The Programmatic Agreement is fully executed by all of the signatories. In late summer - fall 2016, the FRA will offer all consulting parties the opportunity to concur in the Programmatic Agreement.
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:

CONNECTICUT,
DELAWARE,
DISTRICT OF COLUMBIA,
MARYLAND,
MASSACHUSETTS,
NEW JERSEY,
NEW YORK,
Pennsylvania, AND
Rhode Island

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

WHEREAS, the Northeast Corridor ("NEC") is the rail spine that runs from Washington, D.C., through New York City to Boston, MA, passing through the District of Columbia and the states of Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island and Massachusetts;

WHEREAS, the Federal Railroad Administration ("FRA") is carrying out a planning process, known as the "NEC FUTURE process", in which FRA is developing and adopting a program of improvements to passenger rail service and infrastructure in the NEC through 2040 and beyond (hereinafter referred to as the "NEC FUTURE Investment Program");

WHEREAS, FRA has determined that the development and adoption of the NEC FUTURE Investment Program is an undertaking subject to Section 106 of the National Historic Preservation Act ("Section 106") (16 U.S.C. § 470f, as amended) and its implementing regulations "Protection of Historic Properties" (36 C.F.R. Part 800);

WHEREAS, FRA is preparing a Tier 1 Environmental Impact Statement ("EIS") for the NEC FUTURE Investment Program in compliance with the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., ("NEPA");

WHEREAS, the Federal Transit Administration ("FTA") is serving as a cooperating agency in the preparation of the Tier 1 EIS for the NEC FUTURE Investment Program;
WHEREAS, the Tier 1 EIS evaluates a No Action Alternative and a range of action alternatives (including a Preferred Alternative) for improving passenger rail service on the NEC, consisting of various combinations of improvements to the existing NEC rail spine and/or construction on new right-of-way;

WHEREAS, in addition to preparing the Tier 1 EIS, FRA is currently conducting project-specific environmental review processes for certain projects with independent utility on the NEC (hereinafter referred to as “related projects”), and the environmental review processes for those projects have been coordinated with the NEC FUTURE process;

WHEREAS, if FRA issues a Tier 1 Record of Decision (ROD) that approves a program of improvements to the NEC, FRA, FTA, and potentially other federal agencies will carry out subsequent environmental reviews, using a tiered approach in accordance with 40 C.F.R. § 1502.20, for one or more individual projects that implement the NEC FUTURE Investment Program and that rely upon the Tier 1 ROD for their justification (hereinafter referred to as “NEC Tier 2 Projects”);

WHEREAS, FRA, FTA and other federal agencies may in the future conduct environmental review processes for additional projects on the NEC that are separate from the NEC FUTURE process, without relying upon any decisions that may be made in the Tier 1 ROD for the NEC FUTURE Investment Program (hereinafter referred to as “independent projects on the NEC”);

WHEREAS, FRA has determined that the NEC FUTURE Investment Program has the potential to affect properties that are listed in or eligible for the National Register of Historic Places (NRHP) (hereafter referred to as “historic properties”);

WHEREAS, FRA and FTA have determined that the development of a Programmatic Agreement (“PA”) in accordance with 36 C.F.R. § 800.14 is appropriate for the NEC FUTURE Investment Program because the Program’s potential effects on historic properties are multi-state in scope;

WHEREAS, the purpose of this PA is to establish the framework for compliance with Section 106 during future environmental review processes for NEC Tier 2 Projects;

WHEREAS, for purposes of this PA, the term “Tier 1 undertaking” refers to the NEC FUTURE Investment Program, and the term “Tier 2 undertaking” refers to an NEC Tier 2 Project;

WHEREAS, the term “NEC Tier 2 Project” does not include any “independent projects on the NEC” as those terms are used in this PA;

WHEREAS, FRA is carrying out the Section 106 process for the NEC FUTURE Investment Program using a phased approach in accordance with 36 C.F.R. §§ 800.4(b)(2) and 800.5(a)(3);

WHEREAS, in accordance with the phased approach to Section 106 consultation, FRA has taken steps during the Tier 1 process to begin identifying historic properties and assessing potential effects on historic properties, as further described in the Tier 1 EIS, including (1) determining a Preliminary Area of Potential Effects (“Preliminary APE”) for the alternatives considered in the Tier 1 EIS (see Appendix B (Map of Preliminary APE), (2) identifying known historic properties within the
Preliminary APE, based on existing records, and (3) identifying known historic properties located within the Representative Route of each Tier 1 alternative, as a basis for assessing potential effects of the alternatives on historic properties;

WHEREAS, in accordance with 36 C.F.R. § 800.2 and 800.3, FRA has invited State Historic Preservation Officers, Indian Tribes, representatives of local governments, potential applicants for federal assistance and other approvals, and others to participate as consulting parties in the development of this PA as further described herein, and a complete list of those invited to serve as consulting parties is included in Appendix E;

WHEREAS, FRA has consulted to develop this PA pursuant to 36 C.F.R. § 800.14(b)(3) with the Advisory Council on Historic Preservation (“ACHP”) and with the Connecticut State Historic Preservation Officer (“SHPO”), Delaware SHPO, District of Columbia SHPO, Maryland SHPO, Massachusetts SHPO, New Jersey SHPO, New York SHPO, Pennsylvania SHPO, and Rhode Island SHPO (collectively, “SHPOs”), who are signatories to this PA in accordance with 36 C.F.R. § 800.6(c)(1);

WHEREAS, because the FTA may be responsible for NEPA and Section 106 compliance for one or more NEC Tier 2 Projects, such as actions related to commuter rail, FRA has invited FTA to be a signatory to this PA pursuant to 36 C.F.R. § 800.6(c)(2);

WHEREAS, because the National Conference of State Historic Preservation Officers (NCSHPO) has expertise in consultations involving undertakings that affect multiple states, including experience in resolving issues in dispute among SHPOs, FRA has invited NCSHPO to be a consulting party in consultation regarding the Tier 1 undertaking, and has invited the NCSHPO to concur in this PA in accordance with 36 C.F.R. § 800.6(c)(3);

WHEREAS, while NEC Tier 2 Projects are not expected to occur on or affect historic properties on Tribal lands as defined in Section 301(14) of the National Historic Preservation Act (NHPA), FRA has consulted with Indian Tribes that attach religious and cultural significance to historic properties that may be affected by the Tier 1 undertaking, and of those Tribes, FRA has invited the Mashantucket (Western) Pequot Tribal Nation, the Mohegan Tribe, the Narragansett Indian Tribe of Rhode Island, the Shinnecock Indian Nation, the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, the Mashpee Wampanoag Tribe, the Stockbridge-Munsee Community Band of Mohicans, the Delaware Tribe of Indians, the Absentee-Shawnee Tribe of Oklahoma, the Shawnee Tribe, and the Delaware Nation to sign this PA as concurring parties, based on their interest in the undertaking, given the proximity of the Tier 1 EIS alternatives to areas in which the Tribes have expressed an interest in further consultation under Section 106;

WHEREAS, based on consultation with the SHPOs, NCSHPO, and the ACHP, FRA has also invited local historic preservation commissions in metropolitan areas to participate as consulting parties in the Section 106 process for the Tier 1 undertaking;

WHEREAS, FRA has invited the New York City Landmarks Preservation Commission to concur in this PA in accordance with 36 C.F.R. § 800.6(c)(3), and will offer other local historic preservation commissions the opportunity to concur in this PA after it is executed;
WHEREAS, FRA has invited potential future applicants for federal financial assistance for Tier 2 undertakings to participate as consulting parties in Section 106 consultation for the Tier 1 undertaking, including the operator of intercity passenger rail service on the NEC (Amtrak) as well as the operators of commuter rail services on the NEC in each state;

WHEREAS, based on consultation with the SHPOs, NCSHPO, and the ACHP, FRA has also invited statewide historic preservation organizations to participate as consulting parties in Section 106 consultation for the Tier 1 undertaking;

WHEREAS, FRA utilized a variety of outreach efforts to inform and engage the public, elected officials, government agencies, private businesses and individuals during the NEC FUTURE process via the project website (www.necfuture.com), and via numerous public meetings and workshops, stakeholder meetings, and agency meetings in each of the corridor’s eight states and the District of Columbia (District), and has included information about the Section 106 process as part of these outreach efforts, which were carried out in compliance with NEPA;

WHEREAS, FRA included a draft of this PA in Appendix G of the Tier 1 Draft EIS, to provide the public with an opportunity to comment on the draft PA as part of the public comment period on the Tier 1 Draft EIS, in accordance with 36 C.F.R. § 800.14(b)(2);

WHEREAS, Section 11504 of the Fixing America’s Surface Transportation Act (“FAST Act”), enacted December 4, 2016, requires the U.S. Department of Transportation (U.S. DOT) to submit a proposed Section 106 exemption for railroad rights-of-way to ACHP within one year after enactment of the FAST Act, and requires the ACHP to issue a final exemption within 180 days after U.S. DOT’s submittal of the proposed exemption;

WHEREAS, the purpose of this PA is to provide an overall framework and common terminology to be used in Section 106 consultation for any Tier 2 undertakings, while allowing the Section 106 consultation process for Tier 2 undertakings to be adapted as necessary based on each State or the District’s requirements; and

WHEREAS, the signatories intend that the Section 106 regulations (36 C.F.R. Part 800) apply to the Tier 2 undertakings, except as specifically provided in this PA;

NOW, THEREFORE, the signatories agree that, upon execution of this PA, FRA has satisfied its obligations under Section 106 with regard to the Tier 1 undertaking and further agree that Tier 2 undertakings shall be implemented in accordance with the following stipulations to consider the effect of those undertakings on historic properties in accordance with Section 106 of the NHPA.
STIPULATIONS

The FRA, FTA, or, as applicable, any other federal agency responsible for Section 106 compliance for a NEC Tier 2 Project, shall ensure the following:

I. APPLICABILITY

A. Applicability to Tier 2 Undertakings

1. This PA shall apply to FRA’s compliance with Section 106 for any Tier 2 undertaking for which FRA has a Section 106 responsibility, except as provided in paragraphs A.3 and E of this Stipulation.

2. This PA also shall apply to FTA’s compliance with Section 106 for any Tier 2 undertaking for which FTA has a Section 106 responsibility, except as provided in paragraphs A.3 and E of this Stipulation.

3. For any Tier 2 undertaking, the FRA and FTA (individually or jointly) may elect to satisfy their Section 106 responsibilities by following the process set forth in the Section 106 regulations (36 C.F.R. Part 800), in lieu of following this PA. When making such an election, FRA and FTA, as applicable, shall notify the ACHP, applicable SHPO(s), applicable Indian Tribe(s) and Tribal Historic Preservation Officer(s) (THPO), and consulting parties for that Tier 2 undertaking (if any), in writing that this PA does not apply to the undertaking. Such notification shall be provided as early as practicable in the environmental review process for the undertaking.

B. If any federal agency other than FRA or FTA has a Section 106 responsibility for a Tier 2 undertaking, that federal agency may satisfy its Section 106 responsibilities by accepting and complying with the terms of this PA, in accordance with this paragraph.

1. The federal agency shall notify FRA, FTA, ACHP, applicable SHPO(s), and applicable Indian Tribe(s) and THPO(s), in writing of its intent to use this PA to achieve compliance with Section 106 requirements for one or more Tier 2 undertakings.

2. If none of the notified agencies objects within 30 days of receipt of notification, the federal agency may then carry out its Section 106 obligations in accordance with this PA.

3. If any of the notified agencies objects in writing within 30 days, the federal agency shall meet with the objecting agency or agencies and seek their consent to proceed under this PA. If the objecting agency or agencies grant their consent, the federal agency may then carry out its Section 106 responsibilities in accordance with this PA. If the objection is not resolved, the dispute resolution procedures in Stipulation XVI.B may be invoked by any signatory that is a party to the dispute.

4. Upon determining that the requirements of paragraphs I.B.1 through I.B.3 have been met, the federal agency shall provide written notice to the FRA, FTA, ACHP, applicable SHPO(s),
applicable Indian Tribe(s) and THPO(s), and consulting parties for that Tier 2 undertaking (if any), confirming that it will be following this PA for purposes of the specified undertaking or undertakings.

5. A federal agency's decision to follow this PA, in accordance with the procedures outlined in this section, does not give that agency the status of a signatory to this PA. A federal agency may become a signatory to this PA only by execution of an amendment to the PA in accordance with Stipulation XVI.C.

C. Nothing in this PA precludes FRA, FTA, or any other federal agency from delegating its responsibilities under this PA to a State, local, or Tribal government in accordance with federal law, pursuant to 36 C.F.R. § 800.2(a).

D. If one federal agency is designated by one or more other federal agencies to serve as the lead federal agency for a Tier 2 undertaking, that agency (for example, FRA or FTA) will act on the collective behalf of those other agencies to fulfill all Section 106 responsibilities by complying with the terms of this PA. When one federal agency is not designated the lead federal agency for Section 106, all federal agencies remain individually responsible for their compliance with Section 106 and 36 C.F.R. Part 800.

E. This PA shall not apply to undertakings that occur on or affect Tribal lands as defined in Section 301(14) of the NHPA. If such undertakings are proposed, the federal agency or agencies with Section 106 responsibilities for the Tier 2 undertaking shall follow the applicable procedures in 36 C.F.R. Part 800 for projects on or affecting Tribal lands.

