



U.S. Department
of Transportation

**Federal Highway
Administration**

Federal Highway
Administration

CA Department of
Transportation

Monitoring Review



Section 326 Monitoring Review

February 2022

Final Report



Table of Contents

Executive Summary	1
Background	3
Purpose and Objectives	5
Scope and Methodology.....	6
Team Members	7
Observations and Recommendations	8
Appendices	16
<i>Appendix A (Project File Review Spreadsheet File Review).....</i>	<i>17</i>
<i>Appendix B (SER Section 4(f) and Section 6(f) Guidance Review).....</i>	<i>18</i>



Executive Summary

Under 23 U.S.C. 326 Categorical Exclusion (CE) Assignment, the Federal Highway Administration (FHWA) has assigned and the California Department of Transportation (Caltrans) has assumed authority and responsibility for compliance with National Environmental Policy Act (NEPA) and other environmental laws, including Section 4(f) of the Department of Transportation Act of 1966, and Section 6(f) of the Land and Water Conservation Fund Act (LWCF). As part of an annual California Division (CADO) risk assessment process, the Section 4(f) and Section 6(f) processes were identified as a moderate risk. To be captured under the purview of the Section 326 Monitoring Review, the purpose of this review was to assess the effectiveness of Caltrans implementation of both Section 4(f) and Section 6(f) processes.

The objectives of the review were to:

1. Determine if Caltrans' and local assistance projects comply with Section 4(f), as per the stipulations of the 326 Memorandum of Understanding (326 MOU), as well as the applicable sections within 23 Code of Federal Regulation (CFR) 774.3(b); 23 CFR 774.5; 23 CFR 774.7(b); and Standard Environmental Reference (SER), Chapter 30 – Categorical Exclusions, Classes of Actions Qualifying for Categorical Exclusion, where appropriate.
2. Determine if Caltrans' SER and Caltrans Local Assistance Procedures Manual (LAPM), Chapter 6, Environmental Procedures, are up to date with current statutes, regulations and guidance pertaining Section 4(f) and Section 6(f), including the 326 MOU, 23 USC 138; 49 USC 303; and 23 CFR 774.

The review involved an analysis of two main elements: 1) Section 4(f) project file review of Capital and Local Assistance projects; and 2) review of Caltrans' Section 4(f) and Section 6(f) guidance.

The following key observations were identified while conducting this review:

- The project file review found all ten Caltrans Capital projects to be substantially in compliance with Section 4(f) of the Department of Transportation Act.
- The project file review found three out of eleven Local Assistance projects in non-compliance with Section 4(f) of the Department of Transportation Act. In one case, Caltrans approved a CE for a project that contained a Section 4(f) de minimis determination without the required written concurrence from the official with jurisdiction (OWJ). In the other two, Caltrans submitted Section 106 letters to



the State Historic Preservation Officer (SHPO) (OWJ) without the required notification in the letter that SHPO's concurrence would be used to make a de minimis finding.

- Based on a review of Caltrans SER, the majority of regulations and guidance pertaining to Section 4(f) are correct and current. However, there were four instances of links to either outdated guidance or to regulations that are not current. The Caltrans LAPM Chapter 6: Environmental Procedures, references the SER, Chapter 20 for implementing guidance pertaining to Section 4(f), so the Local Public Agencies (LPA) also access the links that need to be updated.
- Based on a review of the Caltrans SER, regulations and guidance pertaining to Section 6(f) are correct and current. Caltrans LAPM Chapter 6: Environmental Procedures, identifies the law tied to Section 6(f) but does not indicate that Section 6(f) is tied to the respective law. The LAPM doesn't discuss Section 6(f) anywhere else in the chapter and references the SER for additional information.

In coordination with Caltrans, the review team agreed to the following resolutions to address the observations:

- Required Section 4(f) documentation reminders will be provided Statewide in January and February 2022 through the Environmental Coordinators Update and NEPA Assignment Quarterly Meeting.
- Division of Local Assistance Office of Environmental Compliance and Outreach (DLA ECO) is developing its training module to be delivered in Spring 2022, which will include a discussion on required Section 4(f) documentation. The updated information will be included in the Federal Aid Series Training as well.
- Caltrans Cultural Studies Office (CSO) has had internal discussions and provided guidance in the October 2021 issue of Cultural Call, directing staff that the Section 4(f) De Minimis language must be included in the SHPO letters. CSO will review the letters to ensure that the appropriate de minimis language is present.
- For 2022, DLA ECO will be working with CSO on improvements and efficiencies related to Quality Control on Section 106 and Section 4(f) procedures to address criticisms received by SHPO. A checklist could be developed if deemed necessary.
- Outdated hyperlinks identified in the SER have been updated as of January 20, 2022.
- Current updates to the LAPM were posted in January 2022. DLA will communicate changes that have not been included in other forums such as the DLA Blog and other outreach conducted by DLA.



