GENERAL

There are several steps that must be taken for all projects to receive proper environmental and cultural clearance. Items that may need to be addressed include historical buildings, archaeological sites, historic bridges, conversion of farmland, endangered species, wetlands, crossing of Corps of Engineers controlled waterways, and parklands and historical sites. Described within this chapter are procedures to address each of these topics.

The Environmental Impact Statement, Categorical Exclusion, or Environmental Assessment must be approved by FHWA prior to 35% plan completion. (Note that the Section 106 (Archaeological) clearance must also be approved before right of way acquisition can begin).

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Classes of Action

Three classes of actions prescribe the level of documentation required in the NEPA process.

1. Class I - Environmental Impact Statement (EIS). An EIS will be required for projects such as a new controlled access freeway, a highway project of four or more lanes on a new location, new construction or extension of fixed rail transit facilities, or new construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

2. Class II - Categorical Exclusions (CE). A CE will typically be sufficient for projects that do not individually or cumulatively have a significant environmental effect.

3. Class III - Environmental Assessment (EA). An EA will be required for projects in which the environmental impact is not clearly established. Projects such as a 2-lane relocation or adding of additional lanes to an existing highway corridor will require an EA.

A Project Data Form (Fig. III-1-1) is required for all federal-aid projects. A CE form (Fig. IV-1) may be required if the project does not qualify for a Programmatic CE.

ENVIRONMENTAL ASSESSMENT

For projects that require an EA, the local agency shall at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which will be performed currently with the EA. The local agency shall accomplish this through an early coordination process or through a scoping process. Public involvement shall be summarized and

the results of agency coordination shall be included in the EA. Agencies with jurisdiction by law (such as the U.S. Army Corps of Engineers or Coast Guard) must be requested to become cooperating agencies.

The EA shall be a concise document and shall not contain long descriptions or detailed information that may have been gathered or analyses which may have been conducted for the proposed action. FHWA Technical Advisory T6640.8A "Guidance for Preparing and Processing Environmental and Section 4(f) Documents" describes the information that will be contained in an EA and the format.

The EA is subject to FHWA approval before it is made available to the public as an FHWA document. The draft EA must be submitted to FHWA for approval prior to the public hearing.

The EA need not be circulated for comment but the document must be made available for public inspection at the local agency's office and at the appropriate FHWA field offices in accordance with the following two paragraphs of this section. Notice of availability of the EA, briefly describing the project and its impacts, shall be sent by the local agency to the affected units of Federal, State, and local government.

When a public hearing is held as a part of the application for federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained to review. Comments shall be submitted in writing to the local agency within 30 days of the availability of the EA unless FHWA determines that a different period is warranted.

When a public hearing is not held, the city shall place a notice in the local newspapers similar to a public hearing notice and at a similar stage of development of the project, advising the public of the availability of the EA and where information concerning the project may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the local agency within 30 days of the publication of the notice unless FHWA determines, that a different period is warranted.

If no significant impacts are identified, the local agency shall furnish six copies of the revised EA, the public hearing transcript if applicable, copies of any comments received and responses thereto, and recommend a Finding of No Significant Impact (FONSI). The EA shall also document compliance with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met.

If at any point in the EA process, FHWA determines that the action is likely to have a significant impact, the local agency will be required to prepare an EIS.

FINDINGS OF NO SIGNIFICANT IMPACT (FONSI)

FHWA will review the EA and any public hearing comments and other comments received regarding the EA. If FHWA agrees with the local agency's recommendations, it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents. A copy of the signed FONSI will be returned to the local agency.

After a FONSI has been made by FHWA, a notice of availability of the FONSI shall be sent to the affected units of federal, state, and local government and the document shall be available from the local agency and FHWA upon request by the public.

ENVIRONMENTAL IMPACT STATEMENTS

Draft Environmental Impact Statement

A draft EIS shall be prepared when FHWA determines that the action is likely to cause significant impacts on the environment. When the decision has been made by FHWA to prepare an EIS, the local agency will prepare and FHWA will issue a Notice Of Intent for publication in the Federal Register. Local agencies are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.

After publication of the Notice of Intent, the local agency will begin a scoping process. The scoping process will be used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS. Scoping is normally achieved through public and agency involvement procedures. If a scoping meeting is to be held, it will be announced in the FHWA's Notice of Intent and by appropriate means at the local level. Agencies with jurisdiction by law must be requested to become cooperating agencies.