II. ROLES AND RESPONSIBILITIES

A. Federal Agency

The FRA, FTA, or another federal agency, as applicable, shall be responsible for carrying out the responsibilities of the federal agency under this PA with regard to a Tier 2 undertaking, unless the agency determines that the PA does not apply to the undertaking as provided in Stipulation I.A.3.

B. ACHP

For Tier 2 undertakings, the ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if needed, and notifying the federal agency if ACHP will participate in consultation for a Memorandum of Agreement (MOA) prepared for the Tier 2 undertaking.

C. SHPOs

1. For Tier 2 undertakings, each SHPO shall participate in the Section 106 consultation process for projects located in the SHPO’s State. In consultation with that SHPO, the federal agency
shall determine whether to invite the SHPO in adjacent State or States to participate in consultation for the Tier 2 undertaking.

2. For any Tier 2 undertakings in which the SHPO is participating in Section 106 consultation, the SHPO shall be responsible for reviewing project documentation in a timely manner (generally, within 30 days after receipt), unless another time period has been agreed upon and participating in consultation as set forth in this PA, including State-specific appendices.

III. PROFESSIONAL STANDARDS

A. Qualifications

1. All actions prescribed by this PA that involve the identification, evaluation, analysis, recording, treatment, or monitoring, or disposition of historic properties, or that involve reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meet, at a minimum, the Secretary of the Interior’s Historic Preservation Professional Qualification Standards, for the applicable discipline (e.g., archaeology, architectural history, historic architecture) consistent with the proposal at 62 Fed. Reg. 33708 – 33723 (June 20, 1997).

2. The qualification standards described in III.A.1 do not apply to individuals recognized by relevant Indian Tribes to have expertise in identification, evaluation, assessment of effect, and treatment of effects to historic properties of religious and cultural significance to their Tribes. The signatories to this PA acknowledge that Tribal representatives possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to their Tribe.

B. Standards & Guidelines

All evaluation methods and criteria shall be consistent with the Secretary of the Interior’s Standards and Guidelines for Evaluation found at www.nps.gov/history/local-law/arch_stnds_3.htm, with the ACHP’s Section 106 Archaeology Guidance found at www.achp.gov/archguide, and with any additional requirements specified in a State-specific appendix to this PA, as applicable.

IV. GENERAL PROVISIONS

A. Applicability of Section 106 Regulations

The Section 106 consultation for the Tier 2 undertakings shall follow the procedures set forth in 36 C.F.R. Part 800, except as specifically provided in this PA.
B. Applicability of Section 106 Exemption for Railroad Rights-of-Way

As part of Section 106 consultation for a Tier 2 undertaking, the federal agency shall take into account, where applicable, any exemption for railroad rights-of-way that has been issued by ACHP pursuant to Section 11504 of the FAST Act.

C. Definitions

The terms used in this PA shall have the meanings given in Appendix A.

D. Government-to-Government Consultation with Indian Tribes

For each Tier 2 undertaking, the federal agency shall consult on a government-to-government basis, in accordance with 36 C.F.R. § 800.2(c)(2), with any federally recognized Indian Tribes that attach religious and cultural significance to historic properties that may be affected by the undertaking. The federal agency shall comply with any additional requirements specified in a State-specific appendix to this PA with regard to consultation with Indian Tribes.

E. State-Specific Appendices

This PA includes State-specific appendices, which include additional requirements that apply to NEC Tier 2 Projects within an individual State. State-specific appendices (and any amendments thereto) require signature by the FRA, ACHP, and the SHPO from the applicable State, and by FTA.

F. Applicability of Program Alternatives

This PA does not preclude the application in Tier 2 studies of any program alternatives that may come into effect during the term of this PA pursuant to 36 C.F.R. § 800.14, including but not limited to programmatic agreements or program comments that apply to Section 106 consultation for railroad infrastructure projects.

V. INITIATION OF CONSULTATION PROCESS

A. Invitation of Consulting Parties

1. For each Tier 2 undertaking, the federal agency shall invite consulting parties (including the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and local governments, as well as other organizations and individuals as appropriate) to participate in consultation for that undertaking, in accordance with 36 C.F.R. § 800.3 and this PA, including any additional requirements specified in a State-specific appendix to this PA.

2. The invitation to participate in Section 106 consultation shall specifically identify the undertaking as an NEC Tier 2 Project, for which consultation will be carried out in accordance with this PA. The invitation also shall include the federal agency’s proposed schedule for completing the environmental review process, including dates for key milestones such as publication of NEPA documents for public comment.
3. The federal agency shall also invite the applicant for federal funding or approval (and, if different, the operator(s) of intercity passenger rail or commuter rail service on the railroad on which the improvement is proposed to be made) to participate as a consulting party for any Tier 2 undertaking.

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

A. Process for Identification and Evaluation of Historic Properties in Tier 2

1. As part of Section 106 consultation for each Tier 2 undertaking, the federal agency shall define an APE specifically for that undertaking (a “project-specific APE”).

2. The federal agency shall complete determinations of eligibility for historic properties within the project-specific APE as part of the Section 106 process for each Tier 2 undertaking, in accordance with 36 C.F.R. § 800.4. The passage of time, changing perceptions of significance, or incomplete prior evaluations may require the federal agency official (during Tier 2) to reevaluate properties previously determined eligible or ineligible.

3. Where appropriate, the identification and evaluation of historic properties may be phased for an individual Tier 2 undertaking.

B. Additional Provisions

The following special provisions shall apply to the identification and evaluation of historic properties during the Tier 2 studies, as provided below.

1. Requests for Determination of Eligibility

During Section 106 consultation for a Tier 2 undertaking, the federal agency shall forward a request for a Determination of Eligibility to the Keeper of the National Register (“Keeper”), in accordance with 36 C.F.R. § 800.4(c)(2), if requested by the ACHP or the Secretary of the Interior, or if:

a. The applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), a federal agency with jurisdiction over the property, or an Indian Tribe that ascribes traditional religious and cultural significance to the property, objects to a finding of eligibility or ineligibility by the federal agency; and

b. The federal agency determines that it is not able to resolve that objection through consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), the objecting party, and other consulting parties as appropriate.

2. Tribal Involvement in Archaeological Investigations in Tier 2

Except as otherwise provided in a State-specific appendix to this PA, the federal agency shall ensure that Tribes participating in Section 106 consultation for a Tier 2 undertaking have the opportunity to:
a. Be notified of the schedule for any archaeological fieldwork that involves resources of religious and cultural significance to the Tribe;

b. Review the study protocol for any archaeological fieldwork that involve resources of religious and cultural significance to the Tribe, prior to the commencement of that fieldwork;

c. Make arrangements for a Tribal monitor to attend any archaeological fieldwork that involve resources of religious and cultural significance to the Tribe;

d. Retain any artifacts that are of religious and cultural significance to the Tribe, in accordance with applicable federal and State laws; and

e. Be notified immediately of the discovery of any burial sites of Native American origin encountered during construction on lands associated with the Tribe. (See also, Stipulation X, Human Remains).

VII. ASSESSMENT OF EFFECTS

A. Process for Assessment of Effects in Tier 2

1. The federal agency shall apply the criteria of adverse effect (under 36 C.F.R. § 800.5) to each NRHP-eligible or NRHP-listed property as part of the Tier 2 process for each Tier 2 undertaking.

2. Where appropriate, the application of the criteria of adverse effects to historic properties may be phased for an individual Tier 2 undertaking.

B. Additional Provisions

1. Conditional Findings of No Adverse Effect

In accordance with 36 C.F.R. § 800.5(b) and (d)(1), the federal agency may determine that there is no adverse effect on a historic property when the federal agency agrees to conditions required by the applicable SHPO(s) and/or applicable THPO(s) as the basis for its concurrence in a finding of no adverse effects.

2. Cumulative Effects

In accordance with 36 C.F.R. § 800.5(a)(1), the application of the criteria of adverse effect shall take into account cumulative effects. The cumulative effects analysis for an NEC Tier 2 Project will include, but is not necessarily limited to, the effects of other actions carried out as part of the NEC FUTURE Investment Program.

VIII. RESOLUTION OF ADVERSE EFFECTS ON HISTORIC PROPERTIES

A. Process for Resolution of Adverse Effects in Tier 2
1. The resolution of adverse effects will occur through Section 106 consultation for individual Tier 2 undertakings.

2. The federal agency shall be responsible for determining, in consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties, how to resolve any adverse effects for an NEC Tier 2 Project.

B. Additional Provisions

1. Use of Standard Treatment Measures to Resolve Adverse Effects

   a. The federal agency may resolve adverse effects on historic properties in Tier 2 by adopting Standard Treatment Measures listed in Appendix C or listed in a State-specific appendix.

   b. If the federal agency proposes to use Standard Treatment Measures to resolve adverse effects of a Tier 2 undertaking on a historic property, it shall provide notice to the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties involved in the Section 106 process for that Tier 2 undertaking.

   c. If a SHPO or other consulting party objects to the use of a Standard Treatment Measure within 30 days after receiving such notice, the federal agency shall consult with the consulting party regarding the objection.

   d. If consensus cannot be reached within 30 days, the dispute resolution procedures in Stipulation XVI.B may be invoked by any signatory that is a party to the dispute. The federal agency shall be responsible for resolving any objections to the use of Standard Treatment Measures through the dispute resolution process.

2. Other Methods for Resolving Adverse Effects

   a. If adverse effects on one or more historic properties are not resolved by adoption of standard treatments, the federal agency shall consult to resolve adverse effects on those historic properties in accordance with 36 C.F.R. § 800.6.

   b. A template MOA for Tier 2 undertakings is provided in Appendix D. This template may be modified as appropriate by agreement among the signatories to the MOA for a Tier 2 undertaking, or a PA may be used to resolve the adverse effects of the Tier 2 undertaking.

   c. The federal agency shall consider the views of the public, pursuant to 36 C.F.R. § 800.6(a)(4), when developing an MOA or PA for a Tier 2 undertaking. Considering the views of the public shall include consideration of any comments submitted on Tier 2 NEPA documents, in addition to any comments submitted specifically as part of the Section 106 process for the Tier 2 undertaking.
d. Execution of an MOA or PA for a Tier 2 undertaking and filing of the MOA or PA with the ACHP, will be considered evidence of compliance with Section 106 for that Tier 2 undertaking.

e. Nothing in this PA shall be construed to preclude any procedural option that is available under the Section 106 regulations, including the option of termination under 36 C.F.R. § 800.7 for Tier 2 undertakings.

3. Resolution of Effects on National Historic Landmarks

a. If a National Historic Landmark may be affected, the federal agency shall comply with applicable requirements in Section 110(f) of the National Historic Preservation Act and 36 C.F.R. § 800.10, including but not limited to: notifying the Secretary of the Interior represented by the National Park Service (NPS) regional office’s program coordinator, involving NPS in the consultation process, and notifying the ACHP and inviting them to consult on the Tier 2 undertaking, and planning to avoid adverse effects.

IX. CONFIDENTIALITY

All parties to this PA shall ensure that shared data, including data concerning the precise location and nature of historic properties and properties of religious and cultural significance, shall be protected from public disclosure to the greatest extent permitted by law, including conformance to Section 304 of the NHPA, as amended, Section 9 of the Archaeological Resource Protection Act, and Executive Order on Indian Sacred Sites, No. 13007, 61 Fed. Reg. 26771 (May 29, 1996). State-specific data sharing agreements are referenced and summarized in the State-specific appendices.

X. HUMAN REMAINS

Except as otherwise provided in State-specific appendices to this PA, or in an MOA or PA for a Tier 2 undertaking, the following stipulations apply to the discovery of human remains.

A. Notification and Treatment

1. If human remains are discovered during construction activities, all construction shall cease within 100 feet in all directions of the human remains and the federal agency (or its designee, such as the project sponsor) shall immediately notify the appropriate parties in accordance with the applicable State laws. Human remains and grave goods shall be treated in accordance with applicable State laws.

2. The federal agency shall be responsible for curation of all records and other items resulting from identification and data-recovery efforts on federal lands within the agency's jurisdiction.

3. The federal agency shall be responsible for ensuring that the disposition of any human remains and associated funerary objects of Native American origin encountered on federal
land during any action subject to this PA complies with § 3(c)-(d) of the National American Graves Protection and Repatriation Act (NAGPRA), and its implementing regulations codified at 43 C.F.R. § 10.

B. Final Disposition of Human Remains

All human remains shall be treated in a manner consistent with the ACHP "Policy Statement regarding Treatment of Human Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; www.achp.gov/docs/hrpolicy0207.pdf).

XI. CURATION

A. Collections from Federal Lands

The federal agency shall be responsible for curation of all records and other archaeological items resulting from identification and data-recovery efforts on federal lands and that curation is completed in accordance with 36 C.F.R. Part 79. This includes private lands that have been acquired by a federal agency for the purposes of implementing the NEC FUTURE Investment Program. If the items are determined to be of Native American origin and are located on federal land, the agencies shall follow NAGPRA regulations and procedures set forth in 43 C.F.R. Part 10.

B. Collections from Private Lands

In cases where archaeological survey, testing, and data recovery are conducted on private land, any recovered collections remain the property of the land owner. In such instances, the federal agency, in coordination with the applicable SHPO(s) and applicable Indian Tribe(s) and THPO(s), shall encourage the land owner to donate the collection to an appropriate public or Tribal entity. In cases where the land owner wishes to transfer ownership of the collection to a public or Tribal entity, the federal agency shall ensure that recovered artifacts and related documentation are curated in a suitable repository as agreed to by the federal agency, applicable SHPO(s), and applicable Indian Tribe(s) and THPO(s), and following applicable State or Tribal guidelines.

