



Preserving America's Heritage

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Attachment: Draft Policy Statement

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637

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Preserving America's Heritage

MEETING
FEDERAL AGENCY PROGRAMS COMMITTEE
Tuesday, November 3, 2015
National Building Museum Auditorium
401 F St. NW, Washington, D.C.
1:30 p.m.–4:30 p.m.

PROVISIONAL AGENDA

- I. Call to Order
- II. Section 106 Reviews for United States Army Corps of Engineers Permits and Undertakings with Small Federal Handles
- III. Improving Environmental Reviews for the Delivery of Broadband
- IV. ACHP Policy Statement on Historic Preservation and Community Revitalization
- V. Program Updates
 - A. Supporting State and Tribal Historic Preservation Officers Action Plan
 - B. Executive Order 13287 “Preserve America” Section 3 Report Implementation
 - C. Guidance on the Use of Covenants in Section 106 Reviews
 - D. Section 106 Training
- VI. Adjourn



Preserving America's Heritage

**SECTION 106 REVIEWS FOR UNITED STATES ARMY CORPS OF ENGINEERS PERMITS
AND UNDERTAKINGS WITH SMALL FEDERAL HANDLES
Office of Federal Agency Programs**

Background. Federal agencies comply with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq., as amended) by following the four-step process set forth in the Section 106 implementing regulations, “Protection of Historic Properties” (36 C.F.R. part 800). That process requires that the federal agency initiate a Section 106 review with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), Indian tribes, Native Hawaiian organizations, and other stakeholders, and in consultation with those parties, identify and evaluate historic properties in the Area of Potential Effects (APE) for the undertaking, assess the effects of the undertaking on those properties, and seek to find ways to avoid, minimize, or mitigate any adverse effects.

The U. S. Army Corps of Engineers (Corps) uses a different set of regulations in its Regulatory Program for complying with Section 106 for the review of Corps permits under Section 404 of the Clean Water Act (CWA), Sections 9 and 10 of the Rivers and Harbors Appropriations Act of 1899 (RHA), and Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended. Developed in 1990 and known generally as Appendix C (“Procedures for the Protection of Historic Properties”) of 33 C.F.R. 325 (“Processing of Department of the Army Permits”), the Corps uses this regulation to comply with Section 106. The Corps did not, as required, develop Appendix C as an alternative pursuant to 36 C.F.R § 800.14. Further, the ACHP has never approved Appendix C as a counterpart regulation for implementing Section 106, as required by Section 110(a)(2)(E) of the NHPA, because it differs from the Section 106 regulations in many ways, especially in terms of a number of essential core elements including: the definition of undertaking; the delineation of the APE; the scope of effort for identification of historic properties in the APE; and the nature of consultation during the Section 106 review.

Under Appendix C, the Corps often focuses only on the activity in the waters of the United States (WOUS) that requires a permit as the undertaking that it must consider in assessing effects to historic properties and limits the APE to the location of the permitted activity and closely associated uplands. In doing so the Corps does not take responsibility for effects to historic properties from the larger project, a part of which requires the Corps permit. Further, under Appendix C, for many general permits, the Corps has limited or no obligation to notify and consult with the range of stakeholders recognized under the Section 106 regulations. Nevertheless, this regulation has been in force for 25 years, and during that time, attempts to reconcile the differences between Appendix C and the Section 106 regulations have resulted in administrative challenges and continuing frustration for Section 106 users and the regulated public, and too often have led to inadequate consideration of direct and indirect effects on historic properties resulting from undertakings that include permitted actions.

Current Status. Over the years, most recently in 2006-2007, the ACHP and other preservation partners engaged with the Corps in an attempt to resolve inconsistencies between Appendix C and the Section 106 regulations, but without success. Over the last six months ACHP and Corps staff have renewed discussions about these inconsistencies, and there appears to be greater openness to the pursuit of a programmatic solution to resolve the issue.

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In recent discussions with the Corps, ACHP staff proposed that an alternative to Appendix C consistent with 36 C.F.R. Part 800 could best be achieved by focusing on the concept of “small federal handles, where agencies have clear limits on the extent to which they can apply conditions and approvals relating to the broader undertaking.” Such an approach acknowledges and addresses the Corps concerns with its variable and often limited jurisdiction over the larger undertaking beyond the portion requiring a Corps permit, and its concerns to ensure an efficient permit review process.