The draft EIS shall be prepared by the local agency with appropriate guidance and participation by FHWA. The draft EIS shall evaluate all reasonable alternatives to the action and discuss the reasons why other alternatives, which may have been considered, were eliminated from detailed study. The draft EIS shall also summarize the studies, reviews, consultation and coordination required by environmental laws or Executive Orders to the extent appropriate at this stage in the environmental process.

The FHWA, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet.

A lead, joint lead, or a cooperating agency shall be responsible for printing the EIS. The initial printing of the draft EIS shall be in sufficient quantity to meet requirements for copies which can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be

furnished free of charge. However, with FHWA concurrence, the party requesting the draft EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

The draft EIS shall be circulated for comment by the local agency on behalf of FHWA. the draft EIS shall be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency. The current listing of agencies and addresses will be provided by MoDOT when requested by the local agency. The draft EIS shall be transmitted to:

1. Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;

2. Federal, state and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in the action. Copies shall be provided directly to appropriate state and local agencies, and to the state intergovernmental review contacts established under Executive Order 12372; and

3. States and federal land management entities that may be significantly affected by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such state or entity accompanied by a request that such state or entity advise the FHWA in writing of any disagreement with the evaluation of impacts in the statement. FHWA will furnish the comments received to the local agency along with a written assessment of any disagreements for incorporation into the final EIS.

Whenever a public hearing is held, the draft EIS shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS shall be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in newspaper similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments will be sent.

The Federal Register public availability notice shall establish a period of not less than 45 days for the return of comments on the draft EIS. The notice and the draft EIS transmittal letter shall identify where comments are to be sent.

FINAL ENVIRONMENTAL IMPACT STATEMENTS

After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the local agency. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action.

Mitigation measures presented as commitments in the final EIS will be incorporated into the project. The final EIS will also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirement can be met.

Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS shall identify those issues and the consultations and other efforts made to resolve them. The final EIS will be reviewed for legal sufficiency prior to FHWA approval.

FHWA will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted to the FHWA's Headquarters for prior concurrence;

1. Any action for which the FHWA determines that the final EIS will be reviewed at the Headquarters office. This would typically occur when the headquarters office determines that (a) additional coordination with other federal, state or local governmental agencies is needed; (b) the social, economic, or environmental impacts of the action may need to be more fully explored; (c) the impacts of the proposed action are usually great; (d) major issues remain unresolved; or (e) the action involves national policy issues.

2. Any action to which a federal, state or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

Approval of the final EIS does not commit the FHWA to approve any future request to fund the preferred alternative.

The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with FHWA concurrence, the party requesting the final EIS may be charged a fee that is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

The final EIS shall be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document if filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes. The local agency shall also publish a notice of availability in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When filed with EPA, the final EIS shall be available for public review at the local agency's offices and at appropriate FHWA offices. A copy will also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.

Substantive comments are addressed in a Record of Decision (ROD) prepared by local agency. The ROD also discusses the alternates that were considered for the project, identifies the selected alternate, and discusses why this alternate was selected. The ROD discusses the measures that have been adopted to minimize harm, such as mitigation plans, and details any monitoring and enforcement program, if applicable. After comments are satisfactorily addressed, the ROD is presented to FHWA for approval. Once the ROD is signed by FHWA, the local agency can approve the location of the project.

RE-EVALUATIONS

A written evaluation of the draft EIS shall be prepared by the local agency in cooperation with FHWA if an acceptable final EIS is not submitted to FHWA within 3 years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether a supplement to the draft EIS or a new draft EIS is needed.

A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications, and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major FHWA approval or grant.

After approval of the EIS, FONSI, or CE designation, the local agency shall consult with FHWA prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested FHWA action. These consultations will be documented when determined necessary by FHWA.

SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENTS

A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever FHWA determines that:

1. Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or

2. New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

However, a supplemental EIS will not be necessary where:

1. The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or

2. FHWA decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative.

Where FHWA is uncertain of the significance of the new impacts, the local agency will develop appropriate environmental studies or, if FHWA deems appropriate, an EA to assess the impacts of the changes, new information, or new circumstances. If based upon the studies, FHWA determines that a supplemental EIS is not necessary, FHWA shall so indicate in the project file.