C. State Requirements

Refer to Appendices CT-RI for state-specific requirements.

XII. EMERGENCIES

Except as otherwise provided in State-specific appendices to this PA, or in an MOA or PA for a Tier 2 undertaking, the following provisions shall apply during implementation of a Tier 2 undertaking:

A. Emergency actions are those actions deemed necessary by the federal agency as an immediate and direct response to an emergency situation, which is a disaster or emergency declared by the President, Tribal government, or the governor of the state, or other immediate threats to life or property. Emergency actions under this PA are only those implemented within thirty (30)
calendar days after the disaster or emergency has been formally declared by the appropriate authority.

B. If the emergency action has the potential to affect historic properties, the federal agency shall notify the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s) and other parties as appropriate (including any Indian Tribes with an interest in the potentially affected historic properties) prior to undertaking the action, when feasible. As part of the notification, the federal agency shall provide a plan to the applicable SHPO(s) and THPO(s) and other parties to address the emergency.

1. The applicable SHPO(s) and THPO(s) and other parties shall have seven (7) calendar days to review and comment on the plan to address the emergency.

2. If the applicable SHPO(s) and THPO(s) and other parties do not comment or object to the plan within the review period, the federal agency may implement the proposed plan. If they do comment, the federal agency shall take into account all timely comments received in reviewing and implementing the proposed plan. If an objection is not resolved, the dispute resolution procedures in Stipulation XVI.B may be invoked by any signatory that is a party to the dispute.

C. If the federal agency is unable to consult with the applicable SHPO(s) and THPO(s) and other parties prior to carrying out emergency actions, the federal agency shall notify the applicable SHPO(s) and THPO(s) and other parties as appropriate within forty-eight (48) hours after the initiation of the emergency action. This notification shall include a description of the emergency action taken, the effects of the action(s) to historic properties, and, where appropriate, any further proposed measures to avoid, minimize, or mitigate potential adverse effects to historic properties. The applicable SHPO(s) and THPO(s) and other parties shall have seven (7) calendar days to review and comment on the proposal where further action is required to address the emergency. If the applicable SHPO(s) and THPO(s) and other parties do not object to the plan within the review period, the federal agency shall implement the proposed plan.

D. Where possible, the federal agency shall ensure that such emergency actions are undertaken in a manner that does not foreclose future preservation or restoration of historic properties. Such emergency actions shall be undertaken in a manner consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. (www.nps.gov/tps/standards.htm). In addition, where possible, the federal agency shall ensure that such actions are done with on-site monitoring by the appropriate preservation professional who meets, at a minimum, the Professional Qualifications Standards in his or her field of expertise.

E. Where the applicable SHPO(s) and THPO(s) and/or any other party has reason to believe that a historic property may be adversely affected by an emergency action, the party shall consult with the federal agency to determine how to expedite review and comment on the action.

F. Immediate rescue and salvage operations conducted to preserve life or property are exempt from these and all other provisions of this PA.
XIII. UNANTICIPATED DISCOVERIES

A. If a previously undiscovered historic property (including archaeological property) is encountered during implementation of a Tier 2 undertaking, or an adverse effect that was not anticipated is found to exist, the discovery shall be addressed in accordance with the applicable provisions in the MOA or PA for the Tier 2 undertaking.

B. If there is no MOA or PA for the Tier 2 undertaking, or if that MOA or PA does not address unanticipated discoveries, the federal agency shall comply with 36 C.F.R. § 800.13(b).

XIV. DOCUMENTATION STANDARDS

All documentation that supports the findings and determinations developed under this PA shall be in accordance with 36 C.F.R. § 800.11.

XV. AUTHORITIES

Compliance with the provisions of this PA does not relieve the FRA or other federal agencies of their responsibilities to comply with other legal requirements, including those imposed by the NAGPRA (25 U.S.C. § 3001 and 43 C.F.R. § 10), the ARPA (16 U.S.C. § 470 aa-47011), NEPA, applicable Executive Orders, and applicable State laws.

XVI. ADMINISTRATIVE STIPULATIONS

A. Review Process

1. FRA shall conduct a review process for this PA every 2 years after the execution of this PA. The FRA shall ensure that the review process is conducted under the supervision of FRA’s Federal Preservation Officer and includes (1) a status report prepared by FRA, summarizing pending NEC Tier 2 Projects, including the status of Section 106 consultation for each of those projects, and (2) an opportunity for signatories to submit comments regarding experience to date with the PA, including any recommendations for improving the process.

2. Any amendments resulting from the review shall be executed in accordance with Stipulation XVI.C.

B. Dispute Resolution

The following procedures shall be used to resolve disputes among signatories regarding Section 106 consultation for Tier 2 undertakings under this PA:

1. If any signatory to this PA objects within 30 days to any action proposed, or any document provided for review pursuant to this PA by providing written notice of the objection to the federal agency, the federal agency shall consult with the objecting signatory to resolve the objection.
2. If the federal agency determines that the objection cannot be resolved within 45 days, the federal agency shall forward all documentation relevant to the dispute, including the federal agency’s proposed resolution, to the ACHP. The federal agency also shall provide a copy to all signatories and consulting parties for the undertaking.

3. The ACHP shall provide the federal agency with its advice on the resolution of the objection within 30 days of receiving all documentation relevant to the dispute from the federal agency under paragraph 2 of this section.

4. The federal agency shall prepare a written response to the objection that takes into account any timely advice or comments regarding the dispute from the signatories and consulting parties, including Indian Tribes, and provide them with a copy of this written response, which shall constitute the federal agency’s decision regarding the objection. The federal agency may then proceed according to its final decision.

5. If the ACHP does not provide its advice regarding the dispute within 30 days, the federal agency may make a final decision on the dispute and proceed accordingly. The federal agency shall document its final decision in a written response to the objection that takes into account any timely comments regarding the dispute from the signatories and consulting parties for the undertaking, and provide them and the ACHP with a copy of such written response.

C. Amendment

1. The signatories anticipate that amendments to this PA are likely to be needed from time to time over the 20-year duration of this PA. Any signatory to this PA may make a request to the FRA and the other signatories to amend it, whereupon the signatories shall consult to consider the amendment(s). Concurring Parties may suggest proposed amendments to the signatories, who shall consult to consider them. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment shall be effective upon execution by all of the signatories and a copy of the fully executed amendment shall be filed with the ACHP.

2. A State-specific appendix can be amended at any time through agreement between the FRA, ACHP, and the applicable SHPO, after consultation with any applicable Indian Tribe(s) and THPO(s).

D. Termination

1. If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment under Stipulation XVI.C. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.
2. Once the PA is terminated, and prior to work continuing on the NEC Tier 2 Projects, FRA must either (a) execute a new PA pursuant to 36 C.F.R. § 800.14(b) or (b) comply with 36 C.F.R. Part 800 for remaining NEC FUTURE undertakings. FRA shall notify the signatories which course of action it will pursue.

E. Withdrawal

1. An individual SHPO may withdraw from the PA upon written notice to all signatories after having consulted with them for at least 30 days to attempt to find a way to avoid the withdrawal.

2. Upon withdrawal, and prior to continuing work on the undertaking in the relevant State, the federal agency shall comply with Section 106 for any Tier 2 undertakings in accordance with 36 C.F.R. §§ 800.3 through 800.7 or execute a new agreement in accordance with 36 C.F.R. § 800.14(b) for that State.

3. This PA shall remain in effect with regard to any Tier 2 undertakings located in the jurisdiction of the SHPO(s) that have not withdrawn from the PA.

4. If all SHPOs withdraw from the PA, the PA shall be considered terminated; the termination shall become effective 30 days after the final SHPO withdraws from the PA.

F. Duration

1. This PA shall become effective upon execution by all signatories and shall remain in effect for a period of 20 years from the effective date.

2. The signatories may extend the duration of the PA prior to its expiration by executing an amendment in accordance with Stipulation XVI.C.

3. If the signatories do not amend the PA to extend its duration, the PA shall expire and FRA shall memorialize the expiration of the PA in a letter to the signatories and concurring parties. If FRA or another federal agency party to this PA chooses to continue with the undertaking following termination of the PA, it shall review the undertaking in accordance with 36 C.F.R. Part 800.

XVII. EXECUTION AND IMPLEMENTATION

Execution of this PA by the FRA, the Connecticut SHPO, the Delaware SHPO, the District of Columbia SHPO, the Maryland SHPO, the Massachusetts SHPO, the New Jersey SHPO, the New York SHPO, the Pennsylvania SHPO, the Rhode Island SHPO, and the ACHP, and implementation of its terms is evidence that FRA has taken into account the effects of the Tier 1 undertaking on historic properties and afforded the ACHP an opportunity to comment, in accordance with Section 106 and the Section 106 regulations.
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:

CONNECTICUT,
DELAWARE,
DISTRICT OF COLUMBIA,
MARYLAND,
MASSACHUSETTS,
NEW JERSEY,
NEW YORK,
PENNSYLVANIA, AND
RHODE ISLAND

REGARDING

COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Federal Railroad Administration

By: [Signature] Date: 8/22/2016

Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
DELaware,
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MASSACHUSETTS,
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PENNSYLVANIA, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Advisory Council on Historic Preservation

By: John M. Fowler  Date: 01/20/16

John M. Fowler  Executive Director

Name (printed)  Title (printed)
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
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PENNSYLVANIA, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

INVITED SIGNATORY

Federal Transit Administration

By: Mary Beth Mello  Date: 7/18/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
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RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Connecticut State Historic Preservation Officer

By: ___________________________ Date: 7/21/16
Kristina Newman-Scott
State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
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RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Delaware State Historic Preservation Officer

By: ____________________________ Date: 7.13.16

Timothy A. Slavin
Director, Division of Historical and Cultural Affairs
and Delaware State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
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MASSACHUSETTS,
NEW JERSEY,
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RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

District of Columbia State Historic Preservation Officer

By: __________________________ Date: 7/19/2016

David Maloney

District of Columbia State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
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DELAWARE,
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MASSACHUSETTS,
NEW JERSEY,
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RHODE ISLAND

REGARDING

COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Maryland State Historic Preservation Officer

By: [Signature] Date: 7.12.16

Elizabeth Hughes
Director / Maryland State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
DELAWARE,
DISTRICT OF COLUMBIA,
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PENNSYLVANIA, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Massachusetts State Historic Preservation Office

By: Bruna Simon Date: 7/19/16

Bruna Simon, Massachusetts Historical Commission
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
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MARYLAND,
MASSACHUSETTS,
NEW JERSEY,
NEW YORK,
Pennsylvania, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

New Jersey State Historic Preservation Officer

By: [Signature]
Date: 7/20/2016
Katherine J. Marcopul
Deputy State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
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NEW JERSEY,
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RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

New York State Historic Preservation Officer

By: Ruth L. Pierpont Date: 7/14/16
Deputy Commissioner for Historic Preservation/Deputy NYS SHPO
PROGRAMMATIC AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:

CONNECTICUT,
DELWARE,
DISTRICT OF COLUMBIA,
MARYLAND,
MASSACHUSETTS,
NEW JERSEY,
NEW YORK,
 PENNSYLVANIA, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Pennsylvania State Historic Preservation Officer

[Signature]
Date: 7/13/2014

By: Andrea L. MacDonald
Deputy Pennsylvania State Historic Preservation Officer
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL TRANSIT ADMINISTRATION,
The Advisory Council on Historic Preservation,
AND THE STATE HISTORIC PRESERVATION OFFICERS OF:
CONNECTICUT,
DELAWARE,
DISTRICT OF COLUMBIA,
MARYLAND,
MASSACHUSETTS,
NEW JERSEY,
NEW YORK,
PENNSYLVANIA, AND
RHODE ISLAND

REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT
AS IT PERTAINS TO
THE NEC FUTURE INVESTMENT PROGRAM

SIGNATORY

Rhode Island State Historic Preservation Officer

By: Edward F. Sanderson

Date: 7/18/2016

State Historic Preservation Officer
| Appendix A: | Definitions                                      |
| Appendix B: | Map of Tier 1 EIS Alternatives                   |
| Appendix C: | Standard Treatment Measures                      |
| Appendix D: | Tier 2 MOA Template                              |
| Appendix E: | Tier 1 Consulting Parties List                   |
| Appendix F: | Section 106 Consultation for Tier 2 Undertakings in Connecticut |
| Appendix G: | Section 106 Consultation for Tier 2 Undertakings in District of Columbia |
| Appendix H: | Section 106 Consultation for Tier 2 Undertakings in Delaware |
| Appendix I: | Section 106 Consultation for Tier 2 Undertakings in Massachusetts |
| Appendix J: | Section 106 Consultation for Tier 2 Undertakings in Maryland |
| Appendix K: | Section 106 Consultation for Tier 2 Undertakings in New Jersey |
| Appendix L: | Section 106 Consultation for Tier 2 Undertakings in New York |
| Appendix M: | Section 106 Consultation for Tier 2 Undertakings in Pennsylvania |
| Appendix N: | Section 106 Consultation for Tier 2 Undertakings in Rhode Island |
APPENDIX A: Definitions

Terms defined in the Section 106 regulations (36 C.F.R. Part 800) shall have the meanings given in those regulations. The following additional terms shall have the meanings set forth below:

1. “Applicable SHPO(s)” means the State Historic Preservation Officer (SHPO) or SHPOs for the State or States in which a Tier 2 undertaking is located.

2. “Applicable Indian Tribe(s) and THPO(s)” means the any Indian Tribe or Tribes that attach religious and cultural significance to historic properties that may be affected by a Tier 2 undertaking and any Tribal Historic Preservation Officer (THPO) or THPOs with jurisdiction over the undertaking.

