



## **Section 106 Programmatic Agreement**



38 **WHEREAS**, the Tier 1 EIS evaluates a No Action Alternative and a range of action alternatives  
39 (including a Preferred Alternative) for improving passenger rail service on the NEC, consisting of  
40 various combinations of improvements to the existing NEC rail spine and/or construction on new  
41 right-of-way;

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

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

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

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

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

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

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

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

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

69 **WHEREAS**, in accordance with the phased approach to Section 106 consultation, FRA has taken  
70 steps during the Tier 1 process to begin identifying historic properties and assessing potential  
71 effects on historic properties, as further described in the Tier 1 EIS, including (1) determining a  
72 Preliminary Area of Potential Effects (“Preliminary APE”) for the alternatives considered in the Tier 1  
73 EIS (see Appendix B (Map of Preliminary APE), (2) identifying known historic properties within the

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

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

82 **WHEREAS**, FRA has consulted to develop this PA pursuant to 36 C.F.R. § 800.14(b)(3) with the  
 83 Advisory Council on Historic Preservation (“ACHP”) and with the Connecticut State Historic  
 84 Preservation Officer (“SHPO”), Delaware SHPO, District of Columbia SHPO, Maryland SHPO,  
 85 Massachusetts SHPO, New Jersey SHPO, New York SHPO, Pennsylvania SHPO, and Rhode Island  
 86 SHPO (collectively, “SHPOs”), who are signatories to this PA in accordance with 36 C.F.R. §  
 87 800.6(c)(1);

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

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

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

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

110 **WHEREAS**, FRA has invited the New York City Landmarks Preservation Commission to concur in this  
 111 PA in accordance with 36 C.F.R. § 800.6(c)(3), and will offer other local historic preservation  
 112 commissions the opportunity to concur in this PA after it is executed;

113 **WHEREAS**, FRA has invited potential future applicants for federal financial assistance for Tier 2  
114 undertakings to participate as consulting parties in Section 106 consultation for the Tier 1  
115 undertaking, including the operator of intercity passenger rail service on the NEC (Amtrak) as well  
116 as the operators of commuter rail services on the NEC in each state;

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

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

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

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

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

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

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

## STIPULATIONS

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

146 **I. APPLICABILITY**

147 **A. Applicability to Tier 2 Undertakings**

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

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

154 3. For any Tier 2 undertaking, the FRA and FTA (individually or jointly) may elect to satisfy their  
 155 Section 106 responsibilities by following the process set forth in the Section 106 regulations  
 156 (36 C.F.R. Part 800), in lieu of following this PA. When making such an election, FRA and FTA,  
 157 as applicable, shall notify the ACHP, applicable SHPO(s), applicable Indian Tribe(s) and Tribal  
 158 Historic Preservation Officer(s) (THPO), and consulting parties for that Tier 2 undertaking (if  
 159 any), in writing that this PA does not apply to the undertaking. Such notification shall be  
 160 provided as early as practicable in the environmental review process for the undertaking.

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

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

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

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

175 4. Upon determining that the requirements of paragraphs I.B.1 through I.B.3 have been met,  
 176 the federal agency shall provide written notice to the FRA, FTA, ACHP, applicable SHPO(s),

177 applicable Indian Tribe(s) and THPO(s), and consulting parties for that Tier 2 undertaking (if  
178 any), confirming that it will be following this PA for purposes of the specified undertaking or  
179 undertakings.

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

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

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

193 E. This PA shall not apply to undertakings that occur on or affect Tribal lands as defined in Section  
194 301(14) of the NHPA. If such undertakings are proposed, the federal agency or agencies with  
195 Section 106 responsibilities for the Tier 2 undertaking shall follow the applicable procedures in  
196 36 C.F.R. Part 800 for projects on or affecting Tribal lands.

## 197 **II. ROLES AND RESPONSIBILITIES**

### 198 A. Federal Agency

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

### 203 B. ACHP

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

### 208 C. SHPOs

209 1. For Tier 2 undertakings, each SHPO shall participate in the Section 106 consultation process  
210 for projects located in the SHPO's State. In consultation with that SHPO, the federal agency

211 shall determine whether to invite the SHPO in adjacent State or States to participate in  
 212 consultation for the Tier 2 undertaking.

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

217 **III. PROFESSIONAL STANDARDS**

218 A. Qualifications

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

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

232 B. Standards & Guidelines

233 All evaluation methods and criteria shall be consistent with the Secretary of the Interior’s  
 234 Standards and Guidelines for Evaluation found at  
 235 *www.nps.gov/history/local-law/arch\_stnds\_3.htm*, with the ACHP’s Section 106 Archaeology  
 236 Guidance found at *www.achp.gov/archguide*, and with any additional requirements specified in  
 237 a State-specific appendix to this PA, as applicable.

238 **IV. GENERAL PROVISIONS**

239 A. Applicability of Section 106 Regulations

240 The Section 106 consultation for the Tier 2 undertakings shall follow the procedures set forth in  
 241 36 C.F.R. Part 800, except as specifically provided in this PA.



242 B. Applicability of Section 106 Exemption for Railroad Rights-of-Way

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

246 C. Definitions

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

248 D. Government-to-Government Consultation with Indian Tribes

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

254 E. State-Specific Appendices

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

259 F. Applicability of Program Alternatives

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

264 **V. INITIATION OF CONSULTATION PROCESS**

265 A. Invitation of Consulting Parties

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

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

- 276 3. The federal agency shall also invite the applicant for federal funding or approval (and, if  
 277 different, the operator(s) of intercity passenger rail or commuter rail service on the railroad  
 278 on which the improvement is proposed to be made) to participate as a consulting party for  
 279 any Tier 2 undertaking.

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

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

- 282 1. As part of Section 106 consultation for each Tier 2 undertaking, the federal agency shall  
 283 define an APE specifically for that undertaking (a “project-specific APE”).
- 284 2. The federal agency shall complete determinations of eligibility for historic properties within  
 285 the project-specific APE as part of the Section 106 process for each Tier 2 undertaking, in  
 286 accordance with 36 C.F.R. § 800.4. The passage of time, changing perceptions of  
 287 significance, or incomplete prior evaluations may require the federal agency official (during  
 288 Tier 2) to reevaluate properties previously determined eligible or ineligible.
- 289 3. Where appropriate, the identification and evaluation of historic properties may be phased  
 290 for an individual Tier 2 undertaking.

291 B. Additional Provisions

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

294 1. Requests for Determination of Eligibility

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

- 299 a. The applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), a federal agency with  
 300 jurisdiction over the property, or an Indian Tribe that ascribes traditional religious and  
 301 cultural significance to the property, objects to a finding of eligibility or ineligibility by  
 302 the federal agency; and
- 303 b. The federal agency determines that it is not able to resolve that objection through  
 304 consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), the  
 305 objecting party, and other consulting parties as appropriate.

306 2. Tribal Involvement in Archaeological Investigations in Tier 2

307 Except as otherwise provided in a State-specific appendix to this PA, the federal agency shall  
 308 ensure that Tribes participating in Section 106 consultation for a Tier 2 undertaking have the  
 309 opportunity to:

- 310 a. Be notified of the schedule for any archaeological fieldwork that involves resources of  
311 religious and cultural significance to the Tribe;
- 312 b. Review the study protocol for any archaeological fieldwork that involve resources of  
313 religious and cultural significance to the Tribe, prior to the commencement of that  
314 fieldwork;
- 315 c. Make arrangements for a Tribal monitor to attend any archaeological fieldwork that  
316 involve resources of religious and cultural significance to the Tribe;
- 317 d. Retain any artifacts that are of religious and cultural significance to the Tribe, in  
318 accordance with applicable federal and State laws; and
- 319 e. Be notified immediately of the discovery of any burial sites of Native American origin  
320 encountered during construction on lands associated with the Tribe. (See also,  
321 Stipulation X, Human Remains).

## 322 VII. ASSESSMENT OF EFFECTS

### 323 A. Process for Assessment of Effects in Tier 2

- 324 1. The federal agency shall apply the criteria of adverse effect (under 36 C.F.R. § 800.5) to each  
325 NRHP-eligible or NRHP-listed property as part of the Tier 2 process for each Tier 2  
326 undertaking.
- 327 2. Where appropriate, the application of the criteria of adverse effects to historic properties  
328 may be phased for an individual Tier 2 undertaking.

### 329 B. Additional Provisions

#### 330 1. Conditional Findings of No Adverse Effect

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

#### 335 2. Cumulative Effects

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

## 340 VIII. RESOLUTION OF ADVERSE EFFECTS ON HISTORIC PROPERTIES

### 341 A. Process for Resolution of Adverse Effects in Tier 2

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

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

347 B. Additional Provisions

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

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

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

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

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

363 2. Other Methods for Resolving Adverse Effects

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

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

371 c. The federal agency shall consider the views of the public, pursuant to 36 C.F.R. §  
 372 800.6(a)(4), when developing an MOA or PA for a Tier 2 undertaking. Considering the  
 373 views of the public shall include consideration of any comments submitted on Tier 2  
 374 NEPA documents, in addition to any comments submitted specifically as part of the  
 375 Section 106 process for the Tier 2 undertaking.

376 d. Execution of an MOA or PA for a Tier 2 undertaking and filing of the MOA or PA with the  
377 ACHP, will be considered evidence of compliance with Section 106 for that Tier 2  
378 undertaking.

379 e. Nothing in this PA shall be construed to preclude any procedural option that is available  
380 under the Section 106 regulations, including the option of termination under 36 C.F.R. §  
381 800.7 for Tier 2 undertakings.

382 3. Resolution of Effects on National Historic Landmarks

383 a. If a National Historic Landmark may be affected, the federal agency shall comply with  
384 applicable requirements in Section 110(f) of the National Historic Preservation Act and  
385 36 C.F.R. § 800.10, including but not limited to: notifying the Secretary of the Interior  
386 represented by the National Park Service (NPS) regional office's program coordinator,  
387 involving NPS in the consultation process, and notifying the ACHP and inviting them to  
388 consult on the Tier 2 undertaking, and planning to avoid adverse effects.

389 **IX. CONFIDENTIALITY**

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

397 **X. HUMAN REMAINS**

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

400 A. Notification and Treatment

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

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

409 3. The federal agency shall be responsible for ensuring that the disposition of any human  
410 remains and associated funerary objects of Native American origin encountered on federal

411 land during any action subject to this PA complies with § 3(c)-(d) of the National American  
 412 Graves Protection and Repatriation Act (NAGPRA), and its implementing regulations codified  
 413 at 43 C.F.R. § 10.

414 B. Final Disposition of Human Remains

415 All human remains shall be treated in a manner consistent with the ACHP "Policy Statement  
 416 regarding Treatment of Human Burial Sites, Human Remains and Funerary Objects" (February 23,  
 417 2007; [www.achp.gov/docs/hrpolicy0207.pdf](http://www.achp.gov/docs/hrpolicy0207.pdf)).

418 **XI. CURATION**

419 A. Collections from Federal Lands

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

426 B. Collections from Private Lands

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

436 C. State Requirements

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

438 **XII. EMERGENCIES**

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

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

- 445 calendar days after the disaster or emergency has been formally declared by the appropriate  
446 authority.
- 447 B. If the emergency action has the potential to affect historic properties, the federal agency shall  
448 notify the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s) and other parties as  
449 appropriate (including any Indian Tribes with an interest in the potentially affected historic  
450 properties) prior to undertaking the action, when feasible. As part of the notification, the  
451 federal agency shall provide a plan to the applicable SHPO(s) and THPO(s) and other parties to  
452 address the emergency.
- 453 1. The applicable SHPO(s) and THPO(s) and other parties shall have seven (7) calendar days to  
454 review and comment on the plan to address the emergency.
- 455 2. If the applicable SHPO(s) and THPO(s) and other parties do not comment or object to the  
456 plan within the review period, the federal agency may implement the proposed plan. If they  
457 do comment, the federal agency shall take into account all timely comments received in  
458 reviewing and implementing the proposed plan. If an objection is not resolved, the dispute  
459 resolution procedures in Stipulation XVI.B may be invoked by any signatory that is a party to  
460 the dispute.
- 461 C. If the federal agency is unable to consult with the applicable SHPO(s) and THPO(s) and other  
462 parties prior to carrying out emergency actions, the federal agency shall notify the applicable  
463 SHPO(s) and THPO(s) and other parties as appropriate within forty-eight (48) hours after the  
464 initiation of the emergency action. This notification shall include a description of the emergency  
465 action taken, the effects of the action(s) to historic properties, and, where appropriate, any  
466 further proposed measures to avoid, minimize, or mitigate potential adverse effects to historic  
467 properties. The applicable SHPO(s) and THPO(s) and other parties shall have seven (7) calendar  
468 days to review and comment on the proposal where further action is required to address the  
469 emergency. If the applicable SHPO(s) and THPO(s) and other parties do not object to the plan  
470 within the review period, the federal agency shall implement the proposed plan.
- 471 D. Where possible, the federal agency shall ensure that such emergency actions are undertaken in  
472 a manner that does not foreclose future preservation or restoration of historic properties. Such  
473 emergency actions shall be undertaken in a manner consistent with the Secretary of the  
474 Interior's Standards for the Treatment of Historic Properties.  
475 ([www.nps.gov/tps/standards.htm](http://www.nps.gov/tps/standards.htm)). In addition, where possible, the federal agency shall ensure  
476 that such actions are done with on-site monitoring by the appropriate preservation professional  
477 who meets, at a minimum, the Professional Qualifications Standards in his or her field of  
478 expertise.
- 479 E. Where the applicable SHPO(s) and THPO(s) and/or any other party has reason to believe that a  
480 historic property may be adversely affected by an emergency action, the party shall consult with  
481 the federal agency to determine how to expedite review and comment on the action.
- 482 F. Immediate rescue and salvage operations conducted to preserve life or property are exempt  
483 from these and all other provisions of this PA.

