

Servicewide Programmatic Agreement for Section 106 of the National Historic Preservation Act

National Park Service
U.S. Department of the Interior



February 2006

Project Scoping

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their proposals on historic properties and provide state/tribal historic preservation offices and the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to review and comment on those actions. In 1995, the National Park Service (NPS), National Conference of State Historic Preservation Officers, and ACHP signed a servicewide programmatic agreement (PA) that tailors the Section 106 process to NPS program needs. Key provisions in that agreement are that, for regular routine projects where NPS has information on historic properties and the effects are not adverse, NPS cultural resource professionals review these projects for effects, document the results of their review, and send the documentation to the State Historic Preservation Officer and the ACHP on a routine basis without additional consultation. The PA also provides a framework for coordinating Section 106 review with the NPS planning process.

Need for Project

NPS field area operations and maintenance require performing multiple low-impact or repetitive maintenance activities. These undertakings require consultation under Section 106 and may have an effect on properties listed on or determined eligible for the National Register of Historic Places, but that effect will not be adverse. The NPS performs a large number of these activities on a daily basis. A servicewide programmatic agreement provides an efficient process for compliance with Section 106 for these activities while meeting NPS requirements for continuing consultation with multiple interested parties.

The NPS has initiated the effort to revise the existing PA or develop a new nationwide PA to address historic property management and compliance with Section 106 of the NHPA and 36 CFR 800. The existing PA under which the NPS operates was signed in 1995 and therefore, pre-dates more recent revisions to the implementing regulations of the ACHP. As such, the NPS has identified revision of the existing PA or development of a new PA as a priority.

This effort allows the NPS to reflect on the successes and challenges of operation under the existing PA for the past 10 years and create a document that conforms with the requirements of the regulations, meets the

operational needs of the NPS and takes into account the concerns of State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), Native Americans, Native Hawaiians, Native Alaskans and others with an interest in the cultural resources of the NPS.

I invite you to participate in this scoping process.

Sincerely,

/s/

Janet Snyder Matthews, Ph.D.
Associate Director, Cultural Resources &
Keeper, National Register of Historic Places
National Park Service

Project Milestones

- Public scoping period (closes March 24, 2006)
- Consultations with SHPOs, THPOs, tribes and interested parties
- First draft of programmatic agreement
- Internal agency/SHPO/THPO/tribal reviews
- PA revision, additional consultation meetings
- Public review of PA
- Analysis of public comment
- Preparation/approval of PA

What does the scoping period mean?

Scoping is done in the initial phase of a project to seek input from a variety of sources. The input is used to identify issues, alternatives, areas requiring additional study, and topics that will be analyzed in the process. This is an opportunity for you to provide us with your suggestions, comments, and concerns regarding this project.

Is scoping my only opportunity to comment on the project?

No, once a draft of the agreement is developed, the document will be made available for public review.

The complete text of the 1995 servicewide PA is available at <http://www.achp.gov/npspa1.html>.

Excerpts from existing PA

IV. PROJECT REVIEW-- NATIONWIDE PROGRAMMATIC EXCLUSIONS

A. Undertakings listed in IV.B will be reviewed for §106 purposes within the NPS, without further review by the Council or SHPOs, provided:

1. that these undertakings are based upon information adequate to identify and evaluate affected cultural resources [except for IV.B.(5)];
2. that the NPS finds that their effects on cultural resources in or eligible for the National Register will not be adverse based on criteria in 36 CFR Part 800.9; and
3. that decisions regarding these undertakings are made and carried out in conformity with applicable policies, guidelines, and standards as identified in Stipulation I, and are documented by NPS using the form for "Assessment of Actions Having an Effect on Cultural Resources" or another appropriate format. (See Stipulation VII below).