ACHP staff has reiterated that a Corps Regulatory alternative to the Section 106 regulations should integrate appropriately with Corps protocols for issuance of permits, respect the core elements of the Section 106 process, accomplish many steps of the Section 106 process at a programmatic level, and recognize the importance of the concept of small federal handles relative to federal responsibilities in the Section 106 review. As noted in the Section 106 regulations, the relationship of a federal agency to an undertaking and its responsibility for and control over the extent of an undertaking varies depending on the nature of the federal action. Federal agencies that carry out projects on land that they manage have a different level of control over the undertaking than federal agencies that provide assistance or authorizations for projects carried out by non-federal entities on non-federal land.

Since the ACHP has not yet developed guidance on this specific issue, this should be a priority for FY 2016 as it would be helpful to many licensing, permitting, and assistance agencies. The guidance could clarify a number of procedural issues of concern to applicants for federal assistance and authorization, and other stakeholders. Further, it could serve as the necessary context for successful development of a program alternative for Corps compliance with Section 106 for its regulatory program. It would also enable other federal agencies to develop policies and protocols for compliance with Section 106 that include consideration of the relevance of Small Federal Handle.

Next Steps. With the goals of developing guidance applicable for all federal agencies and providing the basis and context for development of Corps counterpart regulation for implementing Section 106 for the regulatory program in place of Appendix C, the committee is asked to advise staff on the following issues:

- What members should be part of a Working Group to advise the staff on small federal handles?
- How should the issue be addressed so that it relates to multiple agencies that can invoke limits in Section 106 consultation due to small federal handles?

In addition, the members should advise staff regarding what other steps should the ACHP take to resolve inconsistencies between Appendix C and the Section 106 regulations.

Action Needed. Advise staff on resolving issues relating to Appendix C and small federal handles. Members should indicate interest in assisting with the development of guidance.

October 21, 2015



Preserving America's Heritage

IMPROVING ENVIRONMENTAL REVIEWS FOR THE DELIVERY OF BROADBAND Office of Federal Agency Programs

Introduction. On September 24, 2015, the Advisory Council on Historic Preservation (ACHP) voted in favor of amending the October 2009 Program Comment (PC) with the Rural Utilities Service (RUS), the National Telecommunications Information Administration (NTIA), and the Federal Emergency Management Agency (FEMA) for the construction or modification of wireless communications facilities. The *Federal Register* notice regarding the amended Program Comment was published on September 30, 2015, concluding the ACHP's review of this program alternative (see attached).

The amendment extends the duration of the PC and allows other programs whose activities are also subject to review under the Nationwide Programmatic Agreement (NPA) for the Federal Communication Commission (FCC) to utilize its efficiencies. The PC covers those undertakings that typically occur off federal lands but which require federal assistance, licenses, or permits. ACHP staff will also consult with the FCC regarding issues raised by State Historic Preservation Officers (SHPOs) regarding its Nationwide Programmatic Agreements related to tower siting and collocation of antennae during consultation on the amendment.

Broadband on Federal Lands. ACHP staff has also been engaged with federal land managing agencies in discussions about improving the delivery of broadband projects that cross, or occur on, federal lands and property. Recognizing that such projects typically are not subject to review under the FCC NPA, the efficiencies of the PC could not be extended to broadband undertakings on federal land. Nonetheless, other efficiencies may be possible to bring greater consistency and predictability to such reviews.

Improvements to environmental reviews for the delivery of broadband on or across federal lands are a high priority for the President. In order to explore opportunities for improvements, the White House convened a meeting among federal land managing agencies and the ACHP in September to assess where improvements can be made to Section 106 reviews for such projects. Participating agencies included the ACHP, the Department of the Interior, the Bureau of Land Management, and the National Park Service. The meeting provided the attendees with an opportunity to review the recommendations of the Broadband Opportunity Council created by the Presidential Memorandum of March 23, 2015, that encourages agencies to explore program alternatives and other efficiencies for broadband on federal land. It also allowed participating agencies to identify challenges they might be facing in Section 106 reviews on their lands.

Meeting participants clarified that the procedures they use for conducting Section 106 reviews for such projects vary as they are dictated by their own nationwide or regional programmatic agreements, individual agency procedures, and the unique approval role of each agency. While few specific challenges or impediments were identified by participants, it was recognized that a broader assessment of the experiences of all federal agencies that approve broadband projects on their own lands or property would be productive.

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Discussion. ACHP staff committed to surveying members of the FAP Committee to gather their views on what challenges may exist in Section 106 reviews for broadband projects on federal lands and where there might be opportunities for improvements and efficiencies. FAP Committee members are asked to address the following questions:

- What types of broadband projects on federal lands typically require Section 106 reviews?
- To what extent do such projects affect historic properties?
- Are agencies experiencing challenges in completing such reviews?
- What opportunities exist for improving Section 106 reviews for such projects?
- Given the broad variety of federal agencies involved, would it be productive to explore program alternatives or other efficiencies that might apply to all broadband undertakings?
- How can the ACHP assist in identifying trends, challenges, and opportunities for improvement?

