

# **Program Comment on Stewardship and Management of National Park Service Mission 66-Era Facilities (1945-1972) for Compliance with Section 106 of the National Historic Preservation Act**

## **Agency Request Program Comment Draft August 2024**

The intent of this Program Comment (Program Comment) is to provide the U.S. Department of Interior, National Park Service (NPS) with an alternative way to comply with their responsibilities under Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108, and 36 CFR part 800 (Section 106)) regarding certain stewardship and management undertakings at NPS facilities built between 1945 and 1972 (Mission 66-era). This document was developed in consultation by the NPS, as part of a larger agency request, and submitted for consideration by the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR § 800.14(e) in August 2024.

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*For purposes of this Program Comment, definitions listed in 54 U.S.C. § 300309 (i.e., Tribe, Tribal lands), 54 U.S.C. § 300214 (i.e., Native Hawaiian organization), and 36 CFR § 800.16 (e.g., APE, etc.), as it may be amended, are incorporated by reference. Other definitions appear within the document in parenthesis (e.g., ERP, IRP, 2008 PA, Qualifying Undertaking, etc.). More information about the Program Comment can be found on the NPS Section 106 Compliance web page ([ParkPlanning - Mission 66 Program Comment \(nps.gov\)](#)).*

I. INTRODUCTION

- A. Background. In 2020, the U.S. Congress provided NPS with \$1.5 billion in funding via the Great American Outdoors Act (Pub. L. 116-152), and other legislation and funding followed. Funds from these laws must be obligated by NPS within the next few years or they will no longer be available for NPS use. The laws called out the agency’s deferred maintenance backlog generally, but also the need for the agency to ensure people with disabilities have equal opportunity to benefit from park facilities, programs, services, and activities.

There are approximately 20,000 Mission 66-era facilities in NPS parks, many of them serving visitors and staff, located across the country and concentrated in the Pacific West and Intermountain Regions. According to NPS data, while almost 50% of Mission 66-era facilities are in “good” or “fair” condition, 35% are in “poor” condition and 16% are in “serious” condition and contribute to the NPS deferred maintenance and repair backlog. This backlog totals \$23.3 billion as of the end of fiscal year 2023.

Many NPS visitor centers still lack accessible restrooms, water fountains, and entrances. Also, paths between parking lots, sidewalks, buildings, and interpretive programs are often not accessible. Many facilities in staff areas (e.g., housing and maintenance facilities) are also in need of accessibility improvements, as detailed in NPS reports and testimony before the U.S. Congress (*ALL IN! Accessibility in the National Park Service 2015-2020*). Further, the lack of suitable affordable NPS staff housing in parks has been identified by the current NPS director as a “critical issue,” and widely reported.

- B. Significance. The massive NPS “Mission 66” building campaign that occurred between 1945 and 1972 improved, standardized, and democratized the public’s national park experience with new facilities including comfort stations, picnic shelters, campgrounds, visitor centers, park staff housing, maintenance buildings, warehouses, roads, and other infrastructure. This period of feverish construction was called “Mission 66” because it was supposed to have been completed by 1966, in time for the fiftieth anniversary of the founding of the NPS.

Based on NPS nationwide data, the Intermountain Region and Pacific West have the greatest number of NPS Mission 66-era facilities, followed by the Southeast and Northeast, Midwest, National Capital, and the Alaska Region. The states with 500 or more Mission 66-era facilities are: California (2,450), Wyoming (1,500), Washington (1,200), Virginia (1,150), North Carolina (900), Utah (900), Arizona (900), Colorado (800), Tennessee (700), New York (650), Montana (650), Mississippi (600), Maryland (500), and Texas (500), for a total of about 12,950 facilities (approximately). Other states have less than 500 each. (All figures are approximate and nationwide data has not been verified at the regional, state, or park levels.)

While some of the Mission 66-era facilities, especially visitor centers, were designed by renowned architects, many others were built using standard plans such as those developed for comfort stations, staff housing, administrative and maintenance/utility buildings, ranger kiosks, and similar. During the Mission 66-era, some adjustments were made to the standard plans to address changing park needs as well as both the suitability and availability of construction materials in different regions.

NPS staff typically utilizes the National Register of Historic Places Multiple Property Documentation Form (MPDF, NRIS #64501248, 2015, [npshistory.com/publications/mission66/nr-mission66.pdf](https://npshistory.com/publications/mission66/nr-mission66.pdf)) to provide a framework for identification of Mission 66-era historic properties. The MPDF established the period of significance as 1945 to 1972. It mentions certain properties as early or exemplary embodiments of the period, lists the ninety-five (95) parks that were established as part of Mission 66, sets eligibility evaluation criteria for individual listings and park-wide districts, and focuses on consideration of small area use-specific districts.