A supplement is to be developed using the same process and format (i.e., draft EIS and final EIS as an original EIS except that scoping is not required.

In some cases a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location of design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

1. Prevent the granting of new approvals;

2. Require the withdrawal of previous approvals; or

3. Require the suspension of project activities; for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, FHWA shall suspend any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.

CONTENTS OF DRAFT AND FINAL ENVIRONMENTAL IMPACT STATEMENTS

If an environmental impact statement is to be prepared by the local agency for any action, guidance is available in FHWA Technical Advisory #T6640.8A. This document is available from FHWA or MoDOT upon request or the web site.

Federal agencies comment on draft environmental documents. FHWA will advise the local agency which agencies need to be contacted for comments on draft environmental documents. These along with a current list, may be obtained from MoDOT.

The following is required when completing CE2, EA, and EIS documents.

SOCIAL/ECONOMIC/ENVIRONMENTAL JUSTICE:

The following are fundamental environmental justice principles: To avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low income populations; To ensure the full and fair

participation by all potentially affected communities in the transportation decision-making process; To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations. Please go to the following website for more information. http://www.fhwa.dot.gov/environment/ej2000.htm.

The LPA will provide a brief description of impacts, if any, to minorities, low-income populations, and the community in general. Most projects will be small and will have minimal to no impacts. If there are any commercial or residential displacements the following text must be included in the CE2 and followed by the LPA: The Project Sponsor will conduct the acquisition and relocation of affected residential and commercial properties in accordance with the relocation procedures established in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (referred to as the Uniform Act) of 1970, as amended. The Uniform Act and Missouri state laws require that just compensation be paid to the owner(s) of private property taken for public use. The Uniform Act is carried out without discrimination and in compliance with Title VI (the Civil Rights Act of 1964), the President's Executive Order on Environmental Justice, and the Americans with Disabilities Act.

The LPA will provide relocation services to all impacted households without discrimination under guidance of the Uniform Act.

FARMLAND PROTECTION POLICY ACT

The Farmland Protection Policy Act requires that agencies identify and take into account the adverse effects of federal projects on farmland. The Farmland Protection Act requires that all federally funded projects be assessed for the potential to convert farmland to non-farming purposes. Is the additional ROW the project requires within city limits? If it is outside of the city limits an AD-1006 or SCS-CPA-106 form (for corridor type projects) farmland conversion will be necessary. The form is then forwarded to the Natural Resources Conservation Service (NRCS) for agency review.

Local agencies shall assess the impact of their projects in cooperation with the local National Resources Conservation Services [NRCS, formerly the Soil Conservation Service (SCS)] office and submit Form Ad-1006 (Figure IV-2) along with the preliminary layouts. This assessment is not necessary if no additional right-of-way is needed. Also, if the land affected is entirely developed for uses other than agriculture, the local agency may document this in their files and no further action is needed.

Forms can be obtained from NRCS. Reproduction of forms is also permissible. Parts I and III shall be filled out by the local agency and three copies submitted to NRCS. The acreage of new right-of-way and borrow areas shall be shown. The submittal shall request that NRCS fill out Parts II, IV and V. NRCS assistance can also be sought in filling out Part VI if desired. The request shall also ask NRCS to advise if any land considered to be farmland is subject to any state or local government policy or programs to protect farmland. If the total rating exceeds 160 points, the Farmland Protection Policy Act mandates further consideration of protection. Utilize the bottom portion of Form AD-1006 labeled

"Reason for Selection" to document reasons why this site has been selected over the other alternative sites.

The local agency shall then complete the form, consider the impacts of converting farmland to nonagricultural use, and submit one copy of the form along with the preliminary layout. If the project is classified as other than a categorical exclusion, the completed form shall be included in the EIS or EA.

Instructions for completing Form AD-1006 are included in Figure IV-2.

This completes the processing. Under present directives, the local agency will have satisfied the requirements if they have considered the impact of converting any farmland to non-agricultural use and submitted the completed form. The completed form shall be placed in the contract proposal.