Background

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act) continued to facilitate environmental streamlining measures to help expedite project implementation. The 326 MOU was renewed on June 7, 2010, June 7, 2013, May 31, 2016, and most recently on April 18, 2019, for an additional three years. FHWA uses monitoring reviews like this one to assess Caltrans' performance.

During the past several FHWA California Division (CADO) annual risk assessments, the Section 4(f) process has been identified as at least a moderate risk, due mainly to the fact that a program review has never been conducted on the program element.

The Department of Transportation Act "Section 4(f)", 49 USC 303, and the Federal Highway Act, 23 USC 138, require that all administrations under the US Department of Transportation (USDOT) and the FHWA, respectively, preserve and protect certain types of resources when approving transportation projects. Section 4(f) applies whenever a USDOT action involves the use of a publicly owned park, recreation area, wildlife or waterfowl refuge, or land from a historic site. Such land may be used for Federal-aid highway projects only if there is no feasible and prudent alternative and all possible planning has been taken to avoid the use of a 4(f) property or to minimize harm to any 4(f) property affected by the project. When FHWA determines that a project, as proposed, may use Section 4(f) property, three methods are available for FHWA to approve to use: 1) prepare a de minimis impact determination; or 2) apply a programmatic Section 4(f) evaluation; or 3) prepare an individual Section 4(f) evaluation.

A Section 4(f) Evaluation documents considerations, consultations, and alternative studies supporting the conclusion that there are no feasible and prudent avoidance alternatives to the use of a 4(f) resource and that the proposed action includes all possible planning to minimize harm to the affected resource. There are two steps in determining whether Section 4(f) applies to a federal transportation project: 1) the project must involve a resource that is protected by the provision of Section 4(f); and 2) that there is a "use" of that resource.

Additionally, for transportation projects that propose the use of land from a Section 4(f) property purchased or improved with Federal grant-in-aid funds under Section 6(f) of the Land and Water Conservation Fund Act (LWCF), coordination with the National Park Service and/or designee is required to determine the agency's position on the land conversion or transfer. Section 6(f) has separate mitigation and approval requirements. The requirements are independent of the Section 4(f) requirements and must be satisfied during the project development process. Compliance with these requirements



must be described within the Section 4(f) discussion of all possible planning alternatives to minimize harm in situations where both Section 4(f) and Section 6(f) apply.



Purpose and Objectives

The purpose of this review was to assess Caltrans' implementation of Section 4(f) and Section 6(f) regulations for assigned projects pursuant to the stipulations and appendices of the 326 MOU. Based on an initial review of the projects sampled, there were no Section 6(f) properties identified. The objectives of the review were the following:

1. Determine if Caltrans' and local assistance projects comply with Section 4(f), as per the stipulations of the 326 MOU, as well as the applicable sections within 23 CFR 774.3(b); 23 CFR 774.5; 23 CFR 774.7(b); and SER, Chapter 30 – Categorical Exclusions, Classes of Actions Qualifying for Categorical Exclusion, where appropriate.
2. Determine if Caltrans' SER and Caltrans LAPM, Chapter 6, Environmental Procedures are up to date with current statutes, regulations and guidance pertaining to Section 4(f) and Section 6(f), including the 326 MOU, 23 USC 138; 49 USC 303; and 23 CFR 774.



Scope and Methodology

The scope for Objective 1 was to review all 21 Caltrans (10) and Local Assistance (11) projects and related Section 4(f) and Section 6(f) technical studies completed during the period from January 1, 2020 to June 30, 2021. The methodology for Objective 1 involved a file review of the projects identified. Each project file was reviewed to determine if it had the following information: 1) completed CE checklist; 2) de minimis finding or programmatic determination; 3) agency with jurisdiction correspondence; and 4) public notice documentation. On July 27, 2021, Caltrans provided supporting documentation for each project identified. On September 30, 2021, Caltrans provided follow up documentation based on an initial review of the project files. A project spreadsheet was prepared to document project compliance as related to Section 4(f) (See Appendix A).