484 **XIII. UNANTICIPATED DISCOVERIES**

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

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

491 **XIV. DOCUMENTATION STANDARDS**

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

494 **XV. AUTHORITIES**

495 Compliance with the provisions of this PA does not relieve the FRA or other federal agencies of their  
 496 responsibilities to comply with other legal requirements, including those imposed by the NAGPRA  
 497 (25 U.S.C. § 3001 and 43 C.F.R. § 10), the ARPA (16 U.S.C. § 470 aa-47011), NEPA, applicable  
 498 Executive Orders, and applicable State laws.

499 **XVI. ADMINISTRATIVE STIPULATIONS**

500 A. Review Process

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

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

509 B. Dispute Resolution

510 The following procedures shall be used to resolve disputes among signatories regarding Section  
 511 106 consultation for Tier 2 undertakings under this PA:

512 1. If any signatory to this PA objects within 30 days to any action proposed, or any document  
 513 provided for review pursuant to this PA by providing written notice of the objection to the  
 514 federal agency, the federal agency shall consult with the objecting signatory to resolve the  
 515 objection.



- 516 2. If the federal agency determines that the objection cannot be resolved within 45 days, the  
517 federal agency shall forward all documentation relevant to the dispute, including the federal  
518 agency's proposed resolution, to the ACHP. The federal agency also shall provide a copy to  
519 all signatories and consulting parties for the undertaking.
- 520 3. The ACHP shall provide the federal agency with its advice on the resolution of the objection  
521 within 30 days of receiving all documentation relevant to the dispute from the federal  
522 agency under paragraph 2 of this section.
- 523 4. The federal agency shall prepare a written response to the objection that takes into account  
524 any timely advice or comments regarding the dispute from the signatories and consulting  
525 parties, including Indian Tribes, and provide them with a copy of this written response,  
526 which shall constitute the federal agency's decision regarding the objection. The federal  
527 agency may then proceed according to its final decision.
- 528 5. If the ACHP does not provide its advice regarding the dispute within 30 days, the federal  
529 agency may make a final decision on the dispute and proceed accordingly. The federal  
530 agency shall document its final decision in a written response to the objection that takes  
531 into account any timely comments regarding the dispute from the signatories and  
532 consulting parties for the undertaking, and provide them and the ACHP with a copy of such  
533 written response.

534 C. Amendment

- 535 1. The signatories anticipate that amendments to this PA are likely to be needed from time to  
536 time over the 20-year duration of this PA. Any signatory to this PA may make a request to  
537 the FRA and the other signatories to amend it, whereupon the signatories shall consult to  
538 consider the amendment(s). Concurring Parties may suggest proposed amendments to the  
539 signatories, who shall consult to consider them. This PA may be amended when such an  
540 amendment is agreed to in writing by all signatories. The amendment shall be effective  
541 upon execution by all of the signatories and a copy of the fully executed amendment shall  
542 be filed with the ACHP.
- 543 2. A State-specific appendix can be amended at any time through agreement between the  
544 FRA, ACHP, and the applicable SHPO, after consultation with any applicable Indian Tribe(s)  
545 and THPO(s).

546 D. Termination

- 547 1. If any signatory to this PA determines that its terms will not or cannot be carried out, that  
548 party shall immediately consult with the other parties to attempt to develop an amendment  
549 under Stipulation XVI.C. If within thirty (30) days (or another time period agreed to by all  
550 signatories) an amendment cannot be reached, any signatory may terminate the PA upon  
551 written notification to the other signatories.

552 2. Once the PA is terminated, and prior to work continuing on the NEC Tier 2 Projects, FRA  
 553 must either (a) execute a new PA pursuant to 36 C.F.R. § 800.14(b) or (b) comply with 36  
 554 C.F.R. Part 800 for remaining NEC FUTURE undertakings. FRA shall notify the signatories  
 555 which course of action it will pursue.

556 E. Withdrawal

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

560 2. Upon withdrawal, and prior to continuing work on the undertaking in the relevant State, the  
 561 federal agency shall comply with Section 106 for any Tier 2 undertakings in accordance with  
 562 36 C.F.R. §§ 800.3 through 800.7 or execute a new agreement in accordance with 36 C.F.R. §  
 563 800.14(b) for that State.

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

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

568 F. Duration

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

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

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

578 **XVII. EXECUTION AND IMPLEMENTATION**

579 Execution of this PA by the FRA, the Connecticut SHPO, the Delaware SHPO, the District of Columbia  
 580 SHPO, the Maryland SHPO, the Massachusetts SHPO, the New Jersey SHPO, the New York SHPO, the  
 581 Pennsylvania SHPO, the Rhode Island SHPO, and the ACHP, and implementation of its terms is  
 582 evidence that FRA has taken into account the effects of the Tier 1 undertaking on historic properties  
 583 and afforded the ACHP an opportunity to comment, in accordance with Section 106 and the Section  
 584 106 regulations.

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

**SIGNATORY**

607 Federal Railroad Administration

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

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**SIGNATORY**

634 **Advisory Council on Historic Preservation**

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

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**INVITED SIGNATORY**

661 **Federal Transit Administration**

662 By: Mary Beth Mello Date: 7/18/16  
663 Mary Beth Mello  
664 Region 1 Administrator\*

665 \*On behalf of FTA Regions 1, 2 and 3  
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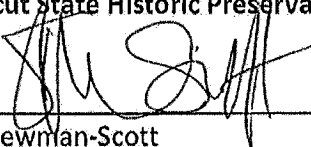
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**SIGNATORY**

689 **Connecticut State Historic Preservation Officer**

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By:  Date: 7/20/16  
Kristina Newman-Scott  
State Historic Preservation Officer

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**SIGNATORY**

**Delaware State Historic Preservation Officer**

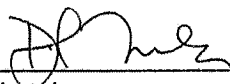
By:  Date: 7.13.16  
Timothy A. Slavin  
Director, Division of Historical and Cultural Affairs  
and Delaware State Historic Preservation Officer

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**SIGNATORY**

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

745 By:  \_\_\_\_\_ Date: 7/19/2016  
746 David Maloney  
747 District of Columbia State Historic Preservation Officer  
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**SIGNATORY**

771 **Maryland State Historic Preservation Officer**

772 By: Elizabeth Hughes Date: 7-12-16  
773 Elizabeth Hughes  
774 Director / Maryland State Historic Preservation Officer  
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**SIGNATORY**

798 **Massachusetts State Historic Preservation Office**

799 By: Brona Simon Date: 7/12/16  
800 Brona Simon

801 \_\_\_\_\_, Massachusetts Historical Commission

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**SIGNATORY**

825 **New Jersey State Historic Preservation Officer**

826 By: Katherine J. Marcopul Date: 7/20/2016  
827 Katherine J. Marcopul  
828 Deputy State Historic Preservation Officer  
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**SIGNATORY**

852 **New York State Historic Preservation Officer**

853 By: Ruth L. Pierpont Date: 7/14/16  
854 Ruth L. Pierpont  
855 Deputy Commissioner for Historic Preservation/Deputy NYS SHPO

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SIGNATORY

878 Pennsylvania State Historic Preservation Officer

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By: Andrea L. MacDonald Date: 7/13/2014  
Andrea L. MacDonald  
Deputy Pennsylvania State Historic Preservation Officer

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REGARDING  
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904

SIGNATORY

905 Rhode Island State Historic Preservation Officer

906 By: Edward F. Sanderson Date: 7/18/2016

907 Edward F. Sanderson  
908 State Historic Preservation Officer  
909

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**CONCURRING PARTIES**

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

912 By: \_\_\_\_\_ Date: \_\_\_\_\_

913 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

914 **New York City Landmarks Preservation Commission**

915 By: \_\_\_\_\_ Date: \_\_\_\_\_

916 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

917 **Mashantucket (Western) Pequot Tribal Nation**

918 By: \_\_\_\_\_ Date: \_\_\_\_\_

919 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

920 **Mashpee Wampanoag Tribe**

921 By: \_\_\_\_\_ Date: \_\_\_\_\_

922 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

923 **The Mohegan Tribe**

924 By: \_\_\_\_\_ Date: \_\_\_\_\_

925 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

926 **Narragansett Indian Tribe of Rhode Island**

927 By: \_\_\_\_\_ Date: \_\_\_\_\_

928 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

929

930 **Shinnecock Indian Nation**

931 By: \_\_\_\_\_ Date: \_\_\_\_\_

932 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

933 **Stockbridge-Munsee Community Band of Mohicans**

934 By: \_\_\_\_\_ Date: \_\_\_\_\_

935 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

936 **Delaware Tribe of Indians**

937 By: \_\_\_\_\_ Date: \_\_\_\_\_

938 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

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

940 By: \_\_\_\_\_ Date: \_\_\_\_\_

941 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

942 **Absentee-Shawnee Tribe of Oklahoma**

943 By: \_\_\_\_\_ Date: \_\_\_\_\_

944 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

945 **Shawnee Tribe**

946 By: \_\_\_\_\_ Date: \_\_\_\_\_

947 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

948 **Delaware Nation**

949 By: \_\_\_\_\_ Date: \_\_\_\_\_

950 Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

951



952 **List of Appendices**

- 953 Appendix A: Definitions
- 954 Appendix B: Map of Tier 1 EIS Alternatives
- 955 Maps of Preliminary Area of Potential Effects
- 956 Appendix C: Standard Treatment Measures
- 957 Appendix D: Tier 2 MOA Template
- 958 Appendix E: Tier 1 Consulting Parties List
- 959 Appendix F: Section 106 Consultation for Tier 2 Undertakings in Connecticut
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## 1 APPENDIX A: Definitions

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

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

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

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

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

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

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

20 7. **“NEPA”** means the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

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

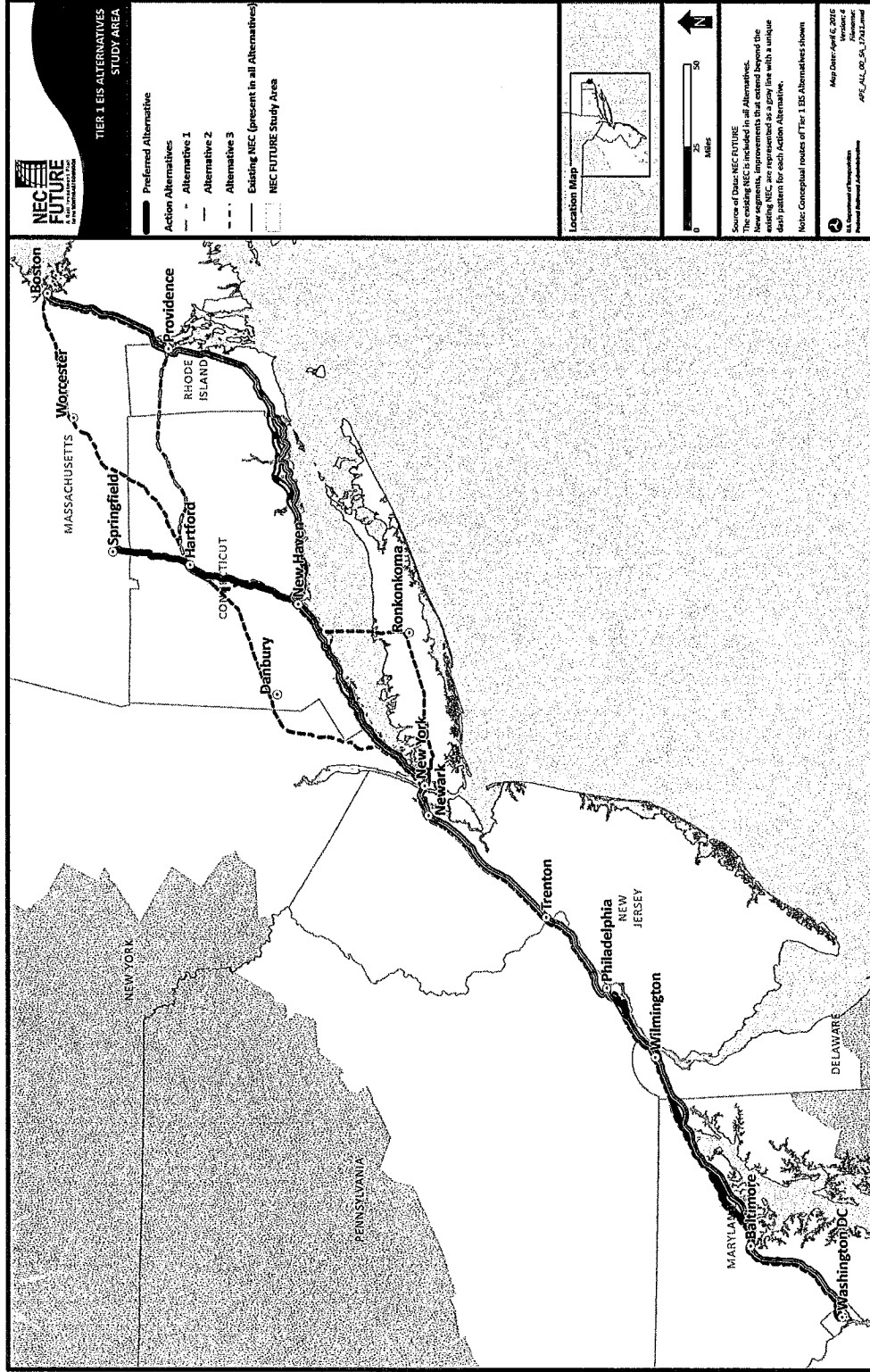
23 9. **“Related project”** means a project on the NEC that is being studied by FRA in a separate NEPA  
 24 process concurrently with the NEC FUTURE Process - for example, the B&P Tunnel Project in  
 25 Baltimore. For purposes of this PA, a related project may be treated as an NEC Tier 2 Project or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