3. “Independent project on the NEC” means a future project that is located on the NEC but is developed through a NEPA process that is independent from the Tier 1 ROD - that is, the NEPA process for the project is not tiered to the Tier 1 ROD.

4. “NEC FUTURE Process” means the process through which FRA is developing the Tier 1 EIS for the NEC FUTURE Investment Program.

5. “NEC FUTURE Investment Program” means as a program of improvements to passenger rail service and infrastructure in the NEC through 2040 and beyond, which will be selected by FRA through the NEC FUTURE Process.

6. “NEC Tier 2 Project” means a future project that is located on the NEC and implements the NEC FUTURE Investment Program, and for which a Tier 2 NEPA document is prepared. This term does not include “independent projects on the NEC” as those terms are used in this PA.


8. “Preliminary APE” means the area of potential effects for the alternatives in the Tier 1 EIS, as shown in Appendix B to this PA.

9. “Related project” means a project on the NEC that is being studied by FRA in a separate NEPA process concurrently with the NEC FUTURE Process - for example, the B&P Tunnel Project in Baltimore. For purposes of this PA, a related project may be treated as an NEC Tier 2 Project or an independent project on the NEC.

10. “Representative Route” is a term used in the Tier 1 EIS to refer the potential physical footprint of the Preferred Alternative and Action Alternatives. The Representative Route was used in the Tier 1 EIS as the basis for estimating the potential impacts of the Preferred Alternative and Action Alternatives.

11. “State-Specific Appendix” refers to an appendix to this PA that includes requirements that apply only within a specific State. State-specific appendices (and any amendments thereto) require signature by the FRA, ACHP, and the SHPO from the applicable State, and by FTA.
12. “Tier 1 process” refers to the process for preparing the Tier 1 EIS for the NEC FUTURE Investment Program.

13. “Tier 1 ROD” means a Record of Decision issued at the conclusion of the Tier 1 process, approving an NEC FUTURE Investment Program.

14. “Tier 1 undertaking” means the NEC FUTURE Investment Program.

15. “Tier 2 NEPA document” means an environmental document (categorical exclusion, environmental assessment, or environmental impact statement) that is prepared under NEPA and that is explicitly tiered to - that is, based on - the Tier 1 Record of Decision issued in the NEC FUTURE Process, in accordance with the tiering regulations in 40 C.F.R. § 1502.20 (or successor regulations).

16. “Tier 2 process” refers to the process for preparing a Tier 2 NEPA document for an NEC Tier 2 Project.

17. “Tier 2 undertaking” means any NEC Tier 2 Project; this term does not include “independent projects on the NEC” as that term is used in this PA.

18. “Tribal lands” means, as defined in Section 301(14) of the NHPA, (1) all lands within the exterior boundaries of any Indian reservation; and, (2) all dependent Indian communities.
APPENDIX B: NEC FUTURE Tier 1 EIS Alternatives Map
APPENDIX B: Preliminary Area of Potential Effects
APPENDIX C: Standard Treatment Measures

In accordance with Stipulation VIII.B of this PA, the federal agency may use one or more of the
Standard Treatment Measures below to resolve the adverse effect on historic properties and, if
applicable, may also use additional Standard Treatment Measures in a State-Specific Appendix to
resolve adverse effects for projects located in the applicable State.

A. Standard Treatment #1: Existing NEC Buildings and Structures

1. This standard treatment may be used for adverse effects to existing NEC railway, buildings,
   and structures (e.g., bridges and tunnels) that have been listed in or determined eligible for
   listing in the NRHP (hereafter called “existing NEC historic properties”).

2. The federal agency shall make a reasonable and good faith effort in consultation with the
   applicable SHPO(s), applicable Indian tribe(s) and THPO(s), and other consulting parties to
   construct improvements to existing NEC historic properties in accordance with the Secretary
   of the Interior’s Standards (36 C.F.R. Part 68). This includes but is not limited to
   rehabilitation of existing buildings and structures and adjacent new constructions, such as
   fencing.

3. If the federal agency determines in consultation with the applicable SHPO(s), applicable
   Indian tribe(s) and THPO(s), and other consulting parties that demolition is required, the
   federal agency shall then consult with those same parties and the National Park Service
   (NPS) (if applicable) regarding:
   a. Whether the affected NEC historic property should be recorded prior to its demolition;
   b. What type of recordation will be performed, specifically including consideration of the
      Historic American Building Survey (HABS) standards for buildings, and the Historic
      American Engineering Record (HAER) standards for structures;
   c. Which agency or agencies shall be responsible for approving the adequacy of the
      documentation prior to filing;
   d. Where the original recordation documents will be deposited, specifically including
      consideration of the NPS as a repository for HABS/HAER documentation; and
   e. Which additional repositories, if any, will receive copies of the original recordation
      documents;

4. If the federal agency elects to proceed with this standard treatment, the federal agency
   shall prepare a written recordation plan addressing each of the issues listed in paragraph (3)
   and shall submit the plan to the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s),
   and other consulting parties for review. If the applicable SHPO(s) and applicable Indian
   Tribe(s) and THPO(s) concur in the recordation plan, the federal agency shall then carry out
   recordation in accordance with the plan.
B. Standard Treatment # 2: Buildings and Structures in Close Proximity to the Existing NEC

1. Many buildings and structures listed in or eligible for the NRHP have long been in close proximity to existing NEC facilities and operations, but may be affected by NEC FUTURE related improvements. The federal agency shall consult with applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), other consulting parties, and appropriate corridor stakeholders to implement the NEC improvements in a contextually sensitive design, taking into account the character defining features of the nearby historic buildings and structures that would be affected.

2. If a building or structure that is a historic property must be physically altered by NEC FUTURE related improvements, the federal agency shall make a reasonable and good faith effort in consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties to rehabilitate it in accordance with the Secretary of the Interior’s Standards.

3. If the federal agency determines in consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties that demolition is required, the federal agency shall then consult with those same parties and the NPS (if applicable) regarding:
   a. Whether the affected NEC historic property should be recorded prior to its demolition;
   b. What type of recordation will be performed, specifically including consideration of the HABS standards for buildings, and the HAER standards for structures;
   c. Which agency or agencies shall be responsible for approving the adequacy of the documentation prior to filing;
   d. Where the original recordation documents will be deposited, specifically including consideration of the NPS as a repository for HABS/HAER documentation; and
   e. Which additional repositories, if any, will receive copies of the original recordation documents.

4. If the federal agency elects to proceed with this standard treatment, the federal agency shall prepare a written recordation plan addressing each of the issues listed in paragraph (3) and shall submit the plan to the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties for review. If the applicable SHPO(s) and applicable Indian Tribe(s) and THPO(s) concur in the recordation plan, the federal agency shall then carry out recordation in accordance with the plan.

C. Standard Treatment # 3: Relocation of Architectural Resources

The federal agency shall consider the relocation of architectural historic properties (buildings and structures) as a mitigation treatment on a case-by-case basis when requested by the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), or any consulting party. If relocation
is feasible and agreed upon by the applicable SHPO(s) and applicable Indian Tribe(s) and
THPO(s) as the preferred treatment, the federal agency in consultation with those parties shall
develop a marketing plan and proposal.

D. Standard Treatment # 4: Archaeological Data Recovery

The federal agency shall make a reasonable and good faith effort in consultation with the
applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties to avoid
and minimize effects to National Register listed or eligible archaeological sites.

1. If adverse effects cannot be avoided, the federal agency, in consultation with the applicable
SHPO(s), applicable Indian Tribe(s) and THPO(s), and other consulting parties, shall consider
data-recovery excavations as the standard treatment.

2. If the federal agency determines in consultation with the SHPO(s), applicable Indian Tribe(s)
and THPO(s), and other consulting parties that data recovery is the appropriate treatment,
the federal agency shall then consult with those same parties regarding:

a. The methods of data recovery that will be used;

b. Which SHPO(s), THPO(s) and/or Indian Tribe(s) will be responsible for approving the
data-recovery plan (pursuant to paragraph 3);

c. The repository or repositories at which the recovered artifacts and associated records
will be deposited; and

d. The applicable federal, state and Tribal requirements, standards and guidelines for
conducting archaeological investigations and for curating any recovered artifacts and
associated records.

3. If the federal agency elects to proceed with this standard treatment, the federal agency
shall:

a. Prepare a written data-recovery plan, including a plan for curation, that incorporates
the input from paragraph (2); and

b. Submit the plan to the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s),
and other consulting parties for review.

If the applicable SHPO(s) and applicable Indian Tribe(s) and THPO(s) concur in the
data-recovery plan, the federal agency shall then carry out data recovery in accordance with
the plan.

4. The federal agency shall ensure that data-recovery excavations are completed prior to
construction.
APPENDIX D – MOA Template

MEMORANDUM OF AGREEMENT AMONG

THE FEDERAL RAILROAD ADMINISTRATION

[or]

THE FEDERAL TRANSIT ADMINISTRATION,

[or]

[NAME OF OTHER FEDERAL AGENCY],

[NAME OF PROJECT SPONSOR],

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION [if participating],

THE STATE HISTORIC PRESERVATION OFFICER[S] OF:

[affected states,]

AND THE [affected tribes or consulting parties, if any]

REGARDING

COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

AS IT PERTAINS TO

THE [name of the Tier 2 undertaking]

[NEC FUTURE INVESTMENT PROGRAM]

WHEREAS, the [name of the Tier 2 undertaking] is a Tier 2 undertaking related to the Northeast Corridor (NEC) FUTURE Program, a rail investment program for the rail spine which runs from Washington, D.C., through New York, New York, to Boston, Massachusetts; and

WHEREAS, to comply with Section 106 of the National Historic Preservation Act, a Programmatic Agreement (PA) was executed for the NEC FUTURE Investment Program on [date of execution] among the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA), the Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Officers (SHPO) of Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island; and

WHEREAS, the [Agency responsible the Tier 2 undertaking] has complied with the stipulations in the PA related to the delineation of the Area of Potential Effects, consultation with signatories to the PA and other consulting parties, identification of historic properties, and assessment of effects, and through consultation has determined that the reference undertaking would result in an adverse effect upon the following historic property(ies): [list the historic properties with adverse effects that cannot be resolved with standard treatments]; and
WHEREAS, the [FTA, FRA or other federal agency] has consulted with [list the signatories to this MOA] on measures to avoid, minimize or mitigate the adverse effects on historic properties; and

NOW, THEREFORE, the signatories to this MOA agree that the [name of the Tier 2 undertaking] shall be implemented in accordance with the following stipulations in order to resolve the adverse effects on historic properties.

**STIPULATIONS**

[Federal agency] has a statutory obligation to fulfill the NHPA requirements of Section 106; therefore, [agency] shall ensure that the measures in the following parts are carried out.

I. TREATMENT OF HISTORIC PROPERTIES

(List agreed upon stipulations to resolve adverse effects on each historic property here.)

II. RESOLVING OBJECTIONS

(Provide provisions for resolving objections should they arise during the life of the document. Distinguish FRA’s/FTA’s/other agency’s and SHPO’s roles in resolving objections and specific timeframes for responses. Note that other aspects of the agreement not in dispute will remain in effect.)

III. AMENDMENTS

(Provide provisions for amending the document, including consultation procedures with signatories and consulting parties)

IV. TERMINATION

(Provide provisions for terminating the document, including notification procedures to signatories and consulting parties.)

V. DURATION OF THE MOA.

(Provide a duration period for the document (e.g., two years) within which all the provisions of the agreement will be completed. If the duration of the MOA is expected to be longer than five years, a regular review process shall be included in the MOA in order for the signatories to evaluate its effectiveness and seek amendment if necessary.)

VI. EFFECTIVE DATE OF THIS MOA

This MOA shall take effect on the date that it is executed by the [federal agency] and the SHPO and shall be filed with the ACHP.
EXECUTION of this MOA by the [federal agency], [project sponsor], the SHPO(s), and any other signatories its transmittal to the ACHP in accordance with 36 C.F.R. § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 C.F.R. § 800.6(c), that the [federal agency] has afforded the ACHP an opportunity to comment on the [name of the Tier 2 undertaking] and its effects on historic properties, and that the [federal agency] has taken into account the effects of the [name of the Tier 2 undertaking] on historic properties.

SIGNATORY PARTIES:

[Federal Agency]

By: ______________________________ Date: _______________

[State] State Historic Preservation Officer

By: ______________________________ Date: _______________

[Project Sponsor]

By: ______________________________ Date: _______________

Advisory Council on Historic Preservation [if participating]

By: ______________________________ Date: _______________
APPENDIX E – Tier 1 Consulting Parties List

The table in this appendix includes a list of all entities that have been invited in Tier 1 to participate as consulting parties in Section 106 consultation for the NEC FUTURE program. The table indicates which entities have accepted the invitation to serve as consulting parties. The table also indicates which entities have accepted the invitation to be a Signatory or Concurring Party to the PA. Appendices F – N identify potential consulting parties to participate in Section 106 consultation for Tier 2 projects located in each state and the District of Columbia.