Next Steps. Staff will develop a summary of the committee's input on these questions and provide it to the White House at the next broadband on federal lands meeting. Staff will continue to update the committee on its work with the White House's National Economic Council in advancing the Administration's goals for improving broadband delivery.

Action Needed. None.

Attachment: *Federal Register* Notice of Amended Program Comment on Wireless Communication Facilities

October 21, 2015

replication and dissemination of effective prevention strategies.

Total Estimates of Annualized Hour Burden

The following table displays estimates of the annualized hour burden for data collection using the Youth and Adult Questionnaires and the Individual and Group Dosage Forms. The expected

numbers of participants by service duration and the numbers of completed dosage forms were estimated based on analysis of the data submitted by Cohort 7–10 grantees. The numbers are adjusted for expected response rates, also estimated based on data analysis. Program staff will complete an Individual Dosage Form for each one-on-one service encounter with every

participant, spending an estimated three minutes per form. A typical grantee is expected to complete 1,316 Individual Dosage Forms per year. A group Dosage Form will be completed for each group session held by the funded programs, and will take approximately eight minutes to complete. A typical grantee is expected to offer approximately 26 group sessions per year.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN

Type of respondent activity	Number of respondents	Responses per respondent *	Total responses	Hours per response	Total burden hours
Youth Questionnaire/Single-day service duration	64	1	64	0.2167	14
Youth Questionnaire/2–29-day service duration	240	2	480	0.4333	208
Youth Questionnaire/30-or-more-day service duration	1,136	2	2,158	0.6167	1,401
Adult Questionnaire/Single-day service duration	1,040	1	1,040	0.2167	225
Adult Questionnaire/2–29-day service duration	4,314	2	8,628	0.3833	3,307
Adult Questionnaire/30-or-more-day service duration	19,150	2	38,300	0.5333	20,425
Individual Dosage Form	138	1,316	181,608	0.0500	9,080
Group Dosage Form	138	26	3,588	0.1333	478
Total	26,220	235,980	35,139

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 or email her a copy at summer.king@samhsa.hhs.gov. Written comments should be received by November 30, 2015.

Summer King,
Statistician.

[FR Doc. 2015–24811 Filed 9–29–15; 8:45 am]

BILLING CODE 4162–20–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Amendment to Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities Construction and Modification

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Program Comment amendment.

SUMMARY: The Advisory Council on Historic Preservation has amended the referenced Program Comment which avoids duplicate reviews under Section 106 of the National Historic Preservation Act regarding telecommunications projects that undergo Section 106 review by the Federal Communications Commission under existing Nationwide Programmatic Agreements. The amendments extend the duration of the Program Comment, add agencies that

can use the Program Comment, and provide for a monitoring system.

DATES: The amendments were adopted by the ACHP on September 24, 2015.

ADDRESSES: Address all questions concerning the Program Comment amendments to Charlene Vaughn, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 401 F Street NW., Washington, DC 20001–2637. You may submit electronic questions to: cvaughn@achp.gov.

FOR FURTHER INFORMATION CONTACT: Charlene Vaughn, (202) 517–0207, cvaughn@achp.gov.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108 (Section 106), requires federal agencies to consider the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under Section 800.14(e) of those regulations, agencies can request the ACHP to provide a “Program Comment” on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.3 through 800.7. An agency can meet its Section 106 responsibilities with regard to the effects of particular

aspects of those undertakings by taking into account ACHP’s Program Comment and following the steps set forth in that comment.

I. Background

On October 23, 2009, the ACHP issued the referenced Program Comment to the U.S. Department of Agriculture Rural Utilities Service (RUS), the U.S. Department of Commerce National Telecommunications and Information Administration (NTIA), and the Federal Emergency Management Agency (FEMA) to relieve them from conducting duplicate reviews under Section 106 when those agencies assist a telecommunications project subject to Section 106 review by the Federal Communications Commission (FCC). The FCC complies with its Section 106 responsibilities through its Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC and the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (FCC NPAs).

For background on that original Program Comment, and its text before these amendments, please refer to 74 FR 60280–60281 (November 20, 2009).

On August 21, 2015, the ACHP received a request from RUS, NTIA, and the Federal Emergency Management Agency (FEMA) to amend the referenced Program Comment.

