



A Rail Investment Plan for
the Northeast Corridor

TIER 1
DRAFT
ENVIRONMENTAL
IMPACT
STATEMENT

Appendix G,
Section 106
Programmatic
Agreement

NOVEMBER 2015



U.S. Department of Transportation
Federal Railroad Administration

40 **WHEREAS**, the Tier 1 EIS will evaluate a No Action Alternative and a range of action
41 alternatives for improving passenger rail service on the NEC, consisting of various combinations
42 of improvements to the existing NEC rail spine and/or construction on new right of way;

43 **WHEREAS**, in addition to preparing the Tier 1 EIS, FRA is currently conducting project-
44 specific environmental review processes for certain projects with independent utility on the NEC
45 (hereinafter referred to as “related projects”), and the environmental review processes for those
46 projects are separate from the NEC FUTURE E process;

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

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

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

59
60 **WHEREAS**, FRA and FTA have determined that the development of a Programmatic
61 Agreement (“PA”) in accordance with 36 C.F.R. § 800.14 is appropriate for the NEC FUTURE
62 Investment Program because the Program’s potential effects on historic properties are multi-state
63 in scope;

64
65 **WHEREAS**, the purpose of this PA is to establish the framework for compliance with Section
66 106 during future environmental review processes for NEC Tier 2 Projects;

67
68 **WHEREAS**, for purposes of this PA, the term “Tier 1 undertaking” refers to the NEC FUTURE
69 Investment Program, and the term “Tier 2 undertaking” refers to an NEC Tier 2 Project;

70
71 **WHEREAS**, the term “NEC Tier 2 Project” does not include any “related projects”
72 or “independent projects on the NEC” as those terms are used in this PA;

73
74 **WHEREAS**, FRA is carrying out the Section 106 process for the NEC FUTURE Investment
75 Program using a phased approach in accordance with 36 C.F.R. §§ 800.4(b)(2) and 800.5(a)(3),;

76
77 **WHEREAS**, in accordance with the phased approach to Section 106 consultation, FRA has
78 taken steps during the Tier 1 process to identify historic properties and assess potential effects on
79 historic properties, as further described in the Tier 1 EIS, including (1) determining a Preliminary
80 Area of Potential Effects (“Preliminary APE”) for the alternatives considered in the Tier 1 EIS
81 (see Appendix B (Map of Preliminary APE), (2) identifying known historic properties within the

82 Preliminary APE, based on existing records, (3) identifying known historic properties located
 83 within the Representative Route of each Tier 1 alternative, as a basis for assessing potential
 84 effects of the alternatives on historic properties;

85
 86 **WHEREAS**, in accordance with 36 C.F.R. § 800.2 and 800.3, FRA has invited State Historic
 87 Preservation Officers, Indian tribes, representatives of local governments, potential applicants for
 88 federal assistance and other approvals, and others to participate as consulting parties in in the
 89 development of this PA as further described herein, and a complete list of those invited to serve
 90 as consulting parties is included in Appendix E;

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

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

100
 101 **WHEREAS**, because the National Conference of State Historic Preservation Officers
 102 (NCSHPO) has expertise in consultations involving undertakings that affect multiple states,
 103 including experience in resolving issues in dispute among SHPOs, FRA has invited NCSHPO to
 104 be a consulting party in consultation regarding the Tier 1 undertaking, and

105 **WHEREAS**, while NEC Tier 2 Projects are not expected to occur on or affect historic properties
 106 on tribal lands as defined in Section 301(14) of the NHPA, FRA has consulted with Indian tribes
 107 that attach religious and cultural significance to historic properties that may be affected by the
 108 Tier 1 undertaking, and of those tribes, FRA has invited the Mashantucket (Western) Pequot of
 109 Connecticut), the Mohegan Indian Tribe of Connecticut, the Narragansett Indian Tribe of Rhode
 110 Island, the Shinnecock Indian Nation, the Wampanoag Tribe of Gay Head (Aquinnah) of
 111 Massachusetts, the Mashpee Wampanoag Tribe, the Stockbridge-Munsee Mohican Tribe, and
 112 the Delaware Tribe to sign this PA as concurring parties, based on their interest in the
 113 undertaking, given the proximity of the Tier 1 EIS alternatives to areas in which the tribes have
 114 expressed an interest in further consultation under Section 106;; and

115 **WHEREAS**, based on consultation with the SHPOs, NCSHPO, and the ACHP, the FRA has
 116 also invited local historic preservation commissions in metropolitan areas to participate as
 117 consulting parties in the Section 106 process for the Tier 1 undertaking, and has invited the
 118 following consulting parties to concur in this PA in accordance with 36 C.F.R. § 800.6(c)(3):
 119 New York City Landmarks Preservation Commission, and *[others may be added]*.

120 **WHEREAS**, FRA has invited potential future applicants for federal assistance for Tier 2
 121 undertakings to participate as consulting parties in Section 106 consultation for the Tier 1

122 undertaking, including the operator of intercity passenger rail service on the NEC (Amtrak) as
123 well as the operators of commuter rail services on the NEC in each State;

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

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

133 **WHEREAS**, FRA included a draft of this PA in Appendix G of the Tier 1 DEIS for NEC
134 FUTURE, in order to provide the public with an opportunity to comment on the draft PA as part
135 of the public comment period on the Tier 1 DEIS, in accordance with 36 C.F.R. § 800.14(b)(2);

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

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

143
144 **NOW, THEREFORE**, the signatories agree that, upon execution of this PA, FRA has satisfied
145 its obligations under Section 106 with regard to the Tier 1 undertaking and further agree that Tier
146 2 undertakings shall be implemented in accordance with the following stipulations in order to
147 consider the effect of those undertakings on historic properties in accordance with Section 106 of
148 the NHPA.

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STIPULATIONS

The FRA, FTA, or, as applicable, any other federal agency responsible for Section 106 compliance for an 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 with regard to any Tier 2 undertaking for which FRA has a Section 106 responsibility, except as provided in paragraphs B.3 and E of this Stipulation.
2. If FTA signs this PA, this PA shall apply to FTA’s compliance with Section 106 with regard to any Tier 2 undertaking for which FTA has a Section 106 responsibility, except as provided in paragraphs B.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 THPO(s), 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 (hereafter, “other federal agency”) has a Section 106 responsibility for a Tier 2 undertaking, the other 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 agreement.
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 XIV may be invoked by any signatory that is a party to the dispute.

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4. Upon determining that the requirements of this paragraph 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 XIV.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, as permitted under 36 CFR 800.2(a).
- D. If one federal agency is designated by one or more other federal agencies to serve as the responsible federal agency for a Tier 2 undertaking, that agency (for example, FRA or FTA) will act on the collective behalf of those agencies to fulfill all Section 106 responsibilities by complying with the terms of this PA. When one federal agency is not designated the responsible 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.

226 **II. ROLES AND RESPONSIBILITIES**

227 A. Federal Agency

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

234 B. ACHP

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236 For Tier 2 undertakings, the ACHP will be responsible for providing technical guidance,
237 participating in dispute resolutions if needed, and notifying the federal agency if ACHP will
238 participate in consultation for an MOA prepared for the Tier 2 undertaking.

239 C. SHPOs

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242 1. For Tier 2 undertakings, each SHPO will participate in the Section 106 consultation
243 process for projects located in the SHPO's State. In consultation with that SHPO, the

244 federal agency will determine whether to invite the SHPO in adjacent State or States to
 245 participate in consultation for the Tier 2 undertaking.

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

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253 **III. PROFESSIONAL STANDARDS**

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255 A. Qualifications

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257 1. All actions prescribed by this PA that involve the identification, evaluation, analysis,
 258 recording, treatment, or monitoring, or disposition of historic properties, or that involve
 259 reporting or documentation of such actions in the form of reports, forms, or other records,
 260 shall be carried out by or under the direct supervision of a person or persons who meet, at
 261 a minimum, the Secretary of the Interior’s Historic Preservation Professional
 262 Qualification Standards, consistent with the proposal at 62 FR 33708 – 33723 (June 20,
 263 1997).

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

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272 B. Standards & Guidelines

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274 All evaluation methods and criteria shall be consistent with the Secretary of the Interior’s
 275 Standards and Guidelines for Evaluation (48 Fed. Reg. 190: 44729-44738) (36 C.F.R. Part
 276 63) and with the ACHP’s Section 106 Archaeology Guidance found at
 277 www.achp.gov.archguide.

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279 **IV. GENERAL PROVISIONS**

280

281 A. Applicability of Section 106 Regulations.

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283 The Section 106 consultation for the Tier 2 undertakings shall follow the procedures set forth
 284 in 36 C.F.R. Part 800, except as specifically provided in this PA.

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286 B. Definitions.

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

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290 C. Government-to-Government Consultation with Indian Tribes

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

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299 D. State-Specific Appendices.

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

305

306 E. Applicability of Program Alternatives

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308 This PA does not preclude the application to NEC FUTURE of any program alternatives that
309 may come into effect during the term of this PA pursuant to 36 C.F.R. 800.14, including but not
310 limited to programmatic agreements or program comments that apply to Section 106 consultation
311 for railroad infrastructure projects.

312

313 **V. INITIATION OF CONSULTATION PROCESS**

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315 A. Invitation of Consulting Parties

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

322

323 2. The invitation to participate in Section 106 consultation shall specifically identify the
324 undertaking as an NEC Tier 2 Project, for which consultation will be carried out in
325 accordance with this PA. The invitation also shall include the federal agency's proposed
326 schedule for completing the environmental review process, including dates for key
327 milestones such as publication of NEPA documents for public comment.

328

329 3. The applicant for federal funding or approval (and, if different, the operator(s) of intercity
330 passenger rail or commuter rail service on the railroad on which the improvement is
331 proposed to be made) shall be invited to participate as a consulting party for any Tier 2
332 undertaking.

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335 **VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES**

336

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

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

341

342 2. The federal agency will make determinations of eligibility for historic properties within
343 the project-specific APE as part of the Section 106 process for each Tier 2 undertaking.
344 The passage of time, changing perceptions of significance, or incomplete prior
345 evaluations may require the federal agency official (during Tier 2) to reevaluate
346 properties previously determined eligible or ineligible.

347

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

350

351 **B. Additional Provisions**

352

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

355

356 1. Requests for Determination of Eligibility.

357

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

362

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

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

370

371 2. Tribal Involvement in Archeological Investigations in Tier 2.

372

373 Except as otherwise provided in a State-specific appendix to this PA, the federal agency shall
374 ensure that tribes participating in Section 106 consultation for a Tier 2 undertaking have the
375 opportunity to:

376

377 a. be notified of the schedule for any archaeological fieldwork that involves
378 resources of religious and cultural significance to the tribe;

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- 380 b. review the study protocol for any archaeological fieldwork that involve resources
381 of religious and cultural significance to the tribe, prior to the commencement of
382 that fieldwork;
383
384 c. make arrangements for a tribal monitor to attend any archaeological fieldwork
385 that involve resources of religious and cultural significance to the tribe;
386
387 d. retain any artifacts that are of religious and cultural significance to the tribe, in
388 accordance with applicable Federal and State laws; and
389
390 e. be notified immediately of the discovery of any burial sites of Native American
391 origin encountered during construction on lands associated with the tribe. (See
392 also, Stipulation X, Human Remains).
393

394 **VII. ASSESSMENT OF EFFECTS**

395 **A. Process for Assessment of Effects in Tier 2**

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398 1. The federal agency will apply the criteria of adverse effect (under 36 C.F.R. § 800.5)
399 to each NRHP-eligible or NRHP-listed property as part of the Tier 2 process for each
400 Tier 2 undertaking.
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402 2. Where appropriate, the application of the criteria of adverse effects to historic
403 properties may be phased for an individual Tier 2 undertaking.
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405 **B. Additional Provisions**

406 1. Conditional Findings of No Adverse Effect

407
408
409 In accordance with 36 C.F.R. § 800.5(b) and (d)(1), the federal agency may determine that
410 there is no adverse effect on a historic property when the federal agency agrees to conditions
411 required by the applicable SHPO(s) and/or applicable THPO(s) as the basis for its
412 concurrence in a finding of no adverse effects.
413

414 2. Cumulative Effects

415
416 In accordance with 36 C.F.R. 800.5(a)(1), the application of the criteria of adverse effect
417 shall take into account cumulative effects. The cumulative effects analysis for an NEC Tier 2
418 Project will include, but is not necessarily limited to, the effects of other actions carried out
419 as part of the NEC FUTURE Investment Program.
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421

422 **VIII. RESOLUTION OF ADVERSE EFFECTS ON HISTORIC PROPERTIES**

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424 A. Process for Resolution of Adverse Effects in Tier 2

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426 1. The resolution of adverse effects will occur through Section 106 consultation for
427 individual Tier 2 undertakings.

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429 2. The federal agency will be responsible for determining, in consultation with the
430 applicable SHPO(s), applicable Indian tribe(s) and THPOs(s), and other consulting
431 parties, how to resolve any adverse effects for an NEC Tier 2 Project.

432

433 B. Additional Provisions

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435 1. Use of Standard Treatment Measures to Resolve Adverse Effects.

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

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

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

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

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452 1. Other Methods for Resolving Adverse Effects

453

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

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

461 c. The federal agency shall consider the views of the public, pursuant to 36 C.F.R. §
462 800.6(a)(4), when developing an MOA or PA for a Tier 2 undertaking. Considering
463 the views of the public shall include consideration of any comments submitted on
464 Tier 2 NEPA documents, in addition to any comments submitted specifically as part
465 of the Section 106 process for the Tier 2 undertaking.

- 466 d. Upon execution of an MOA or PA for a Tier 2 undertaking and filing of the MOA or
467 PA with the ACHP, Section 106 consultation will be considered concluded for that
468 Tier 2 undertaking.
- 469 e. Nothing in this PA shall be construed to preclude any procedural option that is
470 available under the Section 106 regulations, including the option of termination under
471 36 C.F.R. § 800.7 for Tier 2 undertakings.
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- 473 2. Resolution of Effects on National Historic Landmarks
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- 475 a. If a National Historic Landmark may be affected, the federal agency shall comply
476 with applicable requirements in Section 110(f) of the National Historic Preservation
477 Act and 36 C.F.R. § 800.10, including but not limited to: notifying the Secretary of
478 the Interior represented by the NPS regional office's program coordinator, involving
479 NPS in the consultation process, and notifying the ACHP and invite them to consult
480 on the Tier 2 undertaking, and planning to avoid adverse effects.

481 **IX. CONFIDENTIALITY**

482 All parties to this PA shall ensure that shared data, including data concerning the precise location
483 and nature of historic properties and properties of religious and cultural significance, shall be
484 protected from public disclosure to the greatest extent permitted by law, including conformance
485 to Section 304 of the NHPA, as amended, Section 9 of the Archaeological Resource Protection
486 Act, and Executive Order on Sacred Sites 13007 FR 61-104 dated May 24, 1996. State-specific
487 data sharing agreements are referenced and summarized in the State-Specific Appendices.

488 **X. HUMAN REMAINS**

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

491 **A. Notification and Treatment**

- 492
- 493 1. If human remains are discovered during construction activities, all construction will cease
494 within 100 feet in all directions of the human remains and the federal agency (or its
495 designee, such as the project sponsor) will immediately notify the appropriate parties in
496 accordance with the applicable State laws. Human remains and grave goods will be
497 treated in accordance with applicable State laws.
- 498
- 499 2. The federal agency will be responsible for curation of all records and other items
500 resulting from identification and data recovery efforts on federal lands within the
501 agency's jurisdiction.
- 502
- 503 3. The federal agency will be responsible for ensuring that the disposition of any human
504 remains and associated funerary objects of Native American origin encountered on
505 federal land during any action subject to this PA complies with § 3(c)-(d) of the National
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511 American Graves Protection and Repatriation Act (NAGPRA), and its implementing
 512 regulations codified at 43 C.F.R. § 10.

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 514 **B. Final Disposition of Human Remains**

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 516 All human remains shall be treated in a manner consistent with the ACHP "Policy Statement
 517 regarding Treatment of Human Burial Sites, Human Remains and Funerary Objects"
 518 (February 23, 2007; <http://www.achp.gov/docslhrpolicy0207.pdt>).