<table>
<thead>
<tr>
<th>Tribes:</th>
<th>List of Tribes or Agencies</th>
<th>Status of invitation acceptance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiated Consultation June 2012</td>
<td>Mashantucket (Western) Pequot Tribal Nation</td>
<td>Concurring Party to the PA</td>
</tr>
<tr>
<td></td>
<td>Mashpee Wampanoag Tribe</td>
<td>Consulting Party</td>
</tr>
<tr>
<td></td>
<td>The Mohegan Tribe</td>
<td>Concurring Party to the PA</td>
</tr>
<tr>
<td></td>
<td>Narragansett Indian Tribe of Rhode Island</td>
<td>Consulting Party</td>
</tr>
<tr>
<td>Invited to be a Consulting Party October 2014</td>
<td>Shinnecock Indian Nation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Stockbridge-Munsee Community Band of Mohicans</td>
<td>Concurring Party to the PA</td>
</tr>
<tr>
<td></td>
<td>Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts</td>
<td></td>
</tr>
<tr>
<td>Invited to be a Concurring Party to the PA 2014-2016</td>
<td>Delaware Tribe of Indians</td>
<td>Consulting Party</td>
</tr>
<tr>
<td></td>
<td>Absentee-Shawnee Tribe of Oklahoma</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Delaware Nation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Shawnee Tribe</td>
<td></td>
</tr>
<tr>
<td>Tribes:</td>
<td>Cayuga Nation of New York</td>
<td></td>
</tr>
<tr>
<td>Initiated Consultation June 2012</td>
<td>Eastern Shawnee Tribe of Oklahoma</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oneida Nation of New York</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oneida Tribe of Indians of Wisconsin</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Onondaga Nation of New York</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Seneca Nation of New York</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Seneca-Cayuga Tribe of Oklahoma</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Saint Regis Mohawk Tribe</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Towanda Band of Seneca Indians of New York</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tuscarora Nation of New York</td>
<td></td>
</tr>
<tr>
<td>SHPOs:</td>
<td>District of Columbia Historic Preservation Office</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td>Initiated Consultation June 2012</td>
<td>Maryland Historical Trust</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>Delaware Division of Historical &amp; Cultural Affairs</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>Pennsylvania Historical and Museum Commission</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>New Jersey Department of Environmental Protection Historic Preservation</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>NYS Office of Parks, Recreation &amp; Historic Preservation</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>Connecticut Department of Economic and Community Development - Historic Preservation and Museum Division</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rhode Island Historical Preservation and Heritage Commission</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td></td>
<td>Massachusetts Historical Commission</td>
<td>Signatory to the PA</td>
</tr>
<tr>
<td>List of Tribes or Agencies</td>
<td>Status of invitation acceptance</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Other Corridor-Wide Agencies:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invited to be a Concurring Party to the PA March 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Conference of State Historic Preservation Officers</td>
<td>Concurring Party</td>
<td></td>
</tr>
<tr>
<td><strong>Other State and Local Agencies:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invited to be a Consulting Party October 2014 – May 2016</td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Department of Transportation</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>District of Columbia Historic Preservation Review Board</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland Department of Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Baltimore City Commission for Historical and Architectural Preservation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware Department of Transportation (DELDOT)</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>New Castle County Historic Review Board</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Wilmington Design Review and Preservation Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania Department of Transportation (PennDOT)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Philadelphia Historical Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey Department of Transportation (NJDOT)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NJ TRANSIT</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Newark (New Jersey) Landmarks &amp; Historic Preservation Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of New Brunswick Historical Association</td>
<td>Declined invitation</td>
<td></td>
</tr>
<tr>
<td>New York City Landmarks Preservation Commission</td>
<td>Concurring Party to the PA</td>
<td></td>
</tr>
<tr>
<td>NYS Department of Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut Department of Transportation</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>The Connecticut Trust For Historic Preservation</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Rhode Island Department of Transportation</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Princeton Historic Preservation Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Providence Historic District Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts Department of Environmental Protection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts Department of Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boston Landmarks Commission</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td><strong>Intercity, Commuter, and Freight Rail Operators</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invited to be a Consulting Party August 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AMTRAK</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>MDOT – Maryland Transit Administration (for MARC service)</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Southeastern Pennsylvania Transportation Authority</td>
<td></td>
<td></td>
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<tr>
<td>Metropolitan Transportation Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Island Rail Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metro-North Railroad</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Massachusetts Bay Transportation Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CSX Transportation</td>
<td>Consulting Party</td>
<td></td>
</tr>
<tr>
<td>Norfolk Southern Corporation</td>
<td>Declined invitation</td>
<td></td>
</tr>
<tr>
<td>Consolidated Rail Corporation</td>
<td>Declined invitation</td>
<td></td>
</tr>
<tr>
<td>Providence &amp; Worcester Railroad Company</td>
<td></td>
<td></td>
</tr>
<tr>
<td>List of Tribes or Agencies</td>
<td>Status of invitation acceptance</td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------------------------</td>
<td></td>
</tr>
<tr>
<td>National Trust for Historic Preservation (and state partners)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Nonprofit Organizations**
Invited to be a Consulting Party September 2015

*Source: NEC FUTURE team, 2015*

*Note: Blank cells indicate that no formal response has been received.*
Appendix F: Section 106 Consultation for Tier 2 Undertakings in Connecticut

1. The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the Connecticut State Historic Preservation Office (CTSHPO), for a Tier 2 undertaking in the State of Connecticut.

I. Project Initiation

4. The Federal agency shall initiate CTSHPO review by submitting a Project Review Form and requested attachments, including but not limited to a project description, project map, photographs, and a project contact. Submissions should be in hard copy.

Data Sources

7. The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the CTSHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Site files located at the CTSHPO in Hartford</td>
<td>National and State Register of Historic Places forms, as well as the Statewide Historic Resource Inventory (SHRI) are kept on file and must be requested in person.</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Historic properties surveys on file at the University of Connecticut Libraries Dodd Center in Storrs</td>
<td>Surveys are indexed by town. A list of all surveys is available on the Dodd Center website; actual surveys are in hard copy and must be requested in person.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Relevant site files available at the Office of the State Archaeologist at the University of Connecticut in Storrs or CTSHPO in Hartford</td>
<td>Hard copy files may be viewed in person at the Office of the State Archaeologist or at CTSHPO.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Archaeological surveys on file at the University of Connecticut Libraries Dodd Center in Storrs or CTSHPO in Hartford</td>
<td>Surveys are indexed by town. A list of all surveys is available on the Dodd Center website; actual surveys are in hard copy and must be requested in person.</td>
</tr>
</tbody>
</table>

CTSHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.
II. Inviting Consulting Parties

The Federal agency shall consult with the CTSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in Connecticut:

- Connecticut Department of Energy and Environmental Protection (CT DEEP)
- Connecticut Department of Transportation (ConnDOT)

The Federal agency shall consult with the CTSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Berlin Historical Society
- Bridgeport CLG & LHD Committee
- Brookfield Historic District Commission
- Capital Region Council of Governments (COG)
- Central Connecticut Regional Planning Agency
- Connecticut Eastern Railway Museum (Eastern Connecticut Chapter of the National Railway Historical Society)
- Connecticut Trust for Historic Preservation
- City of Danbury
- City of Milford
- City of Stamford
- Consolidated Rail Corporation
- Council of Governments of the Central Naugatuck Valley
- CSX Transportation
- Danbury Railway Museum
- East Hartford Historic District Commission
- East Lyme Historic Properties Commission
- Greater Bridgeport Regional Council
- Greenwich Historic District Commission
- Greenwich Preservation Trust
- Guilford Historic District Commission
- Guilford Preservation Alliance
- Housatonic Valley Council of Elected Officials
- Lower Connecticut River Valley Council of Governments
- Merritt Parkway Conservancy
- Metro-North Railroad
- Metropolitan Transportation Authority
- Milford Preservation Trust
- New Canaan Historical Society
- New Canaan Preservation Alliance
- New Haven Historic District Commission
The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Delaware Tribe of Indians
- Mashantucket (Western) Pequot Tribal Nation
- Narragansett Indian Tribe of Rhode Island
- The Mohegan Tribe
The Federal agency also shall request updated consulting parties information from the CTSHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the CTSHPO.

IV. Identifying and Evaluating Historic Properties

The Federal agency shall consult with the CTSHPO to confirm the most up to date forms other resources necessary to identify and evaluate historic properties and archaeological resources.

The Federal agency shall obtain an archaeological permit from the CTSHPO for any archaeological field studies on state lands or designated state archaeological preserves, as defined by Connecticut General Statutes, Section 10-386-1 to 10-386-5.

V. Documentation Requirements

The Federal agency shall consult with the CTSHPO to confirm the most up to date guidelines and requirements necessary to submit documents to the CTSHPO for a Tier 2 undertaking in the State of Connecticut.

VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the CTSHPO for review:

- The Federal agency shall send final reports to the CTSHPO for review in hard copy.
- The CTSHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.
The Federal agency also shall consult with the CTSHPO regarding the process to be used for involving the public in Section 106 consultation.

**VIII. Standard Treatments**

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the CTSHPO.

**IX. Curation**

The Federal agency shall comply with any specific requirements identified in consultation with the CTSHPO with regard to curation.

**X. Confidentiality and Data Sharing**

The Federal agency shall consult with the CTSHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

**XI. Amendments**

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By: _______________ Date: 8/22/2016

Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By: _______________ Date: 8/25/16

John M. Fowler
Executive Director

Name (printed) Title (printed)

Federal Transit Administration

By: _______________ Date: 7/24/16

Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

Connecticut State Historic Preservation Officer

By: _______________ Date: 7/25/16

Kristina Newman-Scott
State Historic Preservation Officer
Appendix G: Section 106 Consultation for Tier 2 Undertakings in the District of Columbia

1 The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the District of Columbia State Historic Preservation Office (DCSHPO), for a Tier 2 undertaking in the District of Columbia.

I. Project Initiation

4 The Federal agency shall initiate DCSHPO review by submitting necessary documentation, specifics of which should be confirmed with the DCSHPO prior to the time of submission.

Data Sources

6 The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the DCSHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Historic properties site forms and surveys on file at the DCSHPO in Washington, D.C.</td>
<td>Some historic district materials are available online, all other materials need to be researched in person</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Archaeological site forms and surveys on file at the DCSHPO in Washington, D.C.</td>
<td>All materials need to be researched in person</td>
</tr>
</tbody>
</table>

9 The Federal agency shall consult with the DCSHPO prior to the onset of Tier 2 undertakings to confirm the status of data sources for the District of Columbia.

11 DCSHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.

II. Inviting Consulting Parties

15 The Federal agency shall consult with the DCSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in the District of Columbia:

18 ▶ District Department of Transportation
19 ▶ Historic Preservation Review Board
The Federal agency shall consult with the DCSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Akridge
- AMTRAK
- Ashkenazy Acquisition Corporation
- Capitol Hill Business Improvement District
- Capitol Hill Restoration Society
- Committee of 100 on the Federal City
- Consolidated Rail Corporation
- CSX Transportation
- District Department of Energy and Environment
- DC Preservation League
- Eckington Civic Association
- Executive Office of the Mayor
- Jones Lang LaSalle
- Maryland Transit Administration
- National Park Service
- National Railway Historical Society Washington DC Chapter
- National Trust for Historic Preservation
- NoMa Business Improvement District
- Norfolk Southern Corporation
- Office of Advisory Neighborhood Commissions
- Providence & Worcester Railroad Company
- The Baltimore & Ohio Railroad Museum
- The Historical Society of Washington DC
- Union Station Redevelopment Corporation
- U.S. Commission of Fine Arts

The Federal agency shall consult with the DCSHPO to determine whether any Indian tribes should be invited to participate in the Section 106 process. At this time there are no federally-recognized Indian tribes for the District of Columbia.

The Federal agency also shall request updated consulting parties information from the DCSHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.
III. **Defining the Area of Potential Effects**

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the DCSHPO.

IV. **Identifying and Evaluating Historic Properties**

The Federal agency shall consult with the DCSHPO to confirm the most up to date forms other resources necessary to identify and evaluate historic properties and archaeological resources.

V. **Documentation Requirements**

The Federal agency shall consult with the DCSHPO to confirm the most up to date guidelines and requirements necessary to submit documents to the DCSHPO for a Tier 2 undertaking in the District of Columbia. These may include:

- DC Determination of Eligibility (DOE) Form and “How to Complete a DC DOE Form”

VI. **Document Review Process**

The Federal agency shall comply with the following requirements when submitting documents to the DCSHPO for review:

- The Federal agency shall send DOEs and draft final reports to the DCSHPO for review in electronic format. DOEs and draft final reports should be forwarded in Microsoft Word so comments can be provided in “Track Changes” format.
- The DCSHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. **Public Involvement**

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the DCSHPO regarding the process to be used for involving the public in Section 106 consultation.
VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, and/or any additional treatments identified in consultation with the DCSHPO.

IX. Curation

The Federal agency shall comply with any specific requirements identified in consultation with the DCSHPO with regard to curation.

X. Confidentiality and Data Sharing

The Federal agency shall consult with the DCSHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By: Michael Johnsen
Date: 8/22/2016
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By: John M. Fewer
Date: 6/25/16
Executive Director

Federal Transit Administration

By: Mary Beth Mello
Date: 7/26/16
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

District of Columbia State Historic Preservation Officer

By: David Maloney
Date: 7/19/2016
District of Columbia State Historic Preservation Officer
Appendix H: Section 106 Consultation for Tier 2 Undertakings in Delaware

The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the Delaware State Historic Preservation Office (DESHPO), for a Tier 2 undertaking in the State of Delaware.

I. Project Initiation

The Federal agency shall initiate DESHPO review by submitting necessary documentation, specifics of which should be confirmed with the DESHPO prior to the time of submission.

