**Updated February 2023**

 **Regs from ACHP Website 8/5/04**

DOCUMENTATION FOR DETERMINATION OF

NO ADVERSE EFFECT

GUIDANCE & TEMPLATE

**NOTE: This file is in three parts:**

**1. This page contains the overall description of this file. DO NOT INCLUDE THIS PAGE AS PART OF YOUR SUBMITTAL.**

**2. The next section provides guidance on completing the Documentation For Determination Of No Adverse Effect (DNAE). The annotations and explanations are intended to be helpful: DO NOT INCLUDE THE ANNOTATIONS OR INSTRUCTIONS AS PART OF YOUR SUBMITTAL.**

**3. The third section is a blank template to use for your project. This format is REQUIRED for submission of this Documentation to the Wisconsin Department of Transportation (WisDOT) Cultural Resources Team (CRT). It is based on the requirements put forth in 36 CFR 800.11. Documentation Standards, (e) Finding of no adverse effect or adverse effect. You may condense Section 5 to include only those examples of adverse effect that apply to the project. However, you must include 1-2 sentences that explain why the other examples of adverse effect do not apply. Documents that do not follow this format will be returned for revision.**

**\*\*\*PLEASE KEEP THE SECTION NUMBERING IN THE DOCUMENT\*\*\***

WisDOT Project ID ####-##-##

WHS# (If Known)

Project Termini

Highway, Town Road or Facility Name

Municipality, County

**DOCUMENTATION FOR DETERMINATION OF**

**NO ADVERSE EFFECT**

**GUIDANCE**

**1. Description of the undertaking**

Specify the Federal involvement and the Area of Potential Effects (APE). This is not a Purpose and Need statement – it should clearly identify the overall project activities. Use the most current project information to provide a concise but thorough summary of what the proposed project activities are, including:

* Type of project, i.e. realignment, reconstruction, bridge replacement
* Project location, i.e. city or town, county
* Project corridor and termini
* Project length
* APE
* Existing and proposed alignment details, i.e. number of lanes; width of lanes, sidewalk, terrace and right-of-way
* Total amount(s) of right-of-way and temporary limited easements that will be needed for the project

Make sure the summary is complete enough so that those unfamiliar with the project can understand it. Keep it simple and avoid acronyms and engineering terms. The information in this summary also needs to set up your explanations in Section 5, below. Coordinate with the Project Manager to determine that the most current project details and plan sheets are included.

**2. Description of steps taken to identify historic properties**

Summarize the reconnaissance and intensive surveys for both historical and archeological resources, including survey dates and results. If a survey was not required, explain why. If a particular property was already listed in, or determined eligible for, the National Register, give the date it was listed or determined eligible.

EXAMPLE: An archaeology field survey was not required because the project was placed on the screening list for archaeology on January 2, 2020. An architecture/history reconnaissance survey was conducted in 2020 and one property in the APE, the Smith House, was recommended eligible for the National Register. A copy of the Determination of Eligibility (DOE) cover page is included in the Appendices.

NOTE: If the DNAE is submitted at the same time as the Section 106 form, archaeology survey report, Architecture/History Survey Form (AHSF) and DOEs, signed DOE cover pages will not be available to include in the Appendices. Please note in this section of the report that the DNAE is being submitted simultaneously with the Section 106 documentation.

**3. Description of the affected historic properties**

This section includes a brief physical description of the property and an explanation of why it is eligible for, or listed in, the National Register. This information can be obtained from the Wisconsin Historical Society DOE Form or National Register Nomination Form. The historic boundary should also be described, as well as a brief discussion of the setting and any contributing and noncontributing features related to the property, such as fences, bollards, and landscape elements that may be impacted by the project. Each eligible or listed property should be discussed in a separate paragraph. A historic boundary map and representative photographs should be included in the Appendices.

EXAMPLE: The Smith House, located at 123 Main Street, is recommended eligible for the National Register under *Criterion C: Architecture* as a highly intact example of the Queen Anne style. It was constructed in 1906 and features clapboard sheathing, complex massing, a wraparound porch, and corner turret. A contributing carriage house is located at the rear of the property and a contributing iron fence is located at the front of the property, set back two feet from the back edge of the sidewalk. The historic boundary along Main Street coincides with the back edge of the sidewalk and the current right-of-way line.

