

Outline/Plan

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

National Park Service
Cultural Resources, Partnerships, and Science Directorate
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More information about the Program Comment can be found on the NPS Section 106 Compliance web page: [Program Comment - Section 106 Compliance Program \(U.S. National Park Service\) \(nps.gov\)](#).

1. Introduction

The National Park Service (NPS) developed this outline/plan in advance of submitting an agency request to the Advisory Council on Historic Preservation (ACHP), so that upon the ACHP's review and issuance of the Program Comment, Park Superintendents will have a new optional compliance method to meet their responsibilities under Section 106 of the National Historic Preservation Act (NHPA 54 U.S.C. § 306108), for stewardship and management of NPS facilities built between 1945 and 1972 (the Mission 66-era).

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties, and to afford the ACHP a reasonable opportunity to comment, prior to making final decisions. The Section 106 regulations, "Protection of Historic Properties" (36 CFR Part 800) set forth a four-step process for agencies to follow, but also allow agencies to seek program alternatives. A program comment is a type of program alternative wherein ACHP "comments" on a category of undertakings instead of commenting on a case-by-case basis. (36 CFR § 800.14(e))

The ACHP recommends that agencies developing draft requests for program comments provide an outline/plan "describing the substantive content of the program comment" in consultation. This outline/plan is based on the conceptual overview, which NPS used to initiate consultation in the fall of 2023. Comments were received through early 2024 and have been addressed in this document.

Background

There are approximately 20,000 Mission 66-era facilities, many of them still serving visitors and NPS 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.

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 NPS's deferred maintenance backlog generally, but also the need for NPS to ensure people with disabilities have equal opportunity to benefit from NPS facilities, programs, services, and activities.

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.

Section 106 Compliance

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. 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)* (PA), governs implementation of regular management activities.

The PA is central to the NPS Section 106 compliance program, and when a Park Superintendent opts to use the proposed Program Comment, the same staffing and teams set forth in the PA will be utilized. Use of the Program Comment will also capitalize on existing inventory records developed by a park, as the PA requires Park Superintendents to periodically review and update such records to ensure data on historic properties, including condition information, is current.

However, when an undertaking is proposed, the PA's streamlined process requires Park Superintendents to identify all historic properties within a proposed undertaking's area of potential effects (APE) via 36 CFR Part 800 or Section 110 (NHPA 54 U.S.C. § 306101) (i.e., The identification effort occurred sometime before the undertaking was planned.). These processes can be time consuming, and per NPS nationwide data approximately 75% of Mission 66 facilities have not been evaluated for listing in the National Register of Historic Places (NRHP).

Further, the PA is for 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*), scopes of work may address more than regular management. Also, the streamlined review in the PA can only be used by Park Superintendents when there is a determination of "no historic properties affected" or "no adverse effects" (defined in 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 (e.g., adverse effects that may be minimized, but are not entirely avoidable, associated with accessibility improvements, staff housing kitchen and bath upgrades, etc.). Finally, the 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, there may be cases in which a project cannot achieve mission goals while completely avoiding or minimizing adverse effects to Mission 66-era historic properties (e.g., upgrading comfort stations and changing their layouts to make them more accessible, 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, the Program Comment will provide parks with a new optional compliance method.

The Proposed Program Comment

The proposed 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. Specifically, NPS plans to achieve the following with the Program Comment:

- implement the NRHP Multiple Property Documentation Form (MPDF, NRIS #64501248, 2015) on a national level, to address the NPS identification backlog and alleviate workloads;
- utilize the existing NPS compliance staffing and teams (described above and in the PA) at the headquarters, regional, and park levels, with Qualified Personnel and/or CRM Team engagement;
- encourage preservation and predictability in project planning by only 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's Standards for the Treatment of Historic Properties (Secretary's Standards)* and applicable guidelines;
- 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 when considering whether a park's use of the Program Comment needs to be suspended;
- provide national-level mitigation for adverse effects associated with the Program Comment with measures including additional NRHP 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
- facilitate a smooth transition back to using the PA, for regular management activities, at the end of the Program Comment's duration.

The proposed Program Comment will not replace, amend, or otherwise change the PA, nor any other park- or project-specific Section 106 agreements.