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 520 **XI. CURATION**

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 522 **A. Collections from Federal Lands**

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

529
 530 **B. Collections from Private Lands**

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

540
 541 **C. State Requirements**

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

543
 544 **XII. EMERGENCIES**

545
 546 Except as otherwise provided in State-specific appendices to this PA, or in an MOA or PA for a
 547 Tier Two undertaking, the following provisions shall apply during implementation of a Tier 2
 548 undertaking:

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

556

- 557 B. If the emergency action has the potential to affect historic properties, the federal agency shall
558 notify the applicable SHPO(s), applicable Indian tribe(s) and THPO(s) and other parties as
559 appropriate (including any Indian tribes with an interest in the potentially affected historic
560 properties) prior to undertaking the action, when feasible. As part of the notification, the
561 federal agency shall provide a plan to address the emergency. The applicable SHPO(s) and
562 THPO(s) and other parties shall have seven (7) calendar days to review and comment on the
563 plan to address the emergency. If the applicable SHPO(s) and THPO(s) and other parties do
564 not comment or object to the plan within the review period, the federal agency may
565 implement the proposed plan. If they do comment, the federal agency shall take into account
566 all timely comments received in reviewing and implementing the proposed plan. If an
567 objection is not resolved, the dispute resolution procedures in Stipulation XIV may be
568 invoked by any signatory that is a party to the dispute.
569
- 570 C. If the federal agency is unable to consult with the applicable SHPO(s) and THPO(s) and
571 other parties prior to carrying out emergency actions, the federal agency shall notify the
572 applicable SHPO(s) and THPO(s) and other parties as appropriate within forty-eight (48)
573 hours after the initiation of the emergency action. This notification shall include a description
574 of the emergency action taken, the effects of the action(s) to historic properties, and, where
575 appropriate, any further proposed measures to avoid, minimize, or mitigate potential adverse
576 effects to historic properties. The applicable SHPO(s) and THPO(s) and other parties shall
577 have seven (7) calendar days to review and comment on the proposal where further action is
578 required to address the emergency. If the applicable SHPO(s) and THPO(s) and other parties
579 do not object to the plan within the review period, the federal agency shall implement the
580 proposed plan.
581
- 582 D. Where possible, the federal agency shall ensure that such emergency actions shall be
583 undertaken in a manner that does not foreclose future preservation or restoration of historic
584 properties. Where such emergency actions may affect historic buildings, they shall be
585 undertaken in a manner that is consistent with the Secretary of the Interior's Standards for the
586 Treatment of Historic Properties. (<http://www.nps.gov/tps/standards.htm>). In addition, where
587 possible, the federal agency shall ensure that such actions shall be done with on-site
588 monitoring by the appropriate preservation professional who meets, at a minimum, the
589 Professional Qualifications Standards in his or her field of expertise.
590
- 591 E. Where the applicable SHPO(s) and THPO(s) and/or any other party has reason to believe that
592 a historic property may be adversely affected by an emergency action, the party shall consult
593 with the federal agency to determine how to expedite review and comment on the action.
594
- 595 F. Immediate rescue and salvage operations conducted to preserve life or property are exempt
596 from these and all other provisions of this PA.
597

598 **XIII. UNANTICIPATED DISCOVERIES**

599

- 600 A. If a previously undiscovered historic property (including archeological property) is
601 encountered during implementation of a Tier 2 undertaking, or an adverse effect that was not

602 anticipated is found to exist, the discovery shall be addressed in accordance with the
 603 applicable provisions in the MOA or PA for the Tier 2 undertaking.

604
 605 B. If there is no MOA or PA for the Tier 2 undertaking, or if that MOA or PA does not address
 606 unanticipated discoveries, the federal agency shall comply with 36 C.F.R. 800.13(b).

607
 608 **XIV. DOCUMENTATION STANDARDS**

609
 610 All documentation that supports the findings and determinations developed under this PA shall
 611 be in accordance with 36 C.F.R. 800.11.

612
 613 **XV. AUTHORITIES**

614
 615 Compliance with the provisions of this PA does not relieve the FRA or other federal agencies of
 616 their responsibilities to comply with other legal requirements, including those imposed by the
 617 NAGPRA (25 U.S.C. Section 3001 and 43 C.F.R. 10), the ARPA (16 U.S.C. Section 470 aa-
 618 47011), and NEPA, applicable Executive Orders, and applicable State laws.

619
 620 **XVI. ADMINISTRATIVE STIPULATIONS**

621
 622 A. Review Process

- 623 1. The FRA shall conduct a review process for this PA every 2 years after the execution of
 624 this PA. The FRA shall ensure that the review process is conducted under the supervision
 625 of FRA’s Federal Preservation Officer and includes (1) a status report prepared by FRA,
 626 summarizing pending NEC Tier 2 Projects, including the status of Section 106
 627 consultation for each of those projects, and (2) an opportunity for signatories to submit
 628 comments regarding experience to date with the PA, including any recommendations for
 629 improving the process.
 630 2. Any amendments resulting from the review will be executed in accordance with
 631 Stipulation XIV.C.

632
 633 B. Dispute Resolution

634
 635 The following procedures shall be used to resolve disputes among signatories regarding
 636 Section 106 consultation for this PA’s implementation, including Tier 2 undertakings under
 637 this PA:

- 638
 639 a. Should any signatory to this Agreement object within 30 days to any action
 640 proposed or any document provided for review pursuant to this Agreement, the
 641 federal agency shall consult with the objecting signatory to resolve the objection.
 642 b. If the federal agency determines that the objection cannot be resolved within 45
 643 days, the federal agency shall forward all documentation relevant to the dispute,
 644 including the federal agency’s proposed resolution, to the ACHP. The federal
 645 agency also shall provide a copy to all signatories and consulting parties for the
 646 undertaking.
 647 c. The ACHP shall provide the federal agency with its advice on the resolution of

- 648 the objection within 30 days of receiving adequate documentation.
- 649 d. Prior to reaching a final decision on the dispute, the federal agency shall prepare a
- 650 written response that takes into account any timely advice or comments regarding
- 651 the dispute from the signatories and consulting parties, including Indian tribes,
- 652 and provide them with a copy of this written response. The federal agency will
- 653 then proceed according to its final decision.
- 654 e. If the ACHP does not provide its advice regarding the dispute within 30 days, the
- 655 federal agency may make a final decision on the dispute and proceed accordingly.
- 656 Prior to reaching such a final decision, the federal agency shall prepare a written
- 657 response that takes into account any timely comments regarding the dispute from
- 658 the signatories and consulting parties for the undertaking, and provide them and
- 659 the ACHP with a copy of such written response.
- 660

661 C. Amendment

- 662
- 663 1. The signatories anticipate that amendments to this PA are likely to be needed from time
- 664 to time over the 20-year duration of this PA. Any signatory to this PA may make a
- 665 request to the FRA and the other signatories to amend it, whereupon the signatories shall
- 666 consult to consider the amendment(s). Concurring Parties may suggest proposed
- 667 amendments to the signatories, who shall consult to consider them. This PA may be
- 668 amended when such an amendment is agreed to in writing by all signatories. The
- 669 amendment will be effective on the date a copy signed by all of the signatories is filed
- 670 with the ACHP.
- 671 2. A State-specific appendix can be amended at any time through agreement between the
- 672 FRA, ACHP, and the applicable SHPO, after consultation with any applicable Indian
- 673 tribe(s) and THPO(s).
- 674

675 D. Termination

- 676
- 677 1. If any signatory to this PA determines that its terms will not or cannot be carried out, that
- 678 party shall immediately consult with the other parties to attempt to develop an
- 679 amendment per Stipulation XIV.C, above. If within thirty (30) days (or another time
- 680 period agreed to by all signatories) an amendment cannot be reached, any signatory may
- 681 terminate the PA upon written notification to the other signatories.
- 682 2. Once the PA is terminated, and prior to work continuing on the NEC Tier 2 Projects,
- 683 FRA must either (a) execute a new PA pursuant to 36 C.F.R. § 800.14(b) or (b) comply
- 684 with 36 C.F.R. Part 800 for remaining NEC FUTURE undertakings. FRA shall notify the
- 685 signatories as to the course of action it will pursue.
- 686

687 E. Withdrawal

- 688
- 689 1. An individual SHPO may withdraw from the PA upon written notice to all signatories
- 690 after having consulted with them for at least 30 days to attempt to find a way to avoid the
- 691 withdrawal.
- 692 2. Upon withdrawal, and prior to continuing work on the undertaking in the relevant State,
- 693 the federal agency will comply with Section 106 for any Tier 2 undertakings in

- 694 accordance with 36 C.F.R. § 800.3 through 800.7 or execute a new agreement in
 695 accordance with 36 C.F.R. § 800.14(b) for that State.
 696 3. This PA will remain in effect with regard to any Tier 2 undertakings located in the
 697 jurisdiction of the SHPO(s) that have not withdrawn from the PA.
 698 4. If all SHPOs withdraw from the PA, the PA will be considered to be terminated.
 699

700 F. Duration

- 701
 702 1. This PA shall become effective upon execution by the signatories and shall remain in
 703 effect for a period of 20 years.
 704 2. In the event that the terms of this PA are not carried out within 20 years, this PA shall be
 705 assessed by the signatories to determine if it should be amended to extend the duration of
 706 the PA prior to its expiration.
 707 3. If the signatories agree that the duration of the PA should be extended without any other
 708 changes, the signatories will execute an amendment extending the duration of the PA
 709 prior to its expiration.
 710 4. If the signatories determine that the PA is effective, but needs revisions, then appropriate
 711 revisions based on evaluation of patterns and trends in the implementation of the PA will
 712 be made and the duration also will be extended prior to its expiration.
 713 5. If the signatories do not amend the PA to extend its duration, the PA will become expire
 714 and the FRA will memorialize the expiration of the PA in a letter to the signatories and
 715 concurring parties. If the FRA or another federal agency party to this PA chooses to
 716 continue with the undertaking, it shall review of the undertaking in accordance with 36
 717 C.F.R. Part 800.
 718 6. Otherwise, the FRA and all other appropriate signatories shall comply with 36 C.F.R.
 719 Part 800 with regard to individual actions covered by this PA.
 720

721 **XVII. EXECUTION AND IMPLEMENTATION**

722
 723 Execution of this PA by the FRA, the Connecticut SHPO, the Delaware SHPO, the District
 724 of Columbia SHPO, the Maryland SHPO, the Massachusetts SHPO, the New Jersey SHPO,
 725 the New York SHPO, the Pennsylvania SHPO, the Rhode Island SHPO, and the ACHP, and
 726 implementation of its terms is evidence that the FRA has taken into account the effects of the
 727 Tier 1 undertaking on historic properties and afforded the ACHP an opportunity to comment,
 728 in accordance with Section 106 and the Section 106 regulations.
 729
 730
 731
 732

733 **SIGNATORY PARTIES**

734

735 **Federal Railroad Administration**

736

737 By: _____ Date: _____

738

739 **Advisory Council on Historic Preservation**

740

741 By: _____ Date: _____

742

743 **Federal Transit Administration**

744

745 By: _____ Date: _____

746

747 **Connecticut State Historic Preservation Officer**

748

749 By: _____ Date: _____

750

751 **Delaware State Historic Preservation Officer**

752

753 By: _____ Date: _____

754

755 **District of Columbia State Historic Preservation Officer**

756

757 By: _____ Date: _____

758

759 **Maryland State Historic Preservation Officer**

760

761 By: _____ Date: _____

762

763 **Massachusetts State Historic Preservation Officer**

764

765 By: _____ Date: _____

766

767 **New Jersey State Historic Preservation Officer**

768

769 By: _____ Date: _____

770

771 **New York State Historic Preservation Officer**

772

773 By: _____ Date: _____

774 **Pennsylvania Historic Preservation Officer**

775

776 By: _____ Date: _____

777

778 **Rhode Island Historic Preservation Officer**

779

780 By: _____ Date: _____

781

782

783 **CONCURRING PARTIES**

784

785 **National Conference of State Historic Preservation Officers**

786

787 By: _____ Date: _____

788

789 **New York City Landmarks Preservation Commission**

790

791 By: _____ Date: _____

792

793 **Mashantucket Pequot Tribal Nation (Connecticut)**

794

795 By: _____ Date: _____

796

797 **Mashpee Wampanoag Tribe**

798

799 By: _____ Date: _____

800

801 **Mohegan Indian Tribe of Connecticut**

802

803 By: _____ Date: _____

804

805 **Narragansett Indian Tribe of Rhode Island**

806

807 By: _____ Date: _____

808

809 **Shinnecock Indian Nation**

810

811 By: _____ Date: _____

812

813 **Stockbridge Munsee Mohican Tribe**

814

815 By: _____ Date: _____

816

817 **Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts**

818

819 By: _____ Date: _____

820

821

822

823 **List of Appendices**

824

825 **Appendix A: Definitions**

826

827 **Appendix B: Map of Tier 1 EIS Alternatives**

828 **Maps of Preliminary Area of Potential Effects**

829

830 **Appendix C: Standard Treatment Measures**

831

832 **Appendix D: Tier 2 MOA Template**

833

834 **Appendix E: Tier 1 Consulting Parties List**

835

836 **Appendix F: Section 106 Consultation for Tier 2 Undertakings in Connecticut**

837

838 **Appendix G: Section 106 Consultation for Tier 2 Undertakings in District of Columbia**

839

840 **Appendix H: Section 106 Consultation for Tier 2 Undertakings in Delaware**

841

842 **Appendix I: Section 106 Consultation for Tier 2 Undertakings in Massachusetts**

843

844 **Appendix J: Section 106 Consultation for Tier 2 Undertakings in Maryland**

845

846 **Appendix K: Section 106 Consultation for Tier 2 Undertakings in New Jersey**

847

848 **Appendix L: Section 106 Consultation for Tier 2 Undertakings in New York**

849

850 **Appendix M: Section 106 Consultation for Tier 2 Undertakings in Pennsylvania**

851

852 **Appendix N: Section 106 Consultation for Tier 2 Undertakings in Rhode Island**

853

854

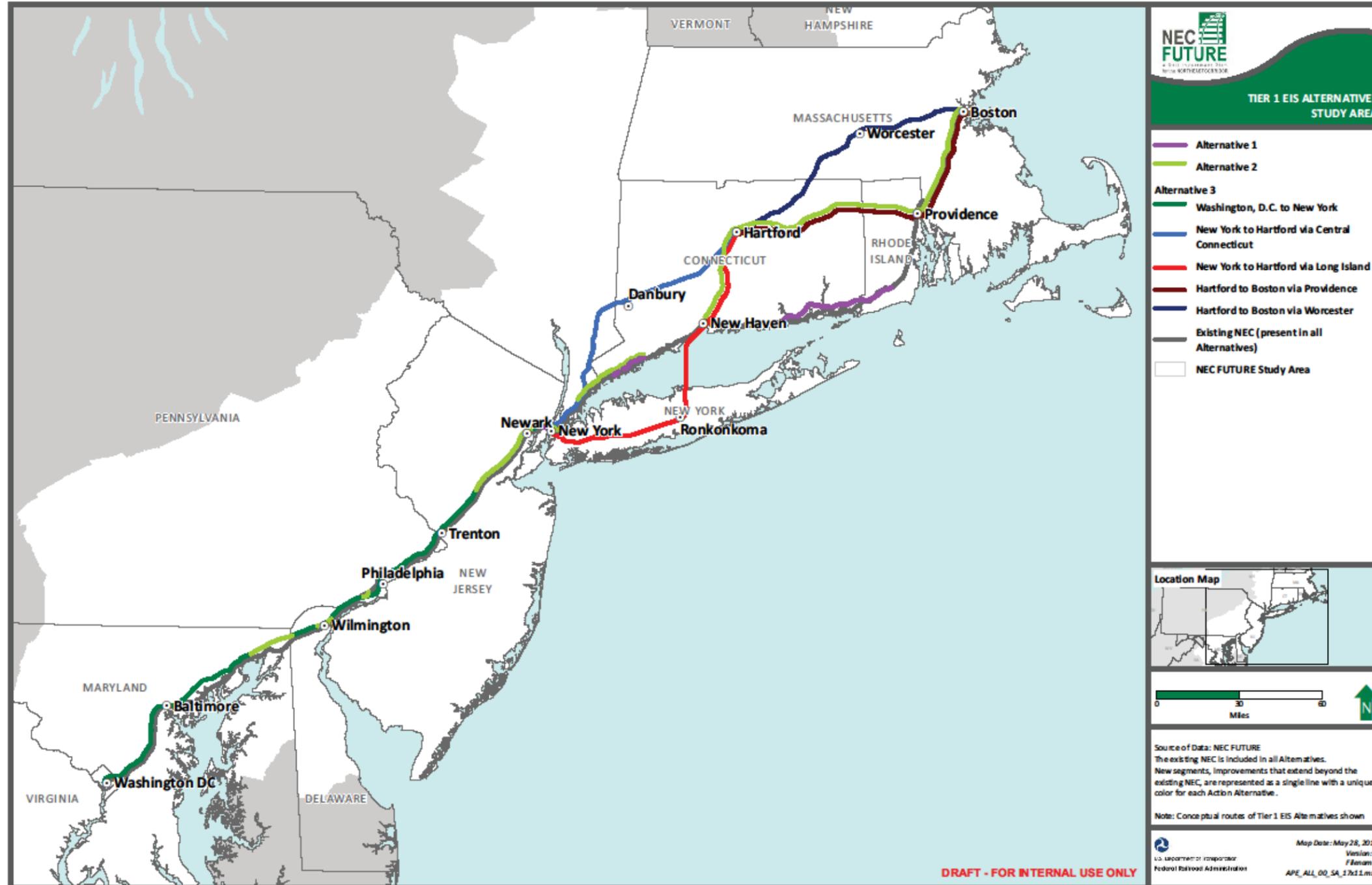
1 **APPENDIX A: DEFINITIONS**

2
 3 Terms defined in the Section 106 regulations (36 C.F.R. Part 800) shall have the meanings given
 4 in those regulations. The following additional terms shall have the meanings set forth below:

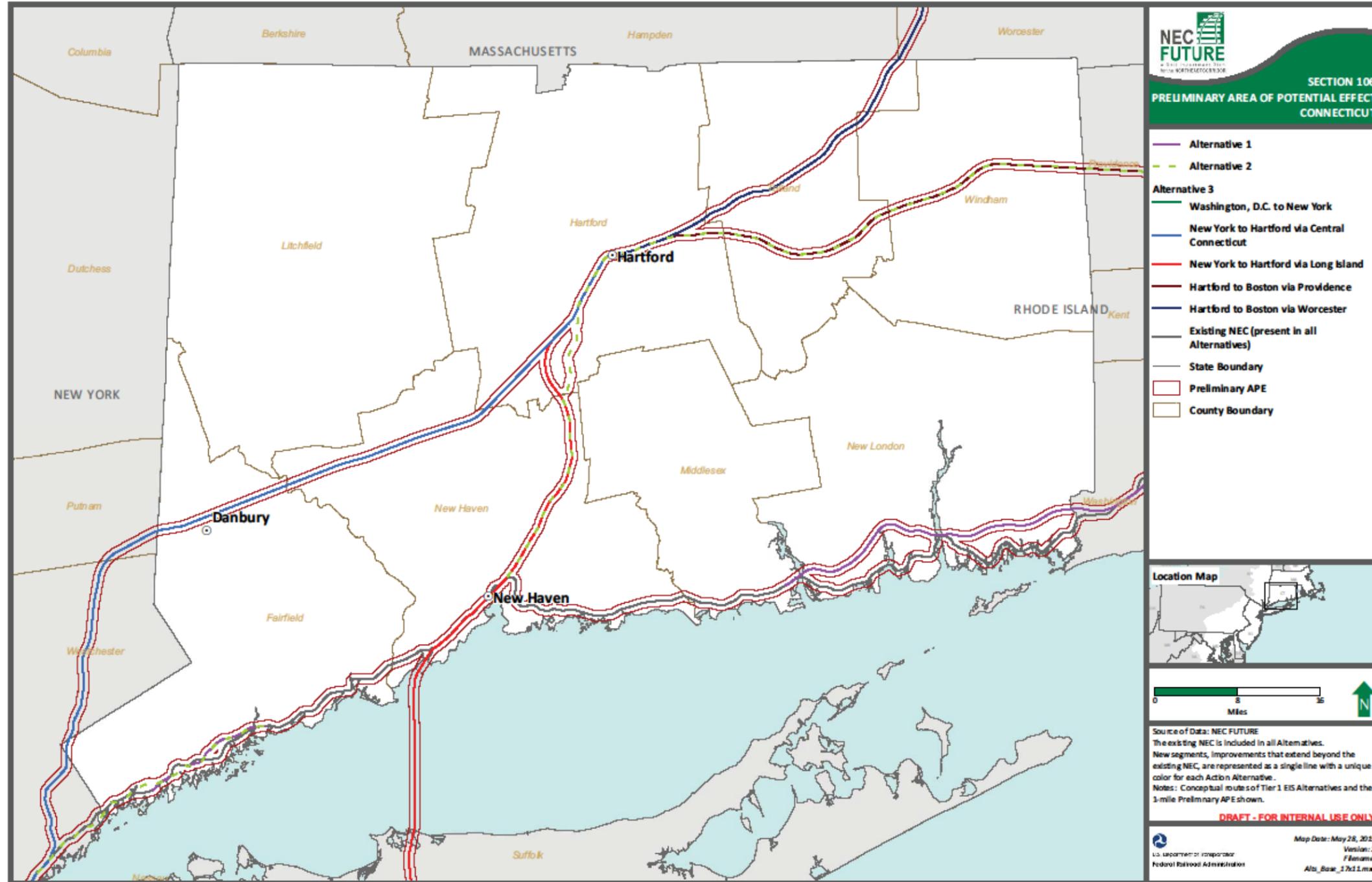
- 5
 6 1. **“Applicable SHPO(s)”** means the State Historic Preservation Officer (SHPO) or SHPOs for
 7 the State or States in which a Tier 2 undertaking is located.
 8
 9 2. **“Applicable Indian tribe(s) and THPO(s)”** means the any Indian tribe or tribes that attach
 10 religious and cultural significance to historic properties that may be affected by a Tier 2
 11 undertaking and any Tribal Historic Preservation Officer (THPO) or THPOs with jurisdiction
 12 over the undertaking.
 13
 14 3. **“Independent project on the NEC”** means a future project that is located on the NEC but is
 15 developed through a NEPA process that is independent from the Tier 1 ROD - that is, the
 16 NEPA process for the project is *not* tiered to the Tier 1 ROD.
 17
 18 4. **“Indian tribe”** means any federally recognized Indian tribe.
 19
 20 5. **“NEC FUTURE Process”** means the process through which FRA is developing the Tier 1
 21 EIS for the NEC FUTURE Investment Program.
 22
 23 6. **“NEC FUTURE Investment Program”** means as a program of improvements to passenger
 24 rail service and infrastructure in the NEC through 2040 and beyond, which will be selected
 25 by FRA through the NEC FUTURE Process.
 26
 27 7. **“NEC Tier 2 Project”** means a future project that is located on the NEC and implements the
 28 NEC FUTURE Investment Program, and for which a Tier 2 NEPA document is prepared.
 29 This term does not include “related projects and “independent projects on the NEC” as those
 30 terms are used in this PA.
 31
 32 8. **“NEPA”** means the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*
 33
 34 9. **“Preliminary APE”** means the area of potential effects for the alternatives in the Tier 1 EIS,
 35 as shown in Appendix B to this PA.
 36
 37 10. **“Other federal agency”** means a federal agency other than FRA and FTA.
 38
 39 11. **“Related project”** means a project on the NEC that is being studied by FRA in a separate
 40 NEPA process concurrently with the NEC FUTURE Process - for example, the B&P Tunnel
 41 Project in Baltimore.
 42
 43 12. **“Representative Route”** is a term used in the Tier 1 EIS to refer the potential physical
 44 footprint of the Action Alternatives. The Representative Route was used in the Tier 1 EIS as
 45 the basis for estimating the potential impacts of the Action Alternatives.
 46

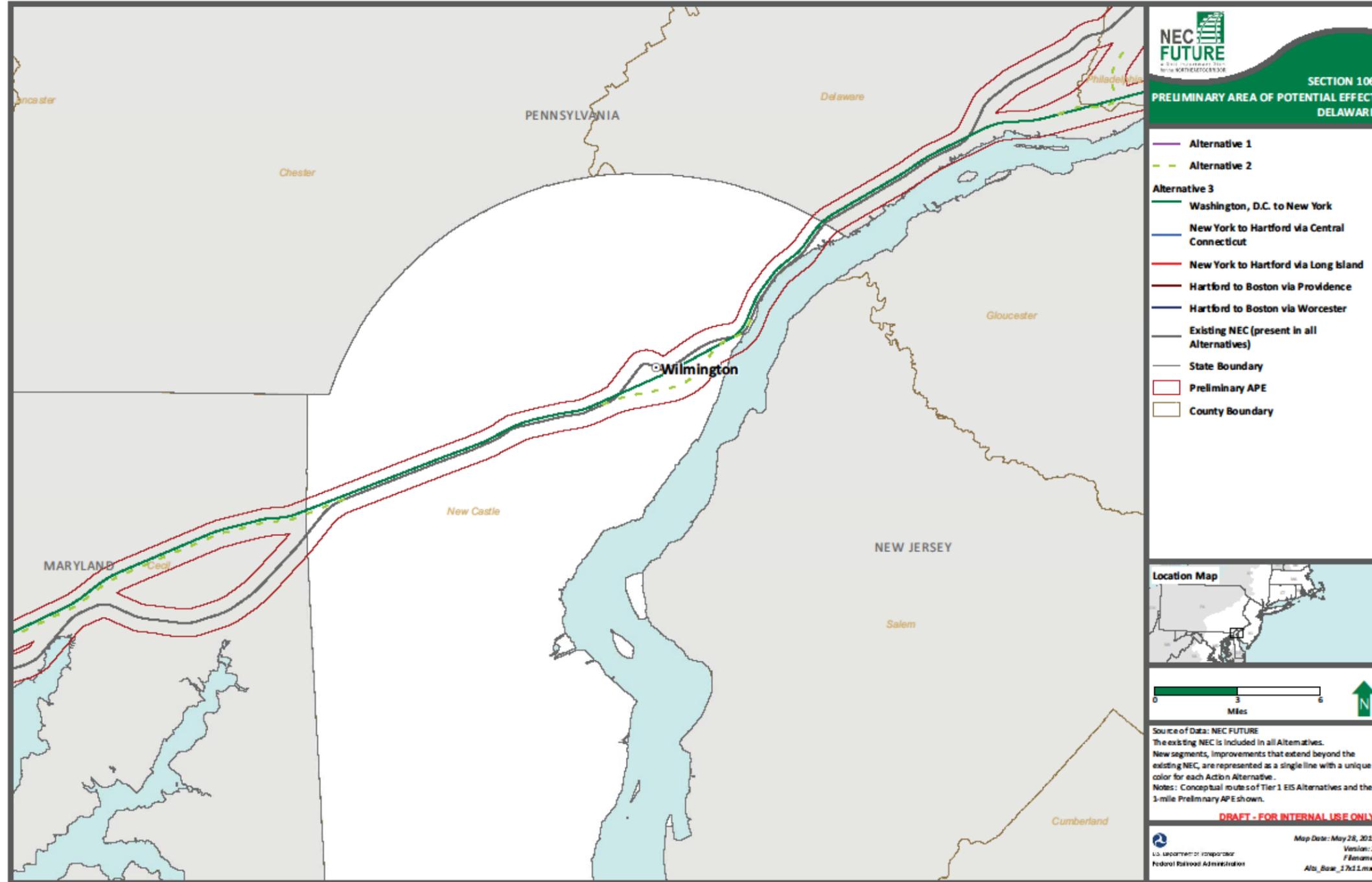
- 47 13. **“State-Specific Appendix”** refers to an appendix to this PA that includes requirements that
48 apply only within a specific State. State-specific appendices (and any amendments thereto)
49 require signature by the FRA, ACHP, and the SHPO from the applicable State, and by FTA
50 if FTA is a signatory to this PA.
51
- 52 14. **“Tier 1 process”** refers to the process for preparing the Tier 1 EIS for the NEC FUTURE
53 Investment Program.
54
- 55 15. **“Tier 1 ROD”** means a Record of Decision issued at the conclusion of the Tier 1 process,
56 approving an NEC FUTURE Investment Program.
57
- 58 16. **“Tier 1 undertaking”** means the NEC FUTURE Investment Program.
59
- 60 17. **“Tier 2 NEPA document”** means an environmental document (categorical exclusion,
61 environmental assessment, or environmental impact statement) that is prepared under NEPA
62 and that is explicitly tiered to - that is, based on - the Tier 1 Record of Decision issued in the
63 NEC FUTURE Process, in accordance with the tiering regulations in 40 C.F.R. § 1502.20 (or
64 successor regulations).
65
- 66 18. **“Tier 2 process”** refers to the process for preparing a Tier 2 NEPA document for an NEC
67 Tier 2 Project.
68
- 69 19. **“Tier 2 undertaking”** means any NEC Tier 2 Project; this term does not include “related
70 projects and “independent projects on the NEC” as those terms are used in this PA.
71
- 72 20. **“Tribal lands”** means, as defined in Section 301(14) of the NHPA, (1) all lands within the
73 exterior boundaries of any Indian reservation; and, (2) all dependent Indian communities.

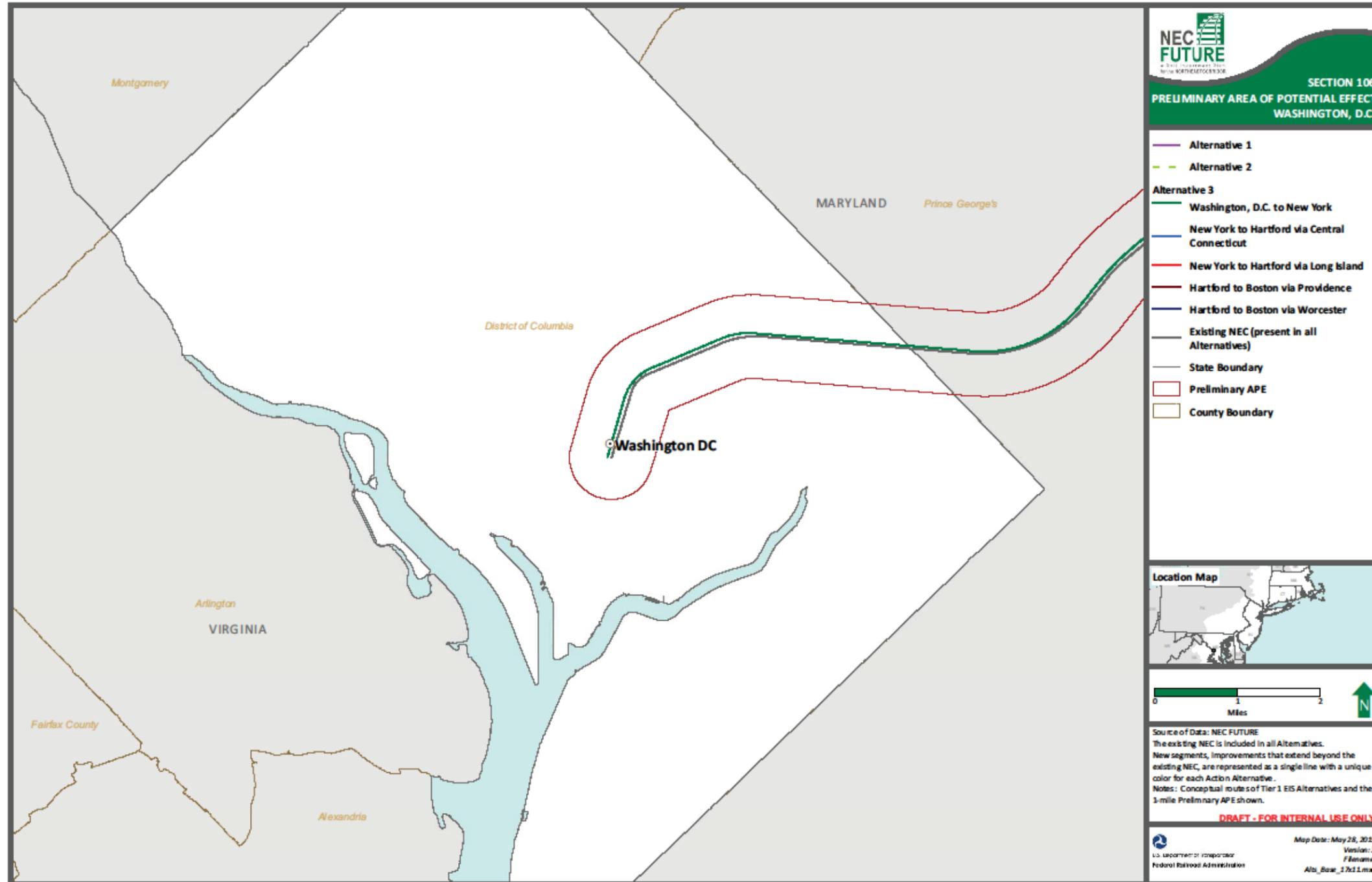
APPENDIX B: NEC FUTURE Tier 1 EIS Alternatives Map