**4. Description of the undertaking’s effects on historic properties**

Explain the proposed project activities in relation to each eligible or listed property. Each eligible or listed property should be discussed in a separate paragraph. This detailed description must be tied to supplemental materials and should include all construction activities adjacent to the property, such as:

* Current and proposed right-of-way, including right-of-way and temporary limited easement acquisition details
* Current and proposed traffic lanes and shoulders
* Changes to the shoulder and/or curb and gutter
* Changes to the sidewalk and/or terrace
* Proposed tree removal
* Proposed alterations to access (relocated driveways, road closings, etc.)
* Proposed removal of contributing and/or noncontributing features
* Relation of project activities to the historic boundary, including amount of right-of-way or temporary limited easement acquisition

Supplemental materials may include:

* Plan sheet(s) with the historic property, historic boundary, and project activities clearly labeled
* Photographs showing the roadway features and landscape changes in front of the historic property
* Photographs that have been labeled to depict the proposed back-of-curb, sidewalk, terrace, or other project details

Consider and describe both direct and indirect effects. Direct effects are construction activities that impact a property. Generally, they demolish existing parts of the property or add highway-related elements to the property. Indirect effects generally do not impact the property itself but introduce changes to the wider area around a historic property. Indirect effects may include the removal of parking in a business district or closing of access and redirection of traffic patterns.

EXAMPLE: WisDOT proposes to widen and reconstruct Main Street in front of the Smith House. The roadway will expand from two, 11-foot lanes to two, 12-foot lanes. To accommodate this increase, the six-foot terrace will be reduced by one foot. The sidewalk will remain in place. The reduced terrace will result in the removal of one tree from the terrace in front of the Smith House. All work will occur within the current right-of-way and no new right-of-way is expected for this project. Driveway access will not be altered and the contributing fence will not be impacted by project activities. Please see the photos and plan sheets in the Appendices.

**5. An explanation of why the criteria of adverse effect were found inapplicable**

This section should focus on this project’s effects to the characteristics that qualify the property for listing in the National Register of Historic Places. This section should reference specific project details from Section 4. You must consider the seven aspects of integrity when applying the criteria of adverse effect and explain how proposed activities meet the appropriate Secretary of the Interior’s Standards. You do not need to walk the reader through each of the examples of adverse effect, only those that apply given the historic property, proposed activities, and potential effects. Use complete sentences for each item. Each property should be discussed in a separate paragraph.

Respond to the following and include the full headings and roman numerals in the documentation. Note: the subheadings reference the regulations at 36 CFR 800.5(a)(2).

*i. Physical destruction of or damage to all or part of the property.*

Example: Construction activities will be limited to the current right-of-way. Although a tree within the terrace is planned for removal, it is located outside the historic boundary. The proposed project activities will not result in damage to the Smith House.

*ii. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary’s Standards for the Treatment of Historic Properties (36 CFR part 68) and applicable guidelines.*

Example: The proposed project will not result in alterations to the Smith House or contributing features within the historic boundary.

Note: If the project will result in any of the activities listed above, outline the steps that will be taken to alter the property in a manner consistent with the Secretary’s Standards for the Treatment of Historic Properties.

*iii. Removal of the property from its historic location.*

Example: Neither the Smith House nor any of the contributing features within its historic boundary will be removed as a result of this project.

*iv. Change of the character of the property’s use or of physical features within the property’s setting that contribute to its historic significance.*

NOTE: It is important to explain why the proposed project improvements will not constitute an adverse effect on the property and tie this to the National Register Criteria under which the property is eligible.

Example: The Smith House is eligible for the National Register under Criterion C in the area of architecture. The proposed project will relocate the curb and gutter 1 foot closer to the Smith House, resulting in a reduced terrace and the removal of one tree located outside the historic boundary. The reduced terrace will not encroach on the historic boundary or impact the physical features that make the property eligible for the National Register. The project will not result in a change in the use of the Smith House as a residential property.

*v. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant historic features.*

Example: The reconstruction project, as designed, will not introduce visual, atmospheric, or audible elements that would diminish the integrity of the significant features of the Smith House.

Note: This criterion makes it more challenging to argue for No Adverse Effect for capacity expansion projects. Careful attention to the difference between characteristics that qualify a property for the National Register and other characteristics that people may value is essential here.

*vi. Neglect of a property that causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian Tribe or Native American organization.*

Example: There is no reasonable or foreseeable link between this project and any possible neglect of the Smith House resulting in deterioration. The Smith House will continue to be viable for use as a residential property.

*vii. Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property’s historic significance.*

Example: The Smith House is not now, nor has it ever has been, under Federal ownership or control.

**6. Copies or summaries of any views provided by consulting parties and the public**

Summarize all correspondence and any contacts with interested parties and the public relating to this project and the effects on historic properties. Copies of the correspondence and any responses received must be included in the Appendices. Include these items in a bulleted list, in chronological order.

NOTE: The notification letter that was sent out at the beginning of the Section 106 process to historical societies/preservation commissions does not constitute your consultation process. Please follow-up with the historical society/preservation commission after properties have been identified as eligible and specific project activities within/adjacent to the historic property are known.

As part of the effect documentation process, property owners and local historical societies/preservation commissions **must** be contacted regarding the project and their concerns on the effects to the historic properties. The project manager or consultant should explain all project activities and their impact on historic properties. It is important to ask if they have concerns regarding the project’s effects on historic resources. All conversations should be summarized in this section and documented with a memo that is included as supporting documentation in the Appendices.