A monograph on the subject, *Mission 66: Modernism and the National Park Dilemma* (Ethan Carr, LALH, 2007, [Review of Mission 66: Modernism and the National Park Dilemma \(nps.gov\)](#)), and an NPS-published book, *MISSION 66 VISITOR CENTERS: The History of a Building Type* (Sarah Allaback, Ph.D., NPS, 2000, [National Park Service: Mission 66 Visitor Centers \(nps.gov\)](#)), provides additional context. In 2022, NPS also published process guidelines for determinations of eligibility for Mission 66 Campgrounds ([Mission 66 Campgrounds Determination of Eligibility Process Guidelines \(npshistory.com\)](#)).

- C. Current Compliance Efforts. The *Programmatic Agreement among the National Park Service (U.S. Department of Interior), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the National Historic Preservation Act* (2008) (2008 PA, [What We Do - Section 106 Compliance Program \(U.S. National Park Service\) \(nps.gov\)](#)), governs implementation of regular management activities at the NPS.

The 2008 PA requires Park Superintendents to develop an inventory of historic properties, properties that are listed in or eligible for listing in the National Register of Historic Places (National Register). When an undertaking is proposed, the 2008 PA's streamlined process requires that "identification and evaluation of all types of historic properties within the project area of potential effects (APE) must have been previously undertaken, sufficient to assess effects on those resources" either via 36 CFR part 800 or Section 110 (54 U.S.C. § 306102) (The identification effort would have occurred sometime before the undertaking was planned.).

These processes can be time consuming and according to NPS nationwide data, approximately 75% of Mission 66 facilities have not been evaluated for listing in the National Register.

Furthermore, the 2008 PA focuses on regular management activities. As many Mission 66-era facilities are in poor or serious condition and hundreds are underutilized or unused (defined in the Federal Real Property Profile *Data Dictionary*, [FRPC Guidance Library | GSA](#)), scopes of work may address more than regular management. Also, the streamlined review process described in the 2008 PA can only be used by Park Superintendents when there is a determination of “no historic properties affected” or “no adverse effects” (36 CFR part 800), and some proposed scopes of work that go beyond regular management may pose adverse effects to Mission 66-era historic properties. Finally, the 2008 PA’s streamlined review process cannot be used when there is a lease that includes a change of use or where projects cumulatively result in the complete rehabilitation of a historic property.

While it is standard for NPS to make reasonable efforts to avoid and minimize adverse effects (e.g., for activities completed in accordance with various NPS Preservation Briefs [Preservation Briefs - Technical Preservation Services \(U.S. National Park Service\) \(nps.gov\)](#)), there may be cases in which projects cannot achieve mission goals while completely avoiding or minimizing adverse effects to Mission 66-era historic properties (e.g., such as making accessibility improvements to comfort stations by changing their layouts, upgrading staff housing kitchens and baths, applying preventive seal treatments to vehicular areas, switching out building yard plantings to address the changing climate, and improving utilities at campgrounds, etc.). There may also be temporary adverse effects to Mission 66-era historic properties and other historic properties during construction and reasonably associated with construction activities, that may not be entirely avoidable or minimizable, but will cease once construction is complete.

In these cases, compliance for Mission 66-era facilities has often occurred in conjunction with other larger park initiatives, for which a memorandum of agreement or a programmatic agreement has been executed, or when a park-wide programmatic agreement is already in place. The Program Comment will provide parks with a new optional compliance method, to address Mission 66-era facilities more specifically.

- D. Goals. The Program Comment will support NPS efforts to use Mission 66-era historic properties to meet mission needs by expediting Section 106 reviews. It will help NPS fulfill legislated mandates to improve the visitor experience and accessibility, enhance conditions for staff, address longstanding deferred maintenance, and advance ongoing stewardship efforts. NPS plans to accomplish the following with the Program Comment:
1. implement the MPDF on a national level, to address the NPS identification backlog and alleviate workloads;
  2. utilize the existing NPS compliance staffing and teams with Qualified Personnel and/or Cultural Resource Management (CRM) Team engagement;