STATE EMERGENCY MANAGEMENT AGENCY (SEMA)/FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) BUYOUT LANDS:

The Flood Disaster Protection Act of 1988 (The Stafford Act), identified the use of disaster relief funds under Section 404 for the Hazard Mitigation Grant Program (HMGP), including the acquisition and relocation of flood damaged property. The Volkmer Bill further expanded the use of HMGP funds under Section 404 to "Buyout" flood damaged property, which had been affected by the Great Flood of 1993.

There are numerous restrictions on these FEMA buyout properties. No structures or improvements may be erected on these properties unless they are open on all sides. The site shall be used only for open space purposes, and shall stay in public ownership. These conditions and restrictions (among others), along with the right to enforce same, are deemed to be covenants running with the land in perpetuity and are binding on subsequent successors, grantees, or assigns. Any decision involving these properties should take into consideration that 2-3 years may be necessary to process an exemption from FEMA to utilize this parcel. This exemption would likely be a permanent easement rather than a transfer of property.

404 PERMITS

If a project involves crossing a stream under jurisdiction of the U.S. Army Corps of Engineers, a 404 Permit or the written waiver thereof is necessary. Section 401 Water Quality Certification or the waiver thereof by the Missouri Department of Natural Resources for the stream crossing is also necessary prior to the Corps issuing a permit. For individual permits, a single application sent to the Corps of Engineers will be forwarded to the DNR when the Corps is ready to issue a Section 404 Permit. The permit and conditions covered therein shall be included in the construction contract. A 404 Permit application form is attached as Figure IV-6. The form can also be found on the US Army Corps of Engineers' web page (http://www.poa.usace.army.mil/reg/ip-application-4345.doc). Section 404 permit is required for fill in streams, lakes, ponds, wetlands and other waters of the U.S. The

Corps of Engineers is the final judge of the extent of their jurisdiction and the appropriate permit for all regulated activities. For Nationwide permits, a request for DNR's Section 401 Water Quality Certification shall be made at the same time as the 404 application to the COE.

A Section 404 Permit is also required if any material is placed in "Wetlands" outside the limits of the stream ordinary high water lines. "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetland impacts or channelization often trigger a longer review process and more stringent permit conditions. They may also result in denial of a permit.

If a Nationwide Permit or Regional General Permit authorizes a project, written verification that the Nationwide Permit or General Permit applies must be obtained from the Corps of Engineers. All general and project specific conditions mentioned in the written response from the Corps of Engineers shall be included in all contract proposals. A list of Nationwide Permit conditions appropriate for projects in Missouri is included as Figure IV-7. An additional condition imposed by the St. Louis District Corps of Engineers for all Nationwide Permits is also listed.

The General Conditions, taken from the Federal Register Volume 67 No. 10, January 15, 2002, are to be followed during the design and construction of a project in order for any authorization by and NWP to be valid. See link to Federal Register: http://fr.cos.com/.

AIR QUALITY REQUIREMENTS

St. Louis and Kansas City MPO Areas:

The LPA shall work in cooperation with the MPO to determine the level of analysis required.

All Other Parts of the State:

A detailed air quality analysis, for an inclusion in an environmental document, need only be prepared on federally funded highway projects when the predicted average daily traffic volume of the project exceeds 54,000 vehicles in the year of project construction or 72,000 in the 20th year following the project construction. Projects located within a MPO must include the TIP Number in the air quality analysis.

When project traffic volumes exceed the present or predicted values, a microscale air quality analysis using the graphical method of the CALINE 3 model shall be performed to estimate carbon monoxide concentration produced by mobile source emissions. Hydrocarbon and nitrogen oxide mobile source emissions analysis is not required. The highest average daily vehicular traffic volumes, within the limits of the project, in conjunction with worst conditions for wind angle and velocity, atmospheric stability, and receptor location shall be used in the analysis.

A sample worksheet (Figure IV-8), FHWA technical advisory tables (Figures IV-9), and CALINE 3 graphs (Figure IV-10 and Figure IV-11) are included at the end of this section. Graphs are for the worst atmospheric conditions.

When an analysis is required, a statement concerning air quality shall be included in the environmental document. A sample statement is included as Figure IV-12.

