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Section 106 Exempted Categories and Exploration of an Electric Vehicle Charging Station Exemption



MEETING
FEDERAL AGENCY PROGRAMS COMMITTEE
Monday, March 28, 2022
1 p.m.-2:30 p.m. EDT

Join ZoomGov Meeting:

<https://achp.zoomgov.com/j/1616714397?pwd=RFpkdXlldGxKUGFtdW10RTVvVkN6UT09>

Meeting ID: 161 671 4397

Passcode: 564411

Dial-in: 1-646-828-7666

PROVISIONAL AGENDA

- I. Call to Order and Introductions
- II. Department of the Army Development of a Program Comment for Vietnam War Era Housing
- III. Section 106 Exempted Categories and Exploration of an Electric Vehicle Charging Station Exemption
- IV. Update: Section 106 and the Infrastructure Investment and Jobs Act
- V. Other Updates
- VI. Adjourn

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



**DEPARTMENT OF THE ARMY DEVELOPMENT OF A PROGRAM COMMENT FOR
VIETNAM WAR-ERA HOUSING
Office of Federal Agency Programs**

Background. On October 8, 2021, the Department of the Army (Army) notified the ACHP of its intent to request a Program Comment pursuant to 36 CFR 800.14(e) for a category of its historic housing inventory constructed from 1963-1975, referred to as Army Vietnam War-Era Historic Housing, Associated Buildings and Structures, and Landscape Features.

The intent of the Program Comment is to provide the Army with a programmatic approach for compliance with the requirements of Section 106 for the management actions occurring on this large inventory of similar property types, in lieu of conducting individual project reviews on a case-by-case basis. The Program Comment would streamline consultation for a category of undertakings (management actions) related to the management of the Army's inventory of Vietnam War-era housing, associated buildings and structures, and landscape features, and will apply to both Army-owned and privatized Vietnam War-era housing. Army housing constructed in this period consists of about 7,500 housing units, out of about 31,000 total historic housing units, and is located on 22 Army installations in 16 states.

Current Status. The Army developed a Program Comment Plan (available in the [Army Program Comment folder on OneDrive](#)) as an early coordination effort to receive input from the ACHP on the anticipated content and planned development approach. Development of the Plan is part of the Army's effort to incorporate recommendations from the ACHP's Program Comment Panel. The Army published a Notice of Availability of the Program Comment Plan in the *Federal Register* on November 15, 2021, to initiate its public participation in accordance with the Section 106 regulations. The Army Federal Preservation Officer also notified the National Trust for Historic Preservation (NTHP), National Conference of State Historic Preservation Officers (NCSHPO), and National Association of Tribal Historic Preservation Officers, State Historic Preservation Officers (SHPOs), and Tribal Historic Preservation Officers (THPOs), federally recognized Indian tribes, Native Hawaiian organizations, and the Historic Hawaii Foundation (HHF) of availability of the Plan. An initial 30-day public review and comment period ended on December 15, 2021.

The Army received 11 comments on the Program Comment Plan. Comments include concerns regarding inadvertent discovery of archaeological sites and Native American human remains; evaluation of properties that were less than 50 years old; additional historic context research; additional inventory and evaluation of Vietnam War-Era housing before the Program Comment is submitted; the definition of management actions; and annual reporting. The Army made several substantive changes to the Program Comment Plan, based on these comments and sent consultation meeting invitations to the ACHP, preservation organizations, SHPOs, THPOs, and federally recognized Indian tribes on January 3, 2022, notifying them of availability of the revised Plan.

The Army hosted its first two consultation meetings on January 26 and February 23, 2022, with participation from several SHPOs, NTHP, NCSHPO, and HHF. In February, the Army published a new two volume Historic Context and Inventory and Evaluation report for Army Vietnam War-Era housing. These two volumes provide information pertaining to Army Vietnam War-Era housing and are now

available to inform the Program Comment consultation, in response to comments received on the Plan. The context establishes the criteria of significance for National Register eligibility of the housing, identifies which aspects of integrity convey this significance, and how changes to materials and design over time have altered this integrity. The context now includes a partial inventory of this housing covering 10 of the 22 installations where it is known to exist and will be further enhanced with additional inventories at the remaining 12 installations as a proposed mitigation measure if the Program Comment is issued. This inventory and historic context development will be further used to identify any properties of particular importance that may be considered for additional treatment measures. None have been identified at the initial 10 installations inventoried.

Next Steps. The Army plans to continue to host regular consultation meetings with the goal of formally submitting a request for a Program Comment to the ACHP around August 2022.

Action Needed. Members will have an opportunity to hear more about the Army's goals and development process for the Program Comment in the Federal Agency Programs Committee meeting and to ask questions. This briefing by the Army is meant to provide early orientation to the members on the nature and scope of the Army's proposal. It will be followed with further staff analysis following the Army's consultation with stakeholders, further revisions to the Plan, and opportunities for member review and consideration of the proposed Program Comment once formally requested by the Army.

March 21, 2022



UPDATE ON MAJOR ACTIVITIES
Office of Federal Agency Programs
December 2021–March 2022

Program Alternatives in Development. In addition to the Army Program Comment for Vietnam War-Era Housing discussed in the paper in this tab and the exploration of an Exempted Category for electric vehicle charging facilities discussed in Tab 1, the Office of Federal Agency Programs continues to work with several other federal agencies developing program alternatives. Status summaries and current information are always accessible to members at the program alternatives OneDrive folder: https://achp-my.sharepoint.com/:f:/g/personal/bsemmer_achp_gov/EtqHzsQvUa5Moi_A9DckA60B-bLJzgi495AzOuTVBSKBkA.

Federal Permitting Improvement Steering Council Updates. The Infrastructure Investment and Jobs Act amended the reporting requirements in Title 41 of the Fixing America’s Surface Transportation (FAST) Act so that lead and participating agencies for FAST-41 projects who are members of the Federal Permitting Improvement Steering Council (Permitting Council) now report to Congress individually about their implementation of recommended permitting best practices. In the past, the Permitting Council assessed all member agencies on how they implemented such best practices in an annual report to Congress. The ACHP is currently drafting its FY21 report and will share it with members when finalized by the due date in April.

ACHP staff recently collaborated with Permitting Council staff and the National Center for Environmental Conflict Resolution (NCECR) on development of training for staff of Permitting Council agencies on engaging Indian tribes in FAST-41 project review processes. Two successful training programs took place last fall, which will be complemented by a series of workshops on this topic occurring this spring geared toward agency environmental review and permitting leaders.

March 21, 2022