At a minimum, the initiation documentation shall include:

- A list of all the federal or state agencies involved, as known at the time of initiation, and indication of which agency will be the lead for Section 106 consultation.
- A description of the nature of the federal involvement, including funding, permits, licenses or other authorizations that require compliance with Section 106 of the National Historic Preservation Act, and its implementing regulations, 36 CFR Part 800.
- Description of the nature and extent of the undertaking; provide location map, and conceptual plans, if available.
- A list of the consulting parties that will be contacted.
- A description of the lead Agency’s proposed limits of the APE, with explanation of why the Agency believes these limits are appropriate (see definition of APE in 800.16(d)); include a map of sufficient scale to illustrate the proposed APE.
- The level of effort the Agency plans to undertake in order to identify historic properties.

Data Sources

The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the DESHPO:
<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Cultural and Historical Resources Information System (CHRIS) available online at <a href="https://chris-users.delaware.gov/">https://chris-users.delaware.gov/</a></td>
<td>Online database containing information about historic properties. The system is a work in progress; not all data have been entered.</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Additional data on file at the DESHPO’s Historic Property Research Center in Dover</td>
<td>Information not yet entered into CHRIS may be viewed in hard copy, along with other research materials</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Cultural and Historical Resources Information System (CHRIS) available online at <a href="https://chris-users.delaware.gov/">https://chris-users.delaware.gov/</a></td>
<td>Online database containing information about archaeological resources. The system is a work in progress; not all data have been entered. Access to the archaeology database requires a password from the DESHPO.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Additional data on file at the DESHPO’s Historic Property Research Center in Dover</td>
<td>Information not yet entered into CHRIS may be viewed in hard copy, along with other research materials</td>
</tr>
</tbody>
</table>

DESHPO is in the process of converting hard copy materials to electronic files. The Federal agency shall consult with the DESHPO prior to initiating Tier 2 undertakings to confirm the status of data sources for Delaware.

DESHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.

II. Inviting Consulting Parties

The Federal agency shall consult with the DESHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in Delaware:

- Delaware Department of Transportation (DelDOT)
- Delaware Division of Historical & Cultural Affairs, as the parent agency of the DESHPO, if any agency-owned properties are in the APE
- Delaware Department of Natural Resources and Environmental Control

The Federal agency shall consult with the DESHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:
The Federal agency shall invite the following federally-recognized Indian tribe to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Delaware Tribe of Indians
- Delaware Nation

The Federal agency also shall request updated consulting parties information from the DESHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

III. Defining the Area of Potential Effects

The Federal agency shall define the area of potential effects (APE) for any Tier 2 project in consultation with the DESHPO.

IV. Identifying and Evaluating Historic Properties

The Federal agency shall consult with the DESHPO to determine the appropriate level of effort required to perform identification surveys and evaluation studies. The identification survey data regarding potential historic properties and archaeological resources shall be entered using the CHRIS online portal. The Federal agency shall ensure that all surveys are carried out by or under the direct supervision of a
person or persons meeting the relevant Secretary of the Interior’s Historic Preservation Professional Qualification Standards, and that all work meets the Secretary of the Interior’s Standards and Guidelines for Identification and Evaluation as well as the Delaware survey guidelines referenced in section V of this Appendix. Further:

- Survey proposals shall include a research design that stipulates: objectives, methods, and expected results; production of draft and final reports; and when applicable, preparation of archaeological materials for curation, including budgeting for initial conservation assessments and treatment.
- The Federal agency’s qualified staff or designee shall prepare reports on identification and evaluation surveys and shall submit the reports to the SHPO (and affected Tribes, as applicable) for review and concurrence. The Federal agency will take into account comments received and will recommend any next steps.

V. Documentation Requirements

The Federal agency shall comply with the following DESHPO requirements (or their successors), as applicable, when submitting documents to DESHPO for a Tier 2 undertaking in the State of Delaware, except as otherwise determined by the Federal agency in consultation with the DESHPO:

- Architectural Survey in Delaware, 2015
- Archaeological Survey in Delaware, 2015

These documents are available on the DESHPO's webpage:

http://history.delaware.gov/preservation/surveys.shtml

VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the DESHPO for review:

- The Federal agency shall consult with the DESHPO to determine the preferred method for submission of project documents for review, which may include both hard copies and electronic copies.
- The DESHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.
- If the undertaking will have an adverse effect on historic properties, the federal agency shall submit the required documentation to the ACHP in accordance with 36 CFR 800.11(e).

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency
may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the DESHPO regarding the process to be used for involving the public in Section 106 consultation.

VIII. Assessing Effects and Resolving Adverse Effects, including Standard Treatments

The Federal agency shall, in consultation with the DE SHPO, determine if historic properties in the APE will be affected, and if so whether or not the effects will be adverse. The Federal agency shall provide to the DE SHPO an adequately documented finding of effect, as defined in 36 CFR Part 800.11(d) or 800.11(e), as applicable.

The Federal agency shall endeavor to avoid adversely affecting historic properties. If unavoidable, the agency may resolve adverse effects by employing a Standard Treatment provided in Appendix C of this PA, in accordance with Stipulation VIII.B.1 of the PA. If a Standard Treatment is not employed, the federal agency shall consult to resolve adverse effects on those historic properties in accordance with 36 C.F.R. § 800.6, as provided in Stipulation VIII.B.2 of this PA, including a Memorandum of Agreement (MOA) where appropriate. The MOA may include traditional treatments, such as documentation or archaeological data recovery, or alternative treatments identified in consultation with and approval by the DESHPO and other consulting parties. The Federal agency shall ensure that adequate resources are committed to carry out the MOA.

IX. Curation

The Federal agency shall comply with the following requirements identified in consultation with the DESHPO with regard to curation:

- Guidelines and Standards for the Curation of Archaeological Collections (or its successor)

X. Confidentiality and Data Sharing

The Federal agency shall consult with the DESHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Discovery of Human Remains

If human remains are discovered, the Federal agency shall, in addition to the provisions of Stipulation X of the PA, immediately (within 24 hours) notify the local law enforcement office, the medical examiner or the Director of the Division of Historical and Cultural Affairs (the Delaware State Historic Preservation Officer) in accordance with the Delaware Unmarked Human Burials and Skeletal Remains Act (Delaware
Code: Title 7, Chapter 54; 66 Del. Laws, c. 38. § 1; 75 Del. Laws., c. 153 §§ 4, 5.), and protect the remains from any further exposure of and damage to the remains. The Federal agency shall consult with the DE SHPO to develop and implement an appropriate treatment plan, in compliance with the above cited state law. No work shall resume in the affected area until such consultation is complete.

If the human remains are of Native American affiliation, then the Federal agency will also immediately (within 24 hours) notify applicable Indian tribes referenced in section II of this Appendix or identified through Section 106 consultation for the Tier 2 project with the DESHPO. As soon as possible, within a period no longer than two (2) weeks, the Federal agency will forward information regarding the discovery to the Indian tribes, the DE SHPO and any other consulting parties for review and comments. The Federal agency will request that the parties comment on the information within two (2) weeks of receipt. The Federal agency will then consult with the Indian tribes, the DE SHPO and any other consulting parties to determine an appropriate course of action in accordance with 36 CFR 800, and taking into account the above cited state law. No work shall resume in the affected area until such consultation is complete.

XII. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By: [Signature] Date: 8/22/2016
Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By: [Signature] Date: 8/25/16
John M. Fowler
Executive Director

Name (printed) Title (printed)

Federal Transit Administration

By: [Signature] Date: 7/30/16
Mary Beth Meleo
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

Delaware State Historic Preservation Officer

By: [Signature] Date: 7/13/16
Timothy A. Slavin
Director, Division of Historical and Cultural Affairs and
Delaware State Historic Preservation Officer
Appendix I: Section 106 Consultation for Tier 2 Undertakings in Massachusetts

1 The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the office of the Massachusetts Historic Preservation Officer (MASHPO) for a Tier 2 undertaking in the Commonwealth of Massachusetts.

I. Project Initiation

4 The Federal agency shall initiate MASHPO review by submitting a completed “Project Notification Form” (PNF) to the MASHPO by mail or courier.

Data Sources

6 The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the MASHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Massachusetts Cultural Resource Information System&quot; (MACRIS)</td>
<td>MACRIS is indexed by town. It does not include information on all historic properties and areas in Massachusetts, nor does it reflect all the information on file on historic properties and areas at the MASHPO.</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Massachusetts Historical Commission (MHC) Archives - Inventory of Historic and Archaeological Assets of the Commonwealth</td>
<td>The MHC archives include additional information about historic properties not found in MACRIS; the archives can be researched in person.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>MHC Archives - Inventory of Historic and Archaeological Assets of the Commonwealth</td>
<td>Information about archaeological resources is not available to the general public, and must be researched at the MHC archives.</td>
</tr>
</tbody>
</table>

9 MASHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.
II. Inviting Consulting Parties

The Federal agency shall invite the following organizations to participate in Section 106 consultation for all Tier 2 projects located in Massachusetts:

- Massachusetts State Historic Preservation Officer (MASHPO)
- Massachusetts Department of Transportation (MassDOT)
- Massachusetts Department of Environmental Protection (MassDEP)

The Federal agency shall invite the following organizations to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Boston Region MPO
- Boston Preservation Alliance
- Boston Landmarks Commission
- Brookline Preservation Commission
- Central Massachusetts Regional Planning Commission
- Consolidated Rail Corporation
- CSX Transportation
- Grafton Historical Commission
- Massachusetts Bay Transportation Authority
- Newton
- Norfolk Southern Corporation
- Old Colony Planning Council
- Preservation Massachusetts
- Pioneer Valley Planning Commission
- Providence & Worcester Railroad Company
- Southeastern Regional Planning and Economic Development District
- The Trustees of Reservations
- Worcester

The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Delaware Tribe of Indians
- Narragansett Indian Tribe of Rhode Island
- Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
- Mashpee Wampanoag Tribe
- Stockbridge-Munsee Community Band of Mohicans

The Federal agency also shall request updated consulting parties information from the MASHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their
contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

III.   Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project is developed in consultation with the MASHPO and other consulting parties, as appropriate.

IV.   Identifying and Evaluating Historic Properties

Historic property surveys shall comply with MASHPO procedures as documented in MHC’s “Historic Properties Survey Manual.”

Archaeological investigations, including archaeological reconnaissance surveys that may be required for portions of the project in Massachusetts, shall be conducted under a State Archaeologist’s permit (950 CMR 70). A State Archaeologist’s permit application shall be submitted to the MHC by a qualified professional archaeologist with relevant previous experience in the region and glaciated Northeast retained by the project proponent. The State Archaeologist shall be consulted concerning an appropriate curatorial facility for all collections from field investigations conducted under permit.

Within Massachusetts portions of the project impact area on non-federal lands, identified human remains shall be protected and treated consistently with the Massachusetts Unmarked Burial Law (Massachusetts General Laws, Chapter 38, §167; 6; Chapter 9, §167; §167; 26A and 27C; and, Chapter 7, §167; 38A; all as amended). Any non-Native American human remains shall be treated in accordance with the Massachusetts Historical Commission “Policy and Guidelines for Non-Native Human Remains Which Are Over 100 Years Old or Older.”

V.   Documentation Requirements

The Federal agency shall comply with the following MASHPO requirements, as applicable, when submitting documents to MASHPO for a Tier 2 undertaking in the Commonwealth of Massachusetts, except as otherwise determined by the Federal agency in consultation with the MASHPO:

- All submittals to the MASHPO shall be in paper format.
- Plans and specifications submitted to the MASHPO shall measure no larger than 11” x 17” paper format (unless another format is specified in consultation).
- Any project documents intended for public review shall not include sensitive archaeological site locational information. Any documentation prepared with this information should be prominently labeled "Confidential. Not for Public Release," and the distribution strictly controlled. The Federal agency shall consult with the MASHPO prior to disseminating this information.
VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the MASHPO for review:

- All submittals to the MASHPO shall be delivered to the MASHPO's office by US Mail, or by a delivery service, or by hand, not by email.
- Pursuant to 36 CFR 800.3(c)(4), the MASHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the MASHPO regarding the process to be used for involving the public in Section 106 consultation.

VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the MASHPO.

IX. Curation

The Federal agency shall adhere to MASHPO requirements that specimens and research records resulting from a project shall be deposited at an institution with permanent curatorial facilities.

The State Archeologist shall keep a record of the disposition of collections resulting from field investigations conducted under permit.
X. Confidentiality and Data Sharing

The Federal agency shall ensure that any project documents do not reveal the locations of any sensitive archaeological site locations, including human burials. Any documentation prepared with this information should be prominently labeled "Confidential. Not for Public Release." and the distribution strictly controlled.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration
By: [Signature]
Date: 8/22/2016
Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation
By: [Signature]
Date: 8/25/16
John M. Fowler
Executive Director

Federal Transit Administration
By: [Signature]
Date: 7/26/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

Massachusetts State Historic Preservation Officer
By: [Signature]
Date: 7/19/16
Brona Simon
Massachusetts Historical Commission
Appendix J: Section 106 Consultation for Tier 2 Undertakings in Maryland

1 The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the Maryland State Historic Preservation Office (MDSHPO), for a Tier 2 undertaking in the State of Maryland.

I. Project Initiation

The Federal agency shall initiate MDSHPO review by submitting a completed Project Review Form or cover letter and requested attachments, including but not limited to a project description, project map, photographs, and a project contact. The Federal agency shall consult with the MDSHPO to confirm the most up to date requirements (content, format, and mode) for project review submittals for a Tier 2 undertaking in the State of Maryland.