NOISE STANDARDS AND NOISE ABATEMENT

A noise analysis is normally required to be conducted by the local agency during the project development stage. A noise analysis will not be necessary for the following types of projects since they are not likely to result in a significant increase in highway traffic noise:

1. Minor widening and resurfacing.

2. Signalization projects including intersection and ramp terminal widening.

3. Replacement of a bridge in proximity of the existing structure.

On projects involving partial or full control of access, environmental statements must address noise abatement at those receptors for which abatement levels are impractical or unfeasible. These must be approved prior to submitting final plans. The procedure for conducting a noise analysis is as follows:

1. Existing activities or land uses, which may be affected by the project, are identified. The analysis may be terminated if it is analytically determined that activities or developed land uses are not sufficiently close to the proposed project to be adversely affected by the noise.

2. Predict the traffic generated noise levels for each alternative being studied. The weighted sound pressure level reference used is DBA. The sound level shall be expressed as L_{eq}, which is the average equivalent energy sound level. The approved basis for computing noise levels is the FHWA's "Highway Traffic Noise Prediction Model". A method of displaying the predicted noise levels is to select locations on aerial photographs or preliminary maps, such as those used in reconnaissance reports and preliminary design layouts, and show the computed general highway noise levels at these locations.

3. Determine the existing noise levels either by field measurement or by the Noise Prediction Method.

4. Compare the predicted noise levels for each alternative under study, with existing noise levels and the abatement criteria noise levels. It is also desirable to predict noise levels for a 'do-nothing' alternative.

5. Evaluate alternative noise abatement measures for reducing or eliminating the noise impact for activities or developed lands.

6. Identify those lengths of roadway for each side of the highway and individual land uses where noise abatement measures appear impractical or not prudent.

7. Prepare a listing of abatement measures and locations based on the findings of the noise analysis items 1 thru 6 above. These shall be identified in the environmental document. Noise impacts for which no apparent solution is available are also to be listed. Plans and specifications are to include those noise abatement measures which are reasonable and feasible.

FHWA concurrence in the environmental document will constitute its determination that noise abatement measures have been adequately considered.

Noise abatement measures are not required for lands that are undeveloped at the time of public knowledge of the proposed highway project.

There are numerous abatement measures that can be considered. Obvious measures are relocating the highway to a less sensitive area or shifting the alignment. Other procedures, such as purchasing additional right-of-way to increase the distance from the noise source to the receptor, reducing operating speed, reducing the grade of road, and using vegetation screens can reduce the noise levels. Other more costly measures include erecting sound barriers, and the placement of earth berms.

SECTION 4(f)

Section 4(f) lands are lands that are publicly owned or held by means of a long-term lease and are intended for use as public parks, recreation areas, wildlife and waterfowl refuges, or any significant public or private historical site.

Projects will be examined to see if the project will require the use of these lands or have an impact on these lands. This evaluation is separate from the NEPA classes discussed previously. However, if Section 4(f) lands are to be impacted by a project, the Section 4(f) evaluation will be included in the EA or EIS or with a CE.

A Section 4(f) has to completed and approved by FHWA before the CE2 can be approved. See Figure IV-10 for the LPA Section 4(f) compliance worksheet (parks/refuges only) form.

SECTION 4(f) EVALUATIONS

FHWA may not approve the use of land (permanent or temporary) from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

1. There is no feasible and prudent alternative to the use of land from the property; and

2. The action includes all possible planning to minimize harm to the property resulting from such use.

Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

FHWA will determine the application of Section 4(f). FHWA has approved four nationwide programmatic Section 4(f) evaluations. The first one covers U.S. DOT assisted highway projects which use minor amounts of land from publicly owned public parks, recreation areas, and wildlife and waterfowl refuges. The second covers U.S. DOT assisted highway projects that use minor amounts of land from historic sites that are on or are eligible for inclusion on the National Register of Historic Places.

The third covers the use of historic bridges. The fourth is for independent bikeway or walkway construction, which requires the use of recreation or parkland. Utilization of nationwide programmatic evaluations can streamline the processing of qualifying projects by eliminating a certain amount of project-by-project internal review and interagency coordination. This programmatic Section 4(f) evaluation satisfies the requirements of Section 4(f) for all projects that meet a certain applicability criteria. No individual Section 4(f) evaluations need be prepared for such projects.