The scope for Objective 2 was an assessment of Section 4(f) and Section 6(f) guidance in Caltrans SER and the LAPM. The methodology for Objective 2 involved a review of Caltrans SER and the Caltrans LAPM to determine if guidance on Section 4(f) and Section 6(f) was accurate and up to date compared to current Federal regulations and/or guidance related to Section 4(f) and Section 6(f) including current Section 4(f) and Section 6(f) statutes, regulations and guidance including 23 USC138 - Preservation of parklands (FHWA); 49 USC 303: Policy on lands, wildlife and waterfowl refuges, and historic sites (DOT); 23 CFR 774 Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites -Section 4(f) Regulations (2018); FHWA Section 4(f) Policy Paper (2012); Land and Water Conservation Fund Act (Section 6[f]) at 16 United States Code (USC) 460-4 to 460-11 (P.L. 88-578) and the Land and Water Conservation Fund State Assistance Program, LWCF Financial Assistance Manual (March 2021).



Team Members

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Observations and Recommendations

Objective #1: Determine if Caltrans' Capital and local assistance projects comply with Section 4(f), as per the stipulations of the 326 MOU, as well as the applicable sections within 23 CFR 774.3(b); 23 CFR 774.5; 23 CFR 774.7(b); and SER, Chapter 30 – Categorical Exclusions, Classes of Actions Qualifying for Categorical Exclusion, where appropriate.

Observation #1a: The Caltrans Capital projects reviewed were found to be in compliance with Section 4(f), as per the stipulations of the 326 MOU, and related laws and regulations.

Condition: All ten projects reviewed included the four main elements necessary to satisfy Section 4(f) requirements. Those elements included: 1) a completed CE checklist; 2) a de minimis/programmatic determination; 3) correspondence with OWJ; and 4) public notice documentation or an exemption (See Appendix A).

Criteria: Caltrans must follow the stipulations of the 326 MOU, which includes Section 4(f) implementing guidelines within 23 CFR 774. Chapter 30 of the SER provides guidance on processing categorical exclusions.

Cause: Caltrans has in large part maintained adequate and up-to-date guidance to ensure proper procedures are followed.

Effect: Caltrans can effectively administer and fulfill the requirements of Section 4(f) on a consistent basis.

Compliance Issue: No compliance issues. Caltrans is in compliance with Section 4(f) requirements.

Recommendations: No recommendations at this time.

Resolution: No resolution action necessary.

Resolution Target Completion Date: No action necessary.

Objective #1: Determine if Caltrans' Capital and local assistance projects comply with Section 4(f), as per the stipulations of the 326 MOU, as well as the applicable sections within 23 CFR 774.3(b); 23 CFR 774.5; 23 CFR 774.7(b); and SER, Chapter 30 – Categorical Exclusions, Classes of Actions Qualifying for Categorical Exclusion, where appropriate.



Observation #1b: Out of 11 local assistance projects reviewed, one project contained a Section 4(f) de minimis determination without the required written concurrence from the OWJ. As a result, Caltrans approved the CE without OWJ concurrence on the Section 4(f) determination.

Condition: The local public agency (LPA) acting as the project proponent, prepared the Section 4(f) memorandum and provided it to Caltrans for approval. Based on available information, the file did not indicate the identity of the OWJ, nor did it include the required written concurrence. Caltrans then approved the CE without Section 4(f) concurrence from the OWJ.

Criteria: Under Title 23, Section 774.5(b)(2)(ii), The Administration shall inform the official(s) with jurisdiction of its intent to make a de minimis impact finding. Following an opportunity for public review and comment as described in paragraph (b)(2)(i) of this section, the official(s) with jurisdiction over the Section 4(f) resource must concur in writing that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. This concurrence may be combined with other comments on the project provided by the official(s).

Cause: It is not clear why the LPA did not provide written concurrence with the determination in their role as the OWJ. It is also not clear why Caltrans approved the CE without documentation of the OWJ concurrence.

Effect: Caltrans approved a CE document with a de minimis finding without a written confirmation that the OWJ concurred in the finding which resulted in a federal violation.

