



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

October 9, 2024

Sara C. Bronin
Chair
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

RE: Draft Program Comment on Accessible, Climate-Resilient, and Connected Communities

Dear Chair Bronin:

Thank you for the opportunity to comment on the Draft Program Comment on Accessible, Climate-Resilient, and Connected Communities.

The Massachusetts Historical Commission, office of the State Historic Preservation Officer, has several concerns with the Draft Program Comment and endorses the September 27, 2024 comments of the National Conference of State Historic Preservation Officers. Additionally, we endorse the comments of the Preservation Partners: American Cultural Resources Association American Institute of Architects, Asian & Pacific Islander Americans in Historic Preservation, National Alliance of Preservation Commissions, National Preservation Partners Network, Preservation Action, Society for American Archaeology, and Society for Historical Archaeology. In addition we support the comments of the SHPOs from various states.

While we support the efforts to streamline Section 106 consultation for undertakings with little or no effects on historic properties and to reduce MA SHPO Section 106 workload, the Draft Program Comment does not meet the goals of historic preservation and the Section 106 process in general.

The MA SHPO has the following comments on the Draft Program Comment:

- Specific terms used throughout the Draft Program Comment need more precise definitions. Without clearly defined terms, a broad interpretation will result in inconsistent outcomes, and will subsequently outcomes, and will subsequently lead to misunderstandings of which undertakings are covered by the Program Comment.
- The Draft Program Comment, as written, will create confusion within agencies as they try to follow their own policy goals. It will also lead to an inconsistent process, possibly creating longer review times. In our experience, a number of federal agencies rely heavily on SHPO staff for support and/or Section 106 compliance. The Draft Program Comment fails to acknowledge the need for professionally qualified staff at federal agencies who meet the Secretary of the Interior's Professional Qualification Standards.
- The Draft Program Comment does not meet public consultation requirements. Public consultation is a key requirement of the Section 106 process.

- The Draft Program Comment conflicts with the Secretary of Interior's Standards for Rehabilitation. The Secretary of the Interior's Standards for Rehabilitation must be followed, per regulation for the federal rehabilitation tax credit. The federal historic rehabilitation tax credit provides critical equity for a substantial amount of housing rehabilitation projects in Massachusetts. These housing projects often also rely on federal subsidies, loans, and low income housing tax credits to make the rehabilitations financially feasible, hence requiring a federal Section 106 review. The Draft Program Comment is not consistent with the requirements of the federal rehabilitation tax credit program. The Program Comment would need to be subordinate to the tax credit regulations. Rehabilitation and climate resiliency do not need to be mutually exclusive. The Stone Mill in Lawrence Massachusetts rehabilitation was just completed using state and federal historic rehabilitation tax credits putting 86 units of mixed-income rental housing into the community. The design met the Secretary of the Interior's Standards, preserving the historic character-defining features of the building while becoming a model for energy efficiency. The building received four inches of insulation, high-performance, triple-pane historic replica windows, creating an airtight building envelope making a high-efficiency electric only building.
- The Draft Program Comment does not offer any mitigation for adverse effects to historic properties. This is an important part of the Section 106 process.
- The exemptions for ground disturbance without a professional archaeological assessment could result in damage to archaeological sites and unmarked graves. Discoveries made during construction inevitably lead to project delays and cost over-rides.

The Draft Program Comment has no clearly defined terms, has a list of items that includes items that are not undertakings, does not follow the Secretary of the Interior's Standards for Rehabilitation, offers no public consultation, and provides no mitigation for adverse effects. It is essentially a blanket "approval" that is not consistent with the goals of the National Historic Preservation Act.

If the goal of the Program Comment is to decrease review time and reduce inefficiencies in the Section 106 process, then areas should be identified and targeted with more specific and focused program alternatives.

The Draft Program Comment should be withdrawn and the steps outlined in 36 CFR 800.14 should be followed.

Sincerely,



Brona Simon
State Historic Preservation Officer
State Archaeologist
Executive Director
Massachusetts Historical Commission

xc: Erik Hein, NCSHPO