3. encourage preservation and predictability in project planning by requiring internal reviews by Qualified Personnel and/or a CRM Team for certain undertakings that either pose no adverse effects to historic properties or when the only condition for such a finding, by a Park Superintendent, is that the undertaking will follow the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, (Secretary's Standards, [The Secretary of the Interior's Standards for the Treatment of Historic Properties - Technical Preservation Services \(U.S. National Park Service\) \(nps.gov\)](#)) and applicable guidelines;
  4. provide for accountability by listing requirements for the Consultation Record and ensuring the NPS Federal Preservation Officer (FPO) and deputies have access to it for oversight and regular reporting, and may reference it as needed and when considering whether a park's use of the Program Comment needs to be suspended;
  5. develop mitigation for adverse effects associated with the Program Comment with measures including additional National Register documentation of Mission 66-era historic properties, and either advancing conservation of Mission 66-era materials via materials research and analysis or developing a nationwide interpretive plan, as funds allow; and
  6. facilitate a smooth transition back to using the 2008 PA, for regular management activities, at the end of the Program Comment's ten-year duration.
- E. Existing Compliance Structure. NPS will utilize the existing NPS compliance staffing and teams (described in the 2008 PA and this Program Comment) at the headquarters, regional, and park levels, with Qualified Personnel and/or Cultural Resource Management (CRM) Team engagement, as described below.
1. In the entire federal government, NPS has one of the largest concentrations of qualified cultural resource personnel. In this Program Comment, the term Qualified Personnel (Qualified Personnel) refers to those in NPS employ that meet the *Secretary of the Interior's Professional Qualification Standards* or the *OPM Personnel Qualification Standards*, which codify the minimum requirements that must be met for professional work concerning historic properties.
  2. The term Cultural Resources Management Team (CRM Team) is explained in the 2008 PA and in NPS's PA Guidance as follows: A team of subject matter experts appropriate to the resource types found in the park. The number of individuals on the CRM Team may vary from park to park as needed to represent all disciplines appropriate to the park's resources. For example, an undertaking being planned that involves a historic building must have a historical architect on the CRM Team. Typical CRM Teams often include a historical architect, a historical landscape architect, an archeologist, a cultural anthropologist, a historian, and a museum curator. Members may include park staff or staff of other parks, NPS Regional Offices, NPS Centers, Federally recognized Indian tribes or Native Hawaiian organizations, or others from the public or private sector. Agency personnel or contractors who participate on the Park's CRM Team must meet either the qualification standards established in Appendix E to NPS-28, which references the Office of Personnel Management (OPM) *Personnel Qualifications Standards*, or the *Professional Qualification Standards in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic*

*Preservation.* These qualification standards define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved (*NPS Nationwide Programmatic Agreement National Guidance Document*, 2022, [NPS Nationwide Programmatic Agreement National Guidance Document](#)). A CRM Team may be brought in by a Park Superintendent to support the review process set forth in the Program Comment as needed.

## II. SCOPE

- A. Mission 66-Era Historic Properties. Within this Program Comment, the term Mission 66-era Historic Property refers to a type of historic property (see 36 CFR § 800.16(l)) that was built between 1945-1972, during a massive NPS “Mission 66” building campaign that was called “Mission 66” because it was supposed to have been completed by 1966, in time for the fiftieth anniversary of the founding of the NPS. This term includes Operations Outdoors historic properties that were built for the U.S. Forest Service, or any other historic properties from the Mission 66-era that are now in the custody and control of the NPS as described in the relevant section in this document. (May be referred to in singular as a Mission 66-era Historic Property, and non-historic Mission 66-era properties are referred to as Mission 66-era facilities.)
- B. Overall Effect. This Program Comment will provide an alternative way for NPS to comply with their Section 106 responsibilities to take into account the effects on historic properties of their activities with regard to the covered undertakings at Mission 66-era facilities. The Program Comment also provides the ACHP a reasonable opportunity to comment regarding covered undertakings at Mission 66-era facilities.
- C. Effect on Other Applicable Laws or Existing Agreements. The Program Comment is an optional tool, and will not replace, amend, or otherwise change the 2008 PA, nor any other park- or project-specific Section 106 agreements.

Under NPS policy, each Park Superintendent serves as the responsible agency official for the purposes of Section 106 compliance for their park and makes all findings and determinations in the Section 106 process.

If standard Section 106 review, the 2008 PA, a park- or project-specific agreement, or some other applicable program alternative is better suited for NPS to comply with their Section 106 responsibilities for a given undertaking, there is no requirement for this Program Comment to be used by the Park Superintendent. Again, use of this Program Comment is optional.

- D. Effect on Tribal Lands. This Program Comment cannot be used on Tribal lands (as defined in the NHPA). In addition, this Program Comment cannot be used when any portion is proposed to occur on or affect historic properties located on Tribal lands or to activities that may affect historic properties located on Tribal lands (Section II.E.2.).

- E. Category of Undertakings. A Park Superintendent will determine whether it is appropriate to use this Program Comment for a given undertaking as described immediately below and referencing both the park inventory of historic properties described in I.C, above, and the park's most recent annual report, such as a report associated with the 2008 PA or some other park-wide agreement, and going forward as described in Section IX. below.

This Program Comment may be selected by a Park Superintendent as the appropriate Section 106 compliance method when (1) one of the following management undertakings is planned to take place on: (a) a single Mission 66-era facility or (b) to take place at one or more NPS facilities where the majority of facilities (or resources) within the APE are from the Mission 66-era (1945 to 1972), as determined by the Park Superintendent (in consultation with Qualified Personnel and/or the CRM Team with such consultation documented in the Consultation Record).

The following lists the Qualified Undertakings covered by this Program Comment:

1. Regular Management Activities (Regular Management Activities, i.e., 2008 PA Stipulation III.C.) and associated work (e.g., site, site signage, and utilities) and
2. Other Management Activities (Other Management Activities) and associated work (e.g., site, site signage, and utilities) which include:
  - i. Complete rehabilitation in accordance with the Secretary's Standards, specifically the Secretary's Standards for Rehabilitation, and applicable guidelines; and/or
  - ii. Section II.D.2.i. when associated with leasing; and/or
  - iii. alteration, accessibility improvements, HazMat abatement, stabilization and mothballing, demolition of non-historic properties, new construction in accordance with the Secretary's Standards and applicable guidelines or with Design Guidelines (Section II.G.), and construction of additions.