The issuance of the original Program Comment was intended to assist agencies to expeditiously allocate American Recovery and Reinvestment

Act (ARRA) funds, which was done successfully. While the ARRA funds have been expended, new funding has been provided to agencies to expedite the deployment of broadband. Also, unless amended, the Program Comment would have expired on September 30, 2015.

The extension of the duration of the Program Comment is therefore necessary to continue streamlining the Section 106 review. In addition, several new agencies are now involved in these undertakings and need to be accommodated by the Program Comment to avoid delays in project approval. One of those agencies, FirstNet may or may not provide financial assistance for such towers and collocations in the future, but is the entity responsible for ensuring the building, deployment, and operation of the nationwide public safety broadband network, which will likely include the construction of communications towers and the collocation of equipment on existing facilities.

Accordingly, the ACHP membership voted in favor of amending the Program Comment via an unassembled vote on September 24, 2015. The Program Comment has been amended to:

1. Allow all components of the Department of Homeland Security (DHS), the Federal Railroad Administration (FRA), the Federal Transit Authority (FTA), and the First Responder Network Authority (FirstNet) to use the Program Comment, and specify how to add new agencies to the Program Comment in the future;

2. Insert three new paragraphs explaining the purpose and need of the amendments listed above;

3. Extend the duration of the Program Comment to September 30, 2025;

4. Add a system to monitor the use of the Program Comment;

5. Cite Presidential Memoranda consistent with the streamlining intent of the Program Comment; and

6. Add technical edits to reflect the effective date of these amendments and changes to the statutory citation to Section 106 of the National Historic Preservation Act.

RUS sought input from stakeholders on the proposed amendments to the Program Comment. Thereafter, the ACHP became more directly involved in the consultation by holding meetings, requesting and considering comments by stakeholders, holding conference calls with them, and making changes to the draft amendments accordingly. Overall, the majority of State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and Indian tribes that commented

endorsed the amendment of the Program Comment.

Comments from several stakeholders raised issues beyond the amendments outlined above. Since addressing those issues in the text of the Program Comment itself would unnecessarily clutter it, those issues are addressed in this **Federal Register** preamble instead. These issues are:

1. How the scope of the Federal Communications Commission (FCC) Nationwide Programmatic Agreements does not include federal or tribal lands, and therefore the scope of the Program Comment is similarly limited. The FCC NPAs, by their own terms, do not apply on tribal lands. Since this Program Comment relies on compliance carried out by the FCC through the FCC NPAs, the Program Comment would similarly not cover these undertakings on tribal lands.

Regarding the applicability of the Program Comment on federal lands, it must be noted that of the roughly 635–640 million acres of federal lands, 628 million acres are managed by the Forest Service, the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the Department of Defense. “Federal Land Ownership: Overview and Data,” Congressional Research Service, February 8, 2012. The Program Comment does not apply to any of these agencies or other agencies typically known as land managing agencies. When these land managing agencies issue special use permits, or other approvals, for the construction or location of telecommunications facilities on the lands they manage, they have to comply with Section 106 through means other than the FCC NPAs or this Program Comment.

2. How the Program Comment relies on FCC compliance with Section 106 for the same projects through their Nationwide Programmatic Agreements, and their e-106 and Tower Construction Notification Systems. The Program Comment exempts the named agencies from having to separately comply with Section 106 regarding certain telecommunications facilities and collocations when the FCC has or will comply with Section 106 for those same facilities and collocations through its NPAs. The FCC conducts such Section 106 compliance following the processes and exemptions of those NPAs, and using its related e-106 system and Tower Construction Notification System (TCNS) which are known to most practitioners. Some SHPO stakeholders wanted us to note that some of them do not use the FCC’s e-106 system.

3. How the Program Comment, as originally issued and as amended, has always required subject agencies to inform the SHPOs and THPOs or Indian Tribes when their undertakings are covered by this Program Comment. As stated in Section IV of the original Program Comment: “Whenever RUS, NTIA, or FEMA uses this Program Comment for such undertakings, RUS, NTIA or FEMA will apprise the relevant State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) of the use of this Program Comment for the relevant communications facilities construction or modification component.” The amended Program Comment retains this language, with changes to simply note the new agencies that are now being added to the Program Comment.

On a somewhat related note, some SHPOs raised concerns about the need to address the effects of the non-tower components of undertakings. As specified in the second paragraph of Section IV of the Program Comment, the RUS, NTIA, DHS, FRA, FTA, FirstNet are responsible for the Section 106 review of those non-tower components of their undertakings.