Compliance Issue: Yes. The Section 4(f) statute and regulations require written concurrence from the OWJ with the de minimis impact finding (23 USC 303(d); 23 CFR 774.5(b)).

Recommendations: Caltrans should consider developing a file checklist to help ensure that all Section 4(f) evaluations and findings contain the documentation required by 23 CFR 774.

Resolution: Caltrans's NEPA Assignment Office and DLA have discussed with districts the missing information from the administrative file and directed staff to the guidance in Chapter 20 of the SER.

A reminder will be distributed via the Environmental Coordinators monthly update that all required Section 4(f) documentation including results of coordination with the official(s) with jurisdiction including the written concurrence from official(s)



with jurisdiction must be present in the administrative file.

Reminder to be presented at the NEPA Assignment Quarterly Meetings.

Caltrans DEA and DLA trainings will continue to emphasize complete project file documentation in related courses.

The Division of Local Assistance Office of Environmental Compliance and Outreach (DLA ECO) communicate with District Seniors biweekly and will provide a training session regarding 4(f) procedures. DLA ECO will also develop a Section 4(f) training for Local Assistance staff which will provide updates to its current trainings to emphasize the importance of proper documentation in its files.

Resolution Target Completion Date:

1) Required Section 4(f) documentation reminders will be provided Statewide in January and February 2022 through the Environmental Coordinators Update and NEPA Assignment Quarterly Meeting.

2) Division of Local Assistance Office of Environmental Compliance and Outreach (DLA ECO) is developing its training module to be delivered in Spring 2022, which will include a discussion on required Section 4(f) documentation. The updated information will be included in the Federal Aid Series Training as well.

Objective #1: Determine if Caltrans' Capital and local assistance projects comply with Section 4(f), as per the stipulations of the 326 MOU, as well as the applicable sections within 23 CFR 774.3(b); 23 CFR 774.5; 23 CFR 774.7(b); and SER, Chapter 30 – Categorical Exclusions, Classes of Actions Qualifying for Categorical Exclusion, where appropriate.

Observation #1c: Out of 11 local assistance projects reviewed, there were 2 projects for which Caltrans submitted Section 106 letters to SHPO OWJ without including the required notification that SHPO's concurrence would be used by Caltrans to make a de minimis 4(f) finding.

Condition: In one case, Caltrans District prepared the de minimis finding, and Caltrans HQ Cultural Studies Office (Caltrans CSO) submitted the Section 106 letter to SHPO with the Section 106 documents. In the other, the local agency prepared the de minimis finding, and Caltrans CSO submitted the Section 106 letter to SHPO with the Section 106 documents. However, in neither instance, did



Caltrans disclose that the SHPO's concurrence would be used by Caltrans to make a de minimis finding.

Criteria: Under Title 23, Section 774.5(b)(2)(ii), The Administration shall inform the official(s) with jurisdiction of its intent to make a de minimis impact finding.

Following an opportunity for public review and comment as described in paragraph (b)(2)(i) of this section, the official(s) with jurisdiction over the Section 4(f) resource must concur in writing that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. This concurrence may be combined with other comments on the project provided by the official(s).

Cause: It is not clear why the notification of a 4(f) determination language was missing from the correspondence with the OWJ.

Effect: The de minimis determination is incomplete because SHPO was not notified that their concurrence would be used to make a de minimis finding which resulted in a federal violation.

Compliance Issue: Yes. This is a Federal statutory violation since SHPO must be notified that their concurrence would be used to make a de minimis finding.

Recommendations: Caltrans should consider developing a file checklist to help ensure that all Section 4(f) evaluations and findings contain the documentation required by 23 CFR 774. This checklist should be included as an exhibit in the SER, in the Section 4(f) Chapter.

Resolutions: Caltrans CSO has had discussions internally as well as posted information in The Cultural Call, which is a guidance and information bulletin that comes out every 2 months, in the October 2021 issue a reminder was added that directed the District PQS that the 4(f) De Minimis language must be included in the SHPO letters. CSO will review the letters to ensure that the appropriate de minimis language is in them.

Caltrans DEA and DLA trainings will continue to emphasize complete project file documentation in related courses.