(These will be referred to as Qualifying Undertaking(s).)

- F. Non-Qualifying Undertakings. However, an otherwise Qualifying Undertaking may not utilize the Program Comment when the Park Superintendent (in consultation with Qualified Personnel and/or the CRM Team and documented in the Consultation Record), determines that any of the conditions below (also referred to as Kick-Outs) are present:

1. potential to affect National Historic Landmarks (NHLs) (including those from the Mission 66-era), historic battlefields, burial sites, human remains, and/or funerary objects;
2. any portion is proposed to occur on or affect historic properties located on Tribal lands (as defined in the NHPA), or there is the potential to affect properties of religious and cultural significance to an Indian or Alaska Native Tribe (as that term is defined in the NHPA) or to the Native Hawaiian Community;



3. potential to affect non-Mission 66-era historic properties (e.g., National Register-eligible or -listed historic properties that are not primarily-eligible or -listed due to any association with the Mission 66-era, such as a Colonial-era archaeological site, a Queen Anne Style farmhouse complex district, a CCC-era structure or linear district, a historic landscape site or district, etc.); and/or
4. potential to affect a Mission 66-era historic property or properties such that it/they would be ineligible for National Register listing or a candidate(s) for de-listing.

(These will be referred to as Non-Qualifying or Non-Qualified Undertakings.)

- G. Temporary Effects. Use of this Program Comment may still occur if there may be potential temporary adverse effects to a historic property during construction which may be reasonably associated with construction activities for the Qualifying Undertaking. Such temporary adverse effects are the type that will cease once construction is complete (Temporary Effects) (e.g., temporary effects associated with safety signage or apparatus, construction lay-down or staging areas, or for temporary provision or cessation of utilities or channeled drainage). These must be minimized with assistance from Qualified Personnel and/or the CRM Team, as documented in the Qualifying Undertaking's Consultation Record.

If a Qualified Undertaking would not otherwise trigger an External Review Process (defined below), but may cause Temporary Effects, the External Review Process will not be triggered for the Temporary Effects.

- H. Design Guidelines. Guidelines for new construction and/or construction of additions at Mission 66-era facilities that may be developed on a park-by-park basis or on a facility type basis (e.g., *Design and Maintenance Guidelines: Mission 66 Comfort Stations, National Capital Region, Washington, D.C.*), when such development includes reasonable incorporation of comments by ACHP and NCSHPO and the final Design Guidelines document is promulgated by the NPS FPO to ACHP and NCSHPO, online, and in regular reporting, will be referred to in this document as Design Guidelines.

### III. IDENTIFICATION OF HISTORIC PROPERTIES

- A. Reasonable and Good Faith Effort. After determining that it is appropriate to use the Program Comment for the proposed Qualifying Undertaking as described above, the Park Superintendent will identify historic properties within its APE. Qualified Personnel and/or a CRM Team will support Park Superintendents to help them make informed determinations. The Park Superintendent will make a reasonable and good-faith effort to identify historic properties through one of the options described below, or a combination thereof.
  1. Rely on the records from previous identification efforts done pursuant to 36 CFR § 800.4(c) for another undertaking within the APE, or identification efforts done in implementation of the agency's responsibilities under Section 110 of the NHPA . In consultation with the Qualified Personnel and/or CRM Team, the Park Superintendent should determine if those previous efforts are sufficient to identify historic properties within the APE for the proposed undertaking.

2. Alternatively, in lieu of conducting individual determinations of eligibility in accordance with 36 CFR § 800.4, the Park Superintendent may consider unevaluated Mission 66-era facilities (or those for which evaluations were incomplete or insufficient) as eligible for the National Register for the purposes of compliance with Section 106 via the Program Comment, with assistance from Qualified Personnel and/or a CRM Team as described immediately below.

Identification efforts and consultation (e.g., among the Park Superintendent, Qualified Personnel and/or a CRM Team, and others), including any disagreements and their resolution, must be documented in the Qualifying Undertaking's Consultation Record. The Consultation Record must also summarize the applicability of the MPDF and the National Register criteria, and any associated guidance, the summary being prepared by Qualified Personnel and/or the CRM Team, so that the historic property's character-defining features are identified in the record. *Mission 66: Modernism and the National Park Dilemma* (Ethan Carr, LALH, 2007) and *MISSION 66 VISITOR CENTERS: The History of a Building Type* (Sarah Allaback, Ph.D., NPS, 2000) and other NPS publications may provide additional context, if necessary.