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

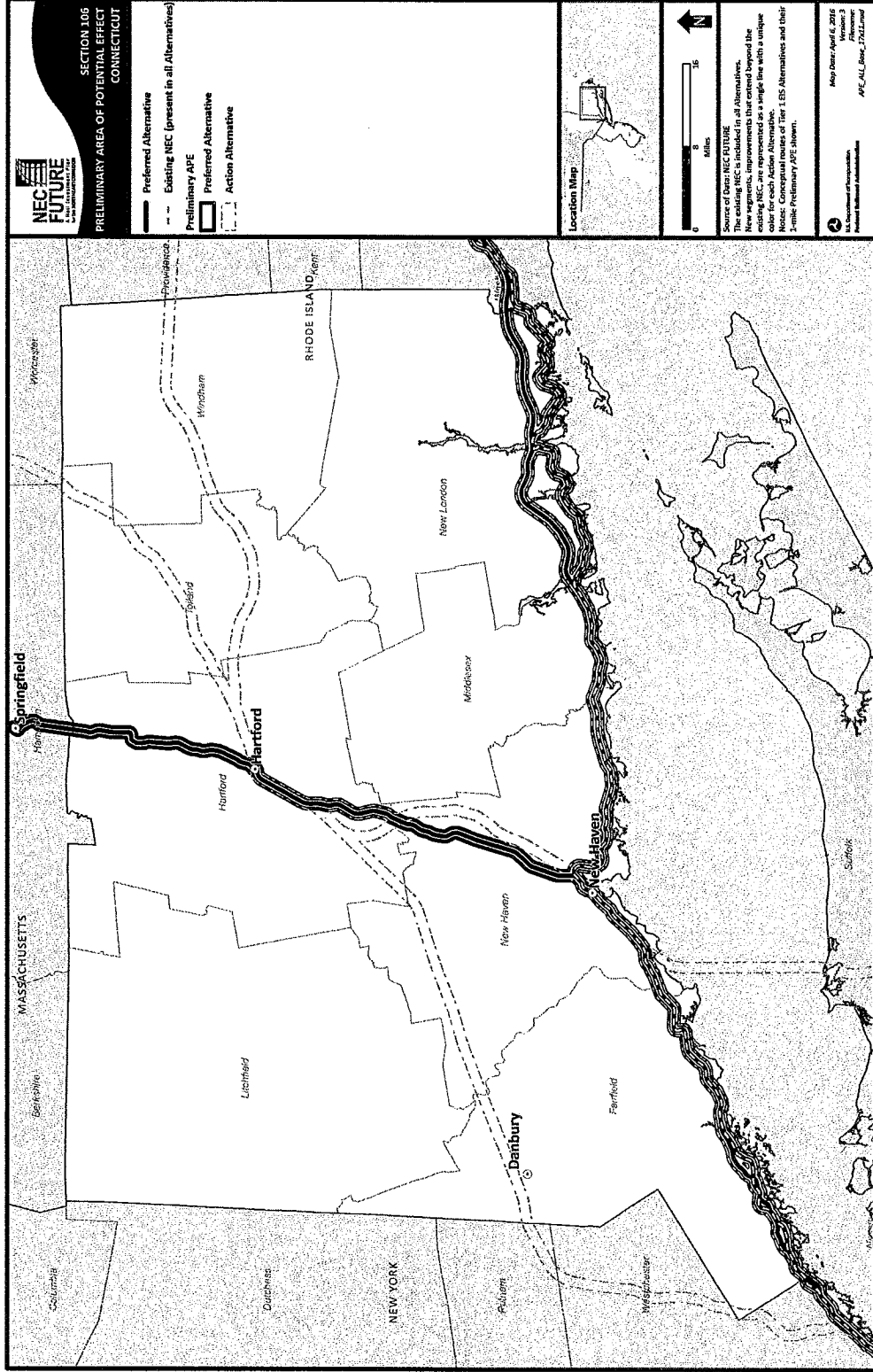
31 11. **“State-Specific Appendix”** refers to an appendix to this PA that includes requirements that apply  
 32 only within a specific State. State-specific appendices (and any amendments thereto) require  
 33 signature by the FRA, ACHP, and the SHPO from the applicable State, and by FTA.

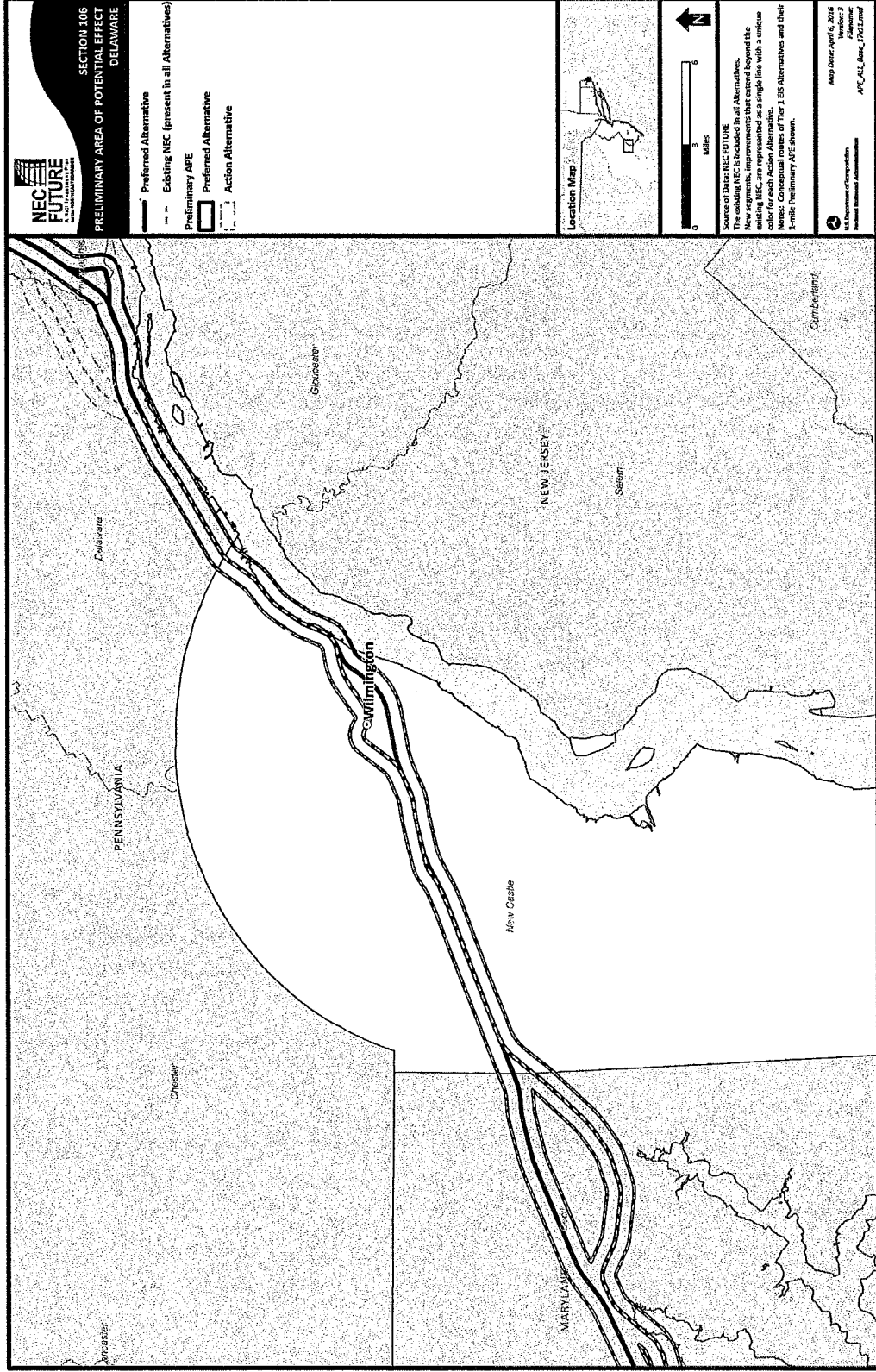
- 34 12. **“Tier 1 process”** refers to the process for preparing the Tier 1 EIS for the NEC FUTURE Investment  
35 Program.
- 36 13. **“Tier 1 ROD”** means a Record of Decision issued at the conclusion of the Tier 1 process, approving  
37 an NEC FUTURE Investment Program.
- 38 14. **“Tier 1 undertaking”** means the NEC FUTURE Investment Program.
- 39 15. **“Tier 2 NEPA document”** means an environmental document (categorical exclusion, environmental  
40 assessment, or environmental impact statement) that is prepared under NEPA and that is explicitly  
41 tiered to - that is, based on - the Tier 1 Record of Decision issued in the NEC FUTURE Process, in  
42 accordance with the tiering regulations in 40 C.F.R. § 1502.20 (or successor regulations).
- 43 16. **“Tier 2 process”** refers to the process for preparing a Tier 2 NEPA document for an NEC Tier 2  
44 Project.
- 45 17. **“Tier 2 undertaking”** means any NEC Tier 2 Project; this term does not include “independent  
46 projects on the NEC” as that term is used in this PA.
- 47 18. **“Tribal lands”** means, as defined in Section 301(14) of the NHPA, (1) all lands within the exterior  
48 boundaries of any Indian reservation; and, (2) all dependent Indian communities.