2. 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 more than 500 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, others were built using standard plans such as 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 MPDF 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), and an NPS-published book, *MISSION 66 VISITOR CENTERS: The History of a Building Type*, by Sarah Allaback, Ph.D., further supports identification efforts.

3. Category of Undertakings and Scope

As part of an agency request to the ACHP for a program comment, the agency must identify the category of undertakings the program comment is intended to address. The category and scope of the proposed Program Comment is described below.

The Program Comment may be selected by a Park Superintendent as the appropriate Section 106 compliance method when at least one (1) of these management undertakings (Qualifying Undertaking(s)) is planned at: (a) a single facility or (b) a majority of NPS facilities within the APE that were built between 1945 and 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):

- regular management (i.e., PA Stipulation III.C) or
- other management activities which may include associated work (i.e., site, site signage, and utilities):
 - o complete rehabilitation in accordance with the *Secretary's Standards for Rehabilitation* and applicable guidelines and completion of associated work (i.e., site, site signage, and utilities), and/or

- historic leasing with complete rehabilitation in accordance with the *Secretary's Standards for Rehabilitation* and applicable guidelines and completion of associated work (i.e., site, site signage, and utilities); and
- 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, and construction of additions.

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 complex conditions below (Kick-Outs) are present:

- potential to affect National Historic Landmarks (NHLs), historic battlefields, burial sites, human remains, and/or funerary objects;
- any portion of the undertaking is proposed to occur on Tribal lands (as defined in the NHPA), or there's potential to affect properties of religious and cultural significance to Indian and/or Alaska Native Tribes and the Native Hawaiian Community;
- adverse effects on non-Mission 66-era historic properties (e.g., CCC-era facilities, archaeological sites, historic landscapes and/or linear areas, etc., which are eligible for listing in or listed in the NRHP); and/or
- adverse effects to Mission 66-era historic properties such that it/they would be ineligible for NRHP listing or a candidate(s) for de-listing.

Temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking may occur, and do not trigger an External Review Process (ERP), as described later in this document.

4. Identification of Historic Properties

After determining that it is appropriate to use the Program Comment for the proposed Qualifying Undertaking, the Park Superintendent must identify all historic properties within a proposed undertaking's area of potential effects (APE). A reasonable and good-faith effort must be made to identify historic properties.

This may occur via 36 CFR Part 800 (36 CFR § 800.4(c)(1-2)) or Section 110 (NHPA 54 U.S.C. § 306101) (i.e., The identification effort occurred sometime before the undertaking was planned.), or as described in this section for Mission 66-era facilities. 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.

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 (NRIS #64501248, 2015), and the NRHP criteria, prepared by Qualified Personnel and/or the CRM Team. *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) may provide additional context, if necessary.

With regard to Mission 66-era facilities, in lieu of conducting individual determinations of eligibility in accordance with 36 CFR § 800.4, Park Superintendents may consider unevaluated Mission 66-era facilities as eligible for the NRHP for the purposes of compliance with Section 106 via the Program Comment. However, there are two types of Mission 66-era facilities that may be considered ineligible for the purposes of compliance with Section 106 via the Program Comment:

- 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
- 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. (Utilities were not identified as an important property type in the Mission 66 era MPDF, typically do not have distinctive characteristics related to Mission 66, and they have often been changed over time to meet codes.) (Note that it is important to distinguish these systems from related structures which may contribute to a Mission 66 historic district, and to consider whether above-ground utility systems and their components may be a part of the district's historic setting.)

Properties that were built between 1990 and the present day, unless already determined as NRHP eligible under Criterion G, will not be considered as eligible for the NRHP for the purposes of compliance with Section 106 via the Program Comment.

In cases where a Park Superintendent makes a finding that no historic properties (including no Mission 66-era historic properties) are determined eligible within the APE, the Program Comment will require a case-by-case External Review Process (ERP), as described later in this document.

NRHP determinations of eligibility made with the proposed Program Comment apply to undertakings completed in accordance with it. If for any reason Section 106 compliance must be accomplished via another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement), additional analysis and reviews may be necessary.

5. Reviews

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 must be part of the Consultation Record and will dictate the agency's implementation of the proposed Qualified Undertaking.

Implementation of the Qualifying Undertaking in accordance with the finding(s) as documented fulfills the agency's responsibilities under Section 106 for the Qualifying Undertaking. All findings documented via the Program Comment must meet the relevant requirements in 36 CFR § 800.11(e) and will be a part of the Consultation Record.