4. The purpose, and success, of the original Program Comment in the context of the American Recovery and Reinvestment Act (ARRA). In 2009, the American Recovery and Reinvestment Act (ARRA) provided NTIA and RUS with \$7.2 billion to expand access to broadband services in the United States. The purpose of the original Program Comment was to expedite broadband expansion by relieving these agencies from conducting duplicate Section 106 reviews when those agencies have Section 106 responsibilities for a telecommunications project subject to Section 106 review by the FCC.

Since it went into effect, the Program Comment has met this purpose. The Program Comment helped RUS, NTIA, and FEMA to spend their ARRA funding for broadband deployment without unnecessary delays. The success of the Program Comment is also reflected in the agencies’ request to expand its duration and add new agencies to it.

Finally, the ACHP has not received complaints about the implementation of the Program Comment. The amendments nevertheless, provide for a monitoring system to better ensure the Program Comment is working as intended.

5. How the FCC handles discovery situations under its Nationwide Programmatic Agreement. Since the Program Comment relies on FCC compliance with its NPAs, the discovery provisions of those NPAs are

the ones that will be followed for the relevant projects. The discovery provision of the FCC Nationwide Programmatic Agreement is found on its Section IX. A copy of that agreement can be found at: http://www.achp.gov/docs/PA_FCC_0804.pdf.

II. Final Text of the amended Program Comment

The text of the amended Program Comment is included below:

Program Comment for Streamlining Section 106 Review for Wireless Communications Facilities Construction and Modification Subject to Review Under the FCC Nationwide Programmatic Agreement and/or the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (as amended on September 24, 2015).

I. Background

Due to their role in providing financial assistance and/or carrying out other responsibilities for undertakings that involve the construction of communications towers and collocation of communications equipment on existing facilities, the Rural Utilities Service (RUS), the National Telecommunications and Information Administration (NTIA), the Department of Homeland Security (DHS), the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA), and the First Responder Network Authority (FirstNet) are required to comply with Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, and its implementing regulations at 36 CFR part 800 (Section 106 review) for such undertakings. Some of those communications towers and antennas are also federal undertakings of the Federal Communications Commission (FCC), and therefore undergo, or are exempted from, Section 106 review under the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC (FCC Nationwide PA) and the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (FCC Collocation PA). The FCC Nationwide PA was executed by the FCC, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) on October 4, 2004. The FCC Collocation PA was executed by the FCC, ACHP, and NCSHPO on March 16, 2001. The undertakings addressed by the FCC Nationwide PA primarily include the construction and modification of communications towers. The undertakings addressed by the FCC

Collocation PA include the collocation of communications equipment on existing structures and towers.

This Program Comment is intended to streamline Section 106 review of the construction and modification of communications towers and antennas for which FCC and RUS, NTIA, DHS, FRA, FTA, or FirstNet share Section 106 responsibility. Such streamlining is consistent with the broad purpose of the Presidential Memorandum: Unleashing the Wireless Broadband Revolution dated June 28, 2010, Executive Order 13616: Accelerating Broadband Infrastructure Deployment, dated June 14, 2012, and the Presidential Memorandum: Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training, dated March 23, 2015.

The term "DHS," as used in this Program Comment, refers to all of that agency's operational and support components. For a list of such components, you may refer to: <http://www.dhs.gov/components-directorates-and-offices>.

Nothing in this Program Comment alters or modifies the FCC Nationwide PA or the FCC Collocation PA (collectively, the FCC NPAs), or imposes Section 106 responsibilities on the FCC for elements of a RUS, NTIA, DHS, FRA, FTA, or FirstNet undertaking that are unrelated to a communications facility within the FCC's jurisdiction or are beyond the scope of the FCC NPAs.

The Program Comment, as originally issued in October 23, 2009, only covered RUS, NTIA, and the Federal Emergency Management Agency (FEMA). Because of the successful implementation of this Program Comment, as originally issued, the DHS sought to expand its participation beyond FEMA to all of its components which provide federal assistance for the construction and modification of communications towers, and the collocation of communications equipment on existing structures and towers. Three additional agencies, the FRA, which supports railroading with funding that may be used to improve safety and rail infrastructure, the FTA, which provides financial assistance to eligible applicants to support public transportation, and FirstNet, an independent authority within the NTIA that was created by Congress in 2012, also wished to become part of Program Comment in order to benefit from the efficiencies in the timely delivery of their respective programs.

DHS, FRA and FTA provide financial assistance to applicants for various undertakings, including the

construction of communications towers and collocation of communications equipment on existing facilities. Conversely, FirstNet is the entity responsible for ensuring the building, deployment, and operation of the nationwide public safety broadband network, which will likely include the construction of communications towers and the collocation of equipment on existing facilities. DHS, FRA, FTA and FirstNet must therefore comply with Section 106 for these undertakings. Some of the communications towers and collocated communications equipment assisted by DHS components, FRA, FTA and FirstNet are also the FCC's undertakings, and therefore undergo Section 106 review governed by the FCC NPAs.

