

Hon. Aimee K. Jorjani
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March 27, 2020

Mr. John Bravacos
General Deputy Assistant Secretary
Office of Community Planning and Development
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 7100
Washington, DC 20410

RE: HUD Extension Regarding Section 106 Review of Undertakings
Responding to COVID-19 Emergency and Disaster Declarations

Dear Mr. Bravacos:

Thank you for your request dated March 20, 2020, transmitted to us on March 24 and subsequently clarified and modified via your electronic mail of March 25, to extend the time period allowed under the emergency provisions of Section 106 of the National Historic Preservation Act (Section 106) through September 13, 2020.

As you know, the regulations implementing Section 106, at 36 C.F.R. §800.12, provide for special procedures that may be used by federal agencies to comply with Section 106 regarding undertakings that respond to a disaster or emergency declared by the President, a tribal government, or the governor of a state or which respond to other immediate threats to life or property. Those procedures may be used for undertakings that will be implemented within 30 days after the declaration. However, that time period can be extended by the Advisory Council on Historic Preservation (ACHP).

Pursuant to 36 C.F.R. §800.12(d), the ACHP grants such an extension until May 29, 2020, for the Responsible Entities, state and local governments that assume authority for environmental reviews under 24 C.F.R. Part 58, and U.S. Department of Housing and Urban Development (HUD) program offices that conduct environmental reviews under 24 C.F.R. Part 50, regarding undertakings that respond to the following emergencies and disaster declarations on the outbreak of coronavirus disease (COVID-19):

- National emergency declared by President Trump on March 13, 2020, under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act (42 USC §§5121-5207) and the National Emergencies Act (50 U.S.C. §1601 et seq);
- Major disasters declared by President Trump for New York, California, Washington, Iowa, Louisiana, Florida, Texas, Missouri, Maryland, Illinois, and New Jersey; and
- Other COVID-19 emergencies or disaster declarations that (a) have already been issued by the

President, a tribal government, or the governor of a state, or (b) may be issued by any of them while this extension is in place.

We provide this extension through the end of May rather than the requested September 13, because we recognize it is difficult to project emergency needs related to COVID-19 into September and prefer to consider further extensions as we all gain more clarity about these matters. Please reach out to us in mid-May if at that point you believe the extension should be increased.

We ask that HUD please highlight for the mentioned entities operating under 24 C.F.R. Part 58 that the Section 106 emergency procedures under 36 C.F.R. §800.12 may only be used for undertakings that respond to COVID-19 emergencies or disaster declarations. Such undertakings may include establishment of testing centers, conversion of existing facilities to treatment and quarantine facilities, and acquisition of buildings that could be adapted for group living.

We also clarify that the pausing of certain Section 106 deadlines under limited circumstances related to COVID-19, announced at <https://www.achp.gov/coronavirus>, does not apply to reviews of undertakings under 36 C.F.R. §800.12 that respond to a disaster or emergency declared by the President, a tribal government, or the governor of a state or which respond to other immediate threats to life or property. Failure of the ACHP, a State Historic Preservation Officer, a Tribal Historic Preservation Officer, an Indian tribe, or a Native Hawaiian organization to respond within the time provided for comment following notice and request does not prohibit the undertaking from moving forward.

Finally, we want to strongly encourage HUD offices and the entities mentioned above that believe they will be using the emergency procedures under 36 C.F.R. §800.12 to proactively reach out to the State and Tribal Historic Preservation Officers, Indian tribes, and Native Hawaiian organizations with whom they typically work, to assess their availability during this time. Many of their offices are closed or operating under significant restrictions due to COVID-19. Knowing their availability ahead of time will better ensure that, when the shortened emergency process is used, it meets its goal of informed agency decisions regarding historic properties.

The ACHP is taking this action to extend the use of its emergency provisions as stated above in light of the nature of the COVID-19 pandemic in the United States, which, unlike other types of emergencies or disasters, is an event that is expected to continue over a period well beyond 30 days from the national emergency declaration mentioned above. Depending on developments regarding COVID-19, the ACHP may agree to further lengthen this extension if requested.

For more comprehensive information and guidance on Section 106 Emergency Procedures, please look here: <https://www.achp.gov/digital-library-section-106-landing/role-section-106-disaster-response-frequently-asked-questions>.

If you or your staff have any questions about this, please reach out to Jaime Loichinger at 202-517-0219 or jloichinger@achp.gov.

Sincerely,



Aimee K. Jorjani
Chairman