Post-review discoveries will be addressed via 36 CFR § 800.13(b-c).

External Review Process

An External Review Process (ERP) will be required when any of the following findings are made by the Park Superintendent:

- no historic properties present;
- no adverse effects with additional conditions other than the condition to follow the *Secretary's Standards* and applicable guidelines (excepting conditions for temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking); or
- adverse effects to Mission 66-era historic properties. (Adverse effects to historic properties that are not from the Mission 66-era constitute a Kick-Out, except for temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking.)

The ERP process consists of Park Superintendent development of an ERP package, which must be posted on a public-facing PEPC website, and the Park Superintendent must also correspond with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) and Indian and Alaska Native Tribes, and the Native Hawaiian Community (i.e., via e-mail, hard-copy letter via mail or mail service, or an alternative method arranged in advance and agreed to in writing by the sending and receiving parties), as applicable, to inform them that the complete package has been posted. Upon their receipt of the complete ERP package a fifteen (15) day timeframe for review and response commences. If no objection or no response is received by the NPS from them within the timeframe, the Park Superintendent may proceed in accordance with the ERP package.

If an ERP package is incomplete and notice from the SHPO and/or THPO and Indian and Alaska Native Tribes, and the Native Hawaiian Community is provided to NPS by the fifteenth (15) day, the Park Superintendent will post any necessary additional materials on a public-facing PEPC website and correspond with the SHPO and/or THPO and Indian and Alaska Native Tribes, and the Native Hawaiian Community again. Upon SHPO's and/or THPO's and Indian and Alaska Native Tribes', and the Native Hawaiian Community's receipt of the additional materials a seven (7) day timeframe for review and response will commence. If no objection or no response is received from them by the NPS within the timeframe, the Park Superintendent may proceed in accordance with the ERP package with the additional materials.

If written objections, by the SHPO and/or THPO and Indian and Alaska Native Tribes, and the Native Hawaiian Community, are received by the NPS by the seventh (7) day, and they cannot be addressed and resolved in writing by NPS with such resolution posted on a public-facing

PEPC website within an additional seven (7) day timeframe, or another reasonable timeframe agreed to in writing by the corresponding parties, the Program Comment cannot be used and compliance must be accomplished via another means (i.e., standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement). The status of the ERP for the Qualifying Undertaking will be posted on a public-facing PEPC website, and will be included in regular reporting, as described in this document.

The ERP package for the proposed Qualifying Undertaking must include:

- a summary of the Qualifying Undertaking;
- analysis confirming no Kick-Outs are present;
- a relevant excerpt of preliminary design documents that clearly depict and delineate the Qualifying Undertaking (i.e., plans, elevations, and specifications);
- a description and map of the APE;
- ground-disturbance information and surveys as appropriate and consistent with confidentiality provisions in 36 CFR § 800.11(c);
- determination(s) of NRHP eligibility for all properties within the APE, and
- a finding by the Park Superintendent (pick one):
 - o no historic properties present;
 - o no adverse effects with additional conditions other than the condition to follow the *Secretary's Standards* and applicable guidelines (excepting conditions for temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking); or
 - o adverse effects to Mission 66-era historic properties. (Adverse effects to historic properties that are not from the Mission 66-era constitute a Kick-Out, except for temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking.)
 - adverse effect findings must be accompanied by mitigation measures from the Mitigation Menu, as described in the next section, for information purposes.
- the Park Superintendent's name and the name(s) of Qualified Personnel and/or the CRM Team; and,
- 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,
- 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 addressed 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)." The

status of the Qualifying Undertaking will be posted on a public-facing PEPC website. (If reopening Section 106 occurs, additional analysis and reviews may be necessary.)

To clarify, an ERP is required when any other condition(s) in addition to the *Secretary's Standards* and applicable guidelines are part of a proposed finding of no adverse effects. An ERP is not required when the *Secretary's Standards* and applicable guidelines are part of a proposed finding of no adverse effects if the only other condition(s) are for any temporary adverse effects during construction and that are reasonably associated with construction activities for the Qualifying Undertaking. In this instance, only an Internal Review Process (IRP) is required.