If property owners and local historical societies/ preservation commissions are not contacted during preparation of this document, a copy of the draft document **must** be shared with the each party and a reasonable amount of time should be allowed for their review and comment. The final document cannot be submitted to WisDOT CRT until these parties have had an opportunity to provide comment.

EXAMPLES:

* In February 2020 a notification letter was sent to the Smith County Historical Society to inquire about historical and archaeological concerns regarding the project. A copy of the letter is included in the appendices.
* In July 2020 [Consultant X] spoke with John and Jane Smith, the owners of the Smith House, to discuss the project and obtain permission to access the property. They had no concerns regarding the reduced terrace and tree removal in front of their property.
* In July 2020 [Consultant X] wrote to the Smith County Historical Society to solicit input regarding the potential project impacts to the Smith House. The Smith County Historical Society had no concerns. A copy of the letter is included in the appendices.
* A public information meeting was held July 1, 2020, to solicit input regarding the proposed project. No comments were received regarding the Smith House. A copy of the sign in sheet is included in the Appendices.

**7. Application of *de minimis* Section 4(f) finding**

Include the following standard statement:

“Per 23 CFR 774, WisDOT, on behalf of FHWA, hereby informs SHPO that concurrence with “No historic properties affected” or “No Adverse Effect on historic properties” may be used in considering whether a de minimis Section 4(f) finding of temporary occupancy exception is appropriate. SHPO concurrence with the DNAE serves as acknowledgment of this official notification.

NOTE: FHWA has requested that company names and logos not be included in the document, including the cover. Please limit preparer information to this section:

**Documentation of No Adverse Effect Prepared By:**

|  |  |
| --- | --- |
| Name & Company: |  |
| Address: |  | Phone: |  |
| City: |  | State: |  | Zip: |  |
| Email: |  |  | Date: |  |
|  |  |  |  |  |  |
| Sub-contracting to: |  |
| Address: |  | Phone: |  |
| City: |  | State: |  | Zip: |  |
| Email: |  |  | Date: |  |

**REQUIRED SUPPORTING DOCUMENTATION:**

The following supporting documentation MUST be referenced in the report and included in the Appendices:

* Project location map that identifies the termini
* Project plan sheets showing activities in relation to each eligible property and the historic boundary (preferably 8.5x11” or larger) – plan sheets may be marked up to more clearly convey project activities and effects
* Photographs that show setting and effect for each eligible property
* Section 106 documentation, including signed Section 106 Form and DOE cover pages (unless submitted simultaneously)
* Copies of correspondence with property owners and consulting parties and any responses

**OTHER INSTRUCTIONS:**

WisDOT CRT requires two complete copies of this report. Additional copies may be required by the WisDOT Region and/or project managers. These copies should be submitted directly to the Region or PM.

WisDOT Project ID ####-##-##

WHS# (If Known)

Project Termini

Highway, Town Road or Facility Name

Municipality, County

**DOCUMENTATION FOR DETERMINATION OF**

**NO ADVERSE EFFECT**

**1. Description of the undertaking**

**2. Description of steps taken to identify historic properties**

**3. Description of the affected historic properties**

**4. Description of the undertaking’s effects on historic properties**

**5. An explanation of why the criteria of adverse effect were found inapplicable**

*i. Physical destruction of or damage to all or part of the property.*

*ii. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary’s Standards for the Treatment of Historic Properties (36 CFR part 68) and applicable guidelines.*

*iii. Removal of the property from its historic location.*

*iv. Change of the character of the property’s use or of physical features within the property’s setting that contribute to its historic significance.*

*v. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant historic features*.

*vi. Neglect of a property that causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian Tribe or Native American organization.*

*vii. Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property’s historic significance*

**6. Copies or summaries of any views provided by consulting parties and the public**

**7. Application of *de minimis* Section 4(f) finding**

Per 23 CFR 774, WisDOT, on behalf of FHWA, hereby informs SHPO that concurrence with “No historic properties affected” or “No Adverse Effect on historic properties” may be used in considering whether a de minimis Section 4(f) finding of temporary occupancy exception is appropriate. SHPO concurrence with the DNAE serves as acknowledgment of this official notification.

**Documentation of No Adverse Effect Prepared By:**

|  |  |
| --- | --- |
| Name & Company: |  |
| Address: |  | Phone: |  |
| City: |  | State: |  | Zip: |  |
| Email: |  |  | Date: |  |
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| Sub-contracting to: |  |
| Address: |  | Phone: |  |
| City: |  | State: |  | Zip: |  |
| Email: |  |  | Date: |  |

The following supplemental materials are attached:

[ ]  Project location map with termini identified

[ ]  Project plan sheets showing activities in relation to each eligible property and the historic boundary

[ ]  Photographs that show setting and effect for each eligible property

[ ]  Section 106 documentation, including signed DOE cover pages

[ ]  Correspondence with property owners and consulting parties and any responses