



United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

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July 31, 2024

PEP - ENVIRONMENTAL REVIEW MEMORANDUM NO. ERM 10-7

To: Heads of Bureaus and Offices

From: Stephen G. Tryon, Director
Office of Environmental Policy and Compliance

Subject: Section 4(f) of the Department of Transportation Act

**STEPHEN
TRYON**

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STEPHEN TRYON
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PURPOSE

The purpose of this memorandum is to provide direction on the process the Office of Environmental Policy and Compliance (OEPC) follows when the Department of the Interior (Department) consults on projects having impacts on resources protected by Section 4(f) of the Department of Transportation (DOT) Act.

BACKGROUND

Section 4(f) provides the Department with a significant tool for the protection and preservation of parklands, recreation areas, wildlife and waterfowl refuges, and historical sites (resources). While there is no veto by agencies over the DOT in these matters, the Secretary of Transportation must determine that there is no feasible and prudent alternative to a proposed DOT action when there is more than *de minimis* impacts and that such action includes all possible planning to minimize harm to the resource before approving the action.

Section 11316, of the Infrastructure Investments and Jobs Act (IIJA), Pub. L. No. 117-58 (2021), Streamlining of Section 4(f) Reviews, amended Section 4(f) to allow a 30-day comment period for Section 4(f) evaluations. If DOT does not receive comments by 15 days after the 30-day review period, the DOT “shall assume a lack of objection and proceed with the action.”

PROCESS AND RESOURCES

To collect and consolidate bureau comments on Section 4(f) evaluations, the OEPC issues an Environmental Review (ER) document to bureaus. Due to the IIJA amendments which requires a shorter time period for review, the OEPC, instead of a bureau, generally will be the lead for consolidating bureau comments, as well as review and submittal, on Section 4(f) reviews. The OEPC will follow the ER process and issue an ER to solicit bureau comments on Section 4(f) evaluations.¹

The DOT has published a Section 4(f) policy paper, available online at <http://environment.fhwa.dot.gov/4f/4fpolicy.asp>. Although this policy paper is specific to one DOT modal administration, the Federal Highway Administration, all DOT modal administrations

¹ See [Environmental Review Memorandum \(ERM\) 10-1](#) on the electronic distribution of ERs.

generally use it as a reference even though they are not bound to the policy. In addition, the OEPC maintains a handbook that supplements the DOT policy paper with details of the Department's process for Section 4(f) reviews. The OEPC handbook is available at: https://www.doi.gov/sites/doi.gov/files/uploads/4f_handbook.pdf

This memorandum should be provided to all Departmental officials who have land management or program responsibilities for those areas and resources to which Section 4(f) would apply, in addition to those personnel who normally review DOT National Environmental Policy Act and Section 4(f) documents.

GENERAL

This memorandum is intended to improve the internal management of the Department. It is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees, or agents, or any other person. To the extent there is any inconsistency between the provisions of this memorandum and any Federal law or regulations, the laws or regulation will control.

This memorandum replaces ERM 10-7, dated September 12, 2018.