Internal Review Process (IRP)

An Internal Review Process (IRP) package must include all the same elements of the ERP package, but is required when the finding by the Park Superintendent will be either:

- no adverse effects to historic properties, or
- no adverse effects with the only condition being that the Qualifying Undertaking will follow the *Secretary's Standards* and applicable guidelines (and may include conditions for temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking) and confirmed with input from Qualified Personnel and/or the CRM Team (also in the Consultation Record).

As described in the next section, reasonable efforts must be made to avoid adverse effects, and these efforts must be documented in the Consultation Record. Any disagreements between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution, must also be documented in the Consultation Record.

If the Qualified Undertaking is not being reasonably executed as documented in the IRP package (e.g., due to substantive differences between the preliminary design documents from the 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 addressed 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.

The status of the ERP for the Qualifying Undertaking will be included in regular reporting, as described in this document.

6. Adverse Effects

For Qualifying Undertakings, adverse effects must be limited to Mission 66-era historic properties. The proposed Program Comment may not be utilized if an otherwise Qualifying

Undertaking would affect one or more Mission 66-era historic properties such that they would become ineligible for NRHP listing or a candidate(s) for NRHP de-listing. Reasonable efforts must be made to avoid or minimize adverse effects (e.g., via NPS Preservation Brief 32: “Making Historic Properties Accessible”), and such efforts must be documented in the Consultation Record.

However, temporary adverse effects to historic properties during construction and reasonably associated with construction activities for the Qualifying Undertaking (e.g., temporary changes to access via roads, pathways, trails, historic views, and similar) may occur. They may not be entirely avoidable or minimizable but are the type of adverse effects that will cease once construction is complete. For example, there may be temporary adverse 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.

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 between Park Superintendents, Qualified Personnel, and/or a CRM Team, and their resolution, must also be part of the Consultation Record.

For Qualifying Undertakings that pose adverse effects to historic properties (again, limited to Mission 66-era historic properties or temporary) the Program Comment requires an ERP of at least fifteen (15) days and must address mitigation, described in the next section.

7. Mitigation

NPS will provide mitigation for collective adverse effects to Mission 66-era historic properties. The Mitigation Menu consists of the following activities, which may be combined, and may be accomplished at the park, regional, or national level, or some combination thereof:

- resource stewardship training;
- national-level inventory management;
- national-, park-, district-, and individual property-level NRHP 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).

In addition, utilizing materials generated from regular reporting and mitigation measures, NPS national-level staff may endeavor to conduct data collection and perform associated analysis.

As noted above, for Qualifying Undertakings that pose adverse effects to historic properties (limited to only Mission 66-era historic properties or temporary and reasonably associated with construction activities for the Qualifying Undertaking), the Program Comment requires an ERP review of at least fifteen (15) days and the documentation in the ERP package must include a mitigation plan based on the Mitigation Menu and a mitigation schedule. However, the

mitigation plan and schedule are for information purposes only and may not be the basis of an objection, as mitigation will be managed at the national level.

Mitigation efforts will be tracked by the FPO and deputies, and progress for all parks, and at the national level, must be detailed in the Annual Meeting and Report, the Regional Annual Report, and the Agency Annual Report and Meeting, segments of which must be posted on a public-facing PEPC website as described in the next section.

The Mitigation Menu may be edited via Amendment to the Program Comment.

8. Park Suspension

Park Suspension from use of the proposed Program Comment may occur if there are repeated or egregious instances of the Qualified Undertaking not being 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.

It may also occur if a park has a pattern of not following the Program Comment as documented in the Consultation Records or annual reporting, also as determined by the NPS FPO as detailed above.

The ACHP, NCSHPO, and the respective SHPO, THPO, Indian and 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.

9. Reporting and Meetings

For parks using or planning to use the proposed Program Comment, the Park Superintendent must develop an Annual Report and hold an Annual Meeting with consulting parties each year, initially occurring at least within six (6) 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 PA), whichever is earlier, either virtually, in-person, or via telephone.

The Annual Reports must 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.

Primary invitees include the SHPO/THPO, Indian and 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 Annual Report to invitees concurrently with the Annual Meeting invitation via e-mail, hard-copy letter through mail or mail service, or an alternative method arranged in advance and agreed to in writing by the sending and receiving parties. The park will hold the Annual Meeting no less than thirty (30) days after the park has transmitted the 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 PEPC website including meeting highlights within that same period.