Data Sources

The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the MDSHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties including Archaeological Resources</td>
<td>Medusa, Maryland's Cultural Resources Information System, which includes GIS layers, online databases, scanned inventory forms and documents – Medusa is available for viewing online, at the MDSHPO Library, or for purchase to qualified researchers</td>
<td>Medusa contains maps and information about resources recorded in the Maryland Inventory of Historic Properties (MIHP) and the National Register of Historic Places (NRHP), as well as properties on which the MDSHPO holds preservation easements and information on resources that have been evaluated for National Register eligibility (Determinations of Eligibility, or DOEs) [Note: Access to all material relating to Maryland's archeological sites is only available to qualified researchers]</td>
</tr>
<tr>
<td>Historic Properties including Archaeological Resources</td>
<td>Additional data on file at the MDSHPO Library</td>
<td>Inventory forms, reports, and other resource documentation, as well as additional research materials, may be viewed in person at the MDSHPO Library [Note: Access to all material relating to Maryland's archeological sites is only available to qualified researchers]</td>
</tr>
</tbody>
</table>
The Federal agency shall consult with the MDSHPO prior to the onset of Tier 2 undertakings to confirm the status and accessibility of data sources for Maryland.

MDSHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.

II. Inviting Consulting Parties

The Federal agency shall consult with the MDSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in Maryland:

- Maryland Department of Transportation (MDOT)

The Federal agency shall consult with the MHT to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Anacostia Trails Heritage Area, Inc.
- Anne Arundel County Planning and Zoning Department - Cultural Resources Division
- Baltimore City - Department of Transportation
- Baltimore City - Planning Department
- Baltimore City Commission for Historical and Architectural Preservation
- Baltimore County Department of Planning
- Baltimore Heritage Area Association
- Baltimore Heritage, Inc.
- Cecil County Historic District Commission
- City of Aberdeen, City Manager
- City of Aberdeen, Planning & Community Development
- City of Aberdeen - Office of the Mayor
- City of College Park, Office of the Mayor
- City of College Park Planning and Development
- City of Havre de Grace, Office of the Mayor
- City of Havre de Grace, Historic Preservation Commission
- City of Havre de Grace, Planning & Zoning
- Consolidated Rail Corporation
- CSX Transportation
- Harford County Department of Planning & Zoning
- Hyattsville Planning Committee
- Maryland Commission on Indian Affairs
- Maryland Transit Administration
The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Absentee-Shawnee Tribe of Oklahoma
- Delaware Tribe of Indians
- Eastern Shawnee Tribe of Oklahoma
- Shawnee Tribe

The Federal agency also shall request updated consulting parties information from the MDSHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

### III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the MDSHPO.
IV. Identifying and Evaluating Historic Properties
The Federal agency shall consult with the MDSHPO to confirm the most up to date forms and other resources necessary to identify and evaluate historic properties and archaeological resources for a Tier 2 undertaking in the State of Maryland.

The Federal agency shall obtain an archaeological permit from the MDSHPO for any archaeological field investigations on state-owned lands, state-controlled lands, in caves, and on certain private properties, including state-owned or state-controlled submerged lands, pursuant to State Finance and Procurement §§ 5A-341, 5A-342, 5A-343, and 5A-345 of the Annotated Code of Maryland.

V. Documentation Requirements
The Federal agency shall consult with the MDSHPO to confirm the most up to date guidelines and requirements necessary to submit documents to the MDSHPO for a Tier 2 undertaking in the State of Maryland.

VI. Document Review Process
The Federal agency shall comply with the following requirements when submitting documents to the MDSHPO for review:

- The Federal agency shall consult with the MDSHPO to determine the preferred method for submission of project documents for review, which may include both hard copies and electronic copies.
- The MDSHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement
The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the MDSHPO regarding the process to be used for involving the public in Section 106 consultation.

VIII. Standard Treatments
The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the MDSHPO.
IX. Curation

The Federal agency shall comply with the following requirements identified in consultation with the MDSHPO with regard to curation: All materials and records resulting from archeological investigations conducted for the project will be curated in accordance with 36 CFR 79 at the Maryland Archeological Conservation Laboratory (MAC Lab) and current MDSHPO requirements, unless clear title, Deed of Gift, or federal curation agreement for the collection cannot be obtained. The Federal agency shall consult with the MDSHPO regarding the appropriate disposition of any materials or records not proposed for curation at the MAC Lab.

X. Confidentiality and Data Sharing

The Federal agency shall consult with the MDSHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.

XII. Coordination with the Maryland Historical Trust Act of 1985

The MDSHPO agrees that fulfillment of the terms of this PA will satisfy the responsibilities of the Maryland Department of Transportation and any Maryland state agency under the requirements of the Maryland Historical Trust Act of 1985, as amended (Sections 5A-325 and 5A-326 of the State Finance and Procurement Article, Annotated Code of Maryland), for any components of a Tier 2 undertaking in the State of Maryland that require licensing, permitting and/or funding actions from Maryland state agencies.

XIII. Human Remains

In addition to the provisions specified in Stipulation X of the PA, the following measures apply to the discovery of human remains for a Tier 2 undertaking in the State of Maryland: If human remains are discovered during planning or construction activities for a Tier 2 undertaking in the State of Maryland, the Federal agency shall consult with the MDSHPO and other interested parties, as appropriate, to develop a plan for the appropriate treatment of the remains and comply with the Maryland State burial law (Title 10 Subtitle 4 Parts 10-401 through 10-404 of the Annotated Code of Maryland), or any replacement or subsequent revision to this law.
SIGNATORY PARTIES

Federal Railroad Administration

By: Michael Johnsen  Date: 8/22/2016
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By: John M. Fowler  Date: 8/25/16
Name (printed)  Title (printed)

Executive Director

Federal Transit Administration

By: Mary Beth Mello  Date: 7/26/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

Maryland State Historic Preservation Officer

By: Elizabeth Hughes  Date: 7/12/16
Elizabeth Hughes
Director / Maryland State Historic Preservation Officer
Appendix K: Section 106 Consultation for Tier 2 Undertakings in New Jersey

1 The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the New Jersey State Historic Preservation Office (NJSHPO), for a Tier 2 undertaking in the State of New Jersey.

I. Project Initiation

4 The Federal agency shall initiate NJSHPO review by submitting necessary documentation, specifics of which should be confirmed with the NJSHPO prior to the time of submission.

Data Sources

6 The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the NJSHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Index of National and State Registers of Historic Places listed and eligible resources available online at <a href="http://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm">http://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm</a></td>
<td>Resources are indexed by county and municipality. Hard copies of files are available at the NJSHPO and available for inspection by appointment.</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Historic properties surveys and additional data on file at the NJSHPO in Trenton</td>
<td>Surveys are indexed by county and municipality. Materials are in hard copy and must be requested in person.</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>NJDEP’s Geo Web public GIS viewer: <a href="http://www.nj.gov/dep/gis/geowebsplash.htm">http://www.nj.gov/dep/gis/geowebsplash.htm</a></td>
<td>Contains all known above-ground historic properties (archaeological properties are restricted).</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Archaeological site files available at the New Jersey State Museum in Trenton</td>
<td>Hard copy files may be viewed in person at the New Jersey State Museum.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Archaeological surveys on file at NJSHPO in Trenton</td>
<td>Surveys are indexed by county and municipality. Materials are in hard copy and must be requested in person.</td>
</tr>
</tbody>
</table>

9 NJSHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions, Historic Preservation Commissions, Certified Local Governments, and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.
II. Inviting Consulting Parties

The Federal agency shall consult with the NJSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in New Jersey:

- The Port Authority of New York and New Jersey
- NJ TRANSIT
- New Jersey Department of Transportation (NJDOT)

The Federal agency shall consult with the NJSHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Bergen County Historical Society
- Burlington County Historical Society
- City of Newark
- City of Newark Office of the Mayor
- City of Trenton Division of Planning
- City of Trenton Office of the Mayor
- Consolidated Rail Corporation
- CSX Transportation
- Historical Society of Princeton
- Hudson County Division of Planning
- Mercer County Cultural and Heritage Commission
- Mercer County Planning Division Transportation Development District
- Middlesex County Cultural and Heritage Commission
- Newark Landmarks and Historic Preservation Commission
- City of New Brunswick Historical Association
- New Jersey Essex County Department of Public Works
- New Jersey State Museum Archaeology and Ethnography
- New Jersey Turnpike Authority
- Norfolk Southern Corporation
- Passaic County Historical Society
- Pennsylvania Railroad Technical and Historical Society
- Princeton Historic Preservation Commission
- Princeton Planning Board
- Princeton Office of the Mayor
- Providence & Worcester Railroad Company
- Somerset County Historical Society of New Jersey
- South Brunswick Historic Preservation Commission
- The New Jersey Historical Society
- The Newark Preservation & Landmarks Committee (NPLC)
- Trenton Landmarks Commission for Historic Preservation
The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Absentee-Shawnee Tribe of Oklahoma
- Delaware Nation
- Delaware Tribe of Indians
- Eastern Shawnee Tribe of Oklahoma
- Shawnee Tribe
- Stockbridge-Munsee Community Band of Mohicans

The Federal agency also shall request updated consulting parties information from the NJSHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the NJSHPO.

IV. Identifying and Evaluating Historic Properties

The Federal agency shall consult with the NJSHPO and the New Jersey State Museum to confirm the most up to date forms and other resources necessary to identify and evaluate historic properties and archaeological resources.

V. Documentation Requirements

The Federal agency shall consult with the NJSHPO to confirm the most up to date guidelines and requirements necessary to submit documents to the NJSHPO for a Tier 2 undertaking in the State of New Jersey. These guidelines may include:

VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the NJSHPO for review:

- The Federal agency shall send final reports to the NJSHPO for review in hard copy as well as one digital copy (PDF format).
- The NJSHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the NJSHPO regarding the process to be used for involving the public in Section 106 consultation.

VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the NJSHPO.

IX. Curation

The Federal agency shall comply with any specific requirements identified in consultation with the NJSHPO with regard to curation, including requirements in 36 C.F.R. Part 79.

X. Confidentiality and Data Sharing

The Federal agency shall consult with the NJSHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By:     [Signature]  Date:  8/22/2016
Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By:     [Signature]  Date:  8/25/16
John M. Fowler  Executive Director

Federal Transit Administration

By:     [Signature]  Date:  7/26/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

New Jersey State Historic Preservation Officer

By:     [Signature]  Date:  1/20/2016
Katherine J. Maročpul
Deputy State Historic Preservation Officer
Appendix L: Section 106 Consultation for Tier 2 Undertakings in New York

The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP), also known as the New York State Historic Preservation Office (NYSHPO), for a Tier 2 undertaking in the State of New York. The Federal agency also shall consult with the New York City Landmarks Preservation Commission (LPC) for any projects that affect a New York City Landmarked property or historic district.

I. Project Initiation

The Federal agency shall initiate NYSHPO review by submitting a consultation request, including project initiation materials, as requested, through the online Cultural Resource Information System (CRIS) portal at https://cris.parks.ny.gov/. The Federal agency shall initiate LPC review by submitting project materials, as requested, via hard copy.

Data Sources

The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the NYSHPO and the LPC:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Cultural Resource Information System (CRIS) portal at <a href="https://cris.parks.ny.gov/">https://cris.parks.ny.gov/</a></td>
<td>CRIS contains information on most historic properties but there may be data gaps as the rollout is being completed; users should confirm with the NYSHPO whether there are additional materials not yet available on CRIS.</td>
</tr>
<tr>
<td>Historic properties</td>
<td>New York City Landmarks Preservation Commission (LPC) designation survey reports at <a href="http://www.nyc.gov/html/lpc/html/publications/landmark_designations.shtml">http://www.nyc.gov/html/lpc/html/publications/landmark_designations.shtml</a></td>
<td>New York City Landmarks each have a designation report available through the LPC.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Cultural Resource Information System (CRIS) portal at <a href="https://cris.parks.ny.gov/">https://cris.parks.ny.gov/</a></td>
<td>CRIS contains information on most archaeological resources but there may be data gaps as the rollout is being completed; users should confirm with the NYSHPO whether there are additional materials not yet available on CRIS.</td>
</tr>
</tbody>
</table>
NYSHPO and LPC personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.

II. Inviting Consulting Parties

The Federal agency shall consult with the NYSHPO and LPC to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in New York:

- New York State Department of Environmental Conservation (NYSDEC)
- New York State Department of Transportation (NYSDOT)

The Federal agency shall consult with the NYSHPO and LPC to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Bronx Borough President
- City of New Rochelle
- Consolidated Rail Corporation
- CSX Transportation
- Long Island Rail Road
- Manhattan Borough President
- Metro-North Railroad
- Metropolitan Transportation Authority
- Nassau County
- New York City Department of City Planning
- New York City Department of Parks and Recreation
- New York City Department of Transportation
- New York City Economic Development Corporation
- New York City Office of the Mayor
- New York Metropolitan Transportation Council
- Norfolk Southern Corporation
- Providence & Worcester Railroad Company
The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Shinnecock Indian Nation
- Stockbridge-Munsee Community Band of Mohicans
- Cayuga Nation of New York
- Delaware Nation
- Delaware Tribe of Indians
- Oneida Nation of New York
- Oneida Tribe of Indians of Wisconsin
- Onondaga Nation of New York
- Seneca Nation of New York
- Saint Regis Mohawk Tribe
- Towanda Band of Seneca Indians of New York
- Tuscarora Nation of New York

The Federal agency also shall request updated consulting parties information from the NYSHPO and LPC at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

### III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the NYSHPO and the LPC.

### IV. Identifying and Evaluating Historic Properties

The Federal agency shall identify and evaluate historic properties and archaeological resources using online site data submission pages that shall be entered using the CRIS portal.