- B. Re-evaluation of Previously Evaluated Properties. Analysis and formal correspondence may be necessary to determine whether properties that are not from the Mission 66-era are historic. This may require re-evaluation of previously evaluated properties (e.g., in accordance with 36 CFR § 800.4).
- C. Properties Built Between 1990 and the Present Day. Properties that were built between 1990 and the present day, unless already determined as National Register-eligible under Criteria Consideration G, will not be considered as National Register-eligible for the purposes of compliance with Section 106 via the Program Comment.
- D. Mission 66-era Utilities. The Mission 66 program provided funds to introduce potable water, sewer systems, and electricity to new comfort stations and other buildings and structures within a park, as well as certain roads or trails. While this infrastructure was part of Mission 66 goals to modernize parks and visitor services, utility infrastructure, such as water, sewer, telephone (communication), and electric lines (above and below ground), seldom in and of themselves have architectural or historical significance. Utility resources that are buried, either wholly or in part, should be described as a part of the overall setting, but need not be evaluated as contributing or noncontributing. They should be considered and described within the context of a related historic district, as applicable. As such, there are two (2) types of Mission 66-era facilities that may be considered ineligible for the purposes of compliance with Section 106 via the Program Comment:
  - i. those Mission 66-era facilities already formally determined as ineligible, when those determinations indicated that the MPDF was taken into consideration and did not call for further evaluation of the subject facilities; and
  - ii. below-grade utilities and utility covers and above-grade utility lines, poles, and pipes (e.g., water, sewer, telephone and communication, and electric) unless they are an example of distinctive design or engineering.

However, there may be components of Mission 66-era utility systems that are visible and if they are examples of distinctive design or engineering compatible with other Mission 66 resources and retain integrity, they should be evaluated for eligibility.

- E. Identification Findings and Next Steps. After completing the effort described above, the Park Superintendent will make one of the following determinations (with input from Qualified Personnel and/or the CRM Team and made part of the Consultation Record):
1. Properties identified within the APE consist of no historic properties including no Mission 66-era historic properties, or
  2. Properties identified within the APE that consist of:
    - i. only Mission 66-era historic properties, or
    - ii. a combination of Mission 66-era historic properties and Mission 66-era facilities that are not historic, or
    - iii. a combination of Mission 66-era historic properties and other non-historic facilities (or resources) from outside of the Mission 66-era (but with the latter not representing a majority of the properties, per the Kick-Outs); or
    - iv. Mission 66-era facilities that are not historic and other facilities (or resources) from outside of the Mission 66-era that are historic (but with the latter not representing a majority of the properties, per the Kick-Outs).

Once one of these determinations has been made by the Park Superintendent, they will proceed to the next step in the process, Section IV., below.

- F. Identification Findings for the Program Comment. National Register determinations of eligibility made with the Program Comment apply to Qualified Undertakings completed in accordance with it. If for any reason Section 106 compliance must be accomplished via another means (e.g., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement is needed because an undertaking is no longer a Qualified Undertaking), additional analysis and reviews may be necessary.

#### IV. REVIEW PROCESS OVERVIEW AND ASSESSING ADVERSE EFFECTS

- A. Two Review Processes. Under this Program Comment, there are two review processes. Some Qualifying Undertakings may require an External Review Process (ERP) and others may require only an Internal Review Process (IRP). The ERP package and IRP package will include relevant documentation so as to meet the requirements as set forth in 36 CFR § 800.11, as described below, and will be part of the Consultation Record.

Qualified Personnel and/or a CRM Team will support Park Superintendents to help them make informed determinations, to avoid or minimize adverse effects, and to take cumulative effects into consideration. The Consultation Record must indicate that such consideration occurred and support the Park Superintendent's findings. Any disagreements about the ERP or IRP between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution, must also be part of the Consultation Record.

- B. Implementation as Documented. Implementation of a Qualifying Undertaking in accordance with the finding(s) as documented in the ERP or IRP fulfills the agency's responsibilities under Section 106 for the Qualifying Undertaking.
- C. Special External Review Process for Certain Findings of No Historic Properties. When no historic properties are identified within the APE, including findings that there are no Mission 66-era historic properties (Section III.E.1.) or some Mission 66-era facilities that are not historic (Section III.E.2.ii. and iv.), a special ERP is required to confirm that there are no properties of religious and cultural significance to an Indian or Alaska Native Tribe or to the Native Hawaiian Community.

If an ERP is occurring, the Special ERP may be accomplished in conjunction with the ERP. If an ERP is not occurring, the Special ERP will be completed separately.

- D. Internal Review Process for Certain No Adverse Effects Findings. For all findings in Section III.E.2., when there is also a determination that there are no adverse effects to historic properties in the APE because the Secretary's Standards and applicable guidelines will be applied (confirmed with input from Qualified Personnel and/or the CRM Team and as shown in in the Consultation Record), and there are no other conditions (other than those for Temporary Effects), the Park Superintendent is required to do an IRP.
- E. External Review Process for Certain No Adverse Effects Findings. For all findings in Section III.E.2., when there is also a determination that there are no adverse effects to historic properties in the APE because the Secretary's Standards and applicable guidelines will be applied, and other conditions will also be applied (aside from those for Temporary Effects), the Park Superintendent is required to do an ERP.
- F. External Review Process for Adverse Effects Findings. For findings in Section III.E.2.i-ii. and iii., if there is also a determination that there may be adverse effects to Mission 66-era historic properties, the Park Superintendent is required to do an ERP.

