

CASE STUDY - Washington

Statewide PA regarding Federal-Aid Highway Projects on National Forest System Lands in Washington

A Programmatic Agreement (PA) with the Federal Highway Administration (FHWA) and US Forest Service (FS) defines roles and responsibilities for Section 106 consultation for Federal Aid Highway projects occurring on National Forest System (NFS) lands in the state of Washington. FHWA provides funding for projects through the Federal Aid Highway program, and project review is administered by the Washington State Department of Transportation (WSDOT). For projects crossing Forest lands, the FS is required to authorize the use of right-of-way for the project in the form of a “consent for appropriation” of federal land. In such cases, the agencies have agreed that FHWA is the lead federal agency for completion of Section 106 and that WSDOT may act on FHWA’s behalf in carrying out certain steps of the Section 106 process.

Description of the Programmatic Agreement:

The PA was executed on January 13, 2012 among the FHWA, WSDOT, Washington State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP). Under the PA, FHWA is the lead federal agency for compliance with Section 106 for transportation projects on FS-administered lands. FHWA has delegated to WSDOT most of the tasks required for Section 106 review. A delegation of responsibility for consultation with Indian tribes follows procedures in FHWA’s statewide PA for Federal Aid Highway Projects. WSDOT may only initiate and carry out consultation with Indian tribes if the tribes agree to do so. WSDOT and FHWA must honor any request from an Indian tribe to consult directly with FHWA.

In order to streamline review, the PA identifies undertakings that have “minimal potential to cause adverse effects to historic properties” (Exhibit 2). Certain undertakings do not require Section 106 review by the SHPO or Forest Service Heritage Program Manager, provided background research indicates that there are no known historic properties or eligible that could be affected by the undertaking. Activities in Exhibit 2 include actions such as roadway surface replacement, installation of traffic control devices, in-kind emergency repairs, rock removal and stabilization activities, and use previously disturbed areas for temporary construction staging. A second list of WSDOT activities are exempted from SHPO review (also contained in Exhibit 2), but they require coordination with the Forest Service Heritage Program Manager to determine the appropriate level of identification.

If historic properties may be affected by a Federal Aid Highway project, WSDOT will initiate consultation in accordance with 36 CFR Part 800, involving the FS, SHPO, affected Indian tribes, and other consulting parties.

View the [Programmatic Agreement](#) referenced in this study.

For more information, please contact clegard@achp.gov;