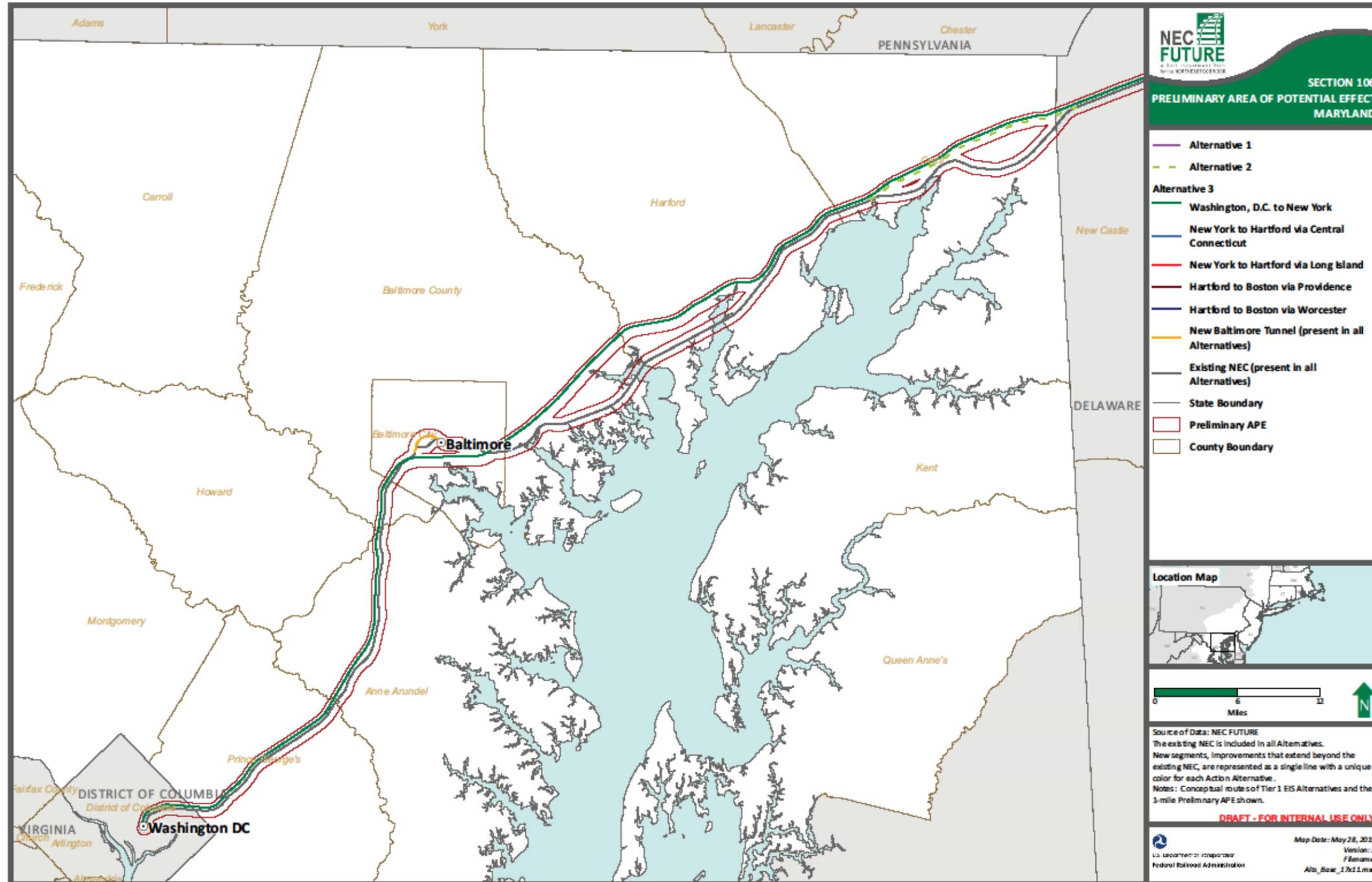


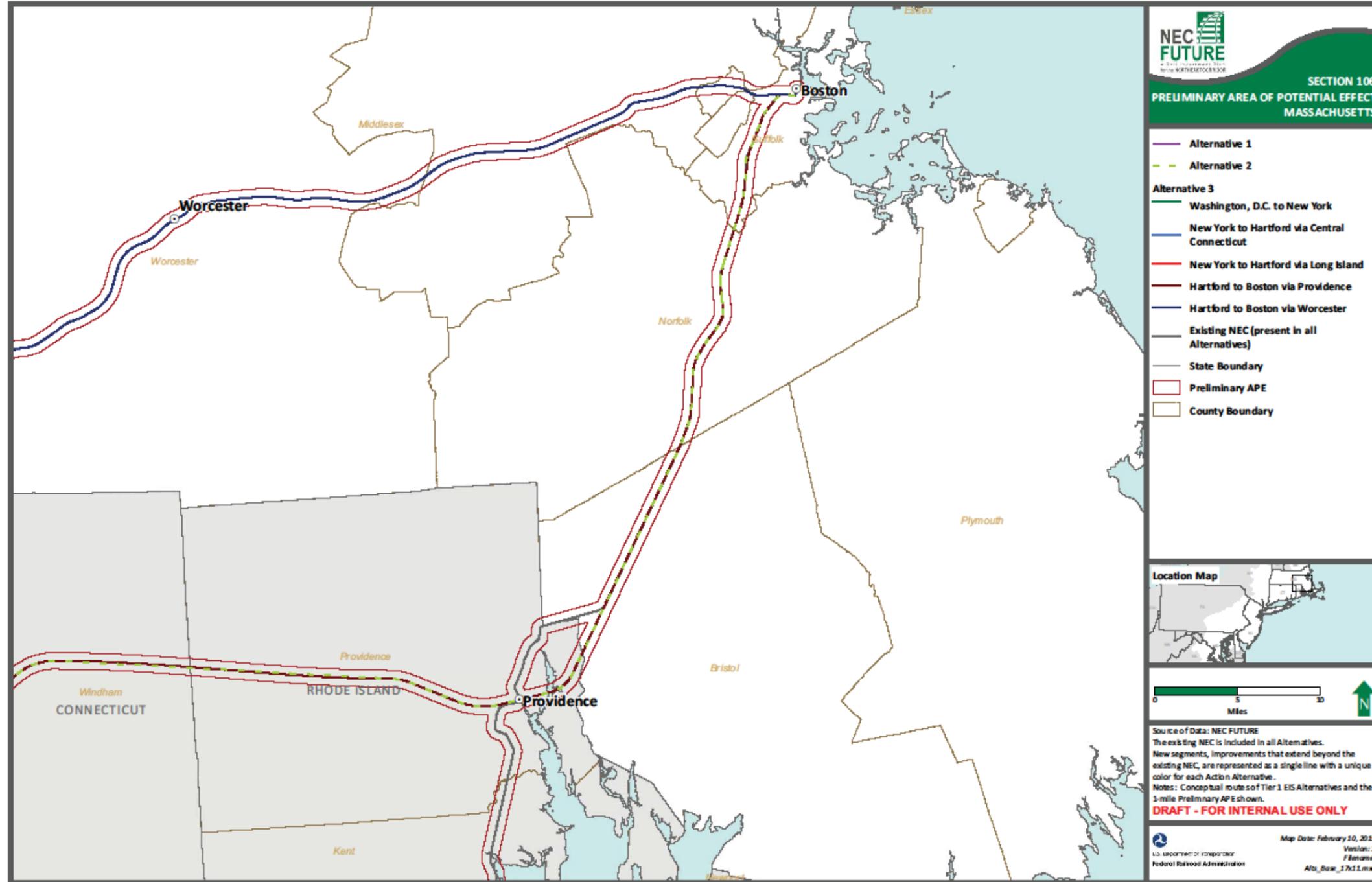
APPENDIX B: Preliminary Area of Potential Effects