As noted in Section II.E.3., a determination that adverse effects to non-Mission 66 era historic properties would result from the proposed undertaking would require the Park Superintendent to follow the standard Section 106 review process or another applicable program alternative, because such adverse effects would render the undertaking Non-Qualifying. (except for Temporary Effects).

## V. THE EXTERNAL AND INTERNAL REVIEW PROCESSES

- A. The External Review Process. The ERP will occur in the situations described above, Sections IV. C. and E-F. The Park Superintendent will develop the ERP package as set forth below and post it on a public-facing PEPC website. The Park Superintendent will notify the relevant State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) and potentially interested Indian or Alaska Native Tribe, or the Native Hawaiian Community (i.e., via e-mail, hard-copy letter via mail or mail service, or an alternative method arranged in advance in writing) that the ERP package has been posted. Upon the parties' receipt of the notification, a fifteen (15) day timeframe for review and response commences. The parties can provide any comments or objections in writing via the PEPC website or email to

the Park Superintendent. The Park Superintendent will take into account any timely comments or objections provided. If no written objection or no response is received by the Park Superintendent within the timeframe, the Section 106 review as documented in the ERP is complete and no further review or consultation on the Qualifying Undertaking is required.

If an objection is received to the ERP package within the timeframe, including a request for missing required information, the Park Superintendent will post any necessary materials on the public-facing PEPC website for an additional seven (7) day review, and attempt to resolve the objection with the objecting party. If the Park Superintendent is unable to resolve the objection within a reasonable amount of time, the Program Comment cannot be used for the proposed undertaking and the park will follow the standard Section 106 review process in 36 CFR part 800 or another applicable program alternative.

- B. The Internal Review Process. The IRP will occur in the situations described in Section IV.D, above. Park Superintendents, Qualified Personnel, and/or a CRM Team will develop the IRP package in accordance with the requirements in Section VI., reasonable time periods will be provided for internal review and discussion, and the Consultation Record must reflect all findings and determinations. Any disagreements between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution must also be documented in the Consultation Record.
- C. Execution and Reporting. The status of any ERP or IRP will be included in annual reporting, described in Section IX. If the Qualified Undertaking is not being reasonably executed as documented in the ERP or IRP package (e.g., due to substantive differences between the preliminary design documents from the ERP or IRP package and later final design or construction documents that introduce Kick-Outs or new adverse effects, etc., or for another reason), then NPS will consult with Qualified Personnel and/or the CRM Team to determine whether the matter can be resolved and documented appropriately (i.e., in the Consultation Record). If it cannot, Section 106 compliance must be reopened and accomplished via the Program Comment (i.e., a new or updated IRP or a new ERP package) or another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement). If this occurs, additional analysis and reviews may be necessary.

## VI. ERP and IRP PACKAGE CONTENTS

- A. ERP Package Contents. The ERP package for the proposed Qualifying Undertaking must include:
  - 1. a description of the Qualifying Undertaking;
  - 2. analysis confirming no Kick-Outs are present;
  - 3. a relevant excerpt of preliminary design documents that clearly depict and delineate the Qualifying Undertaking (i.e., plans, elevations, and specifications);
  - 4. a description and map of the APE;
  - 5. ground-disturbance information and surveys as appropriate and consistent with confidentiality provisions in 36 CFR § 800.11(c);
  - 6. a finding by the Park Superintendent as noted in Section III.E.
  - 7. a finding by the Park Superintendent as noted in Section IV. D or Section IV.C., E., or F.

8. the Park Superintendent's name and the name(s) of Qualified Personnel and/or the CRM Team; and,
9. the Park Superintendent's signature on the ERP package to confirm: the proposed project is a Qualifying Undertaking; the finding and determinations; that the park will execute the Qualifying Undertaking as documented; and,
10. the following statement, to account for various situations such as where there may be substantive differences between the preliminary design documents from the ERP package and later construction documents that introduce Kick-Outs or new adverse effects, or intensify adverse effects, "If the Qualifying Undertaking is not substantively executed as documented in the ERP, NPS will consult with Qualified Personnel and/or the CRM Team to determine whether the matter can be resolved and documented appropriately (i.e., in the Consultation Record). If the matter cannot be resolved, the Park Superintendent will reopen Section 106 and accomplish compliance for the proposed project via the Program Comment (i.e., a new or updated ERP package, or an IRP package) or another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement)."

With regard to Section VI.A.7., when adverse effects to Mission 66-era historic properties may result from the proposed undertaking, the Park Superintendent will reference the relevant Mitigation Menu measure in Section VII., which will be provided at the national level and will not be subject to further consultation, nor available for objection in the ERP.

The status of the ERP for the Qualifying Undertaking will be posted on a public-facing PEPC website.

