

Section 4(f)

Public Parks, Recreational Areas, Wildlife and Waterfowl Refuges

Section 4(f) has been a part of Federal law since 1966. It was enacted as Section 4(f) of the Department of Transportation Act of 1966 and applies only to agencies within the DOT. Over the years, the law has changed slightly, however, the overall message remains the same. The law states that a program or project shall not be approved if it requires the use of any publicly owned land from a public park, recreation area, or wildlife or waterfowl refuge....unless:

1. There is not a feasible and prudent alternative to the use of such land, and
2. Program or project includes all possible planning to minimize harm.

Section 4(f) applies to publicly owned parks, recreational areas, and wildlife and waterfowl refuges. When parks, recreational areas, and wildlife and waterfowl refuges are owned by private institutions and individuals, even if such areas are open to the public, Section 4(f) does not apply.



For there to be no feasible and prudent alternative, there must be unique problems or unusual factors involved. For example, cost, environmental impacts, or community disruption resulting from avoidance alternatives may reach extraordinary magnitudes. The intent of the Section 4(f) statute is to avoid public recreational areas. In order to demonstrate that there is no feasible and prudent alternative to the use of the Section 4(f) land, the evaluation must address location alternatives and design shifts that avoid the Section 4(f) land. Supporting information must demonstrate that such alternatives result in unique problems.



If a project is going to have a Section 4(f) impact, extensive coordination is required with the entity who has jurisdiction over the property. Additional coordination may also be required if concurrent requirements apply from other Federal agencies. For example, Land and Water Conservation Fund (L&WCF) monies may have been used to enhance a public recreational area. If this is the case, coordination will need to occur with the Department of the Interior to ensure that determinations are consistent with L&WCF and Section 4(f) requirements.

The statute and the FHWA regulation require all possible planning to minimize harm. All possible planning to minimize harm (mitigation measures) should be determined through consultation with the official who has jurisdiction over the property. The mitigation plan developed for the project should include measures that satisfy the requirements for concurrent requirements (L&WCF) and for Section 4(f) approval.

Examples of Planning to Minimize Harm

Replace trees
Natural Riprap
Special seed mixtures

Examples of Section 4(f) Resources:

Public Parks
Public Boat Launches
Municipal Golf Courses
Trails (pedestrian and snowmobile):

- adjacent to MDOT roadway or
- crossing MDOT roadway or
- located beneath MDOT structure

Wildlife Refuges/State Game Areas
Public Beaches
Public School Playgrounds
Federally Designated Wild and Scenic Rivers
State Natural Rivers
State and Federal forest properties with designated recreational functions