreage of land to be used compared to overall acreage of the Section 4(f) property(ies) <input type="checkbox"/> Area of potential effects (APE) <input type="checkbox"/> Description of Section 4(f) property(ies) <input type="checkbox"/> Statement of historical significance and eligibility of the property(ies) to the National Register of Historic Places (NRHP) based on established criteria and aspects of integrity. 	

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3	<input type="checkbox"/> The NEPA document/HRSR provide sufficient documentation to demonstrate that impacts to the Section 4(f) property(ies) are <i>de minimis</i> and the effects will not be adverse under Section 106. <input type="checkbox"/> The NEPA document must also state that the SHPO concurred that the project poses no adverse effects to the Section 4(f) property(ies) under Section 106.	
4	<input type="checkbox"/> The NEPA document/HRSR include a conclusion that provides a brief summary of justification for the recommended <i>de minimis</i> finding.	
	<input type="checkbox"/> The NEPA document /HRSR include project area map on aerial photographs or a map based on a USGS 7.5' Quadrangle or equivalent if aerials are not available.	
5	<input type="checkbox"/> The HRSR includes a methodology that defines: <ul style="list-style-type: none"> <input type="checkbox"/> the APE <input type="checkbox"/> the study limits of the survey area <input type="checkbox"/> the historic period of significance. <input type="checkbox"/> It also includes a bibliography for the information provided for establishing a historic context for determining significance.	
	B. Define Project and Project Issues	ENV-HIST Comments
6	<input type="checkbox"/> The NEPA document /HRSR define the Area of Potential Effects (APE), referring to project plans and/or to proposed direct impacts for this class of project.	
7	<input type="checkbox"/> The NEPA document /HRSR include photographic documentation as specified in the SOUs for reconnaissance or intensive surveys of historic non-archeological resources. Additional photographs are required to document the resource's setting, including the presence or absence of character-defining features in a proposed zone of taking subject to Section 4(f) regulations.	
8	<input type="checkbox"/> The NEPA document/HRSR include maps based on aerial photos of the study area as specified in the SOUs for reconnaissance or intensive surveys of historic non-archeological resources. <input type="checkbox"/> The maps clearly define: <ul style="list-style-type: none"> <input type="checkbox"/> the APE <input type="checkbox"/> existing ROW <input type="checkbox"/> proposed ROW 	

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	<input type="checkbox"/> existing pavement edges <input type="checkbox"/> proposed pavement edges <input type="checkbox"/> property boundary(ies) <input type="checkbox"/> resources <input type="checkbox"/> major street names and other directional landmarks	
9	<input type="checkbox"/> The NEPA document/HRSR include plan and profile layouts and typical section showing existing and proposed conditions in the vicinity of the Section 4(f) property(ies) at a level of detail sufficient to demonstrate that impacts to the Section 4(f) property(ies) are <i>de minimis</i> and the effects will not be adverse under Section 106.	
C. Documentation Criteria		ENV-HIST Comments
10	<input type="checkbox"/> The NEPA document/HRSR assess level of impact by: <ul style="list-style-type: none"> <input type="checkbox"/> comparing the amount of land being used versus that of the overall Section 4(f) property(ies) (in acres) <input type="checkbox"/> comparing distance between nearest character defining feature, such as a historic buildings, fencing or other landscaping elements, or commercial signage or canopy, and the existing and proposed ROW and pavement edge <input type="checkbox"/> As appropriate, discussing the design development process, including decisions and actions implemented to reduce impacts to a <i>de minimis</i> level through impact avoidance, minimization, mitigation or enhancement. For example, discussions of efforts such as roadway alignment shifts or the use of alternative minimum standards for median or shoulder geometrics to reduce proposed ROW takings are included. <input type="checkbox"/> If applicable, discussing any other issues that may justify a <i>de minimis</i> impact finding in terms of indirect or cumulative effects (noise, visual, changes of access). 	
Approval		
11	<input type="checkbox"/> The NEPA document/HRSR contain no factual errors affecting the finding(s). The NEPA document/HRSR provide an appropriate level of documentation as outlined below: <ul style="list-style-type: none"> <input type="checkbox"/> Section 106 consultation can be conducted with sufficient documentation to demonstrate that effects on the Section 4(f) property(ies) will not be adverse 	