Accordingly, the ACHP amended this Program Comment on September 24, 2015, to add all DHS components, FRA, FTA and FirstNet to the list of agencies subject to the terms of the Program Comment along with RUS, NTIA, and FEMA, and to extend its period of applicability, which originally would have ended on September 30, 2015.

II. Establishment and Authority

This Program Comment was originally issued by the ACHP on October 23, 2009 pursuant to 36 CFR 800.14(e), and was subsequently amended, effective on September 24, 2015 pursuant to its Stipulation VI.

III. Date of Effect

This Program Comment, as originally issued, went into effect on October 23, 2009. It was subsequently amended to its current version on September 24, 2015, effective on that date.

IV. Use of This Program Comment To Comply With Section 106 for the Effects of Facilities Construction or Modification Reviewed Under the FCC Nationwide PA and/or the FCC Collocation PA

RUS, NTIA, DHS, FRA, FTA, and FirstNet will not need to comply with Section 106 with regard to the effects of communications facilities construction or modification that has either undergone or will undergo Section 106 review, or is exempt from Section 106 review, by the FCC under the FCC Nationwide PA and/or the FCC Collocation PA. For purposes of this program comment, review under the FCC Nationwide PA means the historic preservation review that is necessary to complete the FCC's Section 106 responsibility for an undertaking that is subject to the FCC Nationwide PA.

When an RUS, NTIA, DHS, FRA, FTA, or FirstNet undertaking includes

both communications facilities construction or modification components that are covered by the FCC Nationwide PA or Collocation PA and components other than such communications facilities construction or modification, RUS, NTIA, DHS, FRA, FTA, or FirstNet, as applicable, will comply with Section 106 in accordance with the process set forth at 36 CFR 800.3 through 800.7, or 36 CFR 800.8(c), or another applicable alternate procedure under 36 CFR 800.14, for the components other than communications facilities construction or modification. However, RUS, NTIA, DHS, FRA, FTA, or FirstNet will not have to consider the effects of the communications facilities construction or modification component of the undertaking on historic properties.

Whenever RUS, NTIA, DHS, FRA, FTA, or FirstNet uses this Program Comment for such undertakings, RUS, NTIA, DHS, FRA, FTA, or FirstNet will apprise the relevant State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) of the use of this Program Comment for the relevant communications facilities construction or modification component.

V. Reporting

No later than March 1, 2016, the FCC, RUS, NTIA, DHS, FRA, FTA, and FirstNet will inform the ACHP as to the reporting system that they will utilize to collectively provide annual reports to the ACHP. The intent of the annual reports will be to enable the monitoring of the use of the Program Comment.

VI. Amendment

The ACHP may amend this Program Comment after consulting with FCC, RUS, NTIA, DHS, FRA, FTA, FirstNet, and other parties, as appropriate and publishing notice in the **Federal Register** to that effect.

If any other Federal agency wishes to take advantage of this Program Comment, it may notify the ACHP to that effect. An amendment, as set forth above, is needed in order to add such an agency to this Program Comment.

VII. Sunset Clause

This Program Comment will terminate on September 30, 2025, unless it is amended to extend the period in which it is in effect.

The ACHP may extend the Program Comment for an additional five years beyond 2025 through an amendment per Stipulation VI of this Program Comment.

VIII. Termination

The ACHP may terminate this Program Comment, pursuant to 36 CFR 800.14(e)(6), by publication of a notice in the **Federal Register** thirty (30) days before the termination takes effect.

Authority: 36 CFR 800.14(e).

Dated: September 24, 2015.

Javier E. Marques,
Associate General Counsel.
[FR Doc. 2015-24713 Filed 9-29-15; 8:45 am]
BILLING CODE 4310-K6-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Camin Cargo Control, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc., has been approved to gauge and accredited to test

petroleum and certain petroleum products for customs purposes for the next three years as of August 27, 2014.

DATES: Effective Dates: The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on August 27, 2014. The next triennial inspection date will be scheduled for August 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Camin Cargo Control, Inc., 230 Marion Ave., Linden, NJ 07036, has been approved to gauge and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Camin Cargo Control, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Maritime Measurements.