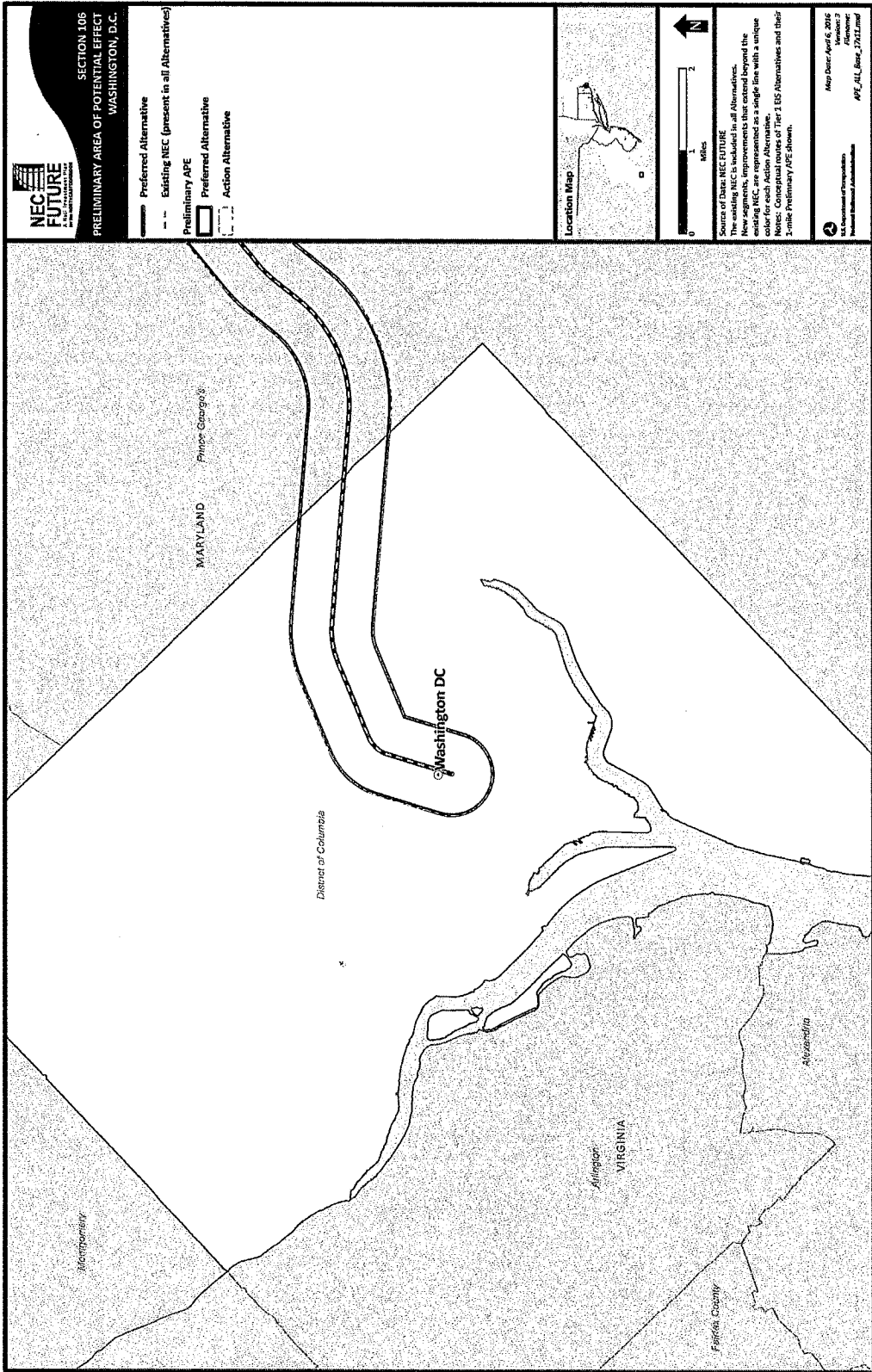
APPENDIX B: NEC FUTURE Tier 1 EIS Alternatives Map