B. The following undertakings may be reviewed under the terms of IV.A:

1. preservation (housekeeping, routine and cyclic maintenance, and stabilization) as defined in NPS-28;
2. routine grounds maintenance, such as grass cutting and tree trimming;
3. installation of environmental monitoring units, such as those for water and air quality;
4. archeological monitoring and testing and investigations of historic structures and cultural landscapes involving ground disturbing activities or intrusion into historic fabric for research or inventory purposes (see also Stipulations II and IX.C);
5. acquisition of lands for park purposes, including additions to existing parks;
6. rehabilitation and widening of existing trails, walks, paths, and sidewalks within previously disturbed areas;

7. repaving of existing roads or existing parking areas within previously disturbed areas;
8. placement, maintenance, or replacement of utility lines, transmission lines, and fences within previously disturbed areas;
9. rehabilitation work limited to actions for retaining and preserving, protecting and maintaining, and repairing and replacing in kind materials and features, consistent with the Secretary of the Interior's Standards for Rehabilitation and the accompanying guidelines;
10. health and safety activities such as radon mitigation, and removal of asbestos, lead paint, and buried oil tanks;
11. installation of fire detection and suppression systems, and security alarm systems, and upgrading of HVAC systems;
12. erection of signs, wayside exhibits, and memorial plaques;
13. leasing of historic properties consistent with NPS-38, if proposed treatments are limited to those consistent with IV.B(1) and (9) and other activities excluded under IV.A and B.

Suggestions for new programmatic exclusions

In addition to reconsidering terms and providing better definition of existing programmatic exclusions, the NPS proposes the following new programmatic exclusions:

1. Limited reburials of human remains and other cultural items subject to Native American Graves Protection and Repatriation Act (NAGPRA) on NPS lands at the request of, and in consultation with lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations following repatriation as outlined by NAGPRA
2. *Hazardous fuel management, mechanical reduction*
 - Removal of dead and down vegetation as well as thinning operations, outside of cultural landscapes, using equipment and methods that do not introduce ground disturbance beyond natural or historic disturbance

- Removal of dead and down vegetation as well as trees and brush less than 40 years old within historic sites using equipment and methods that do not introduce ground disturbance beyond normal natural or historic disturbance
- 3. *Prescribed Fire*: Prescribed fire in areas that fit one or more of the following criteria:
 - Areas burned within the last 40 years
 - Areas without heavy fuel buildup
 - Areas of low intensity fires
 - Staging areas, hand lines, escape routes, and safety zones for prescribed fires
- 4. *Rehabilitation*
 - Restoring fire line disturbances such as hand lines, bulldozer lines, safety areas, helispots, and other operational areas
 - Trail restoration including minor trail relocation and construction of water bars.
 - Culvert replacement within existing cut and fill profiles
 - Placement of straw bales, wattles, and contour falling of dead trees to aid in slope stabilization
 - Reseeding for slope stabilization

Issues and Concerns

Please provide us with your thoughts on the following:

- What's working well with the existing agreement?
- What needs to be fixed in the existing agreement?
- How should tribes be included in a new or revised PA?
- Who should be signatories to the PA?
- Should we consider regional or local solutions, rather than a nationwide approach?
- Do we need better definition of programmatic exclusions?
- Who wishes to participate in this process?
- What tools should the NPS use to improve its accountability in the Section 106 process?
- Are there other programmatic exclusions that should be added to the PA?
- Other thoughts

Alternatives

The following alternatives were identified:

1. Retain existing PA
2. Revise the existing PA (reconsider terms, provide better definition of existing programmatic exclusions, add new exclusions if needed, include tribes)
3. Prepare a new PA
4. Prepare one national template PA with separate park/state/region/tribal agreements

If you wish to comment on the scoping brochure or on any other issues associated with the project, you may submit your comments by any one of several methods.

- You may submit written comments to:
 - Caroline Hall
 - Preservation Compliance Coordinator
 - Department of the Interior
 - National Park Service (Heritage Preservation Services)
 - 1849 C Street, NW (2255)
 - Washington, DC 20240
- You may also comment via electronic mail to <http://parkplanning.nps.gov>. Select "Programmatic Agreement Task Force" as the park name to enter comments.

If you wish to be on a mailing list for this project, please provide your name and address below:

Check box if you want this information kept private.

Please note that names and addresses of people who comment become a part of the public record. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations, businesses, and individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

Other issues or alternatives you wish to see addressed or information about the project that you would like to provide:

**PLACE
STAMP
HERE**

Caroline Hall
Preservation Compliance Coordinator
Department of the Interior
National Park Service (Heritage Preservation Services)
1849 C Street, NW (2255)
Washington, DC 20240