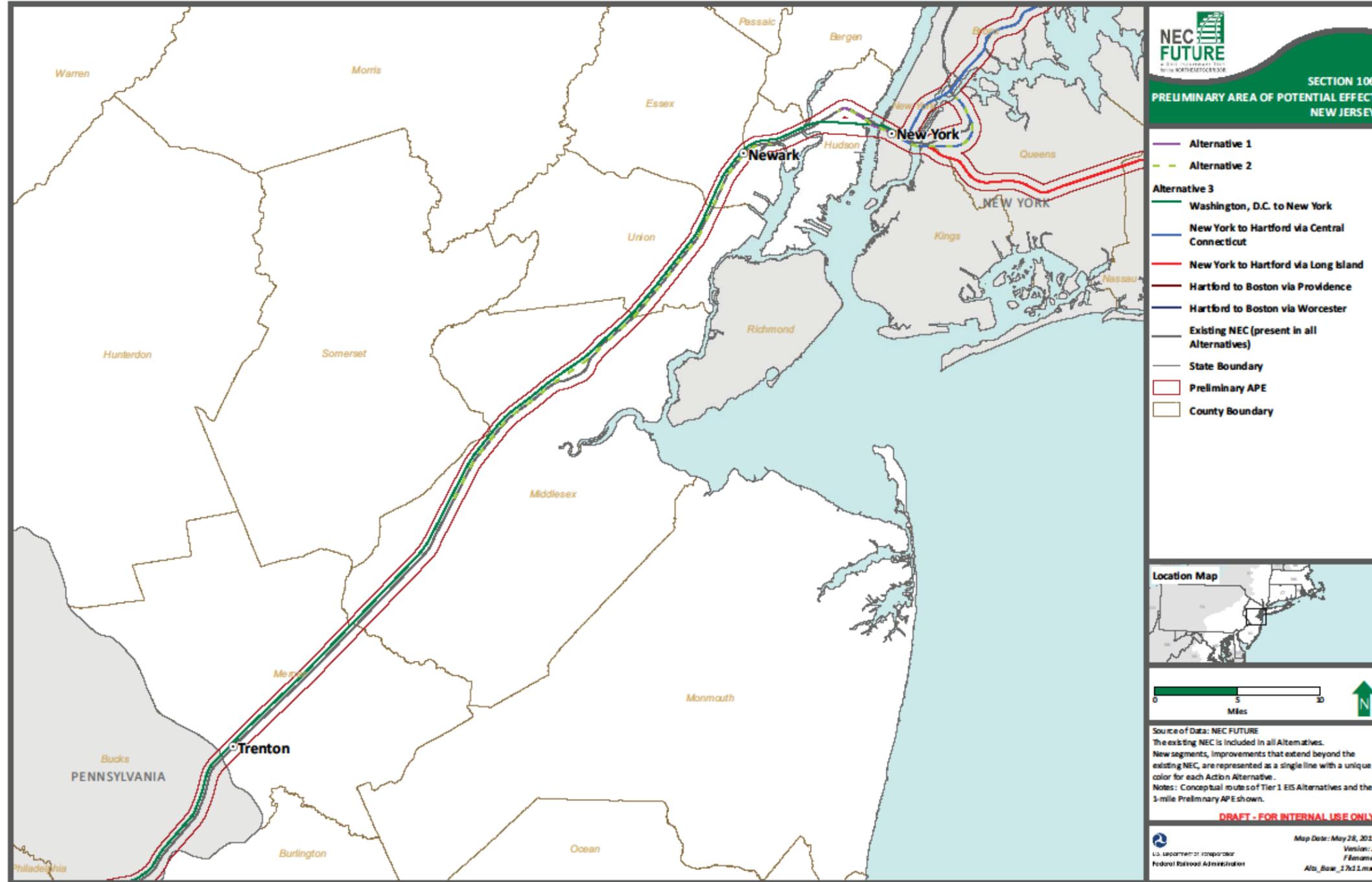


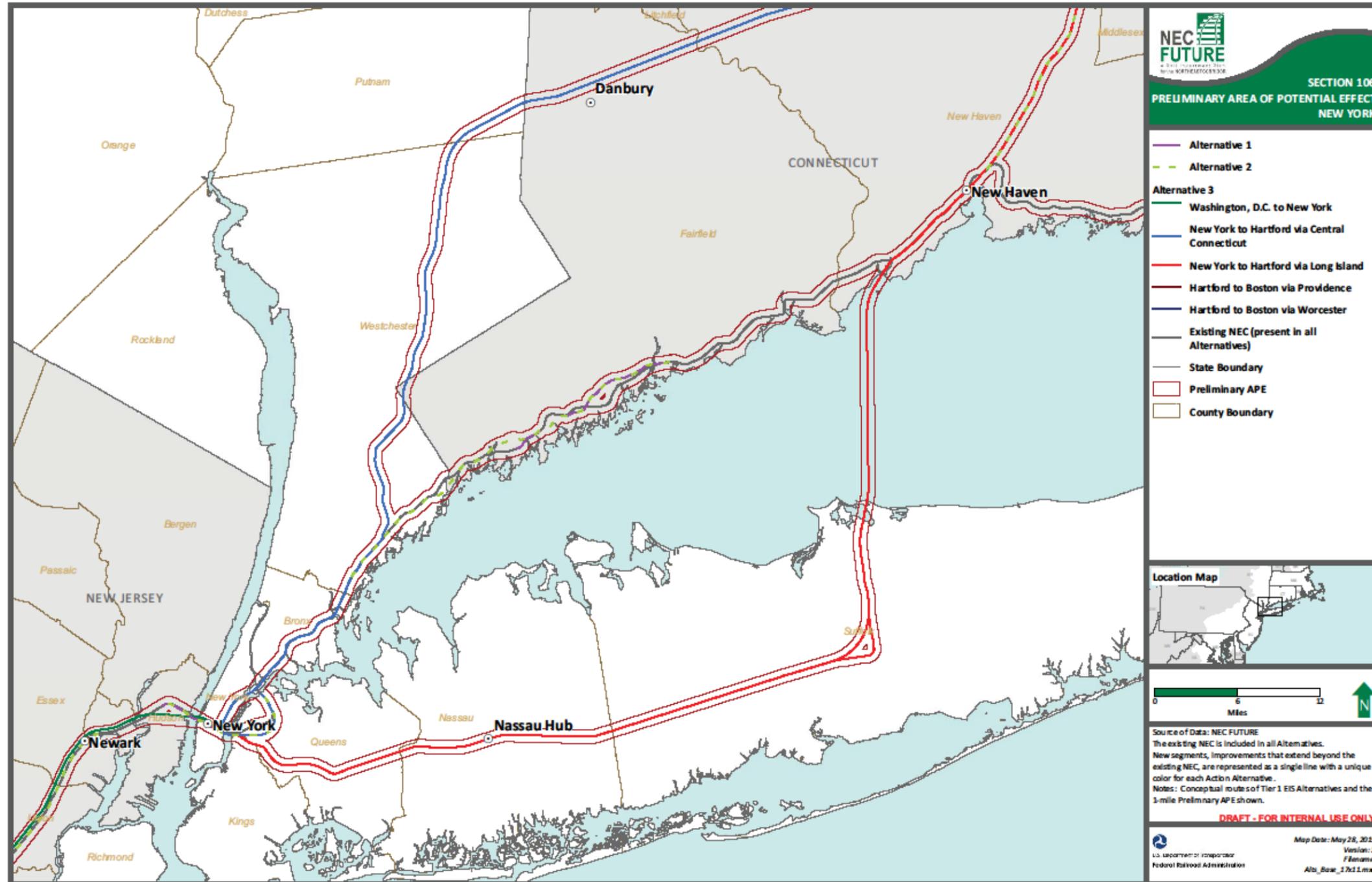


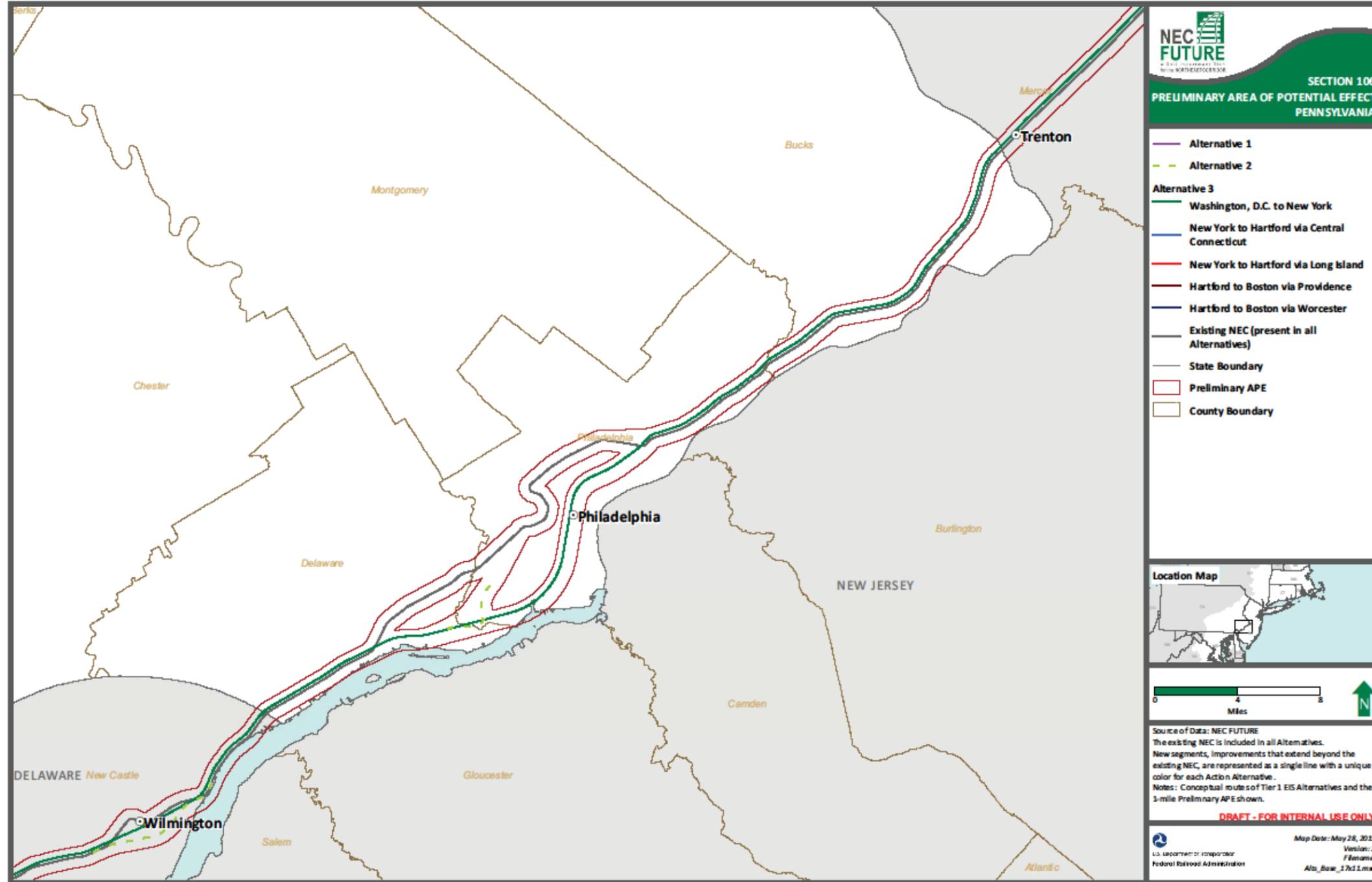


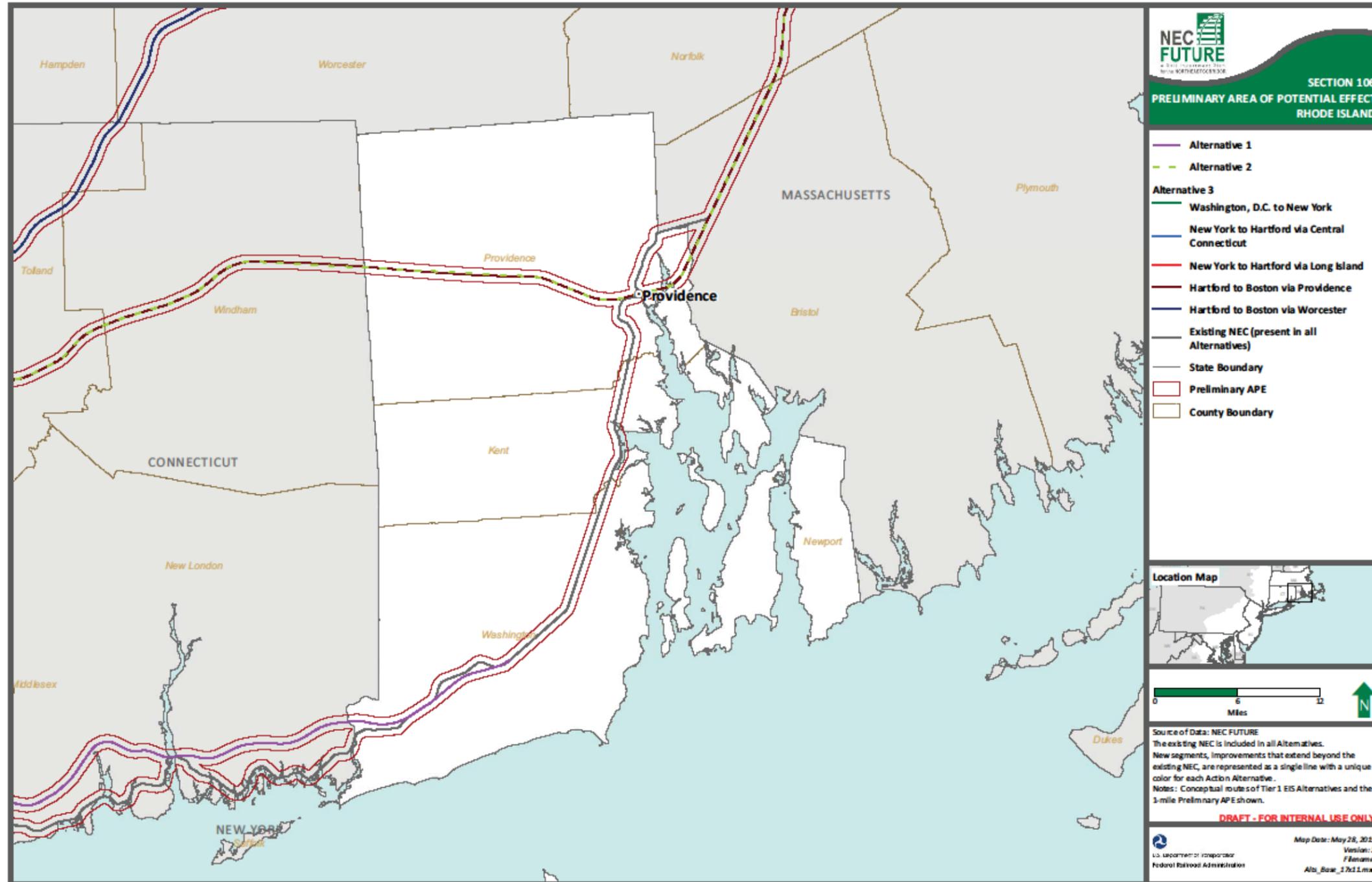












1 **APPENDIX C: Standard Treatment Measures**

2
 3 In accordance with Stipulation VIII.B of this PA, the federal agency may use one or more of the
 4 Standard Treatment Measures below to resolve the adverse effect on historic properties and, if
 5 applicable, may also use additional Standard Treatment Measures in a State-Specific Appendix
 6 to resolve adverse effects for projects located in the applicable State.

7
 8 **A. Standard Treatment #1: Existing NEC Buildings and Structures**

- 9 1. This standard treatment may be used for adverse effects to existing NEC railway,
 10 buildings, and structures (e.g., bridges and tunnels) that have been listed in or determined
 11 eligible for listing in the NRHP (hereafter called “existing NEC historic properties”).
- 12 2. The federal agency shall make a reasonable and good faith effort in consultation with the
 13 SHPO(s) and consulting parties to construct improvements to existing NEC historic
 14 properties in accordance with the Secretary of the Interior’s Standards (36 C.F.R. Part
 15 68). This includes but is not limited to rehabilitation of existing buildings and structures
 16 and adjacent new constructions, such as fencing.
- 17 3. If the federal agency determines in consultation with the SHPO(s) and other consulting
 18 parties that demolition is required, the federal agency shall then consult with the SHPO,
 19 the consulting parties, and the National Park Service (NPS) (if applicable) regarding:
 20 a. whether the affected NEC historic property should be recorded prior to its
 21 demolition;
 22 b. what type of recordation will be performed, specifically including consideration
 23 of the Historic American Building Survey (HABS) standards for buildings, and
 24 the Historic American Engineering Record (HAER) standards for structures;
 25 c. which agency or agencies shall be responsible for approving the adequacy of the
 26 documentation prior to filing;
 27 d. where the original recordation documents will be deposited, specifically including
 28 consideration of the National Park Service as a repository for HABS/HAER
 29 documentation;
 30 e. which additional repositories, if any, will receive copies of the original
 31 recordation documents;
- 32 4. If the federal agency elects to proceed with this standard treatment, the federal agency
 33 shall prepare a written recordation plan addressing each of the issues listed in paragraph
 34 (3) and shall submit the plan to the applicable SHPO(s), applicable Indian tribe(s) and
 35 THPO(s), and other consulting parties for review. If the applicable SHPO(s) and
 36 applicable Indian tribe(s) and THPO(s), concur in the recordation plan, the federal agency
 37 shall then carry out recordation in accordance with the plan.

38
 39 **B. Standard Treatment # 2: Buildings and Structures in Close Proximity to the Existing
 40 NEC**

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

- 47 2. If a building or structure that is a historic property must be physically altered by NEC
48 FUTURE related improvements, the federal agency shall make a reasonable and good
49 faith effort in consultation with the applicable SHPO(s), applicable Indian tribe(s) and
50 THPO(s), and consulting parties to rehabilitate it in accordance with the Secretary of the
51 Interior's Standards.
- 52 3. If the federal agency determines in consultation with the SHPO(s) and other consulting
53 parties that demolition is required, the federal agency shall then consult with the SHPO,
54 the consulting parties, and the National Park Service (NPS) (if applicable) regarding:
- 55 a. whether the affected NEC historic property should be recorded prior to its
56 demolition;
 - 57 b. what type of recordation will be performed, specifically including consideration
58 of the Historic American Building Survey (HABS) standards for buildings, and
59 the Historic American Engineering Record (HAER) standards for structures;
 - 60 c. which agency or agencies shall be responsible for approving the adequacy of the
61 documentation prior to filing;
 - 62 d. where the original recordation documents will be deposited, specifically including
63 consideration of the National Park Service as a repository for HABS/HAER
64 documentation;
 - 65 e. which additional repositories, if any, will receive copies of the original
66 recordation documents;
- 67 4. If the federal agency elects to proceed with this standard treatment, the federal agency
68 shall prepare a written recordation plan addressing each of the issues listed in paragraph
69 (3) and shall submit the plan to the applicable SHPO(s), applicable Indian tribe(s) and
70 THPO(s), and other consulting parties for review. If the applicable SHPO(s) and
71 applicable Indian tribe(s) and THPO(s) concur in the recordation plan, the federal agency
72 shall then carry out recordation in accordance with the plan.

73 74 **C. Standard Treatment # 3: Relocation of Architectural Resources**

75 The federal agency shall consider the relocation of architectural historic properties (buildings
76 and structures) as a mitigation treatment on a case by case basis when requested by the SHPO
77 or any consulting party. If relocation is feasible and agreed upon by SHPO as the preferred
78 treatment, the federal agency in consultation with SHPO will develop a marketing plan and
79 proposal.

80 81 **D. Standard Treatment # 4: Archaeological Resources**

82 The federal agency shall make a reasonable and good faith effort in consultation with the
83 SHPO, tribes, and other consulting parties to avoid and minimize effects to archaeological
84 resources that are historic properties. If adverse effects cannot be avoided, the federal
85 agency, in consultation with the applicable SHPO(s), applicable Indian tribe(s) and THPO(s),
86 and other consulting parties, shall consider data-recovery excavations as the standard
87 treatment. The federal agency shall ensure that data-recovery excavations are completed
88 prior to construction.

89
90

1 **APPENDIX D - MOA Template**

2 **MEMORANDUM OF AGREEMENT AMONG**

3 **THE FEDERAL RAILROAD ADMINISTRATION**

4 *[or]*

5 **THE FEDERAL TRANSIT ADMINISTRATION,**

6 *[or]*

7 **[NAME OF OTHER FEDERAL AGENCY],**

8 **[NAME OF PROJECT SPONSOR],**

9 **THE ADVISORY COUNCIL ON HISTORIC PRESERVATION** *[if participating],*

10 **THE STATE HISTORIC PRESERVATION OFFICER[S] OF:**

11 *[affected states,]*

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

13 **REGARDING**

14 **COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC**

15 **PRESERVATION ACT**

16 **AS IT PERTAINS TO**

17 **THE** *[name of the Tier 2 undertaking]*

18 **[NEC FUTURE INVESTMENT PROGRAM]**

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

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

28 **WHEREAS,** the *[Agency responsible the Tier 2 undertaking]* has complied with the stipulations
29 in the PA related to the delineation of the Area of Potential Effects, consultation with signatories
30 to the PA and other consulting parties, identification of historic properties, and assessment of
31 effects, and through consultation has determined that the reference undertaking would result in
32 an adverse effect upon the following historic property(ies): *[list the historic properties with*
33 *adverse effects that cannot be resolved with standard treatments];* and

46 **WHEREAS**, the [FTA, FRA or other federal agency] has consulted with [list the signatories to
47 this MOA] on measures to avoid, minimize or mitigate the adverse effects on historic properties;
48 and

49
50 **NOW, THEREFORE**, the signatories to this MOA agree that the [name of the Tier 2
51 undertaking] shall be implemented in accordance with the following stipulations in order to
52 resolve the adverse effects on historic properties.

53

54

STIPULATIONS

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

57

I. Treatment of Historic Properties

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

59

60

61

II. Resolving Objections.

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

66

67

III. Amendments.

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

70

71

IV. Termination.

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

74

75

V. Duration of the MOA.

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

80

81

VI. Effective Date of this MOA.

82 This MOA will take effect on the date that it is executed by the [Federal agency] and the SHPO.

83

84

85

86

87

88

89

90

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.

91 **SIGNATORY PARTIES:**

92

93 **[Federal agency]**

94

95 By: _____ Date: _____

96

97 **[State] State Historic Preservation Officer**

98 By: _____ Date: _____

99

100 **]Project Sponsor]**

101 By: _____ Date: _____

102

103 **Advisory Council on Historic Preservation** *[if participating]*

104 By: _____ Date: _____

105

106

1 **APPENDIX E - Tier 1 Consulting Parties List**

2

3 The table in this appendix includes a list of all entities that have been invited to participate as

4 consulting parties in Section 106 consultation for the NEC FUTURE program. The table

5 indicates which entities have accepted the invitation to serve as consulting parties. The table also

6 indicates which entities have accepted the invitation to be an Invited Signatory or Concurring

7 Party to the PA.

8

	List of Tribes or Agencies	Status of invitation acceptance
Tribes: Initiated Consultation June 2012 Invited to be a Consulting Party October 2014 Invited to be a Concurring Party to the PA 2014-2015	Mashantucket (Western) Pequot of Connecticut	Concurring Party to the PA
	Mashpee Wampanoag Tribe	Consulting Party
	Mohegan Indian Tribe of Connecticut	Concurring Party to the PA
	Narragansett Indian Tribe of Rhode Island	Consulting Party
	Shinnecock Indian Nation	
	Stockbridge-Munsee Mohican Tribe	Concurring Party to the PA
	Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts	
Tribes: Initiated Consultation June 2012 Invited to be a Consulting Party October 2014	Delaware Tribe of Indians	Consulting Party
	Absentee-Shawnee Tribe of Oklahoma	
	Cayuga Nation of New York	
	Delaware Nation	
	Eastern Shawnee Tribe of Oklahoma	
	Oneida Nation of New York	
	Oneida Tribe of Indians of Wisconsin	
	Onodaga Nation of New York	
	Seneca Nation of New York	
	Seneca-Cayuga Tribe of Oklahoma	
	Shawnee Tribe	
	Saint Regis Mohawk Tribe	
	Towanda Band of Seneca Indians of New York	
Tuscarora Nation of New York		
SHPOs: Initiated Consultation June 2012 Invited to be a Consulting Party October 2014 Invited to be a Signatory to the PA December 2014	District of Columbia Historic Preservation Office	
	Maryland Historical Trust	
	Delaware Division of Historical & Cultural Affairs	
	Pennsylvania Historical and Museum Commission	Signatory to the PA
	New Jersey Department of Environmental Protection Historic Preservation	
	NYS Office of Parks, Recreation & Historic Preservation	Signatory to the PA
	Connecticut Department of Economic and Community Development - Historic Preservation and Museum Division	
	Rhode Island Historical Preservation and Heritage Commission	Consulting Party
Massachusetts Historical Commission	Signatory to the PA	
Other Corridor-Wide Agencies: Invited to be a Concurring Party to the PA March 2015	National Conference of State Historic Preservation Officers	Concurring Party

	List of Tribes or Agencies	Status of invitation acceptance
Other State and Local Agencies: Invited to be a Consulting Party October 2014 – July 2015	District Department of Transportation	Consulting Party
	District of Columbia Historic Preservation Review Board	
	Maryland Department of Transportation	
	Baltimore City Commission for Historical and Architectural Preservation	
	Delaware Department of Transportation (DELDOT)	Consulting Party
	New Castle County Historic Review Board	
	City of Wilmington Design Review and Preservation Commission	
	Pennsylvania Department of Transportation (PennDOT)	
	The Philadelphia Historical Commission	
	New Jersey Department of Transportation (NJDOT)	
	NJ TRANSIT	Consulting Party
	New York City Landmarks Preservation Commission	Concurring Party to the PA
	NYS Department of Transportation	
	Connecticut Department of Transportation	Consulting Party
	The Connecticut Trust For Historic Preservation	Consulting Party
	Rhode Island Department of Transportation	Consulting Party
	Providence Historic District Commission	
	Massachusetts Department of Environmental Protection	
Massachusetts Department of Transportation		
Boston Landmarks Commission	Consulting Party	
Intercity, Commuter, and Freight Rail Operators Invited to be a Consulting Party August 2015	AMTRAK	Consulting Party
	MDOT – Maryland Transit Administration (for MARC service)	Consulting Party
	Southeastern Pennsylvania Transportation Authority	
	Metropolitan Transportation Authority	
	Long Island Rail Road	
	Metro-North Railroad	Consulting Party
	Massachusetts Bay Transportation Authority	
	CSX Transportation	Consulting Party
	Norfolk Southern Corporation	Declined invitation
Consolidated Rail Corporation	Declined invitation	
Providence & Worcester Railroad Company		
Nonprofit Organizations Invited to be a Consulting Party September 2015	National Trust for Historic Preservation (and state partners)	

9

10 *Source:* NEC FUTURE team, 201511 *Note:* Blank cells indicate that no formal response has been received.