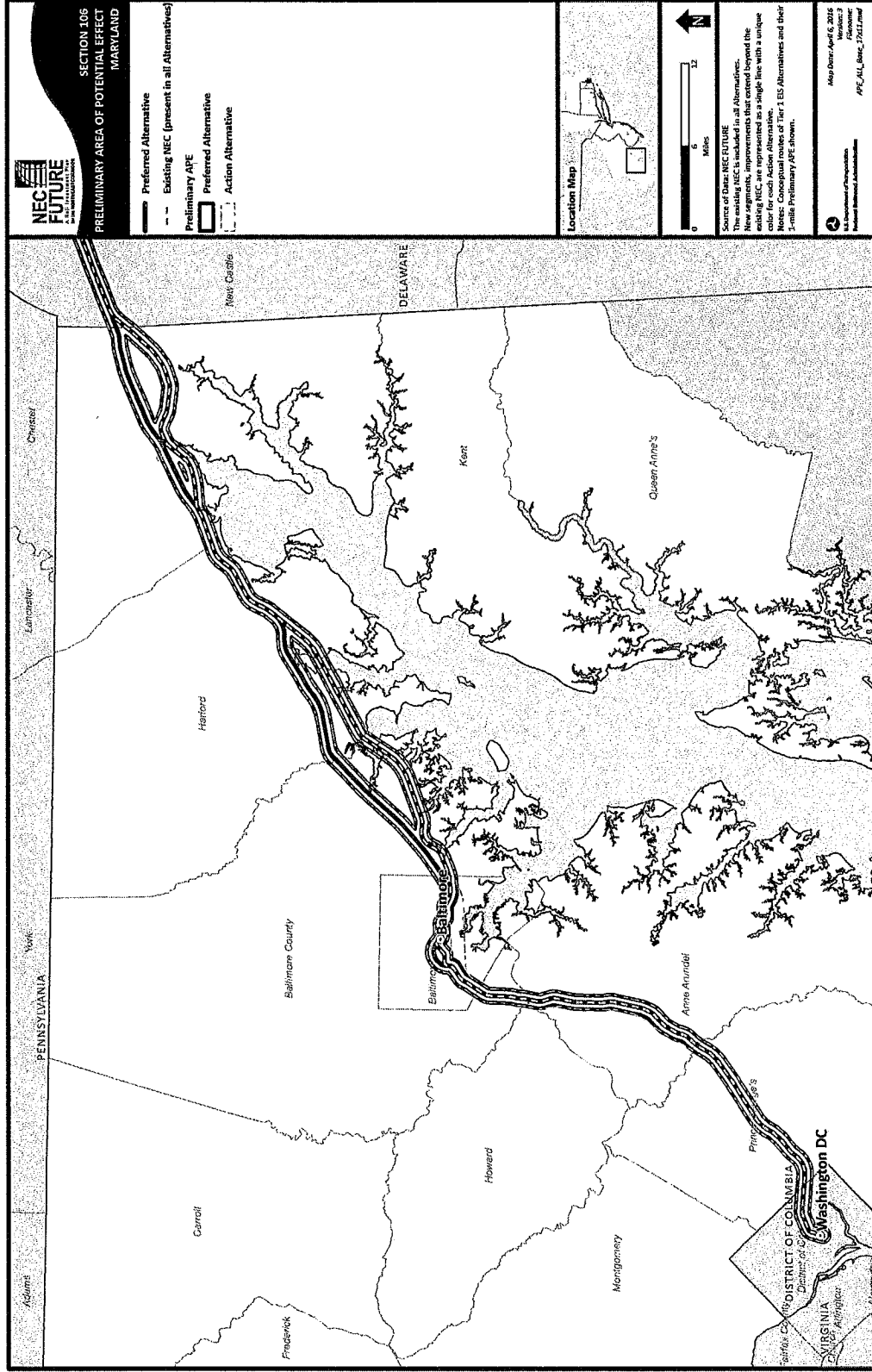


APPENDIX B: Preliminary Area of Potential Effects



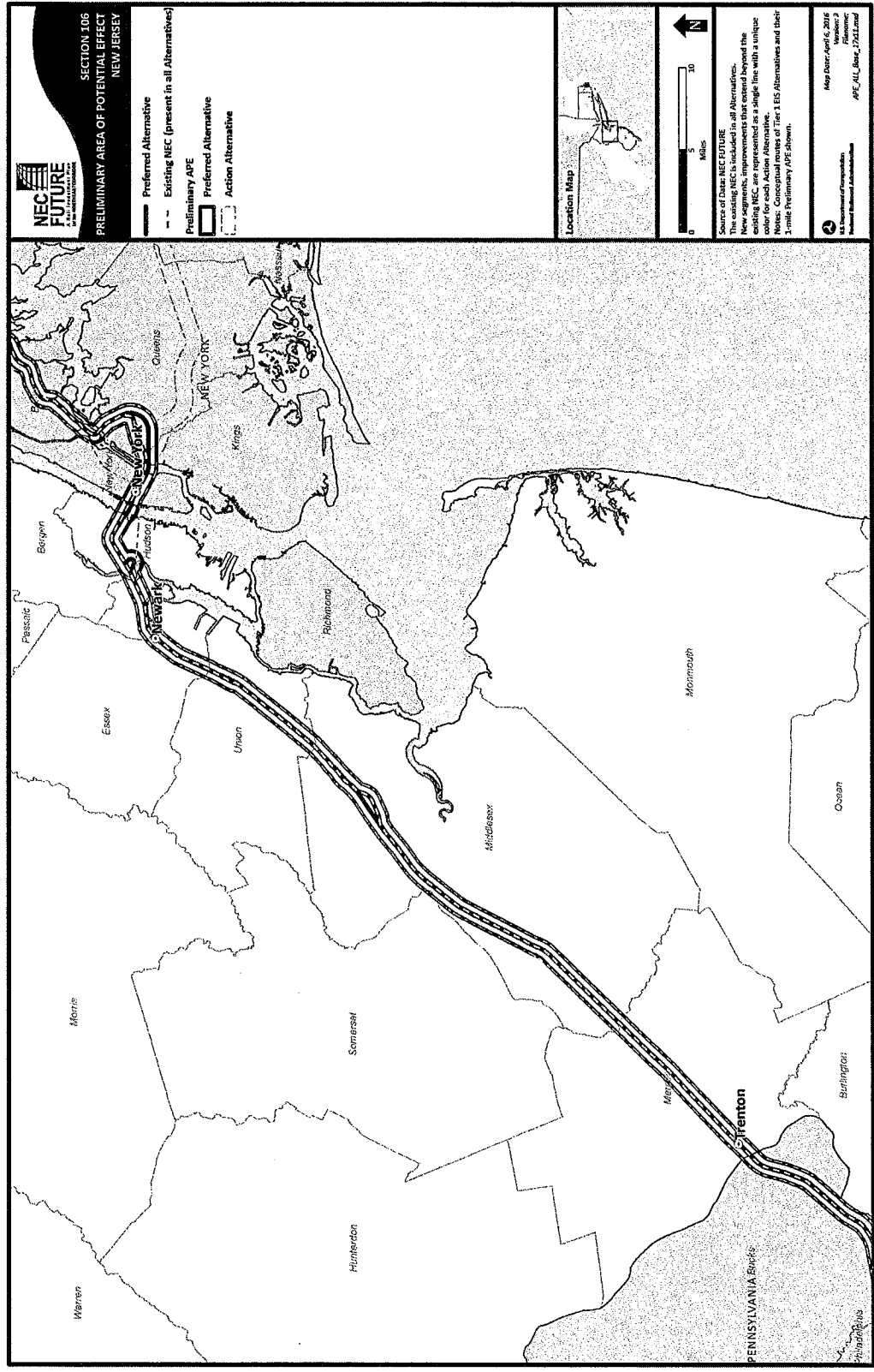


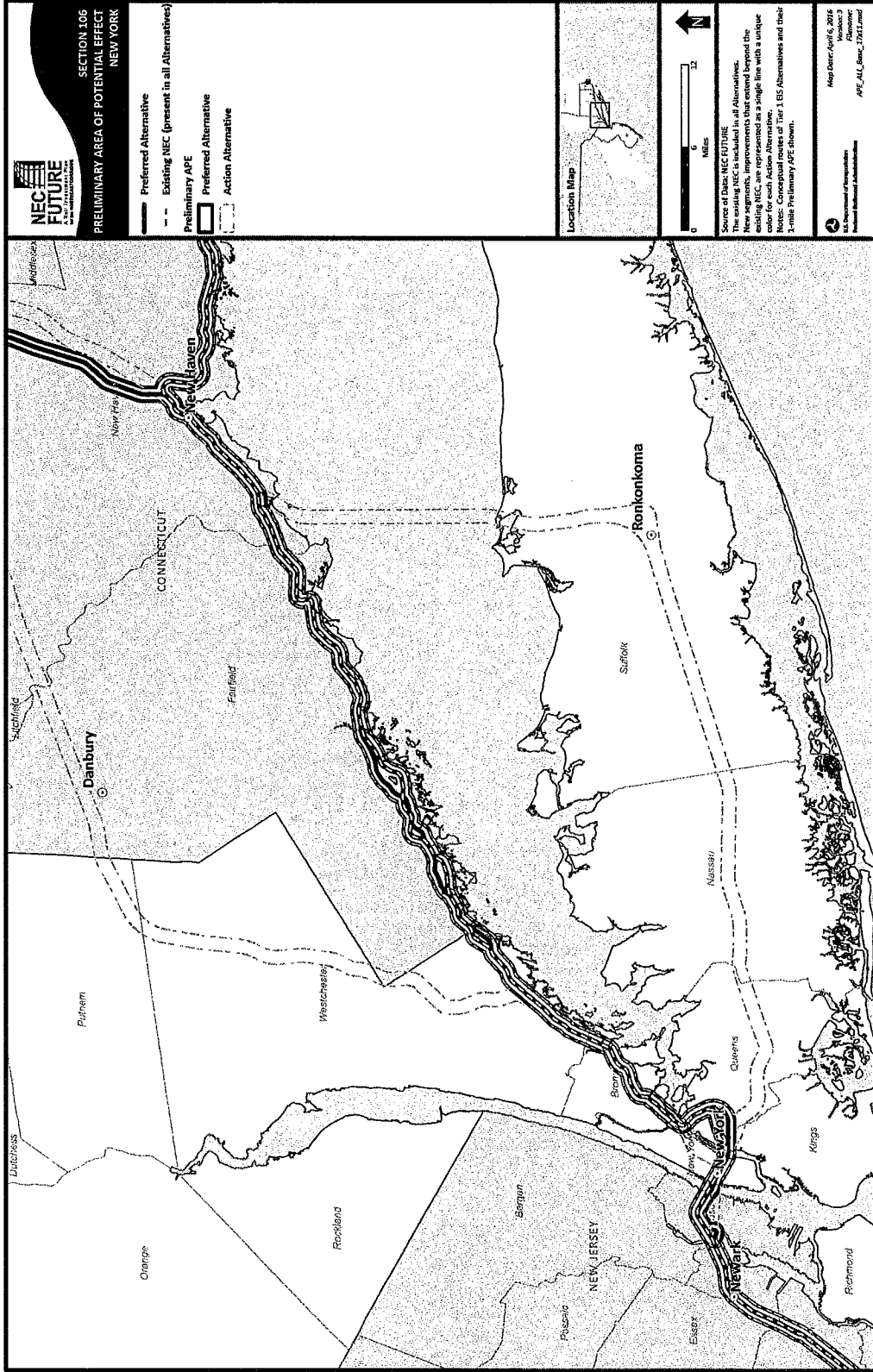


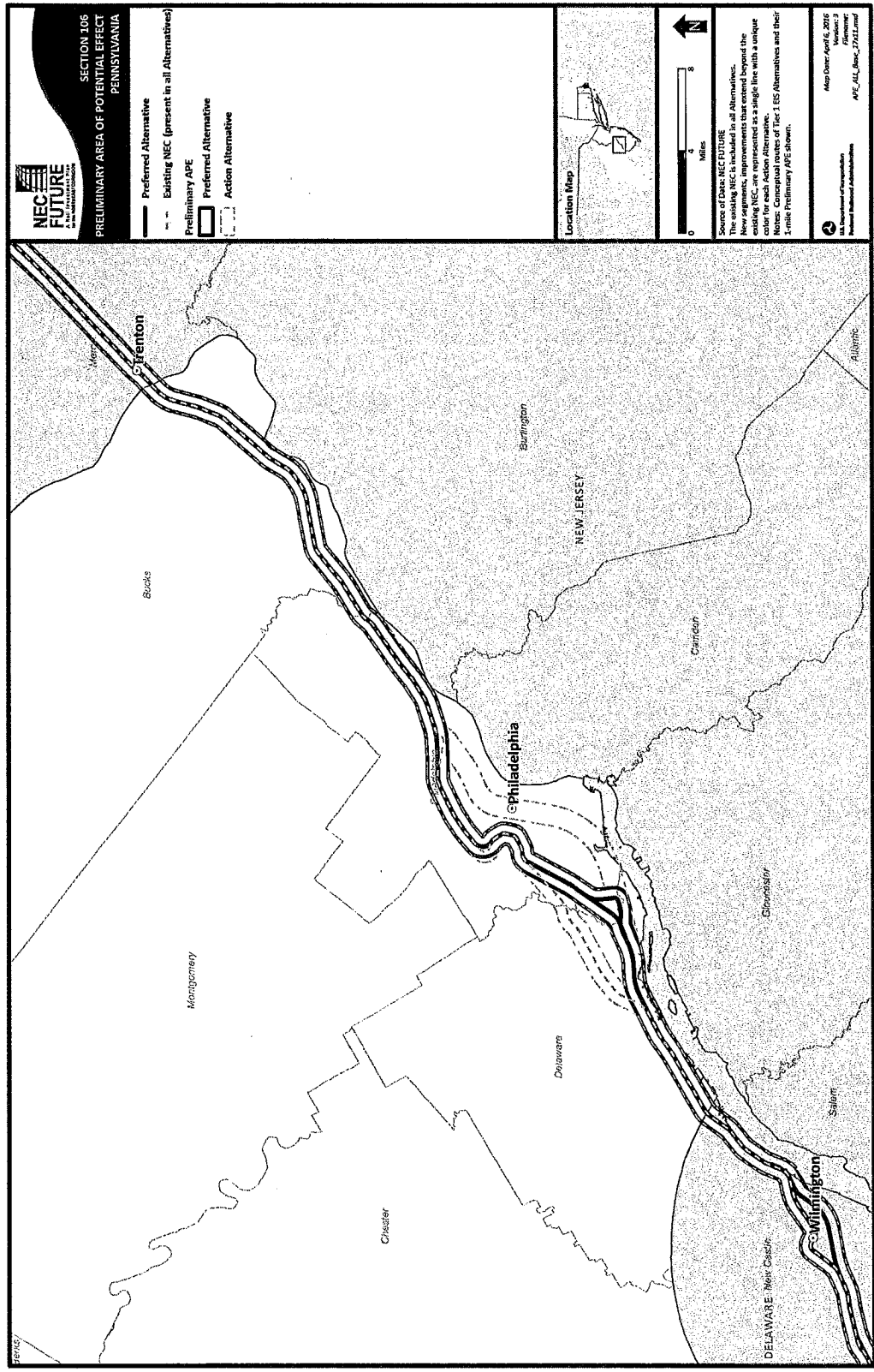














1 **APPENDIX C: Standard Treatment Measures**

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

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

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

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

16 3. If the federal agency determines in consultation with the applicable SHPO(s), applicable  
 17 Indian tribe(s) and THPO(s), and other consulting parties that demolition is required, the  
 18 federal agency shall then consult with those same parties and the National Park Service  
 19 (NPS) (if applicable) regarding:

- 20 a. Whether the affected NEC historic property should be recorded prior to its demolition;
- 21 b. What type of recordation will be performed, specifically including consideration of the  
 22 Historic American Building Survey (HABS) standards for buildings, and the Historic  
 23 American Engineering Record (HAER) standards for structures;
- 24 c. Which agency or agencies shall be responsible for approving the adequacy of the  
 25 documentation prior to filing;
- 26 d. Where the original recordation documents will be deposited, specifically including  
 27 consideration of the NPS as a repository for HABS/HAER documentation; and
- 28 e. Which additional repositories, if any, will receive copies of the original recordation  
 29 documents;

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

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

- 37 1. Many buildings and structures listed in or eligible for the NRHP have long been in close  
38 proximity to existing NEC facilities and operations, but may be affected by NEC FUTURE  
39 related improvements. The federal agency shall consult with applicable SHPO(s), applicable  
40 Indian Tribe(s) and THPO(s), other consulting parties, and appropriate corridor stakeholders  
41 to implement the NEC improvements in a contextually sensitive design, taking into account  
42 the character defining features of the nearby historic buildings and structures that would be  
43 affected.
- 44 2. If a building or structure that is a historic property must be physically altered by NEC  
45 FUTURE related improvements, the federal agency shall make a reasonable and good faith  
46 effort in consultation with the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s),  
47 and other consulting parties to rehabilitate it in accordance with the Secretary of the  
48 Interior's Standards.
- 49 3. If the federal agency determines in consultation with the applicable SHPO(s), applicable  
50 Indian Tribe(s) and THPO(s), and other consulting parties that demolition is required, the  
51 federal agency shall then consult with those same parties and the NPS (if applicable)  
52 regarding:
- 53 a. Whether the affected NEC historic property should be recorded prior to its demolition;
- 54 b. What type of recordation will be performed, specifically including consideration of the  
55 HABS standards for buildings, and the HAER standards for structures;
- 56 c. Which agency or agencies shall be responsible for approving the adequacy of the  
57 documentation prior to filing;
- 58 d. Where the original recordation documents will be deposited, specifically including  
59 consideration of the NPS as a repository for HABS/HAER documentation; and
- 60 e. Which additional repositories, if any, will receive copies of the original recordation  
61 documents.
- 62 4. If the federal agency elects to proceed with this standard treatment, the federal agency  
63 shall prepare a written recordation plan addressing each of the issues listed in paragraph (3)  
64 and shall submit the plan to the applicable SHPO(s), applicable Indian Tribe(s) and THPO(s),  
65 and other consulting parties for review. If the applicable SHPO(s) and applicable Indian  
66 Tribe(s) and THPO(s) concur in the recordation plan, the federal agency shall then carry out  
67 recordation in accordance with the plan.

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

69 The federal agency shall consider the relocation of architectural historic properties (buildings  
70 and structures) as a mitigation treatment on a case-by-case basis when requested by the  
71 applicable SHPO(s), applicable Indian Tribe(s) and THPO(s), or any consulting party. If relocation

72 is feasible and agreed upon by the applicable SHPO(s) and applicable Indian Tribe(s) and  
 73 THPO(s) as the preferred treatment, the federal agency in consultation with those parties shall  
 74 develop a marketing plan and proposal.

75 **D. Standard Treatment # 4: Archaeological Data Recovery**

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

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

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

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

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

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

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

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

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

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

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

102 4. The federal agency shall ensure that data-recovery excavations are completed prior to  
 103 construction.

104



1 **APPENDIX D – MOA Template**

2 **MEMORANDUM OF AGREEMENT AMONG**

3  
4 **THE FEDERAL RAILROAD ADMINISTRATION**

5 *[or]*

6 **THE FEDERAL TRANSIT ADMINISTRATION,**

7 *[or]*

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

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

10  
11 **THE ADVISORY COUNCIL ON HISTORIC PRESERVATION** *[if participating],*

12  
13 **THE STATE HISTORIC PRESERVATION OFFICER[S] OF:**

14 *[affected states,]*

15  
16 **AND THE** *[affected tribes or consulting parties, if any]*

17  
18 **REGARDING**

19 **COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT**  
20 **AS IT PERTAINS TO**

21  
22 **THE** *[name of the Tier 2 undertaking]*

23 **[NEC FUTURE INVESTMENT PROGRAM]**

24  
25 **WHEREAS,** the *[name of the Tier 2 undertaking]* is a Tier 2 undertaking related to the Northeast  
26 Corridor (NEC) FUTURE Program, a rail investment program for the rail spine which runs from  
27 Washington, D.C., through New York, New York, to Boston, Massachusetts; and

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

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

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

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

## STIPULATIONS

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

### 47 **I. TREATMENT OF HISTORIC PROPERTIES**

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

### 49 **II. RESOLVING OBJECTIONS**

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

### 54 **III. AMENDMENTS**

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

### 57 **IV. TERMINATION**

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

### 60 **V. DURATION OF THE MOA.**

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

### 65 **VI. EFFECTIVE DATE OF THIS MOA**

66 This MOA shall take effect on the date that it is executed by the *[federal agency]* and the SHPO and  
67 shall be filed with the ACHP.

68 **EXECUTION** of this MOA by the [federal agency], [project sponsor], the SHPO(s), and any other  
69 signatories its transmittal to the ACHP in accordance with 36 C.F.R. § 800.6(b)(1)(iv), and  
70 subsequent implementation of its terms, shall evidence, pursuant to 36 C.F.R. § 800.6(c), that the  
71 [federal agency] has afforded the ACHP an opportunity to comment on the [name of the Tier 2  
72 undertaking] and its effects on historic properties, and that the [federal agency] has taken into  
73 account the effects of the [name of the Tier 2 undertaking] on historic properties.

74 **SIGNATORY PARTIES:**

75 **[Federal Agency]**

76 By: \_\_\_\_\_ Date: \_\_\_\_\_

77 **[State] State Historic Preservation Officer**

78 By: \_\_\_\_\_ Date: \_\_\_\_\_

79 **[Project Sponsor]**

80 By: \_\_\_\_\_ Date: \_\_\_\_\_

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

82 By: \_\_\_\_\_ Date: \_\_\_\_\_

83



## APPENDIX E – Tier 1 Consulting Parties List

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

	List of Tribes or Agencies	Status of invitation acceptance
<b>Tribes:</b>  Initiated Consultation June 2012  Invited to be a Consulting Party October 2014  Invited to be a Concurring Party to the PA 2014-2016	Mashantucket (Western) Pequot Tribal Nation	Concurring Party to the PA
	Mashpee Wampanoag Tribe	Consulting Party
	The Mohegan Tribe	Concurring Party to the PA
	Narragansett Indian Tribe of Rhode Island	Consulting Party
	Shinnecock Indian Nation	
	Stockbridge-Munsee Community Band of Mohicans	Concurring Party to the PA
	Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts	
	Delaware Tribe of Indians	Consulting Party
	Absentee-Shawnee Tribe of Oklahoma	
	Delaware Nation	
Shawnee Tribe		
<b>Tribes:</b>  Initiated Consultation June 2012  Invited to be a Consulting Party October 2014	Cayuga Nation of New York	
	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	
	Saint Regis Mohawk Tribe	
	Towanda Band of Seneca Indians of New York	
Tuscarora Nation of New York		
<b>SHPOs:</b>  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	Signatory to the PA
	Delaware Division of Historical & Cultural Affairs	Signatory to the PA
	Pennsylvania Historical and Museum Commission	Signatory to the PA
	New Jersey Department of Environmental Protection Historic Preservation	Signatory to the PA
	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	Signatory to the PA
Massachusetts Historical Commission	Signatory to the PA	

	List of Tribes or Agencies	Status of Invitation acceptance
<b>Other Corridor-Wide Agencies:</b>  Invited to be a Concurring Party to the PA March 2015	National Conference of State Historic Preservation Officers	Concurring Party
<b>Other State and Local Agencies:</b>  Invited to be a Consulting Party October 2014 – May 2016	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
	Newark (New Jersey) Landmarks & Historic Preservation Commission	
	City of New Brunswick Historical Association	Declined invitation
	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
	Princeton Historic Preservation Commission	
	Providence Historic District Commission	
Massachusetts Department of Environmental Protection		
Massachusetts Department of Transportation		
Boston Landmarks Commission	<b>Consulting Party</b>	
<b>Intercity, Commuter, and Freight Rail Operators</b>  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		

	List of Tribes or Agencies	Status of invitation acceptance
<b>Nonprofit Organizations</b>  Invited to be a Consulting Party September 2015	National Trust for Historic Preservation (and state partners)	

Source: NEC FUTURE team, 2015

Note: Blank cells indicate that no formal response has been received.