Camin Cargo Control, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01	ASTM D-287	Standard Test Method for API Gravity of Crude Petroleum Products and Petroleum Products (Hydrometer Method).
27-03	ASTM D-4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04	ASTM D-95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06	ASTM D-473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08	ASTM D-86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-13	ASTM D-4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry.
27-48	ASTM D-4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-58	ASTM D-5191	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
N/A	ASTM D1319	Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.
N/A	ASTM D-3606	Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography.



Preserving America's Heritage

**UPDATE ON MAJOR ACTIVITIES
Office of Federal Agency Programs
August–November 2015**

Updates are provided on the following topics:

- Implementing the Action Plan to Support SHPOs/THPOs
- Executive Order 13287 “Preserve America” Section 3 Report Implementation
- Guidance on the Use of Covenants in Section 106 Reviews
- Section 106 Training

Implementing the Action Plan to Support State and Tribal Historic Preservation Officers (SHPO/THPO)

At the July 2015 business meeting the members adopted the Action Plan to encourage federal agencies to increase support to the SHPOs and THPOs, as appropriate, to strengthen their capacity to participate in the Section 106 review process. The Plan (attached) contains a series of action items that the chairman, executive director and staff will carry out, in collaboration with federal agencies, the National Park Service (NPS), the National Conference of State Historic Preservation Officers (NCSHPO), and National Association of Tribal Historic Preservation Officers (NATHPO).

Following the July meeting, the Office of Federal Agency Programs developed a work plan detailing steps it will take to implement the Action Plan. Staff convened a meeting with NPS, NCSHPO, and NATHPO in October to discuss this plan and identify opportunities for collaborating on a series of actions, including the following:

- Compiling a list of Section 106 activities that SHPOs and THPOs perform for which they receive funding to carry out through the NPS-administered Historic Preservation Fund, as a first step in revising and expanding the ACHP’s “Tribal Fees” Memorandum action item.
- Working with the NPS to clarify the provisions within its Historic Preservation Fund Grants Manual on when SHPOs/THPOs might use additional funding streams to support their ability to conduct Section 106 reviews.
- Compiling and sharing examples and case studies about the range of possible assistance federal agencies have provided to SHPOs and THPOs.
- Reviewing information about which existing authorities (such as Section 110(g) of the NHPA) may be used to provide additional funding, liaisons, and equipment to SHPOs and THPOs. The Office of General Counsel will also address the issue of what may constitute a real or perceived conflict of interest when agencies provide such support to SHPOs and THPOs.
- Meeting with Federal Preservation Officers (FPOs) to clarify how SHPOs/THPOs assist agencies in meeting their Section 106 obligations and identify priority program areas where SHPOs/THPOs need assistance.

Staff will update the members on the outcome of this meeting and steps it anticipates taking in collaboration with its partners.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Executive Order 13287 “Preserve America” Section 3 Report Implementation. Staff has developed and begun implementing a work plan to support the recommendations of the 2015 Section 3 Report to the President. Initial focus has been on addressing success and challenges agencies are experiencing in addressing historic preservation requirements and implications related to leasing federal property.

In October, staff convened a meeting of federal agency representatives and organizations with an interest in leasing of federal property to discuss the status of efforts to improve and expand leasing authority available to federal agencies and identify areas where the ACHP can assist in improving opportunities for leasing historic buildings. Attendees reviewed the recommendations regarding leasing in the ACHP’s 2015 Section 3 Report to the President and discussed how the ACHP might best assist agencies in resolving long-standing impediments to leasing historic properties.

Attendees also discussed the status of the Administration’s “Reduce the Footprint” initiative and discussed opportunities for advising agencies on how to consider the historic preservation values of buildings that may be subject to disposal. Particular attention was paid to the provisions of Section 111 of the NHPA and both successes and challenges agencies are facing in using this authority to lease federal property and benefit from related revenues.

Staff will report to the members on the results of the October meeting and recommendations on steps that federal agencies, including the ACHP, can take to address challenges relating to leasing. The committee will be asked to comment on the plan for moving forward with these recommendations.

Guidance on the Use of Covenants in Section 106 reviews. Over the course of the last year, an ACHP workgroup that included representatives of GSA, DoD, USPS, VA, NCSHPO, and the NTHP worked collaboratively to develop guidance on covenants and easements, referred to as “preservation conditions.” The guidance seeks to help land managing agencies develop sound conditions to support a no adverse effect finding for Section 106 property transfer undertakings. The guidance also educates historic preservation stakeholders and the public, and assists parties working to amend existing preservation conditions. The concepts in the guidance should be useful for permitting and assistance agencies as well. The guidance will be published on the ACHP’s Web site soon, and will be distributed to SHPOs/THPOs, FPOs, national preservation organizations, preservation partners, as well as statewide and local preservation organizations. The Web-based guidance will be supplemented by case studies in the coming year and updated as needed over time. A dedicated e-mail address has been set up to address inquiries, which is supported by staff within the Office of Federal Agency Programs.