Projects in the City of New York may require coordination with the LPC if there is potential to affect an individual landmark or a building in a historic district.
V. Documentation Requirements

The Federal agency shall comply with the following NYSHPO and LPC requirements, as applicable, when submitting documents to NYSHPO and LPC for a Tier 2 undertaking in the State of New York and the City of New York, except as otherwise determined by the Federal agency in consultation with the NYSHPO and the LPC:

- Recommended Standards for Historic Resources Surveys (NYSHPO 2010)
- Phase I Archaeological Report Format Requirements Guidelines (NYSHPO 2005)
- Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (NYAC 1994)
- Landmarks Preservation Commission Guidelines for Archaeological Work in New York City (LPC 2002)
- City Environmental Quality Review (CEQR) Technical Manual (NYC Mayor’s Office 2014)

The Federal agency shall consult with the NYSHPO and LPC prior to the onset of Tier 2 projects to ensure that these regulations are up to date.

VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the NYSHPO and LPC for review:

- The Federal agency shall send final reports to the NYSHPO for review by uploading to CRIS in electronic copy.
- The Federal agency shall send final reports to the LPC for review in hard copy.
- The NYSHPO and LPC shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the NYSHPO and LPC regarding the process to be used for involving the public in Section 106 consultation.
VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the NYSHPO and LPC.

IX. Curation

The Federal agency shall comply with any specific requirements identified in consultation with the NYSHPO and LPC with regard to curation.

X. Confidentiality and Data Sharing

The Federal agency shall consult with the NYSHPO and LPC, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration
By: [Signature] Date: 8/22/16
Michael Johnson
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation
By: [Signature] Date: 8/25/16
John M. Fowler, Executive Director

Federal Transit Administration
By: Mary Beth Mello Date: 7/26/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

New York State Historic Preservation Officer
By: Ruth L. Pierpont Date: 7/14/16
Ruth L. Pierpont
Deputy Commissioner for Historic Preservation/Deputy NYS SHPO
Appendix M: Section 106 Consultation for Tier 2 Undertakings in Pennsylvania

1. The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the Pennsylvania Historical and Museum Commission's Bureau for Historic Preservation (PHMC), also known as the Pennsylvania State Historic Preservation Office (PASHPO), for a Tier 2 undertaking in the Commonwealth of Pennsylvania.

I. Project Initiation

The Federal agency shall initiate PHMC review by submitting a Project Review Form and requested attachments, including but not limited to a USGS map illustrating project location and limits, project description, proposed Area of Potential Effect, photographs of project area, including buildings over 50 years of age, and description of any proposed ground disturbance.

Data Sources

The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the PHMC:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>Cultural Resources GIS Database</td>
<td>CRGIS is a map-based inventory of the historic and archaeological sites and surveys stored in the files of the Bureau for Historic Preservation (BHP). Web access to all of the historic resource data is open to the public.</td>
</tr>
<tr>
<td></td>
<td><a href="http://phmc.info/pacrgis">http://phmc.info/pacrgis</a></td>
<td></td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Relevant survey and site files available at the SHPO in Harrisburg, Pennsylvania</td>
<td>Additional information not available through CRGIS may be viewed in person at the BHP.</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Cultural Resources GIS Database</td>
<td>CRGIS is a map-based inventory of the historic and archaeological sites and surveys stored in the files of the Bureau for Historic Preservation (BHP). Access to archaeological site locations and detailed site information is restricted and password protected and will be granted to qualified individuals on a need-to-know basis.</td>
</tr>
<tr>
<td></td>
<td><a href="http://phmc.info/pacrgis">http://phmc.info/pacrgis</a></td>
<td></td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Relevant survey and site files available at the SHPO in Harrisburg, Pennsylvania</td>
<td>Additional information not available through CRGIS may be viewed in person at the BHP.</td>
</tr>
</tbody>
</table>
PHMC personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.

II. Inviting Consulting Parties

The Federal agency shall consult with the PHMC to identify potential consulting parties, which may include but not be limited to the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in Pennsylvania:

- Pennsylvania Department of Transportation (PennDOT)
- Pennsylvania Department of Conservation and Natural Resources (DCNR)
- Pennsylvania Turnpike Commission

The Federal agency shall consult with the PHMC to identify potential consulting parties, which may include but not be limited to the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- Southeastern Pennsylvania Transportation Authority (SEPTA)
- Bristol Township Planning Commission
- Bucks County Historical Society Mercer Museum and Library
- Bucks County Planning Commission
- Chester City Office of the Mayor
- Chester Historic Preservation Society
- Chichester Historical Society
- City of Philadelphia Office of the Mayor
- Consolidated Rail Corporation
- CSX Transportation
- Delaware County Historic Preservation (Planning Section)
- Delaware County Historical Society
- Delaware County Planning Department
- Heritage Conservancy
- Historical Society of Pennsylvania
- Marcus Hook Preservation Society
- Morrisville Borough Office of the Mayor
- National Railway Historical Society Delaware Valley and Philadelphia Chapters
- NJ TRANSIT
- Norfolk Southern Corporation
- Pennsylvania Historical Association
- Philadelphia Archaeological Forum
- Philadelphia City Planning Commission
- Philadelphia International Airport
The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Delaware Tribe of Indians
- Delaware Nation
- Stockbridge-Munsee Community Band of Mohicans
- Absentee-Shawnee Tribe of Oklahoma
- Eastern Shawnee Tribe of Oklahoma

The Federal agency also shall request updated consulting parties information from the PHMC at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

### III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided as part of Project Initiation, as noted above.

### IV. Identifying and Evaluating Historic Properties

The Federal agency shall identify all properties within the APE that are 50 years of age or older utilizing a full Historic Resource Survey Form (HRSF) or Abbreviated HRSF. Properties documented on a full HRSF will follow relevant PHMC guidelines and include a physical description, history, National Register evaluation including integrity assessment, USGS map noting location, photographs keyed to a site plan and/or aerial map, and other pertinent supporting documents, such as historic aerials and maps. An Abbreviated HRSF may be utilized to document properties that are clearly not eligible for the National Register.

The Federal agency shall identify and record archaeological sites utilizing the Pennsylvania Archaeological Site Survey (PASS) forms.
V. Documentation Requirements

The Federal agency shall comply with the following PHMC requirements, as applicable, when submitting documents to PHMC for a Tier 2 undertaking in the Commonwealth of Pennsylvania, except as otherwise determined by the Federal agency in consultation with the PHMC:


VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the PHMC for review:

- The Federal agency shall send final reports to the PHMC for review in both hard copy and electronic copy, following regulations of the PMHC.
- The PHMC shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The Federal agency also shall consult with the PHMC regarding the process to be used for involving the public in Section 106 consultation.

The PHMC typically requests a minimum of 3 weeks for consulting party or public meeting scheduling notice.

VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified, in consultation with the PHMC and other consulting parties.

IX. Curation

X. Confidentiality and Data Sharing

The Federal agency shall consult with the PHMC, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By: Michael Johnsen
By: John F. Foxx, Executive Director

Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development
Advisory Council on Historic Preservation

Federal Transit Administration

By: Mary Beth Mello
By: Andrea L. MacDonald

Mary Beth Mello
Andrea L. MacDonald

Region 1 Administrator*
Deputy Pennsylvania State Historic Preservation Officer

*On behalf of FTA Regions 1, 2 and 3
Appendix N: Section 106 Consultation for Tier 2 Undertakings in Rhode Island

The Federal agency shall comply with the stipulations in this appendix when carrying out Section 106 consultation with the Rhode Island Historical Preservation and Heritage Commission (RIHPHC), also known as the Rhode Island State Historic Preservation Office (RISHPO), for a Tier 2 undertaking in the State of Rhode Island.

I. Project Initiation

The Federal agency shall initiate RISHPO review by submitting necessary documentation, specifics of which should be confirmed with the RISHPO prior to the time of submission.

Data Sources

The Federal agency shall use the following data sources, as applicable, as part of the Section 106 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in consultation with the RISHPO:

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Source</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Properties</td>
<td>National Register of Historic Places listings for Rhode Island available at <a href="http://www.ri.gov/preservation/search">http://www.ri.gov/preservation/search</a></td>
<td>Online database containing Rhode Island properties listed on the National Register of Historic Places</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Historic properties site forms and surveys on file at the RIHPHC in Providence</td>
<td>All other materials pertaining to historic properties, which are in hard copy, need to be researched in person</td>
</tr>
<tr>
<td>Archaeological Resources</td>
<td>Archaeological site forms and surveys on file at the RIHPHC in Providence</td>
<td>All materials, which are in hard copy, need to be researched in person</td>
</tr>
</tbody>
</table>

RISHPO is working to convert hard copy materials to electronic files in the coming years. The Federal agency shall consult with the RISHPO prior to the onset of Tier 2 undertakings to confirm the status of data sources for Rhode Island.

RISHPO personnel may advise of additional data sources to be reviewed as part of the research process, including outreach and consultation with Local Historical Commissions and with local groups and individuals who may possess knowledge or specialized information on cultural resources within project areas.
II. Inviting Consulting Parties

The Federal agency shall consult with the RISHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for all Tier 2 projects located in Rhode Island:

- State Planning Council
- Rhode Island Department of Environmental Management (RIDEM)
- Rhode Island Department of Transportation (RIDOT)

The Federal agency shall consult with the RISHPO to identify potential consulting parties, which may include the following organizations, to participate in Section 106 consultation for Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- AMTRAK
- City of East Providence
- City of Providence, Department of Planning and Development
- Consolidated Rail Corporation
- Cranston Historic District Commission
- CSX Transportation
- Cumberland Historic District Commission
- East Greenwich Historic District Commission
- Glocester Historic District Commission
- Grow Smart Rhode Island
- Hopkinton Historic District Commission
- Massachusetts Bay Transportation Authority
- Narragansett Historic District Commission
- Norfolk Southern Corporation
- North Kingstown Historic District Commission
- North Providence Historic District Commission
- North Smithfield Historic District Commission
- Pawtucket Office of Planning and Redevelopment
- Preserve Rhode Island
- Providence & Worcester Railroad Company
- Providence Historic District Commission
- Rhode Island Historical Society
- South Kingstown Historic District Commission
- Warwick Historic District Commission

The Federal agency shall invite the following federally-recognized Indian tribe to participate in Section 106 consultation for those Tier 2 projects when applicable, taking into account the location and anticipated impacts of the project:

- Narragansett Indian Tribe of Rhode Island
- Mashpee Wampanoag Tribe
- Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
The Federal agency also shall request updated consulting parties information from the RISHPO at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their contacts are included in the consultation process. If the updated list varies from the list provided in this Appendix, the Federal agency shall follow the updated list.

III. Defining the Area of Potential Effects

The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project will be defined and provided in consultation with the RISHPO.

IV. Identifying and Evaluating Historic Properties

The Federal agency shall consult with the RISHPO to confirm the most up to date forms and/or other resources necessary to identify and evaluate historic properties and archaeological resources.

Archeological investigation of project areas within Rhode Island shall be conducted under the Performance Standards and Guidelines for Archeology in Rhode Island (RIHPHC, June 2015). Should burial sites or human remains be encountered within Rhode Island, these Standards and Guidelines describe the procedures and protocols to be followed.

V. Documentation Requirements

The Federal agency shall consult with the RISHPO to confirm the most up to date guidelines and requirements necessary to submit documents to the RISHPO for a Tier 2 undertaking in the State of Rhode Island.

VI. Document Review Process

The Federal agency shall comply with the following requirements when submitting documents to the RISHPO for review:

- The Federal agency shall send final reports to the RISHPO for review in both hard copy and electronic format (PDF or equivalent) and shall submit draft reports to the RISHPO for review in hard copy and editable electronic format (Word or equivalent).

- The RISHPO shall review and comment on all adequately documented project submittals within 30 calendar days of receipt.

VII. Public Involvement

The Federal agency shall ensure that the Section 106 consultation process includes opportunities for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The federal agency
may provide such opportunities as part public involvement efforts carried out as part of the environmental review process under the National Environmental Policy Act.

The federal agency also shall consult with the RISHPO regarding the process to be used for involving the public in Section 106 consultation.

VIII. Standard Treatments

The Federal agency may resolve adverse effects by adopting any of the Standard Treatments provided in Appendix C of this PA, or any additional treatments identified in consultation with the RISHPO.

IX. Curation

The Federal agency shall comply with any specific requirements identified in consultation with the RISHPO with regard to curation.

X. Confidentiality and Data Sharing

The Federal agency shall consult with the RISHPO, as necessary, to update any information about confidentiality and data sharing of Tier 2 project information.

XI. Amendments

This Appendix may be amended by written agreement of the signatories of this Appendix, without the need for concurrence of other signatories of the PA for the NEC FUTURE Investment Program.
SIGNATORY PARTIES

Federal Railroad Administration

By: [Signature]
Date: 8/22/2016
Michael Johnsen
Acting Division Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Advisory Council on Historic Preservation

By: [Signature]
Date: 7/25/16
John M. Fowler Executive Director

Federal Transit Administration

By: [Signature]
Date: 7/26/16
Mary Beth Mello
Region 1 Administrator*

*On behalf of FTA Regions 1, 2 and 3

Rhode Island State Historic Preservation Officer

By: [Signature]
Date: 7/18/2016
Edward F. Sanderson
State Historic Preservation Officer