Resolutions Target Completion Dates:

1. Caltrans Cultural Studies Office (CSO) has had internal discussions and provided guidance in the October 2021 issue of The Cultural Call, directing staff that the Section 4(f) De Minimis language must be included in the SHPO



letters. CSO will review the letters to ensure that the appropriate de minimis language is present.

2. For 2022, DLA ECO will be working with CSO on improvements and efficiencies related to Quality Control on Section 106 and Section 4(f) procedures to address criticisms received by SHPO. A checklist could be developed if deemed necessary.

Objective #2: Determine if Caltrans' SER and Caltrans LAPM, Chapter 6, Environmental Procedures are up to date with current statutes, regulations and guidance pertaining to Section 4(f) and Section 6(f), including the 326 MOU, 23 USC 138; 49 USC 303; and 23 CFR 774).

Observation #2a: The majority of regulations and guidance pertaining to Section 4(f) in Caltrans SER were valid and up to date. However, there were four instances of hyperlinks to either outdated guidance or to regulations that are not current. The LAPM provides practicable guidance on how to execute Section 4(f) requirements but references the SER in identifying the underlying laws and regulations.

Condition: The SER provides an overview of the specific environmental procedures related to Section 4(f) and includes a hyperlink to the source documentation supporting the guidance. In most cases, the hyperlinks were functional and re-directed the viewer to the appropriate regulation or statute. However, there were four instances where the supporting hyperlink was out of date or a more current hyperlink was available (See Appendix B). It was also noted that the SER, Chapter 20, under Laws, Regulations, and Guidance, referenced the "FHWA Guidebook" on Section 4(f), when it should be the "FHWA Environmental Toolkit", Section 4(f).

Criteria: As the main repository of regulations and guidance, the SER should be updated when there is a change or revision to any environmental law or regulation.

Cause: There does not appear to be a clear procedure for regular and routine updating of the SER.

Effect: When outdated guidance is hyperlinked to the SER, it may conflict with the latest laws and regulations which increases the potential for non-compliant activities to occur.

Compliance Issue: This is not a Federal statutory compliance issue. There is no federal requirement that the SER be maintained and updated with current laws and regulations. However, the result of information not being updated in the SER



could lead to activities being performed that are not in compliance with current laws and regulations and thus lead to potential compliance issues.

Recommendations:

1. Caltrans should update the SER to account for the outdated guidance hyperlinks as per Appendix B.
2. Caltrans should consider establishing a process to review and update the SER annually and include a revised date stamp of when the last review occurred, even if there were no substantive policy or guidance changes.

Resolutions: All identified links have been updated. The Environmental Management Office updates the SER Chapters for contents and hyperlinks throughout the year. Due to the large quantity of information available to Caltrans staff, local partners and consultants that we are responsible for maintaining, along with implementation of new requirements, we may have hyperlinks that could be outdated. Links are reviewed when chapter updates are made and are also corrected immediately when the webmaster has been notified of missing or incorrect links.

Resolutions Target Completion Dates: Hyperlinks were updated on January 20, 2022.

Objective #2: Determine if Caltrans' SER and Caltrans LAPM, Chapter 6, Environmental Procedures are up to date with current statutes, regulations and guidance pertaining to Section 4(f) and Section 6(f), including the 326 MOU, 23 USC 138; 49 USC 303; and 23 CFR 774).

Observation #2b: There is adequate discussion pertaining to Section 6(f) guidance and implementing procedures in the SER, and is up to date with current statutes, regulations, and guidance. The LAPM identifies the LWCF Act in the list of applicable federal environmental statutes, regulations, policy, and guidance but doesn't specifically tie "Section 6(f)" to the LWCF Act. There is no other discussion of Section 6(f) in the LAPM and references the SER for a description of the regulation.

Condition: Based on a review of the Caltrans SER, regulations and guidance pertaining to Section 6(f) are correct and current. Caltrans LAPM Chapter 6, Environmental Procedures, identifies the law tied to Section 6(f) (LWCF (16 USC 4601-4604)), but does not indicate that Section 6(f) is tied to that law. The LAPM references back to the SER for a description of the regulation. However, the LAPM doesn't discuss Section 6(f) anywhere else in that Chapter.



Criteria: The Caltrans SER is the main repository of regulations and guidance and should be revised anytime there is a change or revision to an environmental law or regulation. The LAPM identifies the LWCF under applicable regulations and refers the reader back to the SER for implementing guidance.