- B. IRP Package Contents. The IRP package for the proposed Qualifying Undertaking must include all the same elements of the ERP package but will be posted on an internal-facing PEPC site, and all references to ERP above will be substituted with the term IRP.

## VII. THE CONSULTATION RECORD

- A. A complete Consultation Record follows the documentation standards in 36 CFR § 800.11, will be available and accessible to NPS staff at the park-, regional-, and national-levels for NPS reporting purposes, and includes:
  - a summary of the Qualifying Undertaking;
  - the APE;
  - information on Kick-Outs, and their applicability;
  - a summary of the applicability of the MPDF and any associated guidance, and National Register criteria;
  - a finding of effects (including a summary of any Temporary Effects during construction and reasonably associated with construction activities for the Qualifying Undertaking) and information on mitigation for adverse effects;
  - the ERP package or IRP package, as applicable;
  - any timely written comments received or any other relevant internal or external comments, disagreements, or objections and information on how objections were either resolved or compliance was going to be accomplished via another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific

- memorandum of agreement). This includes any disagreements between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution;
- a record of consultation with Qualified Personnel and/or the CRM Team, including incidences when the Qualified Undertaking was not being reasonably executed as documented in the ERP or IRP package, and whether and how the matter was addressed and documented appropriately, or for another reason such as an unanticipated discovery;
- the date the PEPC file was closed, or the date that a decision was made to reopen Section 106 compliance and to complete a new review via the Program Comment (i.e., a new or updated ERP, or an IRP) or another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement).

## VIII. MITIGATION

- A. Collective Mitigation. NPS will provide mitigation for collective adverse effects to Mission 66-era historic properties at the national level, rather than park/undertaking specific approaches. The list below is a Mitigation Menu which consists of measures which may be employed alone or combined, and may be accomplished at the park, regional, or national level, or some combination thereof. They will mitigate adverse effects to Mission 66-era historic properties that occur when Qualified Undertakings are completed in accordance with the Program Comment:
- resource stewardship training;
  - national-level inventory management;
  - national-, park-, district-, and individual property-level National Register documentation; and
  - formal study of materials analysis and/or materials conservation or development of a national-level Mission 66-focused interpretive plan (as funds allow).

(This will be referred to as the Mitigation Menu and the individual measures will be referred to as Mitigation Measure(s).)

In addition, utilizing materials generated from regular reporting and Mitigation Measures, NPS national-level staff may endeavor to conduct data (statistics) collection and perform associated analysis.

For Qualifying Undertakings that pose adverse effects to historic properties, the associated ERP package should reference associated Mitigation Measure(s).

Mitigation Measures will be tracked by the Federal Preservation Officer (FPO) and deputy associate directors at the national level. Progress for all parks must be detailed in the annual meeting and report, the regional annual report, and the agency annual report and meeting (defined below), segments of which must be posted on a public-facing PEPC website as described in the next section.

In addition, NPS will develop a brief web-based on-demand training for use by internal and external partners.

- B. Changes to Mitigation Measures. Any change or modification to the mitigation menu would require an amendment to this Program Comment.

IX. PARK SUSPENSION

- A. Park Suspension Process. Park suspension from use of the Program Comment may occur if there are repeated or egregious instances where the Qualified Undertaking was not reasonably executed as documented in the IRP package or ERP package, as determined by the NPS FPO in consultation with regional leadership, and with input from the respective Park Superintendent and the Qualified Personnel and/or the CRM Team(s). It may also occur if a park has a pattern of not complying with the terms of the Program Comment when it was the selected Section 106 compliance method, with such pattern documented in the Consultation Records or annual reporting, also as determined by the NPS FPO as described in this section.
- B. Notification of Park Suspension. The ACHP, NCSHPO, and the respective SHPO, THPO, Indian or Alaska Native Tribes and the Native Hawaiian Community will be promptly notified, in writing, if a park has been suspended from using the Program Comment and informed of the terms of such suspension. Those parks suspended from use of the Program Comment will be listed in the annual meeting and report (to close out the year for that park), the Regional annual report, and the agency annual report and meeting. (Segments of certain reports must be posted on a public-facing PEPC website, as described in the next section.)

X. REPORTING AND MEETINGS

- A. Park Annual Report and Annual Meeting. For parks using or planning to use the Program Comment, the Park Superintendent will develop a park annual report and hold an annual meeting with consulting parties each year, initially occurring at least within seven (7) months of the issuance of the Program Comment or in conjunction with biannual meetings already occurring to meet requirements of other program alternatives (e.g., the 2008 PA), whichever is earlier, either virtually, in-person, or via telephone.

Primary invitees include the SHPO/THPO, Indian or Alaska Native Tribes and the Native Hawaiian Community, and others may include lessees, historic societies, gateway communities, Qualified Personnel and/or CRM Teams, and other stakeholders.