Section 106 Training. During the summer and early fall, the ACHP’s Section 106 training program has been heavily engaged in the development and delivery of training tailored to the needs of federal agencies and other Section 106 stakeholders. ACHP instructors have recently delivered custom courses for the St. Paul District of the U.S. Army Corps of Engineers, the Civil War Trust, and the Monongahela National Forest. The West Virginia SHPO hosted two workshops including the ACHP’s Introduction to Section 106 for Certified Local Governments in September. Staff also will have offered the Section 106 Essentials course and/or the Section 106 Advanced Seminar for FEMA’s New York Sandy Recovery Office, the Hawaii SHPO, the Guam SHPO and Guam Preservation Trust, and the U.S. Army Corps of Engineers Tribal Liaison Training and Meeting by the time the council members meet in Washington.

The training program recently completed several components of a major tailored training package for the U.S. Air Force in FY15, including an e-learning course module and a tailored classroom course delivered at eight installations nationwide by Program Analyst Katharine Kerr. Further work on other training products and additional classroom courses will continue in FY16 as part of this collaborative effort with the Air Force. Another tailored training program from FY15, a webinar series delivered exclusively for NPS staff, has been renewed and will continue through FY16.

The fall webinar series began in September and will conclude in early December with an encore presentation of a popular new program on working with cultural landscapes in the Section 106 process. Finally, staff is readying the e-learning courses previewed at the July FAP Committee meeting for public release while conducting user testing of three additional e-learning courses focused on NEPA and Section 106 integration.

Attachment: Action Plan to Support SHPOS/THPOS

October 21, 2015



Preserving America's Heritage

ACTION PLAN TO SUPPORT SHPOS/THPOS

July 14, 2015

ACHP Action Plan:

A) The ACHP Chairman and Executive Director will:

- Continue encouraging the Administration to support full funding for the HPF and advise federal agencies on how they might educate their leadership about the importance of full funding;
- Work with NPS to raise further awareness among tribal leaders and others about the value of support for increased HPF funding;
- Continue to encourage the Administration's support for funding the development of a national inventory that is maintained by SHPOs and THPOs and which includes standardized information to inform Section 106 reviews;
- Share best practices/recommendations with Infrastructure Steering Committee, the White House Council on Native American Affairs, OMB, and Domestic Policy Council regarding federal agency support for SHPOs/THPOs and increased HPF funding.

B) ACHP Staff, in collaboration with NCSHPO and NATHPO will:

- Work with the NPS to determine what steps may be needed to further clarify the provisions within its Historic Preservation Fund Grants Manual regarding appropriate circumstances where SHPOs/THPOs might use additional funding streams to support their capacity to conduct Section 106 reviews;
- Provide information about existing authorities, such as Section 110(g) of the NHPA, that may be used in appropriate circumstances to provide resources (funding, liaisons, equipment, etc.) to SHPOs and THPOs assisting federal agencies with Section 106 reviews, and work with agencies to address and remove perceived impediments to providing such assistance that may exist within their own enabling legislation or other authorities;
- Share examples and case studies about the range of possible assistance and resources that federal agencies have provided to SHPOs/THPOs, including federally funded positions, liaisons, temporary assignments, data sharing, equipment, and travel support, and urge them to provide such assistance where appropriate;

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- Meet with FPOs to clarify how SHPOs/THPOs assist agencies in meeting their Section 106 obligations and identify program areas where SHPOs/THPOs need assistance and urge appropriate solutions;
- Revise and expand the ACHP's "Tribal Fees" Memorandum to encompass all organizations funded through the HPF (including SHPOs, THPOs, and CLGs) and to clarify which activities they perform in assisting federal agencies with Section 106 reviews that can and cannot be subject to fees assessed to federal agencies;
- Work with the FPOs, SHPOs/THPOs to identify further efficiencies in the Section 106 review process. This includes the use of program alternatives and exempted activities, to reduce review burdens for programs that have limited potential to affect historic properties so that available resources can be focused on those programs and projects that stand to cause greater effects to historic properties;
- In collaboration with NPS, clarify what does and does not constitute a "conflict of interest" regarding federal funding of SHPO and THPO positions, and recommend ways to avoid the appearance of conflicts of interest;
- Develop and deliver a webinar that clarifies the ACHP's position on federal agencies paying for the services of Indian tribes, Native Hawaiian organizations, THPOs, and SHPOs to perform historic preservation work on their behalf.