Cause: There does not appear to be a clear procedure for regular and routine updating of the SER.

Effect: When outdated guidance is linked to the SER, it may conflict with the latest laws and regulations which increases the potential for no-compliant activities to occur.

Compliance Issue: This is not a Federal statutory compliance issue. There is no federal requirement that the SER and/or LAPM be maintained and updated with current laws and regulations. However, the result of information not being updated in the SER and/or LAPM could lead to activities being performed that are not in compliance with current laws and regulations and thus lead to potential compliance issues.

Recommendations:

1. Caltrans should update the SER to account for the outdated guidance links as per Appendix B.
2. Caltrans should consider establishing a process to review and update the SER annually and include a revised date stamp of when the last review occurred, even if there were no substantive policy or guidance changes.
3. The LAPM should be revised to indicate that the LWCF law is tied to Section 6(f).

Resolutions: All identified links have been updated. The Environmental Management Office updates the SER Chapters for contents and hyperlinks throughout the year. Due to the large quantity of information available to Caltrans staff, local partners and consultants that we are responsible for maintaining, along with implementation of new requirements, we may have hyperlinks that could be outdated. Links are reviewed when chapter updates are made and are also corrected immediately when the webmaster has been notified of missing or incorrect links.

The Local Assistance Procedures Manual is updated Annually. Minor changes can be made to correct and update web links as necessary through the year and where possible. However, due to the connection of Chapter Six (Environmental



Procedures) to the Caltrans Standards Environmental Reference, some links point to DEA held resources that cannot be updated by DLA Staff. DLA continues to work on identifying broken links and notifying DEA as needed.

Resolutions Target Completion Dates:

1. Hyperlinks were updated on January 20, 2022.
2. Current updates to the LAPM have been or will be posted in January 2022. DLA will communicate changes that have not been included in other forums such as the DLA Blog and other outreach conducted by DLA.



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Appendices



U.S. Department
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Appendix A

Project File Review Spreadsheet

FY22 326 Monitoring Review - CE projects with Section 4(f) determination (approved January 1, 2020 - June 30, 2021)