The park will provide the park annual report to invitees concurrently with the annual meeting invitation via e-mail, hard-copy letter through mail or other shipping service, or an alternative method arranged in advance and agreed to in writing by the sending and receiving parties. The annual reports will include:

- updates to inventories of Mission 66-era historic properties and non-historic properties;
- information about undertakings that are ongoing or are planned;
- mitigation status;
- problems with implementation of the Program Comment;
- training administered;
- relevant NPS contact information; and
- any park suspension status.



The park will hold the annual meeting no less than thirty (30) days after the park has transmitted the park annual report and invitation.

Meeting minutes will be distributed by the park to all attendees, the Regional Director and Regional Section 106 Coordinator, and the Park 106 Coordinator, within thirty (30) days after the meeting. The park will also provide a summary on a public-facing NPS website including meeting highlights within that same period.

If a SHPO/THPO, Indian or Alaska Native Tribe and/or the Native Hawaiian Community has informed a Park Superintendent of an area of interest or concern because of a property of religious and cultural significance to them, and a Mission 66-era facility has any geographic overlap with that area of interest or concern, the Park Superintendent will individually write to the respective SHPO/THPO, Indian or Alaska Native Tribe and/or the Native Hawaiian Community, as part of this park annual report, to inform them of the inventory and any updates. Park Superintendents will comply with all confidentiality requirements and if necessary, this information may not appear in the annual report.

- B. Regional, Agency, and Wrap-Up Reports. For regions that include parks using or planning to use the Program Comment, a regional annual report must be provided to the FPO within four (4) months of the end of the calendar year and include a summary and compilation of:
- PEPC data;
  - inventories of Mission 66-era historic properties and non-historic properties;
  - undertakings that are ongoing or are planned;
  - mitigation status;
  - problems with implementation of the Program Comment including any park suspension(s);
  - training administered; and
  - NPS contact information.

Any disagreements between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution, must also be listed in summary fashion.

The FPO's summary and compilation of all the regional annual reports will comprise the agency annual report and will include an executive summary that will be posted by the FPO on a public-facing PEPC website within four (4) months of the end of the fiscal year, not including fiscal year 2024. Mitigation efforts will be tracked and progress must be described in detail. The ACHP and NCSHPO will be notified of the posting in writing.

At the written request of the ACHP and/or NCSHPO, an annual meeting may occur to review implementation of the terms of the Program Comment and determine whether an Amendment is needed. In the event that a meeting on the agency annual report is held by NPS, ACHP and NCSHPO will both be invited and it will occur no less than thirty (30) days after the agency annual report was posted on PEPC.

Three (3) years before the end of the duration of the Program Comment, the NPS FPO will send a report to the ACHP and NCSHPO detailing progress made with the Program Comment, Mitigation Measures completed, National Register nomination status, challenges

encountered, and the NPS's plans for the final two and a half (2.5) years of the Program Comment's duration. This will be known as the Program Comment wrap-up report.

In the final six (6) months of the ninth year of Program Comment's duration, regardless of the status of an Amendment (if pursued), the NPS FPO will submit an agency report to ACHP and NCSHPO detailing progress made and providing links to completed mitigation. NPS will also promptly post a summary of the agency report for public review on a public-facing PEPC website.

#### XI. ADMINISTRATIVE CLAUSES AND POST-REVIEW DISCOVERIES

- A. Duration and Amendment. The Program Comment will remain in effect until [DATE 10 years from ACHP issuance] unless, prior to that time, the ACHP withdraws the Program Comment in accordance with 36 CFR § 800.14(e)(6). Following such expiration or withdrawal, NPS will be required to comply with Section 106 through the process in 36 CFR part 800, or an applicable program alternative under 36 CFR § 800.14.

During the first six (6) months of the ninth year of the issuance of the Program Comment, and at the time the wrap-up report is supposed to be issued, NPS and the ACHP will meet to determine whether the ACHP should consider an extension to its term via an Amendment.

The Program Comment may be amended by the ACHP's Executive Director when the NPS, NCSHPO, or the ACHP's Executive Director proposes an amendment in writing to the other parties. In deciding whether to amend the Program Comment, the ACHP's Executive Director will consult with NPS and NCSHPO, and other parties as appropriate. The ACHP will publish notice in the *Federal Register* within thirty (30) days after its decision to amend the Program Comment, and also provide written notification to NPS, NCSHPO, and other parties as appropriate.

- B. Post-Review Discoveries. Post-review discoveries will be addressed via 36 CFR § 800.13(b-c).
- C. Emergencies. Emergency situations will be addressed via 36 CFR § 800.12.
- D. Section 106 Review for a Single Undertaking. Each proposed undertaking to be subject to the Program Comment should be reviewed in its entirety. Different program alternatives may not be used to evidence Section 106 review for a single undertaking. To clarify, a Park Superintendent may not use more than one program alternative to evidence Section 106 compliance for a single undertaking.
- E. Document Website. This document will initially be available at [www.achp.gov](http://www.achp.gov) and [Park 106 Compliance - Section 106 Compliance Program \(U.S. National Park Service\) \(nps.gov\)](http://www.nps.gov/park106compliance) and will continue to be made available online by NPS as referenced in agency annual reports.