For regions that have parks using or planning to use the Program Comment, a Regional Annual Report must be provided to the FPO within two (2) months of the end of the fiscal 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 report may be transmitted to the FPO in conjunction with annual reports already being transmitted to meet requirements of other program alternatives (e.g., the PA).

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. Mitigation efforts will be tracked and progress must be described in detail. The ACHP and NCSHPO must 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 proposed Program Comment, the NPS FPO will send a report to the ACHP and NCSHPO detailing progress made with the Program

Comment, mitigation measures completed, NRHP nomination status, challenges encountered, and the NPS's plans for the final two and a half (2.5) years of the Program Comment. 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 Annual Report to ACHP and NCSHPO detailing progress made and providing links to completed mitigation. NPS will also promptly post a summary of the Agency Annual Report for public review on a public-facing PEPC website.

10. Administrative Clauses

The proposed Program Comment will remain in effect for ten (10) years unless, prior to that time, the ACHP withdraws the Program Comment in accordance with 36 CFR § 800.14(e)(6). Following such withdrawal, NPS will be required to comply with Section 106 through the process in 36 CFR § 800.3–800.7, or an applicable program alternative under 36 CFR § 800.14.

During the first six (6) months of the ninth year since the original 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 executive director of the ACHP may amend the Program Comment after consulting with NPS and other parties as appropriate, for at least thirty (30) days after a written notification about the proposed amendment is sent from ACHP to NPS, 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.

11. Definitions

Applicable definitions listed in 36 CFR § 800.16 (i.e., APE, etc.) are incorporated by reference to the Program Comment, as well as the definitions of Tribe (54 U.S.C. § 300309) and Tribal lands, and "Native Hawaiian organization" (54 U.S.C. § 300214). Other definitions appear above in parenthesis (e.g., ERP, IRP, PA, Qualifying Undertaking, etc.) or are listed below.

Consultation Record – A complete Consultation Record follows the documentation standards in 36 CFR § 800.11 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 NRHP criteria;
- a finding of effects (including a summary of any temporary adverse effects during construction and reasonably associated with construction activities for the Qualifying Undertaking);
- 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).

The Consultation Record will be available in PEPC and accessible to NPS staff at the park-, regional-, and national-level, for NPS reporting purposes.

Cultural Resource Management Team – CRM Team members must be 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). A CRM Team may be brought in by a Park Superintendent to support the review process set forth in the Program Comment as needed (See also Qualified Personnel.).

Design Guidelines – Such guidelines for new construction and/or construction of additions at Mission 66-era facilities that have or will 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(ed) reasonable incorporation of comments by ACHP and NCSHPO and the final Design Guidelines document is (was) promulgated by the NPS FPO to ACHP and NCSHPO, online, and in regular reporting.

Documentation Standards – See 36 CFR § 800.11(a-e).

Emergency Situations – See 36 CFR § 800.12.

Mission 66-era Historic Properties – See 36 CFR § 800.16(l) and built between 1945-1972, including Operations Outdoors historic properties, 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.)

Post-Review Discoveries – See 36 CFR § 800.13 (b-c).

Qualified Personnel – Staff or 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. Qualified Personnel may participate in a CRM Team. In the event that an NPS park 106 coordinator does not meet the *Qualification Standards*, as determined by the Park Superintendent, regional 106 coordinator(s) and/or a CRM Team with Qualified Personnel will act in lieu of the park 106 coordinator. (See also CRM Team, defined above.)

Regular Management – See 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) (PA)*, Stipulation III.C.

12. Implementation

Superintendent use of the proposed Program Comment is optional. For each proposed undertaking, it is the responsibility of the Park Superintendent to determine whether to use the Program Comment, PA, standard Section 106 review, a park-specific programmatic agreement, or an undertaking-specific memorandum of agreement, or some other acceptable method of compliance.

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.

NPS and the ACHP will include the most current version of the Program Comment on publicly accessible websites. The latest Web address for that site will be included in each of the Federal Register notices for amending or withdrawing the Program Comment.

This document will initially be available at www.achp.gov and [Park 106 Compliance - Section 106 Compliance Program \(U.S. National Park Service\) \(nps.gov\)](http://www.nps.gov/park106).