The FHWA Division Administrator is responsible for reviewing each individual project to determine that it meets the criteria and procedures of the programmatic Section 4(f). Documentation will be roughly equivalent in detail to that produced for an individual Section 4(f) evaluation. It shall demonstrate that the applicability criteria for nationwide evaluation have been met, that avoidance alternatives have been evaluated, that the findings contained in the nationwide evaluation fit the project facts, and that appropriate mitigation measures have been included. It shall also include correspondence demonstrating that the official(s) with jurisdiction over the Section 4(f) lands agree with the assessment of impacts and with the proposed mitigation measures. This documentation shall be self-contained and self-explanatory since it will be available to the public upon request. The programmatic section 4(f) cannot be used on EIS projects, with the one exception being the programmatic 4(f) for historic bridges.

The criteria of applicability for the programmatic Section 4(f) evaluations are available from FHWA or MoDOT.

Any use of lands from a Section 4(f) property shall be evaluated early in the development of the project when alternatives to the proposed project are under study.

Consideration under Section 4(f) is not required when the federal, state, or local officials having jurisdiction over a park, recreation area or refuge determine that the entire site is not significant. In the absence of such a determination, the Section 4(f) land will be presumed significant.

When federal lands or other public land holdings (e.g. state forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, Section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being significant park, recreation, or wildlife and waterfowl refuge purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. FHWA will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

In determining the application of Section 4(f) to historic sites, the local agency shall consult with the SHPO and appropriate local officials to identify all properties on or eligible for National Register of Historic Places (National Register). The Section 4(f) requirements apply only to sites on or eligible for the National Register.

When adequate support exists for a Section 4(f) determination, the discussion in the final EIS, FONSI, or separate Section 4(f) evaluation shall specifically address:

1. The reasons why the alternatives to avoid Section 4(f) property are not feasible and prudent; and

2. All measures which will be taken to minimize harm to the Section 4(f) property.

The final Section 4(f) evaluation will be reviewed for legal sufficiency by FHWA.

For actions processed with EIS's, FHWA will make the Section 4(f) approval either in its approval of the final EIS or in a Record of Decision (ROD). Where Section 4(f) approval is documented in the final EIS, FHWA will summarize the basis for its Section 4(f) approval in the ROD. Actions requiring the use of Section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notified by FHWA of Section 4(f) approval. For these actions, any required Section 4(f) approval will be documented separately.

Circulation of a separate Section 4(f) evaluation will be required when:

1. A proposed modification of the alignment or design would require the use of Section 4(f) property after the CE, FONSI, draft EIS, or final EIS has been processed;

2. FHWA determines, after processing the CE, FONSI, draft EIS, or final EIS that Section 4(f) applies to a property;

3. A proposed modification of the alignment, design, or measures to minimize harm (after the

original Section 4(f) approval) would result in a substantial increase in the amount of Section 4(f) land use, a substantial increase in the adverse impacts to Section 4(f) land, or a substantial reduction in mitigation measures; or

4. Another agency is the lead agency for the NEPA process, unless another DOT element is preparing the Section 4(f) evaluation.

If FHWA determines that Section 4(f) is applicable after the CE, FONSI, or final EIS has been processed, the decision to prepare and circulate a Section 4(f) evaluation will not necessarily require the preparation of a new or supplementary environmental document. Where a separate circulated Section 4(f) evaluation is prepared, such evaluation does not necessarily:

1. Prevent the grant of new approvals;

2. Require the withdrawal of previous approvals; or

3. Require the suspension of project activities; for any activity not affected by the Section 4(f) evaluation.

CONTENT OF A SECTION 4(f) EVALUATION

A draft Section 4(f) evaluation shall include the following information:

1. Proposed Action: Where a separate Section 4(f) evaluation is prepared, describe the proposed project and explain the purpose and need for the project.

2. Section 4(f) Property: Describe each Section 4(f) resource that would be used by any alternative under consideration The following information will be provided:

    a. Detailed map or drawing of sufficient scale to identify the relationship of the alternatives to the Section 4(f) property.

    b. Size (meters square) and location (maps or other exhibits such as photographs, sketches, etc.) of the affected Section 4(f) property.

    c. Ownership (city, county, state, etc.) and type of Section 4(f) property (park, recreation, historic, etc.).

    d. Function of or available activities on the property (swimming, golfing, etc.).

    e. Description and location off all existing and planned facilities (ball diamonds, tennis courts, etc.).

f. Access (pedestrian, vehicular) and usage (approximate number of users / visitors, etc.).

g. Relationship to other similarly used lands in the vicinity.

h. Applicable clauses affecting the ownership, such as lease, easement, covenants, restrictions, or conditions, including forfeiture.

i. Unusual characteristics of the Section 4(f) property (flooding problems, terrain conditions, or other features) that either reduce or enhance the value of all or part of the property.

j. Any other sources of federal funding.