State Highway System Projects - Section 4(f)											
District-EA	County	Route	Post Mile	Project Description	Type	Date Signed	Completed CE Checklist	De Minimis/Programmatic Documentation	Agency with jurisdiction correspondence	Public Notice	Comments
01-0C500_	HUM	36	11.4/34.5	Bridge Rail Upgrade	De minimis	6/8/2021	Yes - 4(f); N/A - 6(f)	Yes - 4/2/21 CT RFC letter (w/OWJ app)	Yes - 4/2/21	Yes - 6/26/20	Humboldt County Environmental Services - OWJ
01-0E790_	HUM	254	4.18/4.18	Replace Fish Creek Drainage Structure	De minimis	5/21/2021	Yes - 4(f); N/A - 6(f)	Yes - 5/3/21 CT RFC letter (w/OWJ app)	Yes - 5/3/21	Yes - 3/1/21	CA State Parks, North Coast Redwoods - OWJ
01-48802	DN	199	1.100/2.600	Inside park culverts	De minimis	1/3/2020	Yes - 4(f); N/A - 6(f)	Yes - 4(f) Evaluation (No date)	Yes - 10/25/19	Yes - No date	CA State Parks, North Coast Redwoods - OWJ
04-1J960_	MRN	1	0/0	Pavement preservation (CAPM)	De minimis	8/14/2020	Yes - 4(f); N/A - 6(f)	Yes - 4(f) Evaluation (6/11/20)	Yes - 8/4/20	Yes - 7/5/20	NPS - Point Reyes National Seashore - OWJ CA Dept of Fish and Wildlife - Bay Delta Region - OWJ
04-1K750	SON	001	41.2/54.6	Drainage system restoration - Rehabilitate Culverts	De minimis	10/6/2020	Yes - 4(f); N/A - 6(f)	Yes - 4(f) Evaluation (12/20/19)	Yes - 1/24/20	Yes - 9/10/20	CA State Parks, Sonoma Mendocino Coast - OWJ
04-2Q260_	NAP	29	29.244/37.22	NVTA Vine Trail Project	De minimis	1/15/2021	Yes - 4(f); N/A - 6(f)	Yes - 4(f) Evaluation (9/16/20)	Yes - 12/22/20 (2)	Yes - 6/29/20	CA State Parks - Bay Area - OWJ City of Calistoga - OWJ
05-1C410_	SB	154	R2.6/2.6	Remove and replace Bridge	Programmatic	1/14/2021	Yes - 4(f); N/A - 6(f)	Prog 4(f) Evaluation (1/21/21)	Yes - 8/7/19	Not required per 23 CFR 774.5	Historic Bridge Project Programmatic SHPO - OWJ
08-0R141	SBD	040	R100/R125	Regrade median cross slope	De minimis	11/23/2020	Yes - 4(f); N/A - 6(f)	Yes - Memo to file - De Minimis Finding	Yes - 5/28/20	Not required per 23 CFR 774.5	
08-0R170_	SBD	040	R25/R50	Roadway Improvements	De minimis	1/19/2021	Yes - 4(f); N/A - 6(f)	Yes - Memo to file - De Minimis Finding	Yes - 11/10/20	Not required per 23 CFR 774.5	SHPO - OWJ
12-0N890	ORA	133	8.5/9.3	Add 2nd lane to SB 133 SB 5 connector	De minimis	3/24/2020	Yes - 4(f); N/A - 6(f)	Yes - 4(f) Evaluation	Yes - 3/9/20	Yes - 1/6/20	City of Irvine - OWJ
Local Assistance Projects - Section 4(f)											
Federal Aid Project Number	District	County		Project Description	Type	Date Signed	Completed CE Checklist	De Minimis/Programmatic Documentation	Agency with jurisdiction correspondence	Public Notice	Comments
BRLO-5914(094)	1	LAK		Bridge replacement	De minimis	7/1/2020	Yes - 4(f); NA - 6(f)	Yes -- 4(f) De Minimis Concurrence Letter	Yes- 7/17/18 and 10/09/18	Yes-10/10/18	Lake County Special Districts-OWJ
STPL-5002(191)	3	SAC		Streetscape improvements	De minimis	11/16/2020	Yes - 4(f); NA - 6(f)	Yes -- Section 4(f) De Minimis Finding	No--Section 106 Programmatic Agreement	Not required per 23 CFR 774.5	SHPO - OWJ; Caltrans did not provide 774.5 notice to SHPO that concurrence on FNAE would be used to make the de minimis finding.
BRLO-NBIL(526)	5	SB		Construct new 2-lane bridge to replace existing 2-lane	De minimis	12/11/2020	Yes - 4(f); NA - 6(f)	Yes--Section 4(f) De Minimis Determination	Yes-6/2/2020	Yes-N/D	City of Santa Barbara Parks & Recreation-OWJ
BRLS-5298(031)	8	SBD		Bridge replacement	De minimis	8/20/2020	Yes - 4(f); NA - 6(f)	Yes--Section 4(f) Evaluation	No--Section 106 Programmatic Agreement	Not required per 23 CFR 774.5	SHPO - OWJ
BRLS-5063(184)	12	ORA		Bridge replacement (Widening)	De minimis	7/31/2020	Yes - 4(f); NA - 6(f)	Yes--Section 4(f) Evaluation	Yes--6/5/19	Yes - 2/5/19	Orange County Parks -OWJ -
CML-5151(031)	12	ORA		Bike Path	De minimis	1/13/2020	Yes - 4(f); N/A - 6(f)	Yes-Section 4(f) De Minimus Memorandum	No. The was no concurrence from the OWJ on the 4(f) determination.	Yes - 1/9/20	City of Newport Beach prepared the Section 4(f) memo as the project proponent. Although it was presumed that the City of Newport Beach was also the OWJ, there is no specific concurrence from the OWJ on the 4(f) determination. As a result, Caltrans approved a CE that had not received concurrence from the OWJ on the 4(f) determination.
RPL-5931(041)	10	ORA		Hot Springs Road, Alpine County	De minimis	3/30/2021	No - As of March 2, 2021, CE checklist is now optional as per NEPA Assignment Process Improvement Team guidance.	Yes--Section 4(f) De Minimis Determination	Yes-- 1/17/21	Yes- 11/15/18	Caltrans prepared determination; City of Alpine & Area West sent 4(f) letters to the BLM, USFS--OWJ
CML-5955(114)	12	ORA		Santa Ana Gardens Channel Bikeway Extension Project - Class I, 0.75 bikeway along the Santa Ava Gardens Channel from West Monta Vista Avenue to West First Street in Santa Ana	De minimis	2/3/2021	Yes - 4(f); N/A - 6(f)	Yes--Section 4(f)De Minimis Evaluation	Yes--1/6/21	Yes-- 1/6/21	Caltrans prepared determination; City of Santa Ana--OWJ

