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# Public Notice

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Published: September 11, 2019

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U.S. Army Corps of Engineers (USACE)  
Buffalo and New York Districts

Proposed Statewide Programmatic Agreement  
USACE/State Historic Preservation Office Cultural Resource Consultation

All written comments should reference Section 106 PA and be addressed to:

New York District U.S. Army Corps of Engineers  
Regulatory Branch (Attn: Christine Delorier)  
Upstate Regulatory Field Office  
1 Buffington Street, Bldg. 10, 3<sup>rd</sup> Fl. North  
Watervliet, New York 12189-4000

Buffalo District U.S. Army Corps of Engineers  
Regulatory Branch (Attn: Bridget Brown)  
7413 County House Road  
Auburn, New York 13021

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**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE PROPOSAL DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PROGRAMMATIC AGREEMENT WILL BE EXECUTED AT THIS TIME.**

**Proposed Development of a Programmatic Agreement  
with Respect to Section 106 of the National Historic Preservation Act**

In accordance with Section 106 of the National Historic Preservation Act (NHPA), the US Army Corps of Engineers, including both the Buffalo and New York Districts (Corps) propose to work with the New York State Office of Parks, Recreation and Historic Preservation (SHPO) and the Advisory Council on Historic Preservation (ACHP) to develop a Programmatic Agreement (PA) with respect to certain activities, where the activity is determined to have “No Effect” (NE) to cultural resources or historic properties listed or eligible for listing on the National Register of Historic Places. The PA will afford greater efficiency with respect to project reviews without incurring any reduction in the identification and protection of these resources.

The proposed framework for the PA will allow for the Corps to make a NE determination with respect to Section 106 of the NHPA on select categories of activities agreed upon by the Corps and SHPO and to proceed with a permit decision without further consultation with the SHPO. Current regulations (36 CFR Part 800 and 33 CFR 325 Appendix C with Interim Guidance from 2005 and 2007) require that all determinations of NE be coordinated with the appropriate State Historic Preservation Office or Tribal Historic Preservation Office (for projects located on tribal lands). However, regulations at 36 CFR 800.14(b) allow for the development of programmatic

agreements to address evaluation of certain types of actions or multiple undertakings. The Corps evaluates many actions which result in NE to cultural resources or historic properties, and for which concurrence is routinely given by the SHPO. While the effort required to proceed with the necessary coordination for each individual action is small, the cumulative effect of these efforts leaves less time and fewer resources which can be devoted to projects that may result in adverse effects to historic properties.

As part of the proposed PA, the Corps and SHPO have developed a draft standard operating procedure (SOP) and several categories of activities for which the SHPO agrees to accept the Corps determination of NE without the need for consultation. The draft SOP and category list is attached to this notice for your review and comment.

The PA is not proposed to apply to projects located on tribal lands at this time. If, in the future, the PA is proposed for amendment to apply to projects on tribal lands, consultation will be necessary with each potentially affected Indian Nation.

**This notice serves to commence the PA development process and solicit comments and identify potential interested parties.**

Comments or questions pertaining to the proposed PA described in this notice should be directed to the attention of Christine Delorier, who can be contacted at the above address, by calling (518) 266-6354, or by e-mail at: [Christine.Delorier@usace.army.mil](mailto:Christine.Delorier@usace.army.mil), or to the attention of Bridget Brown, who can be contacted at the above address, by calling (716)879-6329, or by e-mail at: [Bridget.Brown@usace.army.mil](mailto:Bridget.Brown@usace.army.mil).

Comments submitted in response to this notice will be fully considered during the development of the draft PA. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this action. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies

and officials; Indian Nations; and other interested parties in order to consider and evaluate the impacts of this proposed PA. Any comments received will be considered by the Corps of Engineers and SHPO in the development of the proposed PA. Comments are used in the preparation of appropriate documentation pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

All comments regarding the proposed PA must be prepared in writing and mailed to reach this office before the expiration date of this notice, otherwise, it will be presumed that there are no objections to the activity.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Nations; and other interested parties in order to consider and evaluate the impacts of the proposed PA. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice.

**SIGNED**

Diane C. Kozlowski  
Chief, Regulatory Branch  
USACE Buffalo District

**SIGNED**

Stephan A. Ryba  
Chief, Regulatory Branch  
USACE New York District

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.