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

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

### I. Project Initiation

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

#### Data Sources

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

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 or CTSHPO in Hartford	Hard copy files may be viewed in person at the Office of the State Archaeologist or at CTSHPO.
Archaeological Resources	Archaeological surveys on file at the University of Connecticut Libraries Dodd Center in Storrs or CTSHPO in Hartford	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.

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

## II. Inviting Consulting Parties

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

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

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

- 22 ▶ AMTRAK
- 23 ▶ Berlin Historical Society
- 24 ▶ Bridgeport CLG & LHD Committee
- 25 ▶ Brookfield Historic District Commission
- 26 ▶ Capital Region Council of Governments (COG)
- 27 ▶ Central Connecticut Regional Planning Agency
- 28 ▶ Connecticut Eastern Railway Museum (Eastern Connecticut Chapter of the National Railway  
29 Historical Society)
- 30 ▶ Connecticut Trust for Historic Preservation
- 31 ▶ City of Danbury
- 32 ▶ City of Milford
- 33 ▶ City of Stamford
- 34 ▶ Consolidated Rail Corporation
- 35 ▶ Council of Governments of the Central Naugatuck Valley
- 36 ▶ CSX Transportation
- 37 ▶ Danbury Railway Museum
- 38 ▶ East Hartford Historic District Commission
- 39 ▶ East Lyme Historic Properties Commission
- 40 ▶ Greater Bridgeport Regional Council
- 41 ▶ Greenwich Historic District Commission
- 42 ▶ Greenwich Preservation Trust
- 43 ▶ Guilford Historic District Commission
- 44 ▶ Guilford Preservation Alliance
- 45 ▶ Housatonic Valley Council of Elected Officials
- 46 ▶ Lower Connecticut River Valley Council of Governments
- 47 ▶ Merritt Parkway Conservancy
- 48 ▶ Metro-North Railroad
- 49 ▶ Metropolitan Transportation Authority
- 50 ▶ Milford Preservation Trust
- 51 ▶ New Canaan Historical Society
- 52 ▶ New Canaan Preservation Alliance
- 53 ▶ New Haven Historic District Commission

- 54 ▶ New Haven Preservation Trust
- 55 ▶ New London Landmarks
- 56 ▶ New London Office of Development & Planning
- 57 ▶ Norwalk Historical Commission
- 58 ▶ Norfolk Southern Corporation
- 59 ▶ Norwalk Preservation Trust
- 60 ▶ Old Lyme Historic District Commission
- 61 ▶ Orange Historic Commission
- 62 ▶ Providence & Worcester Railroad Company
- 63 ▶ Quinebaug-Shetucket Rivers Valley National Heritage Corridor
- 64 ▶ Railroad Museum of New England
- 65 ▶ SONO Switch Tower Museum (Western Connecticut Chapter of the National Railway Historical
- 66 Society)
- 67 ▶ South Central Regional Council of Governments (COG)
- 68 ▶ South Western Regional Planning Agency
- 69 ▶ Southbury Historic District Commission
- 70 ▶ Southeastern Connecticut Council of Governments (COG)
- 71 ▶ Stamford Historic Neighborhood Preservation
- 72 ▶ Stamford Historic Preservation Advisory Commission
- 73 ▶ Town of Berlin
- 74 ▶ Town of Clinton
- 75 ▶ Town of Fairfield
- 76 ▶ Town of Groton Historic District Commission
- 77 ▶ Town of Hamden
- 78 ▶ Town of Killingly
- 79 ▶ Town of Suffield
- 80 ▶ Town of Tolland
- 81 ▶ Town of Vernon
- 82 ▶ Valley Council of Governments (COG)
- 83 ▶ Waterford Historic Properties Commission
- 84 ▶ Westport Historic District Commission
- 85 ▶ Windsor Historic District Commission
- 86 ▶ Connecticut League of History Organizations
- 87 ▶ Connecticut Preservation Action
- 88 ▶ Historic Neighborhood Preservation Program

89 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
 90 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
 91 anticipated impacts of the project:

- 92 ▶ Delaware Tribe of Indians
- 93 ▶ Mashantucket (Western) Pequot Tribal Nation
- 94 ▶ Narragansett Indian Tribe of Rhode Island
- 95 ▶ The Mohegan Tribe

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

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

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

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

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

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

### **V. Documentation Requirements**

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

### **VI. Document Review Process**

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

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

### **VII. Public Involvement**

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

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

### **VIII. Standard Treatments**

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

### **IX. Curation**

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

### **X. Confidentiality and Data Sharing**

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

### **XI. Amendments**

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

129 **SIGNATORY PARTIES**

130 **Federal Railroad Administration**

131 By: Michael Johnsen Date: 8/22/2016

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

134 **Advisory Council on Historic Preservation**

135 By: \_\_\_\_\_ Date: \_\_\_\_\_

136

137

138 \_\_\_\_\_  
Name (printed) Title (printed)

139 **Federal Transit Administration**

140 By: Mary Beth Mello Date: 7/26/16

141 Mary Beth Mello  
142 Region 1 Administrator\*

143 \*On behalf of FTA Regions 1, 2 and 3

144 **Connecticut State Historic Preservation Officer**

145 By: Kristina Newman-Scott Date: 7/25/16

146 Kristina Newman-Scott  
147 State Historic Preservation Officer

## Appendix G: Section 106 Consultation for Tier 2 Undertakings in the District of Columbia

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

### I. Project Initiation

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

#### Data Sources

6 The Federal agency shall use the following data sources, as applicable, as part of the Section 106  
 7 consultation process for a Tier 2 undertaking, except as otherwise determined by the Federal agency in  
 8 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

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

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

### II. Inviting Consulting Parties

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

- 18 ▶ District Department of Transportation
- 19 ▶ Historic Preservation Review Board

- 20 ▶ National Capital Planning Commission
- 21 ▶ Office of Planning
- 22 ▶ Washington Metro Area Transit Authority

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

- 26 ▶ Akridge
- 27 ▶ AMTRAK
- 28 ▶ Ashkenazy Acquisition Corporation
- 29 ▶ Capitol Hill Business Improvement District
- 30 ▶ Capitol Hill Restoration Society
- 31 ▶ Committee of 100 on the Federal City
- 32 ▶ Consolidated Rail Corporation
- 33 ▶ CSX Transportation
- 34 ▶ District Department of Energy and Environment
- 35 ▶ DC Preservation League
- 36 ▶ Eckington Civic Association
- 37 ▶ Executive Office of the Mayor
- 38 ▶ Jones Lang LaSalle
- 39 ▶ Maryland Transit Administration
- 40 ▶ National Park Service
- 41 ▶ National Railway Historical Society Washington DC Chapter
- 42 ▶ National Trust for Historic Preservation
- 43 ▶ NoMa Business Improvement District
- 44 ▶ Norfolk Southern Corporation
- 45 ▶ Office of Advisory Neighborhood Commissions
- 46 ▶ Providence & Worcester Railroad Company
- 47 ▶ The Baltimore & Ohio Railroad Museum
- 48 ▶ The Historical Society of Washington DC
- 49 ▶ Union Station Redevelopment Corporation
- 50 ▶ U.S. Commission of Fine Arts

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

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



### III. Defining the Area of Potential Effects

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

### IV. Identifying and Evaluating Historic Properties

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

### V. Documentation Requirements

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

- 65 ▶ Guidelines for Archaeological Investigations in the District of Columbia (1998)
- 66 ▶ DC Determination of Eligibility (DOE) Form and “How to Complete a DC DOE Form”

### VI. Document Review Process

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

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

### VII. Public Involvement

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

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

### **VIII. Standard Treatments**

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

### **IX. Curation**

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

### **X. Confidentiality and Data Sharing**

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

### **XI. Amendments**

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

88 **SIGNATORY PARTIES**

89 **Federal Railroad Administration**

90 By: Michael Johnson Date: 8/22/2016  
91 Michael Johnson

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

93 **Advisory Council on Historic Preservation**

94 By: \_\_\_\_\_ Date: \_\_\_\_\_  
95

96 \_\_\_\_\_  
97 Name (printed) Title (printed)

98 **Federal Transit Administration**

99 By: Mary Beth Mello Date: 7/26/16  
100 Mary Beth Mello

101 Region 1 Administrator\*

102

103 \*On behalf of FTA Regions 1, 2 and 3

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

105 By: David Maloney Date: 7/19/2016  
106 David Maloney

107 District of Columbia State Historic Preservation Officer



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

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

### 4 I. Project Initiation

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

7 At a minimum, the initiation documentation shall include:

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

### Data Sources

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 agency in  
22 consultation with the DESHPO:

Property Type	Source	Description
Historic Properties	Cultural and Historical Resources Information System (CHRIS) available online at <a href="https://chris-users.delaware.gov/">https://chris-users.delaware.gov/</a>	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's Historic Property Research Center 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 <a href="https://chris-users.delaware.gov/">https://chris-users.delaware.gov/</a>	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's Historic Property Research Center in Dover	Information not yet entered into CHRIS may be viewed in hard copy, along with other research materials

23

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

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

## II. Inviting Consulting Parties

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

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

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

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

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

- 64 ▶ Delaware Tribe of Indians
- 65 ▶ Delaware Nation

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

### III. Defining the Area of Potential Effects

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

### IV. Identifying and Evaluating Historic Properties

72 The Federal agency shall consult with the DE SHPO to determine the appropriate level of effort required  
 73 to perform identification surveys and evaluation studies. The identification survey data regarding  
 74 potential historic properties and archaeological resources shall be entered using the CHRIS online portal.  
 75 The Federal agency shall ensure that all surveys are carried out by or under the direct supervision of a

76 person or persons meeting the relevant Secretary of the Interior’s Historic Preservation Professional  
77 Qualification Standards, and that all work meets the Secretary of the Interior’s Standards and Guidelines  
78 for Identification and Evaluation as well as the Delaware survey guidelines referenced in section V of this  
79 Appendix. Further:

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

## V. Documentation Requirements

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

- 90 ▶ Architectural Survey in Delaware, 2015
- 91 ▶ Archaeological Survey in Delaware, 2015

92 These documents are available on the DESHPO’s webpage:  
93 <http://history.delaware.gov/preservation/surveys.shtml>

## VI. Document Review Process

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

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

## VII. Public Involvement

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



105 may provide such opportunities as part public involvement efforts carried out as part of the  
 106 environmental review process under the National Environmental Policy Act.

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

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

109 The Federal agency shall, in consultation with the DE SHPO, determine if historic properties in the APE  
 110 will be affected, and if so whether or not the effects will be adverse. The Federal agency shall provide to  
 111 the DE SHPO an adequately documented finding of effect, as defined in 36 CFR Part 800.11(d) or  
 112 800.11(e), as applicable.

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

**IX. Curation**

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

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

**X. Confidentiality and Data Sharing**

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

**XI. Discovery of Human Remains**

127 If human remains are discovered, the Federal agency shall, in addition to the provisions of Stipulation X  
 128 of the PA, immediately (within 24 hours) notify the local law enforcement office, the medical examiner  
 129 or the Director of the Division of Historical and Cultural Affairs (the Delaware State Historic Preservation  
 130 Officer) in accordance with the Delaware Unmarked Human Burials and Skeletal Remains Act (Delaware

131 Code: Title 7, Chapter 54; 66 Del. Laws, c. 38. § 1; 75 Del. Laws., c. 153 §§ 4, 5.), and protect the remains  
132 from any further exposure of and damage to the remains. The Federal agency shall consult with the DE  
133 SHPO to develop and implement an appropriate treatment plan, in compliance with the above cited  
134 state law. No work shall resume in the affected area until such consultation is complete.