12

1 **APPENDIX F: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN CONNECTICUT**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the Connecticut State Historic Preservation Office (CTSHPO), for
 6 a Tier 2 undertaking in the State of Connecticut.

7
 8 **I. Project Initiation**

9
 10 The Federal agency shall initiate CTSHPO review by submitting a Project Review Form and
 11 requested attachments, including but not limited to a project description, project map,
 12 photographs, and a project contact. Submissions should be in hard copy.

13
 14 **Data Sources**

15
 16 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 17 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 18 agency in consultation with the CTSHPO:
 19

Property Type	Source	Description
Historic Properties	Site files located at the CTSHPO in Hartford	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.
Historic Properties	Historic properties surveys on file at the University of Connecticut Libraries Dodd Center in Storrs	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.
Archaeological Resources	Relevant site files available at the Office of the State Archaeologist at the University of Connecticut in Storrs	Hard copy files may be viewed in person at the Office of the State Archaeologist.
Archaeological Resources	Archaeological surveys on file at the University of Connecticut Libraries Dodd Center in Storrs	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.

20
 21 CTSHPO personnel may advise of additional data sources to be reviewed as part of the research
 22 process, including outreach and consultation with Local Historical Commissions and with local
 23 groups and individuals who may possess knowledge or specialized information on cultural
 24 resources within project areas.
 25

26 II. Inviting Consulting Parties

27

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

31

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

34

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

39

- 40 • AMTRAK
- 41 • Bridgeport CLG & LHD Committee
- 42 • Brookfield Historic District Commission
- 43 • Capital Region Council of Governments (COG)
- 44 • Central Connecticut Regional Planning Agency
- 45 • Connecticut Trust for Historic Preservation
- 46 • City of Danbury
- 47 • City of Milford
- 48 • City of Stamford
- 49 • Consolidated Rail Corporation
- 50 • Council of Governments of the Central Naugatuck Valley
- 51 • CSX Transportation
- 52 • East Hartford Historic District Commission
- 53 • East Lyme Historic Properties Commission
- 54 • Greater Bridgeport Regional Council
- 55 • Greenwich Historic District Commission
- 56 • Greenwich Preservation Trust
- 57 • Guilford Historic District Commission
- 58 • Guilford Preservation Alliance
- 59 • Housatonic Valley Council of Elected Officials
- 60 • Lower Connecticut River Valley Council of Governments
- 61 • Merritt Parkway Conservancy
- 62 • Metro-North Railroad
- 63 • Metropolitan Transportation Authority
- 64 • Milford Preservation Trust
- 65 • New Canaan Historical Society
- 66 • New Canaan Preservation Alliance
- 67 • New Haven Historic District Commission
- 68 • New Haven Preservation Trust
- 69 • New London Landmarks

- 70 • New London Office of Development & Planning
- 71 • Norfolk Southern Corporation
- 72 • Norwalk Preservation Trust
- 73 • Old Lyme Historic District Commission
- 74 • Orange Historic Commission
- 75 • Providence & Worcester Railroad Company
- 76 • Quinebaug-Shetucket Rivers Valley National Heritage Corridor
- 77 • Railroad Museum of New England
- 78 • South Central Regional Council of Governments (COG)
- 79 • South Western Regional Planning Agency
- 80 • Southbury Historic District Commission
- 81 • Southeastern Connecticut Council of Governments (COG)
- 82 • Town of Berlin
- 83 • Town of Clinton
- 84 • Town of Fairfield
- 85 • Town of Groton Historic District Commission
- 86 • Town of Hamden
- 87 • Town of Killingly
- 88 • Town of Suffield
- 89 • Town of Tolland
- 90 • Town of Vernon
- 91 • Valley Council of Governments (COG)
- 92 • Waterford Historic Properties Commission
- 93 • Westport Historic District Commission
- 94 • Windsor Historic District Commission
- 95 • Connecticut League of History Organizations
- 96 • Connecticut Preservation Action
- 97 • Historic Neighborhood Preservation Program

98
 99 The Federal agency shall invite the following federally-recognized Indian tribes to participate in
 100 Section 106 consultation for those Tier 2 projects when applicable, taking into account the
 101 location and anticipated impacts of the project:

- 102
- 103 • Mashantucket (Western) Pequot of Connecticut
- 104 • Narragansett Indian Tribe of Rhode Island
- 105 • Mohegan Indian Tribe of Connecticut
- 106

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

111

112 **III. Defining the Area of Potential Effects**

113

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

116

117 **IV. Identifying and Evaluating Historic Properties**

118

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

121

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

125

126 **V. Documentation Requirements**

127

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

131

132 **VI. Document Review Process**

133

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

136

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

140

141 **VII. Public Involvement**

142

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

147

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

150

151 **VIII. Standard Treatments**

152

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

156

157 **IX. Curation**

158

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

161

162 **X. Confidentiality and Data Sharing**

163

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

166

167 **XI. Amendments**

168

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

172

173

174 **SIGNATORY PARTIES**

175

176 **Federal Railroad Administration**

177

178 By: _____ Date: _____

179

180 **Advisory Council on Historic Preservation**

181

182 By: _____ Date: _____

183

184 **Federal Transit Administration**

185

186 By: _____ Date: _____

187

188 **Connecticut State Historic Preservation Officer**

189

190 By: _____ Date: _____

191

192

APPENDIX G: SECTION 106 CONSULTATION FOR TIER 2 UNDERTAKINGS IN THE DISTRICT OF COLUMBIA

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

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

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:

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

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.

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

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:

- District Department of Transportation
- District Department of the Environment
- Executive Office of the Mayor
- Historic Preservation Review Board
- National Capital Planning Commission

- 39 • Office of Planning
40 • Washington Metro Area Transit Authority

41
42 The Federal agency shall consult with the DCSHPO to identify potential consulting parties,
43 which may include the following organizations, to participate in Section 106 consultation for
44 Tier 2 projects when applicable, taking into account the location and anticipated impacts of the
45 project:

- 46
47 • Akridge
48 • AMTRAK
49 • Ashkenazy Acquisition Corporation
50 • Capitol Hill Business Improvement District
51 • Capitol Hill Restoration Society
52 • Committee of 100 on the Federal City
53 • Consolidated Rail Corporation
54 • CSX Transportation
55 • DC Preservation League
56 • Eckington Civic Association
57 • Jones Lang LaSalle
58 • Maryland Transit Administration
59 • National Railway Historical Society Washington DC Chapter
60 • NoMa Business Improvement District
61 • Norfolk Southern Corporation
62 • Office of Advisory Neighborhood Commissions
63 • Providence & Worcester Railroad Company
64 • The Baltimore & Ohio Railroad Museum
65 • The Historical Society of Washington DC
66 • Union Station Redevelopment Corporation

67
68 The Federal agency shall consult with the DCSHPO to determine whether any Indian tribes
69 should be invited to participate in the Section 106 process. At this time there are no federally-
70 recognized Indian tribes for the District of Columbia.

71
72 The Federal agency also shall request updated consulting parties information from the DCSHPO
73 at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties
74 and their contacts are included in the consultation process. If the updated list varies from the list
75 provided in this Appendix, the Federal agency shall follow the updated list.

76
77 **III. Defining the Area of Potential Effects**

78
79 The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project
80 will be defined and provided in consultation with the DCSHPO.

81

82 **IV. Identifying and Evaluating Historic Properties**

83
84 The Federal agency shall consult with the DCSHPO to confirm the most up to date forms other
85 resources necessary to identify and evaluate historic properties and archaeological resources.

86
87 **V. Documentation Requirements**

88
89 The Federal agency shall consult with the DCSHPO to confirm the most up to date guidelines
90 and requirements necessary to submit documents to the DCSHPO for a Tier 2 undertaking in the
91 District of Columbia. These may include:

- 92
- 93 • Guidelines for Archaeological Investigations in the District of Columbia (1998)
- 94

95 **VI. Document Review Process**

96
97 The Federal agency shall comply with the following requirements when submitting documents to
98 the DCSHPO for review:

- 99
- 100 • The Federal agency shall send final reports to the DCSHPO for review in electronic
- 101 format.
- 102 • The DCSHPO shall review and comment on all adequately documented project
- 103 submittals within 30 calendar days of receipt.
- 104

105 **VII. Public Involvement**

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

111
112 The Federal agency also shall consult with the DCSHPO regarding the process to be used for
113 involving the public in Section 106 consultation.

114
115 **VIII. Standard Treatments**

116
117 The Federal agency may resolve adverse effects by adopting any of the Standard Treatments
118 provided in Appendix C of this PA, or any additional treatments identified in consultation with
119 the DCSHPO.

120
121 **IX. Curation**

122
123 The Federal agency shall comply with any specific requirements identified in consultation with
124 the DCSHPO with regard to curation.

125
126 **X. Confidentiality and Data Sharing**

127

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

130

131 **XI. Amendments**

132

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

136

137

138 **SIGNATORY PARTIES**

139

140 **Federal Railroad Administration**

141

142 By: _____ Date: _____

143

144 **Advisory Council on Historic Preservation**

145

146 By: _____ Date: _____

147

148 **Federal Transit Administration**

149

150 By: _____ Date: _____

151

152 **District of Columbia State Historic Preservation Officer**

153

154 By: _____ Date: _____

155

156

1 **APPENDIX H: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN DELAWARE**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the Delaware State Historic Preservation Office (DESHPO), for a
 6 Tier 2 undertaking in the State of Delaware.

7
 8 **I. Project Initiation**

9
 10 The Federal agency shall initiate DESHPO review by submitting necessary documentation,
 11 specifics of which should be confirmed with the DESHPO prior to the time of submission.

12
 13 **Data Sources**

14
 15 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 16 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 17 agency in consultation with the DESHPO:

18

Property Type	Source	Description
Historic Properties	Cultural and Historical Resources Information System (CHRIS) available online at https://chris-users.delaware.gov/	Online database containing information about historic properties. The system is a work in progress; not all data have been entered.
Historic Properties	Additional data on file at the DESHPO in Dover	Information not yet entered into CHRIS may be viewed in hard copy, along with other research materials
Archaeological Resources	Cultural and Historical Resources Information System (CHRIS) available online at https://chris-users.delaware.gov/	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.
Archaeological Resources	Additional data on file at the DESHPO in Dover	Information not yet entered into CHRIS may be viewed in hard copy, along with other research materials

19
 20 DESHPO is in the process of converting hard copy materials to electronic files. The Federal
 21 agency shall consult with the DESHPO prior to the onset of Tier 2 undertakings to confirm the
 22 status of data sources for Delaware.

23
 24 DESHPO personnel may advise of additional data sources to be reviewed as part of the research
 25 process, including outreach and consultation with Local Historical Commissions and with local
 26 groups and individuals who may possess knowledge or specialized information on cultural
 27 resources within project areas.

28

29 **II. Inviting Consulting Parties**

30

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

34

- 35 • Delaware Department of Transportation (DelDOT)
- 36 • Delaware Division of Historical & Cultural Affairs
- 37 • Delaware Department of Natural Resources and Environmental Control

38

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

43

- 44 • AMTRAK
- 45 • City of Wilmington Office of the Mayor
- 46 • City of Wilmington Design Review and Preservation Commission
- 47 • Claymont Renaissance Development Corporation
- 48 • Consolidated Rail Corporation
- 49 • CSX Transportation
- 50 • Delaware Historical Society
- 51 • National Railway Historical Society Wilmington Chapter
- 52 • New Castle County Historic Review Board
- 53 • Newark Historical Society
- 54 • Newark Planning and Development Department
- 55 • Norfolk Southern Corporation
- 56 • Preservation Delaware, Inc.
- 57 • Providence & Worcester Railroad Company
- 58 • Southeastern Pennsylvania Transportation Authority
- 59 • The Archaeological Society of Delaware

60

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

64

- 65 • Delaware Tribe

66

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

71

72 **III. Defining the Area of Potential Effects**

73
 74 The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project
 75 will be defined and provided in consultation with the DESHPO.

76
 77 **IV. Identifying and Evaluating Historic Properties**

78
 79 The Federal agency shall identify and evaluate historic properties and archaeological resources
 80 using online site data submission pages that shall be entered using the CHRIS online portal.

81
 82 **V. Documentation Requirements**

83
 84 The Federal agency shall comply with the following DESHPO requirements, as applicable, when
 85 submitting documents to DESHPO for a Tier 2 undertaking in the State of Delaware, except as
 86 otherwise determined by the Federal agency in consultation with the DESHPO:

- 87
- 88 • Architectural Survey in Delaware, 2015
- 89 • Archaeological Survey in Delaware, 2015
- 90

91 **VI. Document Review Process**

92
 93 The Federal agency shall comply with the following requirements when submitting documents to
 94 the DESHPO for review:

- 95
- 96 • The Federal agency shall consult with the DESHPO to determine the preferred
- 97 method for submission of project documents for review, which may include both hard
- 98 copies and electronic copies.
- 99 • The DESHPO shall review and comment on all adequately documented project
- 100 submittals within 30 calendar days of receipt.
- 101

102 **VII. Public Involvement**

103
 104 The Federal agency shall ensure that the Section 106 consultation process includes opportunities
 105 for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The
 106 federal agency may provide such opportunities as part public involvement efforts carried out as
 107 part of the environmental review process under the National Environmental Policy Act.

108
 109 The Federal agency also shall consult with the DESHPO regarding the process to be used for
 110 involving the public in Section 106 consultation.

111
 112 **VIII. Standard Treatments**

113
 114 The Federal agency may resolve adverse effects by adopting any of the Standard Treatments
 115 provided in Appendix C of this PA, or any additional treatments identified in consultation with
 116 the DESHPO.

117

118 **IX. Curation**

119
120 The Federal agency shall comply with the following requirements identified in consultation with
121 the DESHPO with regard to curation:

- 122
123
 - Guidelines and Standards for the Curation of Archaeological Collections

124
125 **X. Confidentiality and Data Sharing**

126
127 The Federal agency shall consult with the DESHPO, as necessary, to update any information
128 about confidentiality and data sharing of Tier 2 project information.

129
130 **XI. Amendments**

131
132 This Appendix may be amended by written agreement of the signatories of this Appendix,
133 without the need for concurrence of other signatories of the PA for the NEC FUTURE
134 Investment Program.