3. Impacts on the Section 4(f) Property (ies): Discuss the impacts on the Section 4(f) property for each alternative. Where an alternative uses land from more than one Section 4(f) property, a summary table shall be included to compare the various impacts of the alternatives. Impacts such as noise, which can be quantified shall be quantified. Other impacts (such as visual intrusion) which cannot be quantified shall be described.

4. Avoidance Alternatives: Identify and evaluate location and design alternatives that would avoid the Section 4(f) property. Generally, this would include alternatives to either side of the property. Where an alternative would impact more than one Section 4(f) property, the analysis needs to evaluate alternatives which avoid each and all properties. The design alternatives shall be in the immediate area of the property and consider minor alignment shifts, a reduced facility, retaining structures, etc. individually or in combination, as appropriate.

5. Measures to Minimize Harm: Discuss all possible measures that are available to minimize the impacts of the proposed project on the Section 4(f) lands. Detailed discussions of mitigation measures in the EIS or EA may be referenced and appropriately summarized rather than repeated.

6. Coordination: Discuss the results of preliminary coordination with the public officials having jurisdiction over the Section 4(f) property and with regional (or local) offices of DOI and as appropriate, the Regional Office of HUD and the Forest Supervisor of the affected National Forest. Generally, the coordination shall include discussion of avoidance alternatives, impacts to the property, and measures to minimize harm. In addition, the coordination with the public official having jurisdiction shall include, where necessary, a discussion of significance and primary use of the property.

NOTE: The conclusion that there are no feasible and prudent alternatives is not normally addressed at the draft Section 4(f) evaluation stage. Such conclusion is made only after the draft Section 4(f) evaluation has been circulated and coordinated and any identified issues adequately evaluated.

A final Section 4(f) Evaluation must contain the following information:

1. All the above information for a draft evaluation.

2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the Section 4(f) land. The supporting information must demonstrate that "there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes". This language shall appear in the documentation together with the supporting information.

3. A discussion of the basis for concluding that the proposed project includes all possible planning to minimize harm to the Section 4(f) property. When there are no feasible and prudent alternatives which avoid the use of Section 4(f) land, the final Section 4(f) evaluation must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm on the Section 4(f) resources after considering mitigation to the Section 4(f) resources.

4. A summary of the appropriate formal coordination with the Headquarters Offices of DOI (and, or appropriate agency under that department) and, as appropriate, the involved offices of USDA and HUD.

5. Copies of all formal coordination comments and a summary of other relevant Section 4(f) comments received and an analysis and response to any questions raised. Where new alternatives or modifications to existing alternatives are identified and will not be given further consideration, the basis for dismissing these alternatives shall be provided and supported by factual information. Where Section 6(f) land (i.e. land purchased using funds provided by the Land and Water Conservation Fund Act) is involved, the National Park Service's position on the land transfer shall be documented.

6. Concluding statement as follows: "Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the (identify Section 4(f) property) and the proposed project includes all possible planning to minimize harm to the (identify the Section 4(f) property) resulting from such use."

HISTORIC AND ARCHAEOLOGICAL SITES AND HISTORIC BRIDGES - SECTION 106

Consideration shall be given at preliminary engineering stage on the possible effect of the project on historic buildings, archaeological sites and historic bridges that are on or eligible for the National Register of Historic Places. It is the local agency's responsibility to obtain clearance on these matters from the Missouri Department of Natural Resources. DNR makes a questionnaire (copy included as Figure IV-3) available which shall be submitted to DNR with a request for clearance. If the project contains a bridge, a completed bridge inventory survey form must also be submitted to DNR along

with the questionnaire. For projects utilizing ground which has already been disturbed, such as those on existing alignments, clearance can likely be obtained by submitting the questionnaire. Projects on new alignment, projects involving historic bridges on old or new alignments, or projects involving separate borrow sites may require further effort, such as hiring a trained professional to examine the project site and/or searching the records of DNR or the University of Missouri at Columbia for the existence of any known archaeological sites.