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

## **XII. Amendments**

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

147 SIGNATORY PARTIES

148 Federal Railroad Administration

149 By: Michael Johnsen Date: 8/22/2016  
150 Michael Johnsen

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

152 Advisory Council on Historic Preservation

153 By: \_\_\_\_\_ Date: \_\_\_\_\_

154

155

156 Name (printed) \_\_\_\_\_ Title (printed) \_\_\_\_\_

157 Federal Transit Administration

158 By: Mary Beth Mello Date: 7/26/16  
159 Mary Beth Mello

160 Region 1 Administrator\*

161

162 \*On behalf of FTA Regions 1, 2 and 3

163 Delaware State Historic Preservation Officer

164 By: Timothy A. Slavin Date: 7.13.16  
165 Timothy A. Slavin

166 Director, Division of Historical and Cultural Affairs and  
167 Delaware State Historic Preservation Officer



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

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

### I. Project Initiation

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

#### Data Sources

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

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.

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

## II. Inviting Consulting Parties

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

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

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

- 20 ▶ AMTRAK
- 21 ▶ Boston Region MPO
- 22 ▶ Boston Preservation Alliance
- 23 ▶ Boston Landmarks Commission
- 24 ▶ Brookline Preservation Commission
- 25 ▶ Central Massachusetts Regional Planning Commission
- 26 ▶ Consolidated Rail Corporation
- 27 ▶ CSX Transportation
- 28 ▶ Grafton Historical Commission
- 29 ▶ Massachusetts Bay Transportation Authority
- 30 ▶ Newton
- 31 ▶ Norfolk Southern Corporation
- 32 ▶ Old Colony Planning Council
- 33 ▶ Preservation Massachusetts
- 34 ▶ Pioneer Valley Planning Commission
- 35 ▶ Providence & Worcester Railroad Company
- 36 ▶ Southeastern Regional Planning and Economic Development District
- 37 ▶ The Trustees of Reservations
- 38 ▶ Worcester

39 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
40 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
41 anticipated impacts of the project:

- 42 ▶ Delaware Tribe of Indians
- 43 ▶ Narragansett Indian Tribe of Rhode Island
- 44 ▶ Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
- 45 ▶ Mashpee Wampanoag Tribe
- 46 ▶ Stockbridge-Munsee Community Band of Mohicans

47 The Federal agency also shall request updated consulting parties information from the MASHPO at the  
48 onset of future Tier 2 projects, so as to ensure that the most up-to-date consulting parties and their

49 contacts are included in the consultation process. If the updated list varies from the list provided in this  
 50 Appendix, the Federal agency shall follow the updated list.

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

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

**IV. Identifying and Evaluating Historic Properties**

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

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

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

**V. Documentation Requirements**

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

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

- 77 ▶ Historic property survey reports shall be prepared using the applicable MHC Survey and Inventory  
78 Forms: A (Area), B (Building), C (Object), E (Burial Ground), F (Structure/Bridge), and H (Parks and  
79 Landscapes).
- 80 ▶ Project planners should consult the “Frequently Asked Questions” portion of the MASHPO's  
81 website: <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>, prior to submitting  
82 documentation to the MASHPO for review and comment.

## VI. Document Review Process

- 83 The Federal agency shall comply with the following requirements when submitting documents to the  
84 MASHPO for review:
- 85 ▶ All submittals to the MASHPO shall be delivered to the MASHPO's office by US Mail, or by a delivery  
86 service, or by hand, not by email.
- 87 ▶ Pursuant to 36 CFR 800.3(c)(4), the MASHPO shall review and comment on all adequately  
88 documented project submittals within 30 calendar days of receipt.

## VII. Public Involvement

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

## VIII. Standard Treatments

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

## IX. Curation

- 97 The Federal agency shall adhere to MASHPO requirements that specimens and research records  
98 resulting from a project shall be deposited at an institution with permanent curatorial facilities.
- 99 The State Archeologist shall keep a record of the disposition of collections resulting from field  
100 investigations conducted under permit.



## **X. Confidentiality and Data Sharing**

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

## **XI. Amendments**

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

107 **SIGNATORY PARTIES**

108 **Federal Railroad Administration**

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

112 **Advisory Council on Historic Preservation**

113 By: \_\_\_\_\_ Date: \_\_\_\_\_  
114 \_\_\_\_\_  
115 \_\_\_\_\_  
116 Name (printed) Title (printed)

117 **Federal Transit Administration**

118 By: Mary Beth Mello Date: 7/26/16  
119 Mary Beth Mello  
120 Region 1 Administrator\*

121 \*On behalf of FTA Regions 1, 2 and 3

122 **Massachusetts State Historic Preservation Officer**

123 By: Brona Simon Date: 7/19/16  
124 Brona Simon  
125 \_\_\_\_\_, Massachusetts Historical Commission

126

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

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

### I. Project Initiation

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

#### Data Sources

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

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]
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]

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

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

## II. Inviting Consulting Parties

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

21 ▶ Maryland Department of Transportation (MDOT)

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

- 25 ▶ AMTRAK
- 26 ▶ Anacostia Trails Heritage Area, Inc.
- 27 ▶ Anne Arundel County Planning and Zoning Department -Cultural Resources Division
- 28 ▶ Baltimore City -Department of Transportation
- 29 ▶ Baltimore City - Planning Department
- 30 ▶ Baltimore City Commission for Historical and Architectural Preservation
- 31 ▶ Baltimore County Department of Planning
- 32 ▶ Baltimore Heritage Area Association
- 33 ▶ Baltimore Heritage, Inc.
- 34 ▶ Cecil County Historic District Commission
- 35 ▶ City of Aberdeen, City Manager
- 36 ▶ City of Aberdeen, Planning & Community Development
- 37 ▶ City of Aberdeen - Office of the Mayor
- 38 ▶ City of College Park, Office of the Mayor
- 39 ▶ City of College Park Planning and Development
- 40 ▶ City of Havre de Grace, Office of the Mayor
- 41 ▶ City of Havre de Grace, Historic Preservation Commission
- 42 ▶ City of Havre de Grace, Planning & Zoning
- 43 ▶ Consolidated Rail Corporation
- 44 ▶ CSX Transportation
- 45 ▶ Harford County Department of Planning & Zoning
- 46 ▶ Hyattsville Planning Committee
- 47 ▶ Maryland Commission on Indian Affairs
- 48 ▶ Maryland Transit Administration

- 49 ▶ National Railway Historical Society Baltimore and Perryville Chapters
- 50 ▶ Norfolk Southern Corporation
- 51 ▶ Office of the Mayor City of Baltimore
- 52 ▶ Office of the Mayor-Hyattsville
- 53 ▶ Office of the Mayor-Laurel
- 54 ▶ Preservation Maryland
- 55 ▶ Providence & Worcester Railroad Company
- 56 ▶ Piscataway Conoy Confederacy and Subtribes of Maryland and the Piscataway Conoy Tribe of
- 57 Maryland, including the Cedarville Band of the Piscataway and the Choptico Band of the Piscataway
- 58 (state-recognized Indian tribe)
- 59 ▶ Piscataway Indian Nation (state-recognized Indian tribe)
- 60 ▶ Prince George’s County Planning Department Historic Preservation
- 61 ▶ The Aberdeen Room Archives and Museum, Inc.
- 62 ▶ The Baltimore City Historical Society
- 63 ▶ The City of Laurel Historic District Commission (HDC)
- 64 ▶ The City of Laurel Planning Commission
- 65 ▶ The Historical Society of Cecil County
- 66 ▶ The Historical Society of Harford County, Inc.
- 67 ▶ The Lower Susquehanna Heritage Greenway, Inc.
- 68 ▶ Town of Bel Air
- 69 ▶ Town of Bel Air - Historic Preservation Department of Planning & Community Development
- 70 ▶ Town of Elkton
- 71 ▶ Town of Elkton Department of Planning
- 72 ▶ University of Maryland, Federal Relations

73 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
 74 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
 75 anticipated impacts of the project:

- 76 ▶ Absentee-Shawnee Tribe of Oklahoma
- 77 ▶ Delaware Tribe of Indians
- 78 ▶ Eastern Shawnee Tribe of Oklahoma
- 79 ▶ Shawnee Tribe

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

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

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

#### IV. Identifying and Evaluating Historic Properties

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

89 The Federal agency shall obtain an archaeological permit from the MDSHPO for any archaeological field  
90 investigations on state-owned lands, state-controlled lands, in caves, and on certain private properties,  
91 including state-owned or state-controlled submerged lands, pursuant to State Finance and Procurement  
92 §§ 5A-341, 5A-342, 5A-343, and 5A-345 of the Annotated Code of Maryland.

#### V. Documentation Requirements

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

#### VI. Document Review Process

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

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

#### VII. Public Involvement

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

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

#### VIII. Standard Treatments

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

## IX. Curation

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

## X. Confidentiality and Data Sharing

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

## XI. Amendments

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

## XII. Coordination with the Maryland Historical Trust Act of 1985

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

## XIII. Human Remains

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

135 **SIGNATORY PARTIES**

136 **Federal Railroad Administration**

137 By: Michael Johnsen Date: 8/22/2016

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

140 **Advisory Council on Historic Preservation**

141 By: \_\_\_\_\_ Date: \_\_\_\_\_

142

143

144 Name (printed) \_\_\_\_\_ Title (printed) \_\_\_\_\_

145 **Federal Transit Administration**

146 By: Mary Beth Mello Date: 7/26/16

147 Mary Beth Mello  
148 Region 1 Administrator\*

149 \*On behalf of FTA Regions 1, 2 and 3

150 **Maryland State Historic Preservation Officer**

151 By: Elizabeth Hughes Date: 7.12.16

152 Elizabeth Hughes  
153 Director / Maryland State Historic Preservation Officer



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

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

### I. Project Initiation

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

#### Data Sources

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

Property Type	Source	Description
Historic Properties	Index of National and State Registers of Historic Places listed and eligible resources available online at <a href="http://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm">http://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm</a>	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.
Historic Properties	NJDEP's Geo Web public GIS viewer: <a href="http://www.nj.gov/dep/gis/geoweb脾ash.htm">http://www.nj.gov/dep/gis/geoweb脾ash.htm</a>	Contains all known above-ground historic properties (archaeological properties are restricted).
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.

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

## II. Inviting Consulting Parties

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

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

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

- 22 ▶ AMTRAK
- 23 ▶ Bergen County Historical Society
- 24 ▶ Burlington County Historical Society
- 25 ▶ City of Newark
- 26 ▶ City of Newark Office of the Mayor
- 27 ▶ City of Trenton Division of Planning
- 28 ▶ City of Trenton Office of the Mayor
- 29 ▶ Consolidated Rail Corporation
- 30 ▶ CSX Transportation
- 31 ▶ Historical Society of Princeton
- 32 ▶ Hudson County Division of Planning
- 33 ▶ Mercer County Cultural and Heritage Commission
- 34 ▶ Mercer County Planning Division Transportation Development District
- 35 ▶ Middlesex County Cultural and Heritage Commission
- 36 ▶ Newark Landmarks & Historic Preservation Commission
- 37 ▶ City of New Brunswick Historical Association
- 38 ▶ New Jersey Essex County Department of Public Works
- 39 ▶ New Jersey State Museum Archaeology and Ethnography
- 40 ▶ New Jersey Turnpike Authority
- 41 ▶ Norfolk Southern Corporation
- 42 ▶ Passaic County Historical Society
- 43 ▶ Pennsylvania Railroad Technical & Historical Society
- 44 ▶ Princeton Historic Preservation Commission
- 45 ▶ Princeton Planning Board
- 46 ▶ Princeton Office of the Mayor
- 47 ▶ Providence & Worcester Railroad Company
- 48 ▶ Somerset County Historical Society of New Jersey
- 49 ▶ South Brunswick Historic Preservation Commission
- 50 ▶ The New Jersey Historical Society
- 51 ▶ The Newark Preservation & Landmarks Committee (NPLC)
- 52 ▶ Trenton Landmarks Commission for Historic Preservation

- 53 ▶ United Railroad Historical Society of New Jersey, Inc. (URHS)
- 54 ▶ Archaeological Society of New Jersey
- 55 ▶ New Jersey Historical Commission

56 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
 57 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
 58 anticipated impacts of the project:

- 59 ▶ Absentee-Shawnee Tribe of Oklahoma
- 60 ▶ Delaware Nation
- 61 ▶ Delaware Tribe of Indians
- 62 ▶ Eastern Shawnee Tribe of Oklahoma
- 63 ▶ Shawnee Tribe
- 64 ▶ Stockbridge-Munsee Community Band of Mohicans

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

### III. Defining the Area of Potential Effects

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

### IV. Identifying and Evaluating Historic Properties

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

### V. Documentation Requirements

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

- 77 ▶ Guidelines for Phase I Archaeological Investigations: Identification of Archaeological Resources  
 78 (NJSHPO 1996).
- 79 ▶ Guidelines for Preparing Cultural Resources Management Archaeological Reports Submitted to the  
 80 Historic Preservation Office (NJSHPO 2000).
- 81 ▶ Guidelines for Architectural Survey (NJSHPO 1999).