135

136 **SIGNATORY PARTIES**

137

138 **Federal Railroad Administration**

139

140 By: _____ Date: _____

141

142 **Advisory Council on Historic Preservation**

143

144 By: _____ Date: _____

145

146 **Federal Transit Administration**

147

148 By: _____ Date: _____

149

150 **Delaware State Historic Preservation Officer**

151

152 By: _____ Date: _____

153

1 **APPENDIX I: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN MASSACHUSETTS**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the office of the Massachusetts Historic Preservation Officer
 6 (MASHPO) for a Tier 2 undertaking in the Commonwealth of Massachusetts.

7
 8 **I. Project Initiation**

9
 10 The Federal agency shall initiate MASHPO review by submitting a completed “Project
 11 Notification Form” (PNF) to the MASHPO by mail or courier.

12
 13 **Data Sources**

14
 15 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 16 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 17 agency in consultation with the MASHPO:
 18

Property Type	Source	Description
Historic Properties	Massachusetts Cultural Resource Information System” (MACRIS)	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.
Historic Properties	Massachusetts Historical Commission (MHC) Archives - Inventory of Historic and Archaeological Assets of the Commonwealth	The MHC archives include additional information about historic properties not found in MACRIS; the archives can be researched in person.
Archaeological Resources	MHC Archives - Inventory of Historic and Archaeological Assets of the Commonwealth	Information about archaeological resources is not available to the general public, and must be researched at the MHC archives.

19
 20 MASHPO personnel may advise of additional data sources to be reviewed as part of the research
 21 process, including outreach and consultation with Local Historical Commissions and with local
 22 groups and individuals who may possess knowledge or specialized information on cultural
 23 resources within project areas.

24
 25 **II. Inviting Consulting Parties**

26
 27 The Federal agency shall invite the following organizations to participate in Section 106
 28 consultation for all Tier 2 projects located in Massachusetts:

29
30
31
32
33
34
35
36
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44
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69
70

- 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:

- Narragansett Indian Tribe of Rhode Island
- Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
- Mashpee Wampanoag Tribe

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.

71 **III. Defining the Area of Potential Effects**

72
 73 The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project is
 74 developed in consultation with the MASHPO and other consulting parties, as appropriate.
 75

76 **IV. Identifying and Evaluating Historic Properties**

77
 78 Historic property surveys shall comply with MASHPO procedures as documented in MHC’s
 79 “Historic Properties Survey Manual.”
 80

81 Archaeological investigations shall be undertaken according to MHC Regulation 950 CMR
 82 70.00.
 83

84 Any projects that involve destructive field investigations require a “Permit to conduct an
 85 Archeological Field Investigation” from the State Archaeologist at the MASHPO prior to any
 86 investigations. Those projects that do not involve ground disturbance do not require this permit.
 87

88 **V. Documentation Requirements**

89
 90 The Federal agency shall comply with the following MASHPO requirements, as applicable,
 91 when submitting documents to MASHPO for a Tier 2 undertaking in the Commonwealth of
 92 Massachusetts, except as otherwise determined by the Federal agency in consultation with the
 93 MASHPO:
 94

- 95 • All submittals to the MASHPO shall be in paper format.
- 96
- 97 • Plans and specifications submitted to the MASHPO shall measure no larger than 11"
 98 x 17" paper format (unless another format is specified in consultation).
 99
- 100 • Any project documents intended for public review shall not include sensitive
 101 archaeological site locational information. Any documentation prepared with this
 102 information should be prominently labeled "Confidential. Not for Public Release,"
 103 and the distribution strictly controlled. The Federal agency shall consult with the
 104 MASHPO prior to disseminating this information.
 105
- 106 • Historic property survey reports shall be prepared using the applicable MHC Survey
 107 and Inventory Forms: A (Area), B (Building), C (Object), E (Burial Ground), F
 108 (Structure/Bridge), and H (Parks and Landscapes).
 109
- 110 • Project planners should consult the “Frequently Asked Questions” portion of the
 111 MASHPO’s website: <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>,
 112 prior to submitting documentation to the MASHPO for review and comment.
 113

114 **VI. Document Review Process**

115

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

118

119 • All submittals to the MASHPO shall be delivered to the MASHPO's office by US
120 Mail, or by a delivery service, or by hand, not by email.

121

122 • Pursuant to 36 CFR 800.3(c)(4), the MASHPO shall review and comment on all
123 adequately documented project submittals within 30 calendar days of receipt.

124

125 **VII. Public Involvement**

126

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

131

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

134

135 **VIII. Standard Treatments**

136

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

140

141 **IX. Curation**

142

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

145

146 The State Archeologist shall keep a record of the disposition of collections resulting from field
147 investigations conducted under permit.

148

149 **X. Confidentiality and Data Sharing**

150

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

155

156 **XI. Amendments**

157

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

161

162

163 **SIGNATORY PARTIES**

164

165 **Federal Railroad Administration**

166

167 By: _____ Date: _____

168

169 **Advisory Council on Historic Preservation**

170

171 By: _____ Date: _____

172

173 **Federal Transit Administration**

174

175 By: _____ Date: _____

176

177 **Massachusetts State Historic Preservation Officer**

178

179 By: _____ Date: _____

180

1 **APPENDIX J: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN MARYLAND**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the Maryland State Historic Preservation Office (MDSHPO), for a
 6 Tier 2 undertaking in the State of Maryland.

7
 8 **I. Project Initiation**

9
 10 The Federal agency shall initiate MDSHPO review by submitting a completed Project Review
 11 Form or cover letter and requested attachments, including but not limited to a project description,
 12 project map, photographs, and a project contact. The Federal agency shall consult with the
 13 MDSHPO to confirm the most up to date requirements (content, format, and mode) for project
 14 review submittals for a Tier 2 undertaking in the State of Maryland.

15
 16 **Data Sources**

17
 18 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 19 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 20 agency in consultation with the MDSHPO:
 21

Property Type	Source	Description
Historic Properties including Archaeological Resources	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	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]

Property Type	Source	Description
Historic Properties including Archaeological Resources	Additional data on file at the MDSHPO Library	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]

22

23 The Federal agency shall consult with the MDSHPO prior to the onset of Tier 2 undertakings to
24 confirm the status and accessibility of data sources for Maryland.

25

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

30

31 **II. Inviting Consulting Parties**

32

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

36

- 37 • Maryland Department of Transportation (MDOT)

38

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

42

- 43 • AMTRAK
- 44 • Anacostia Trails Heritage Area, Inc.
- 45 • Anne Arundel County Planning and Zoning Department -Cultural Resources Division
- 46 • Baltimore City -Department of Transportation
- 47 • Baltimore City - Planning Department
- 48 • Baltimore City Commission for Historical and Architectural Preservation
- 49 • Baltimore County Department of Planning
- 50 • Baltimore Heritage Area Association
- 51 • Baltimore Heritage, Inc.
- 52 • Cecil County Historic District Commission
- 53 • City of Aberdeen, City Manager
- 54 • City of Aberdeen, Planning & Community Development
- 55 • City of Aberdeen - Office of the Mayor
- 56 • City of College Park, Office of the Mayor

- 57 • City of College Park Planning and Development
- 58 • City of Havre de Grace, Office of the Mayor
- 59 • City of Havre de Grace, Historic Preservation Commission
- 60 • City of Havre de Grace, Planning & Zoning
- 61 • Consolidated Rail Corporation
- 62 • CSX Transportation
- 63 • Harford County Department of Planning & Zoning
- 64 • Hyattsville Planning Committee
- 65 • Maryland Commission on Indian Affairs
- 66 • Maryland Transit Administration
- 67 • National Railway Historical Society Baltimore and Perryville Chapters
- 68 • Norfolk Southern Corporation
- 69 • Office of the Mayor City of Baltimore
- 70 • Office of the Mayor-Hyattsville
- 71 • Office of the Mayor-Laurel
- 72 • Preservation Maryland
- 73 • Providence & Worcester Railroad Company
- 74 • Piscataway Conoy Confederacy and Subtribes of Maryland and the Piscataway
- 75 Conoy Tribe of Maryland, including the Cedarville Band of the Piscataway and the
- 76 Choptico Band of the Piscataway (state-recognized Indian tribe)
- 77 • Piscataway Indian Nation (state-recognized Indian tribe)
- 78 • Prince George’s County Planning Department Historic Preservation
- 79 • The Aberdeen Room Archives and Museum, Inc.
- 80 • The Baltimore City Historical Society
- 81 • The City of Laurel Historic District Commission (HDC)
- 82 • The City of Laurel Planning Commission
- 83 • The Historical Society of Cecil County
- 84 • The Historical Society of Harford County, Inc.
- 85 • The Lower Susquehanna Heritage Greenway, Inc.
- 86 • Town of Bel Air
- 87 • Town of Bel Air - Historic Preservation Department of Planning & Community
- 88 Development
- 89 • Town of Elkton
- 90 • Town of Elkton Department of Planning
- 91 • University of Maryland, Federal Relations

92
 93 The Federal agency shall invite the following federally-recognized Indian tribes to participate in
 94 Section 106 consultation for those Tier 2 projects when applicable, taking into account the
 95 location and anticipated impacts of the project:

- 96
- 97 • Absentee-Shawnee Tribe of Oklahoma
- 98 • Eastern Shawnee Tribe of Oklahoma
- 99 • Shawnee Tribe

100

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

105

106 **III. Defining the Area of Potential Effects**

107

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

110

111 **IV. Identifying and Evaluating Historic Properties**

112

113 The Federal agency shall consult with the MDSHPO to confirm the most up to date forms and
114 other resources necessary to identify and evaluate historic properties and archaeological
115 resources for a Tier 2 undertaking in the State of Maryland.

116

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

122

123 **V. Documentation Requirements**

124

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

128

129 **VI. Document Review Process**

130

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

133

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

139

140 **VII. Public Involvement**

141
 142 The Federal agency shall ensure that the Section 106 consultation process includes opportunities
 143 for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The
 144 federal agency may provide such opportunities as part public involvement efforts carried out as
 145 part of the environmental review process under the National Environmental Policy Act.

146
 147 The Federal agency also shall consult with the MDSHPO regarding the process to be used for
 148 involving the public in Section 106 consultation.

149
 150 **VIII. Standard Treatments**

151
 152 The Federal agency may resolve adverse effects by adopting any of the Standard Treatments
 153 provided in Appendix C of this PA, or any additional treatments identified in consultation with
 154 the MDSHPO.

155
 156 **IX. Curation**

157
 158 The Federal agency shall comply with the following requirements identified in consultation with
 159 the MDSHPO with regard to curation: All materials and records resulting from archeological
 160 investigations conducted for the project will be curated in accordance with 36 CFR 79 at the
 161 Maryland Archeological Conservation Laboratory (MAC Lab) and current MDSHPO
 162 requirements, unless clear title, Deed of Gift, or federal curation agreement for the collection
 163 cannot be obtained. The Federal agency shall consult with the MDSHPO regarding the
 164 appropriate disposition of any materials or records not proposed for curation at the MAC Lab.

165
 166 **X. Confidentiality and Data Sharing**

167
 168 The Federal agency shall consult with the MDSHPO, as necessary, to update any information
 169 about confidentiality and data sharing of Tier 2 project information.

170
 171 **XI. Amendments**

172
 173 This Appendix may be amended by written agreement of the signatories of this Appendix,
 174 without the need for concurrence of other signatories of the PA for the NEC FUTURE
 175 Investment Program.

176
 177 **XII. Coordination with the Maryland Historical Trust Act of 1985**

178
 179 The MDSHPO agrees that fulfillment of the terms of this PA will satisfy the responsibilities of
 180 the Maryland Department of Transportation and any Maryland state agency under the
 181 requirements of the Maryland Historical Trust Act of 1985, as amended (Sections 5A-325 and
 182 5A-326 of the State Finance and Procurement Article, Annotated Code of Maryland), for any
 183 components of a Tier 2 undertaking in the State of Maryland that require licensing, permitting
 184 and/or funding actions from Maryland state agencies.

185

186 **XIII. Human Remains**

187

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

195

196

197

198 **SIGNATORY PARTIES**

199

200 **Federal Railroad Administration**

201

202 By: _____ Date: _____

203

204 **Advisory Council on Historic Preservation**

205

206 By: _____ Date: _____

207

208 **Federal Transit Administration**

209

210 By: _____ Date: _____

211

212 **Maryland State Historic Preservation Officer**

213

214 By: _____ Date: _____

215

1 **APPENDIX K: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN NEW JERSEY**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the New Jersey State Historic Preservation Office (NJSHP), for a
 6 Tier 2 undertaking in the State of New Jersey.

7
 8 **I. Project Initiation**

9
 10 The Federal agency shall initiate NJSHP review by submitting by submitting necessary
 11 documentation, specifics of which should be confirmed with the NJSHP prior to the time of
 12 submission.

13
 14 **Data Sources**

15
 16 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 17 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 18 agency in consultation with the NJSHP:
 19

Property Type	Source	Description
Historic Properties	Index of National and State Registers of Historic Places listed and eligible resources available online at http://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm	Resources are indexed by county and municipality. Hard copies of files are available at the NJSHP and available for inspection by appointment.
Historic Properties	Historic properties surveys and additional data on file at the NJSHP in Trenton	Surveys are indexed by county and municipality. Materials are in hard copy and must be requested in person.
Archaeological Resources	Archaeological site files available at the New Jersey State Museum in Trenton	Hard copy files may be viewed in person at the New Jersey State Museum.
Archaeological Resources	Archaeological surveys on file at NJSHP in Trenton	Surveys are indexed by county and municipality. Materials are in hard copy and must be requested in person.

20
 21 NJSHP personnel may advise of additional data sources to be reviewed as part of the research
 22 process, including outreach and consultation with Local Historical Commissions and with local
 23 groups and individuals who may possess knowledge or specialized information on cultural
 24 resources within project areas.
 25

26 **II. Inviting Consulting Parties**
27

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

31

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

35

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

39

- 40 • AMTRAK
- 41 • Bergen County Historical Society
- 42 • Burlington County Historical Society
- 43 • City of Newark
- 44 • City of Newark Office of the Mayor
- 45 • City of Trenton Division of Planning
- 46 • City of Trenton Office of the Mayor
- 47 • Consolidated Rail Corporation
- 48 • CSX Transportation
- 49 • Historical Society of Princeton
- 50 • Hudson County Division of Planning
- 51 • Mercer County Cultural and Heritage Commission
- 52 • Mercer County Planning Division Transportation Development District
- 53 • Middlesex County Cultural and Heritage Commission
- 54 • New Jersey Essex County Department of Public Works
- 55 • New Jersey State Museum Archaeology and Ethnography
- 56 • New Jersey Turnpike Authority
- 57 • Norfolk Southern Corporation
- 58 • Passaic County Historical Society
- 59 • Princeton Planning Board
- 60 • Princeton Office of the Mayor
- 61 • Providence & Worcester Railroad Company
- 62 • Somerset County Historical Society of New Jersey
- 63 • The New Jersey Historical Society
- 64 • The Newark Preservation & Landmarks Committee (NPLC)
- 65 • Trenton Landmarks Commission for Historic Preservation
- 66 • United Railroad Historical Society of New Jersey, Inc. (URHS)
- 67 • Archaeological Society of New Jersey
- 68 • New Jersey Historical Commission

69

70 The Federal agency shall consult with the NJSHPO to determine whether any Indian tribes
 71 should be invited to participate in the Section 106 process. At this time there are no federally-
 72 recognized Indian tribes for New Jersey.

73
 74 The Federal agency also shall request updated consulting parties information from the NJSHPO
 75 at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties
 76 and their contacts are included in the consultation process. If the updated list varies from the list
 77 provided in this Appendix, the Federal agency shall follow the updated list.

78

79 **III. Defining the Area of Potential Effects**

80

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

83

84 **IV. Identifying and Evaluating Historic Properties**

85

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

89

90 **V. Documentation Requirements**

91

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

95

- 96 • Guidelines for Phase I Archaeological Investigations: Identification of Archaeological
 97 Resources (NJSHPO 1996).
- 98 • Guidelines for Preparing Cultural Resources Management Archaeological Reports
 99 Submitted to the Historic Preservation Office (NJSHPO 2000).
- 100 • Guidelines for Architectural Survey (NJSHPO 1999).

101

102 **VI. Document Review Process**

103

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

106

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

110

111 **VII. Public Involvement**

112

113 The Federal agency shall ensure that the Section 106 consultation process includes opportunities
 114 for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The

115 federal agency may provide such opportunities as part public involvement efforts carried out as
116 part of the environmental review process under the National Environmental Policy Act.