FHWA has entered into agreements with the State Historic Preservation Officer (SHPO) of the Missouri Department of Natural Resources, the Advisory Council for Historic Preservation (ACHP) and MoDOT for procedures to clear historic buildings, archaeological sites and historic bridges. These procedures (Figure IV-4) expedite the process by establishing thresholds for investigation and reducing the amount of documentation previously required. A sample Memorandum of Agreement (MOA) and information to accompany are attached as Figure IV-5. Copies of photographs of all bridges in the state have been furnished to DNR by MoDOT, along with copies of the Structural Inventory and Appraisal Sheet (Plate 14) for each bridge.

ENDANGERED SPECIES ACT

Threatened and Endangered Species: The Endangered Species Act, The Migratory Bird Treaty Act and other State and Federal laws protect plants and animals and their habitats. Local Agencies shall submit the following to Missouri Department of Conservation (MDC):

- Brief description of project (i.e. bridge replacement)
- Explain what is involved (i.e. tree clearing, bridge piers in river, etc.)
- Number of acres impacted (i.e. clear 20 acres of trees)
- Include a map(s) showing location of project
- Include pictures if available

Policy and Coordination Division
Missouri Department of Conservation
2901 W. Truman Blvd.
P.O. Box 180
Jefferson City, MO 65102
(573) 751-4115

The MDC will respond with a letter indicating if any rare species occur in the area. If state rare species occur near the site further coordination with the MDC will be necessary to minimize impacts to these species. If federally listed species are known to occur near the site the LPA will need to coordinate with the U.S. Fish and Wildlife Service to avoid impacts to the species.

Charlie Scott, Field Supervisor
U.S. Fish and Wildlife Service
Columbia Field Office
101 Park DeVille Drive, Suite A
Columbia, MO 65203-0007

State MDC's findings and attach correspondence and U.S. Fish and Wildlife if required.

HAZARDOUS WASTE

There are several laws and regulations that deal with hazardous waste and both underground and aboveground storage tanks. Properties containing hazardous and nonhazardous solid wastes are frequently encountered in new right of way acquisitions. Some properties with extensive contamination and legal liabilities may warrant avoidance. For most sites, however, early identification and planning will allow selection of feasible alternatives with incidental costs. In addressing hazardous and solid wastes, the goals are to: 1) avoid unacceptable cleanup cost and legal liability, and 2) comply with federal and state laws and regulations regarding cleanup. The most common type of hazardous waste site encountered is a petroleum underground storage tank (UST) site. Local Public agencies shall evaluate proposed corridors for hazardous and solid waste sites. Below are a list of possible sources.

_*_ Federal Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) http://www.epa.gov/superfund/sites, select CERCLIS Hazardous Waste sites

_*_ MDNR Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites in Missouri http://www.dnr.state.mo.us/

__ MDNR Missouri Hazardous Waste Generators List http://www.dnr.state.mo.us/

__ MDNR Missouri Hazardous Waste Treatment, Storage, and Disposal Facilities List http://www.dnr.state.mo.us/

__ MDNR Solid Waste Facilities List http://www.dnr.state.mo.us/

_*_ MDNR Registered Underground Petroleum Storage Tank List currently unavailable on DNR website, contact DNR

_*_ MDNR Leaking Underground Storage Tank List currently unavailable on DNR website, contact DNR

_*_ Center for Agricultural, Resource and Environmental Systems www.cares.missouri.edu/, go to map room, select Interactive maps by Arc Ims, select county .etc)

_*_ Petroleum Storage Tank Insurance Fund http://www.pstif.org/ select tank site

_*_ National Response Center Hotline http://www.nrc.uscg.mil/nrchp.html(select service, then query/download-select Standard Report to run query)

_*_ EPA Envirofacts http://www.epa.gov/enviro/index_java.htm, (select maps, then enviromapper-select Go to Enviromapper

__ Other lists as appropriate

Coordination with EPA and MDNR will help to determine liability, regulatory requirements, and potential cleanup costs. The potential to encounter unknown wastes from sites not identified through database and/or site reviews by the LPA, should always be a consideration. Any unknown sites that are found during project construction shall be handled in accordance with Federal and State Laws and Regulations.

Comments: Include resource agencies response letters.

NOTE: A project scope change requires the NEPA Classification/Approval to be reevaluated regardless of project stage.