## VI. Document Review Process

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

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

## VII. Public Involvement

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

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

## VIII. Standard Treatments

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

## IX. Curation

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

## X. Confidentiality and Data Sharing

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

## XI. Amendments

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

102 **SIGNATORY PARTIES**

103 **Federal Railroad Administration**

104 By: Michael A. Johnson Date: 8/22/2016  
105 Michael Johnson  
106 Acting Division Chief, Environmental and Corridor Planning Division  
Office of Railroad Policy and Development

107 **Advisory Council on Historic Preservation**

108 By: \_\_\_\_\_ Date: \_\_\_\_\_

109

110

111 \_\_\_\_\_

Name (printed)

Title (printed)

112 **Federal Transit Administration**

113 By: Mary Beth Mello Date: 7/26/16  
114 Mary Beth Mello  
115 Region 1 Administrator\*

116 \*On behalf of FTA Regions 1, 2 and 3

117 **New Jersey State Historic Preservation Officer**

118 By: Katherine J. Marcupul Date: 7/20/2016  
119 Katherine J. Marcupul  
120 Deputy State Historic Preservation Officer



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

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

### I. Project Initiation

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

### Data Sources

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

Property Type	Source	Description
Historic Properties	Cultural Resource Information System (CRIS) portal at <a href="https://cris.parks.ny.gov/">https://cris.parks.ny.gov/</a>	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 <a href="http://www.nyc.gov/html/lpc/html/publications/landmark_designations.shtml">http://www.nyc.gov/html/lpc/html/publications/landmark_designations.shtml</a>	New York City Landmarks each have a designation report available through the LPC.
Archaeological Resources	Cultural Resource Information System (CRIS) portal at <a href="https://cris.parks.ny.gov/">https://cris.parks.ny.gov/</a>	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 <a href="http://www.nyc.gov/html/lpc/html/publications/archaeology_reports.shtml">http://www.nyc.gov/html/lpc/html/publications/archaeology_reports.shtml</a>	Additional archaeological survey reports for projects within New York City may be accessed online.

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

## II. Inviting Consulting Parties

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

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

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

- 25 ▶ AMTRAK
- 26 ▶ Bronx Borough President
- 27 ▶ City of New Rochelle
- 28 ▶ Consolidated Rail Corporation
- 29 ▶ CSX Transportation
- 30 ▶ Long Island Rail Road
- 31 ▶ Manhattan Borough President
- 32 ▶ Metro-North Railroad
- 33 ▶ Metropolitan Transportation Authority
- 34 ▶ Nassau County
- 35 ▶ New York City Department of City Planning
- 36 ▶ New York City Department of Parks and Recreation
- 37 ▶ New York City Department of Transportation
- 38 ▶ New York City Economic Development Corporation
- 39 ▶ New York City Office of the Mayor
- 40 ▶ New York Metropolitan Transportation Council
- 41 ▶ Norfolk Southern Corporation
- 42 ▶ Providence & Worcester Railroad Company



- 43 ▶ Putnam County
- 44 ▶ Queens Borough President
- 45 ▶ Suffolk County
- 46 ▶ Town of North Castle
- 47 ▶ Westchester County

48 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
 49 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
 50 anticipated impacts of the project:

- 51 ▶ Shinnecock Indian Nation
- 52 ▶ Stockbridge-Munsee Community Band of Mohicans
- 53 ▶ Cayuga Nation of New York
- 54 ▶ Delaware Nation
- 55 ▶ Delaware Tribe of Indians
- 56 ▶ Oneida Nation of New York
- 57 ▶ Oneida Tribe of Indians of Wisconsin
- 58 ▶ Onodaga Nation of New York
- 59 ▶ Seneca Nation of New York
- 60 ▶ Saint Regis Mohawk Tribe
- 61 ▶ Towanda Band of Seneca Indians of New York
- 62 ▶ Tuscarora Nation of New York

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

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

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

**IV. Identifying and Evaluating Historic Properties**

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

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

74 The Federal agency shall obtain permits from the LPC for any archaeological field investigations in New  
 75 York City.

## V. Documentation Requirements

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

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

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

## VI. Document Review Process

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

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

## VII. Public Involvement

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

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

### **VIII. Standard Treatments**

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

### **IX. Curation**

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

### **X. Confidentiality and Data Sharing**

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

### **XI. Amendments**

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

110 SIGNATORY PARTIES

111 Federal Railroad Administration

112 By: *Michael Johnsen* Date: 8/22/2016  
113 Michael Johnsen

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

115 Advisory Council on Historic Preservation

116 By: \_\_\_\_\_ Date: \_\_\_\_\_

117

118

119 Name (printed)

Title (printed)

120 Federal Transit Administration

121 By: *Mary Beth Mello* Date: 7/26/16

122 Mary Beth Mello

123 Region 1 Administrator\*

124 \*On behalf of FTA Regions 1, 2 and 3

125 New York State Historic Preservation Officer

126 By: *Ruth L. Pierpont* Date: 7/14/16

127 Ruth L. Pierpont

128 Deputy Commissioner for Historic Preservation/Deputy NYS SHPO

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

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

### I. Project Initiation

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

#### Data Sources

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

Property Type	Source	Description
Historic Properties	Cultural Resources GIS Database <i><a href="http://phmc.info/pacrgis">http://phmc.info/pacrgis</a></i>	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 <i><a href="http://phmc.info/pacrgis">http://phmc.info/pacrgis</a></i>	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.

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

## II. Inviting Consulting Parties

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

- 19 ▶ Pennsylvania Department of Transportation (PennDOT)
- 20 ▶ Pennsylvania Department of Conservation and Natural Resources (DCNR)
- 21 ▶ Pennsylvania Turnpike Commission

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

- 25 ▶ AMTRAK
- 26 ▶ Southeastern Pennsylvania Transportation Authority (SEPTA)
- 27 ▶ Bristol Township Planning Commission
- 28 ▶ Bucks County Historical Society Mercer Museum and Library
- 29 ▶ Bucks County Planning Commission
- 30 ▶ Chester City Office of the Mayor
- 31 ▶ Chester Historic Preservation Society
- 32 ▶ Chichester Historical Society
- 33 ▶ City of Philadelphia Office of the Mayor
- 34 ▶ Consolidated Rail Corporation
- 35 ▶ CSX Transportation
- 36 ▶ Delaware County Historic Preservation (Planning Section)
- 37 ▶ Delaware County Historical Society
- 38 ▶ Delaware County Planning Department
- 39 ▶ Heritage Conservancy
- 40 ▶ Historical Society of Pennsylvania
- 41 ▶ Marcus Hook Preservation Society
- 42 ▶ Morrisville Borough Office of the Mayor
- 43 ▶ National Railway Historical Society Delaware Valley and Philadelphia Chapters
- 44 ▶ NJ TRANSIT
- 45 ▶ Norfolk Southern Corporation
- 46 ▶ Pennsylvania Historical Association
- 47 ▶ Philadelphia Archaeological Forum
- 48 ▶ Philadelphia City Planning Commission
- 49 ▶ Philadelphia International Airport

- 50 ▶ Preservation Alliance for Greater Philadelphia
- 51 ▶ Providence & Worcester Railroad Company
- 52 ▶ Southeastern Pennsylvania Transportation Authority
- 53 ▶ The Pennsylvania Railroad Technical & Historical Society (Headquarters and Philadelphia, Camden &
- 54 Amboy, and New England Chapters)
- 55 ▶ The Philadelphia Historical Commission
- 56 ▶ Tinicum Township Historical Society

57 The Federal agency shall invite the following federally-recognized Indian tribes to participate in Section  
 58 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
 59 anticipated impacts of the project:

- 60 ▶ Delaware Tribe of Indians
- 61 ▶ Delaware Nation
- 62 ▶ Stockbridge-Munsee Community Band of Mohicans
- 63 ▶ Absentee-Shawnee Tribe of Oklahoma
- 64 ▶ Eastern Shawnee Tribe of Oklahoma

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

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

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

**IV. Identifying and Evaluating Historic Properties**

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

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

## V. Documentation Requirements

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

- 83 ▶ Archaeological Investigations in Pennsylvania (2008)
- 84 ▶ Guidelines for Architectural Investigations in Pennsylvania (2014)

## VI. Document Review Process

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

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

## VII. Public Involvement

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

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

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

## VIII. Standard Treatments

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

## IX. Curation

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



## **X. Confidentiality and Data Sharing**

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

## **XI. Amendments**

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

107 SIGNATORY PARTIES

108 Federal Railroad Administration

109 By: Michael Johnsen Date: 8/22/2016

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

112 Advisory Council on Historic Preservation

113 By: \_\_\_\_\_ Date: \_\_\_\_\_

114

115

116 Name (printed) \_\_\_\_\_ Title (printed) \_\_\_\_\_

117 Federal Transit Administration

118 By: Mary Beth Mello Date: 7/26/16

119 Mary Beth Mello  
120 Region 1 Administrator\*

121 \*On behalf of FTA Regions 1, 2 and 3

122 Pennsylvania State Historic Preservation Officer

123 By: Andrea L. MacDonald Date: 7/13/2016

124 Andrea L. MacDonald  
125 Deputy Pennsylvania State Historic Preservation Officer

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

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

### I. Project Initiation

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

#### Data Sources

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

Property Type	Source	Description
Historic Properties	National Register of Historic Places listings for Rhode Island available at <a href="http://www.ri.gov/preservation/search">http://www.ri.gov/preservation/search</a>	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

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

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

## II. Inviting Consulting Parties

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

- 20 ▶ State Planning Council
- 21 ▶ Rhode Island Department of Environmental Management (RIDEM)
- 22 ▶ Rhode Island Department of Transportation (RIDOT)

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

- 26 ▶ AMTRAK
- 27 ▶ City of East Providence
- 28 ▶ City of Providence, Department of Planning and Development
- 29 ▶ Consolidated Rail Corporation
- 30 ▶ Cranston Historic District Commission
- 31 ▶ CSX Transportation
- 32 ▶ Cumberland Historic District Commission
- 33 ▶ East Greenwich Historic District Commission
- 34 ▶ Glocester Historic District Commission
- 35 ▶ Grow Smart Rhode Island
- 36 ▶ Hopkinton Historic District Commission
- 37 ▶ Massachusetts Bay Transportation Authority
- 38 ▶ Narragansett Historic District Commission
- 39 ▶ Norfolk Southern Corporation
- 40 ▶ North Kingstown Historic District Commission
- 41 ▶ North Providence Historic District Commission
- 42 ▶ North Smithfield Historic District Commission
- 43 ▶ Pawtucket Office of Planning and Redevelopment
- 44 ▶ Preserve Rhode Island
- 45 ▶ Providence & Worcester Railroad Company
- 46 ▶ Providence Historic District Commission
- 47 ▶ Rhode Island Historical Society
- 48 ▶ South Kingstown Historic District Commission
- 49 ▶ Warwick Historic District Commission

50 The Federal agency shall invite the following federally-recognized Indian tribe to participate in Section  
51 106 consultation for those Tier 2 projects when applicable, taking into account the location and  
52 anticipated impacts of the project:

- 53 ▶ Narragansett Indian Tribe of Rhode Island
- 54 ▶ Mashpee Wampanoag Tribe
- 55 ▶ Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts

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

### III. Defining the Area of Potential Effects

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

### IV. Identifying and Evaluating Historic Properties

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

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

### V. Documentation Requirements

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

### VI. Document Review Process

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

- 73 ▶ The Federal agency shall send final reports to the RISHPO for review in both hard copy and  
 74 electronic format (PDF or equivalent) and shall submit draft reports to the RISHPO for review in hard  
 75 copy and editable electronic format (Word or equivalent).
- 76 ▶ The RISHPO shall review and comment on all adequately documented project submittals within 30  
 77 calendar days of receipt.

### VII. Public Involvement

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

80 may provide such opportunities as part public involvement efforts carried out as part of the  
81 environmental review process under the National Environmental Policy Act.

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

### **VIII. Standard Treatments**

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

### **IX. Curation**

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

### **X. Confidentiality and Data Sharing**

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

### **XI. Amendments**

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

92 **SIGNATORY PARTIES**

93 **Federal Railroad Administration**

94 By: Michael Johnsen Date: 8/22/2016

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

97 **Advisory Council on Historic Preservation**

98 By: \_\_\_\_\_ Date: \_\_\_\_\_

99

100

101 \_\_\_\_\_

Name (printed)

Title (printed)

102 **Federal Transit Administration**

103 By: Mary Beth Mello Date: 7/26/16

104 Mary Beth Mello  
105 Region 1 Administrator\*

106 \*On behalf of FTA Regions 1, 2 and 3

107 **Rhode Island State Historic Preservation Officer**

108 By: Edward F. Sanderson Date: 7/18/2016

109 Edward F. Sanderson  
110 State Historic Preservation Officer