117
118 The Federal agency also shall consult with the NJSHPD regarding the process to be used for
119 involving the public in Section 106 consultation.

120

121 **VIII. Standard Treatments**

122

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

126

127 **IX. Curation**

128

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

131

132 **X. Confidentiality and Data Sharing**

133

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

136

137 **XI. Amendments**

138

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

142

143 **SIGNATORY PARTIES**

144

145 **Federal Railroad Administration**

146

147 By: _____ Date: _____

148

149 **Advisory Council on Historic Preservation**

150

151 By: _____ Date: _____

152

153 **Federal Transit Administration**

154

155 By: _____ Date: _____

156

157 **New Jersey State Historic Preservation Officer**

158

159 By: _____ Date: _____

160

1 **APPENDIX L: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN NEW YORK**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the New York State Office of Parks, Recreation, and Historic
 6 Preservation (NYSOPRHP), also known as the New York State Historic Preservation Office
 7 (NYSHPO), for a Tier 2 undertaking in the State of New York. The Federal agency also shall
 8 consult with the New York City Landmarks Preservation Commission (LPC) for any projects
 9 that affect a New York City Landmarked property or historic district.

10
 11 **I. Project Initiation**

12
 13 The Federal agency shall initiate NYSHPO review by submitting a consultation request,
 14 including project initiation materials, as requested, through the online Cultural Resource
 15 Information System (CRIS) portal at <https://cris.parks.ny.gov/>. The Federal agency shall initiate
 16 LPC review by submitting project materials, as requested, via hard copy.

17
 18 **Data Sources**

19
 20 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 21 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 22 agency in consultation with the NYSHPO and the LPC:
 23

Property Type	Source	Description
Historic Properties	Cultural Resource Information System (CRIS) portal at https://cris.parks.ny.gov/	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.
Historic properties	New York City Landmarks Preservation Commission (LPC) designation survey reports at http://www.nyc.gov/html/lpc/html/publications/landmark_designations.shtml	New York City Landmarks each have a designation report available through the LPC.
Archaeological Resources	Cultural Resource Information System (CRIS) portal at https://cris.parks.ny.gov/	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.

Property Type	Source	Description
Archaeological Resources	New York City Landmarks Preservation Commission (LPC) archaeological survey reports at http://www.nyc.gov/html/lpc/html/publications/archaeology_reports.shtml	Additional archaeological survey reports for projects within New York City may be accessed online.

24
25 NYSHPO and LPC personnel may advise of additional data sources to be reviewed as part of the
26 research process, including outreach and consultation with Local Historical Commissions and
27 with local groups and individuals who may possess knowledge or specialized information on
28 cultural resources within project areas.

29

30 **II. Inviting Consulting Parties**

31

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

35

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

38

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

43

- 44 • AMTRAK
- 45 • Bronx Borough President
- 46 • City of New Rochelle
- 47 • Consolidated Rail Corporation
- 48 • CSX Transportation
- 49 • Long Island Rail Road
- 50 • Manhattan Borough President
- 51 • Metro-North Railroad
- 52 • Metropolitan Transportation Authority
- 53 • Nassau County
- 54 • New York City Department of City Planning
- 55 • New York City Department of Parks and Recreation
- 56 • New York City Department of Transportation
- 57 • New York City Economic Development Corporation
- 58 • New York City Office of the Mayor

- 59 • New York Metropolitan Transportation Council
- 60 • Norfolk Southern Corporation
- 61 • Providence & Worcester Railroad Company
- 62 • Putnam County
- 63 • Queens Borough President
- 64 • Suffolk County
- 65 • Town of North Castle
- 66 • Westchester County

67
 68 The Federal agency shall invite the following federally-recognized Indian tribes to participate in
 69 Section 106 consultation for those Tier 2 projects when applicable, taking into account the
 70 location and anticipated impacts of the project:

- 71
- 72 • Shinnecock Indian Nation
- 73 • Stockbridge-Munsee Mohican Tribe
- 74 • Cayuga Nation of New York
- 75 • Delaware Nation
- 76 • Delaware Tribe
- 77 • Oneida Nation of New York
- 78 • Oneida Tribe of Indians of Wisconsin
- 79 • Onodaga Nation of New York
- 80 • Seneca Nation of New York
- 81 • Saint Regis Mohawk Tribe
- 82 • Towanda Band of Seneca Indians of New York
- 83 • Tuscarora Nation of New York

84
 85 The Federal agency also shall request updated consulting parties information from the NYSHPO
 86 and LPC at the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting
 87 parties and their contacts are included in the consultation process. If the updated list varies from
 88 the list provided in this Appendix, the Federal agency shall follow the updated list.

89
 90 **III. Defining the Area of Potential Effects**

91
 92 The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project
 93 will be defined and provided in consultation with the NYSHPO and the LPC.

94
 95 **IV. Identifying and Evaluating Historic Properties**

96
 97 The Federal agency shall identify and evaluate historic properties and archaeological resources
 98 using online site data submission pages that shall be entered using the CRIS portal.

99
 100 The Federal agency shall obtain permits from the LPC for any restoration, alteration,
 101 reconstruction, demolition, or new construction that affects the exterior of an individual
 102 landmark or a building in a historic district if the project requires a permit from the Department
 103 of Buildings.

104
105 The Federal agency shall obtain permits from the LPC for any archaeological field investigations
106 in New York City.

107
108 **V. Documentation Requirements**

109
110 The Federal agency shall comply with the following NYSHPO and LPC requirements, as
111 applicable, when submitting documents to NYSHPO and LPC for a Tier 2 undertaking in the
112 State of New York and the City of New York, except as otherwise determined by the Federal
113 agency in consultation with the NYSHPO and the LPC:

- 114
- 115 • Recommended Standards for Historic Resources Surveys (NYSHPO 2010)
 - 116 • Phase I Archaeological Report Format Requirements Guidelines (NYSHPO 2005)
 - 117 • Standards for Cultural Resource Investigations and the Curation of Archaeological
118 Collections in New York State (NYAC 1994)
 - 119 • Landmarks Preservation Commission Guidelines for Archaeological Work in New
120 York City (LPC 2002)
 - 121 • City Environmental Quality Review (CEQR) Technical Manual (NYC Mayor's
122 Office 2014)

123
124 The Federal agency shall consult with the NYSHPO and LPC prior to the onset of Tier 2 projects
125 to ensure that these regulations are up to date.

126
127 **VI. Document Review Process**

128
129 The Federal agency shall comply with the following requirements when submitting documents to
130 the NYSHPO and LPC for review:

- 131
- 132 • The Federal agency shall send final reports to the NYSHPO for review by uploading
133 to CRIS in electronic copy.
 - 134 • The Federal agency shall send final reports to the LPC for review in hard copy.
 - 135 • The NYSHPO and LPC shall review and comment on all adequately documented
136 project submittals within 30 calendar days of receipt.

137
138 **VII. Public Involvement**

139
140 The Federal agency shall ensure that the Section 106 consultation process includes opportunities
141 for involvement by the public, as appropriate, in accordance with 36 C.F.R. 800.2(d). The
142 federal agency may provide such opportunities as part public involvement efforts carried out as
143 part of the environmental review process under the National Environmental Policy Act.

144
145 The Federal agency also shall consult with the NYSHPO and LPC regarding the process to be
146 used for involving the public in Section 106 consultation.

147
148 **VIII. Standard Treatments**

149

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

153

154 **IX. Curation**

155

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

158

159 **X. Confidentiality and Data Sharing**

160

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

163

164 **XI. Amendments**

165

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

169

170 **SIGNATORY PARTIES**

171

172 **Federal Railroad Administration**

173

174 By: _____ Date: _____

175

176 **Advisory Council on Historic Preservation**

177

178 By: _____ Date: _____

179

180 **Federal Transit Administration**

181

182 By: _____ Date: _____

183

184 **New York State Historic Preservation Officer**

185

186 By: _____ Date: _____

187

188

1 **APPENDIX M: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN PENNSYLVANIA**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the Pennsylvania Historical and Museum Commission’s Bureau
 6 for Historic Preservation (PHMC), also known as the Pennsylvania State Historic Preservation
 7 Office (PASHPO), for a Tier 2 undertaking in the Commonwealth of Pennsylvania.

8
 9 **I. Project Initiation**

10
 11 The Federal agency shall initiate PHMC review by submitting a Project Review Form and
 12 requested attachments, including but not limited to a USGS map illustrating project location and
 13 limits, project description, proposed Area of Potential Effect, photographs of project area,
 14 including buildings over 50 years of age, and description of any proposed ground disturbance.

15
 16 **Data Sources**

17
 18 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 19 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 20 agency in consultation with the PHMC:
 21

Property Type	Source	Description
Historic Properties	Cultural Resources GIS Database http://phmc.info/pacrgis	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.
Historic Properties	Relevant survey and site files available at the SHPO in Harrisburg, Pennsylvania	Additional information not available through CRGIS may be viewed in person at the BHP.
Archaeological Resources	Cultural Resources GIS Database http://phmc.info/pacrgis	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.
Archaeological Resources	Relevant survey and site files available at the SHPO in Harrisburg, Pennsylvania	Additional information not available through CRGIS may be viewed in person at the BHP.

22
 23 PHMC personnel may advise of additional data sources to be reviewed as part of the research
 24 process, including outreach and consultation with Local Historical Commissions and with local

25 groups and individuals who may possess knowledge or specialized information on cultural
26 resources within project areas.

27

28 **II. Inviting Consulting Parties**

29

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

33

- 34 • Pennsylvania Department of Transportation (PennDOT)
- 35 • Pennsylvania Department of Conservation and Natural Resources (DCNR)
- 36 • Pennsylvania Turnpike Commission

37

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

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- 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
- Preservation Alliance for Greater Philadelphia
- Providence & Worcester Railroad Company

- 70 • Southeastern Pennsylvania Transportation Authority
- 71 • The Pennsylvania Railroad Technical & Historical Society (Headquarters and
- 72 Philadelphia, Camden & Amboy, and New England Chapters)
- 73 • The Philadelphia Historical Commission
- 74 • Tincum Township Historical Society

75
 76 The Federal agency shall invite the following federally-recognized Indian tribes to participate in
 77 Section 106 consultation for those Tier 2 projects when applicable, taking into account the
 78 location and anticipated impacts of the project:

- 79
- 80 • Delaware Tribe of Indians
- 81 • Delaware Nation
- 82 • Stockbridge Munsee Band of the Mohican Nation of Wisconsin
- 83 • Absentee-Shawnee Tribe of Oklahoma
- 84 • Eastern Shawnee Tribe of Oklahoma

85
 86 The Federal agency also shall request updated consulting parties information from the PHMC at
 87 the onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and
 88 their contacts are included in the consultation process. If the updated list varies from the list
 89 provided in this Appendix, the Federal agency shall follow the updated list.

90
 91 **III. Defining the Area of Potential Effects**

92
 93 The Federal agency shall ensure that the area of potential effects (APE) for any Tier 2 project
 94 will be defined and provided as part of Project Initiation, as noted above.

95
 96 **IV. Identifying and Evaluating Historic Properties**

97
 98 The Federal agency shall identify all properties within the APE that are 50 years of age or older
 99 utilizing a full Historic Resource Survey Form (HRSF) or Abbreviated HRSF. Properties
 100 documented on a full HRSF will follow relevant PHMC guidelines and include a physical
 101 description, history, National Register evaluation including integrity assessment, USGS map
 102 noting location, photographs keyed to a site plan and/or aerial map, and other pertinent
 103 supporting documents, such as historic aerials and maps. An Abbreviated HRSF may be utilized
 104 to document properties that are clearly not eligible for the National Register.

105
 106 The Federal agency shall identify and record archaeological sites utilizing the Pennsylvania
 107 Archaeological Site Survey (PASS) forms.

108
 109 **V. Documentation Requirements**

110
 111 The Federal agency shall comply with the following PHMC requirements, as applicable, when
 112 submitting documents to PHMC for a Tier 2 undertaking in the Commonwealth of Pennsylvania,
 113 except as otherwise determined by the Federal agency in consultation with the PHMC:

- 114
- 115 • Archaeological Investigations in Pennsylvania (2008)

- 116 • Guidelines for Architectural Investigations in Pennsylvania (2014)

117

118 **VI. Document Review Process**

119

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

122

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

127

128 **VII. Public Involvement**

129

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

134

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

137

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

140

141 **VIII. Standard Treatments**

142

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

146

147 **IX. Curation**

148

149 The Federal agency shall adhere to Pennsylvania's *Curation Guidelines* (2006).

150

151 **X. Confidentiality and Data Sharing**

152

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

155

156 **XI. Amendments**

157

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

161

162 **SIGNATORY PARTIES**

163

164 **Federal Railroad Administration**

165

166 By: _____ Date: _____

167

168 **Advisory Council on Historic Preservation**

169

170 By: _____ Date: _____

171

172 **Federal Transit Administration**

173

174 By: _____ Date: _____

175

176 **Pennsylvania State Historic Preservation Officer**

177

178 By: _____ Date: _____

179

180

1 **APPENDIX N: SECTION 106 CONSULTATION FOR TIER 2**
 2 **UNDERTAKINGS IN RHODE ISLAND**

3
 4 The Federal agency shall comply with the stipulations in this appendix when carrying out
 5 Section 106 consultation with the Rhode Island Historical Preservation and Heritage
 6 Commission (RIHPHC), also known as the Rhode Island Historic Preservation Office
 7 (RISHPO), for a Tier 2 undertaking in the State of Rhode Island.

8
 9 **I. Project Initiation**

10
 11 The Federal agency shall initiate RISHPO review by submitting necessary documentation,
 12 specifics of which should be confirmed with the RISHPO prior to the time of submission.

13
 14 **Data Sources**

15
 16 The Federal agency shall use the following data sources, as applicable, as part of the Section 106
 17 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal
 18 agency in consultation with the RISHPO:
 19

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

20
 21 RISHPO is working to convert hard copy materials to electronic files in the coming years. The
 22 Federal agency shall consult with the RISHPO prior to the onset of Tier 2 undertakings to
 23 confirm the status of data sources for Rhode Island.

24
 25 RISHPO personnel may advise of additional data sources to be reviewed as part of the research
 26 process, including outreach and consultation with Local Historical Commissions and with local
 27 groups and individuals who may possess knowledge or specialized information on cultural
 28 resources within project areas.

29
 30 **II. Inviting Consulting Parties**

31
 32 The Federal agency shall consult with the RISHPO to identify potential consulting parties, which
 33 may include the following organizations, to participate in Section 106 consultation for all Tier 2
 34 projects located in Rhode Island:

35

- 36 • Rhode Island Historical Preservation and Heritage Commission (RIHPHC)
- 37 • State Planning Council
- 38 • Rhode Island Department of Environmental Management (RIDEM)
- 39 • Rhode Island Department of Transportation (RIDOT)

40

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

44

- 45 • AMTRAK
- 46 • City of East Providence
- 47 • City of Providence, Department of Planning and Development
- 48 • Consolidated Rail Corporation
- 49 • Cranston Historic District Commission
- 50 • CSX Transportation
- 51 • Cumberland Historic District Commission
- 52 • East Greenwich Historic District Commission
- 53 • Glocester Historic District Commission
- 54 • Grow Smart Rhode Island
- 55 • Hopkinton Historic District Commission
- 56 • Massachusetts Bay Transportation Authority
- 57 • Narragansett Historic District Commission
- 58 • Norfolk Southern Corporation
- 59 • North Kingstown Historic District Commission
- 60 • North Providence Historic District Commission
- 61 • North Smithfield Historic District Commission
- 62 • Pawtucket Office of Planning and Redevelopment
- 63 • Preserve Rhode Island
- 64 • Providence & Worcester Railroad Company
- 65 • Providence Historic District Commission
- 66 • Rhode Island Historical Society
- 67 • South Kingstown Historic District Commission
- 68 • Warwick Historic District Commission

69

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

73

- 74 • Narragansett Indian Tribe of Rhode Island

75

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

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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

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

129

130 **IX. Curation**

131

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

134

135 **X. Confidentiality and Data Sharing**

136

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

139

140 **XI. Amendments**

141

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

145

146 **SIGNATORY PARTIES**

147

148 **Federal Railroad Administration**

149

150 By: _____ Date: _____

151

152 **Advisory Council on Historic Preservation**

153

154 By: _____ Date: _____

155

156 **Federal Transit Administration**

157

158 By: _____ Date: _____

159

160 **Rhode Island State Historic Preservation Officer**

161

162 By: _____ Date: _____

163