CML-5955(115)	12	ORA	Peters Canyon Bikeway Extension - At Jamboree Road Canyon View to Portola Parkway	De minimis	3/16/2021	No - As of March 2, 2021, CE checklist is now optional as per NEPA Assignment Process Improvement Team guidance.	Yes--Section 4(f) De Minimis Memorandum	Yes--12/18/20	Yes-- 1/28/21	OC Parks;City of Tustin--OWJ
BRLS-5477(009)	4	CC	28C0270 Bridge Reha	De minimis	5/27/2021	No - As of March 2, 2021, CE checklist is now optional as per NEPA Assignment Process Improvement Team guidance.	Yes -- Section 4(f) De Minimis Finding	Yes--4/2021	Not required per 23 CFR 774.5	SHPO, Bureau of Rec- OWJ; provided 774.5 notice to SHPO that concurrence on FNAE would be used to make the de minimis finding.
CML-5165(079)	10	STA	Intersection Improvements - install traffic signal, pedestrian ramps, striping & various improvement	De minimis	6/7/2021	No - As of March 2, 2021, CE checklist is now optional as per NEPA Assignment Process Improvement Team guidance.	Yes -- Section 4(f) De Minimis Finding	Yes-5/23/2021	Not required per 23 CFR 774.5	SHPO-OWJ. Caltrans did not provide 774.5 notice to SHPO that concurrence on FNAE would be used to make the de minimis finding.

 Meets criteria

 Problematic

 Fails criteria



Appendix B

SER Section 4(f) and Section 6(f) Guidance Review

Caltrans SER Volume 1, Chapter 20, Section 4(f)

1. Replace hyperlink:

23 CFR 774 - Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))

<https://www.govinfo.gov/app/details/CFR-2016-title23-vol1/CFR-2016-title23-vol1-part774>

Current link:

[eCFR :: 23 CFR Part 774 -- Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites \(Section 4\(F\)\)](https://www.ecfr.gov/current/title-23/chapter-I/subchapter-B/part-774) (2018, current)

2. Remove hyperlink:

<https://www.fhwa.dot.gov/wadiv/envir/manual0505/manual0505sec5.cfm>

FHWA Checklist 1997 (Dan Harris, FHWA Western Resource Center) – this list predates the 2008 regulatory revisions and does not address *de minimis* or regulatory changes

3. Consider removing or replacing:

Section 4(f) Final Rule: New Guidance on a Complex Regulation (2008—slightly out-of-date)

https://www.environment.fhwa.dot.gov/pubs_resources_tools/publications/newsletters/mar08nl.aspx

Consider replacing with:

Back to the Basics: Section 4(f) & 23 CFR 774 Updates



https://www.environment.fhwa.dot.gov/pubs_resources_tools/publications/newsletters/july20nl.aspx

4. Change:

“FHWA Guidebook on Section 4(f)” – SER, Chapter 20 Section 4(f) under Laws, Regulations, and Guidance, should be “FHWA Environmental Toolkit, Section 4(f)”. There is no “FHWA Guidebook on Section 4(f)”. Hyperlink works.

Caltrans SER Volume 1, Chapter 38 - NEPA Assignment – No corrections or changes

Caltrans SER Volume 2, Cultural Resources

Chapter 1: General Information-- No corrections or changes

Chapter 2: Cultural Resources Procedures -- No corrections or changes

5. Replace hyperlink:

Exhibit 1.5: Section 4(f) and Cultural Resources—update regulations (see PDF for location)

23 CFR 774 - Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))

<https://www.govinfo.gov/app/details/CFR-2016-title23-vol1/CFR-2016-title23-vol1-part774>

Current link:

[eCFR :: 23 CFR Part 774 -- Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites \(Section 4\(F\)\)](#) (current)

Local Assistance Procedures Manual (LAPM), Chapter 6: Environmental Procedures

1. Change:

Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; page 4 of 76, should include “Section 6(f)”.



U.S. Department
of Transportation
**Federal Highway
Administration**



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