New Streamlined Cultural Resources Reviews for MDOT SHA & Local Programs
Today’s webinar is being recorded
- MDOTSHA intends to post the recording on our website
- Presentation slides and a link to the recording will be sent to all participants

Audio
- All participants will be muted throughout the webinar
- Call-in number provided in invite for those not using Teams

https://blog.zoom.us/recording-recap-zoom-recording-webinar/
HOUSEKEEPING

Q&A following the presentation
  • Enter questions into the chat box at any time
  • Moderator will monitor for questions
TO DAY’S PRESENTATION

FHWA and MDOT SHA’s Section 106 Programmatic Agreement amendment
  • Collaborative effort among FHWA, MDOTSHA, MDTA, MHT, ACHP

PRESENTATION OUTLINE:
• FHWA Welcome
• What prompted this change, and why?
• How will the process that local public agencies are used to change?
• How will Section 106 reviews work, and how will agencies’ roles change?
• A word from MHT
• Question and Answer Session
TODAY’S PRESENTERS

- Kari Sprengeler – MDOTSHA Cultural Resources Local Programs Lead
  - Facilitator of this presentation
- Jeanette Mar – Environmental Program Manager, FHWA Maryland Division
- Juliet Healy – MDOTSHA Environmental Manager
- Beth Cole – Administrator, Project Review and Compliance, MHT
- Tim Tamburrino – Preservation Officer, MHT
- Steve Archer – MDOTSHA Cultural Resources Team Leader
  - Available during Q&A
- Jessica Pilarski – MDOTSHA Senior Public Involvement Coordinator
  - Comment Moderator
FHWA WELCOME

FHWA Contact: Jeanette Mar, 410-779-7152
Jeanette.Mar@dot.gov
What is a Section 106 Programmatic Agreement (PA)?

• A way for FHWA to legally delegate authority and provide an expedited process for actions that have limited potential to adversely affect historic properties.

What is the advantage of using a PA?

• FHWA delegates consultation to a single agency (MDOTSHA) that administers federal-aid funds.
  • Replaces current standard of local jurisdictions separately consulting with MHT.

• Provides an expedited review process for qualifying projects.

• Standardizes the process and brings Section 106 reviews to MDOTSHA alongside NEPA reviews.
Following the PA is required for local public agency (LPA) transportation projects receiving federal-aid funds that are facilitated by MDOTSHA.

- Examples of funding programs include:
  - Transportation Alternatives Program (TAP), Safe Routes to Schools (SRTS), National Recreational Trails (NRT), Scenic Byways, Local Government Bridge Program, Appalachian Regional Commission (ARC)
- LPA projects receiving state funds from MDOTSHA will also follow the process outlined in the PA.
- MDOTSHA can internally review projects meeting exemption criteria without further consultation with MHT or others.
  - Majority of LPA projects will likely be exempt.
PA AMENDMENT STREAMLINES NEPA

Cultural resources review incorporated into NEPA the same way it is now

- **Difference**: MDOTSHA will now coordinate on behalf of Local Government
- Local government will no longer need to send letters to MHT

MDOTSHA Environmental Managers (EMs) are now the point of contact between local government and MDOTSHA cultural resources personnel

- Local Government will still provide mapping, project description and plans (if available) to the EM
- MDOTSHA cultural resources personnel will work with MHT to complete coordination and may reach out to the Local Government for follow up items
SO HOW WILL THE NEW CULTURAL RESO URC ES REVIEW PRO C ESS W O R K?
The more project information LPAs provide, the better - for you and us!

- Providing project information early in the process is critical
  - Good location and project maps
  - Plans (if available)
  - Description of project and worst-case limits of disturbance (LOD)
Attachment 1. MDOT SHA Local Programs Cultural Resources and Section 106 Flowchart

Notification of Project Received

MDOT SHA Cultural Resources Professional Reviews Project

Exempt Project?

YES

APPENDIX 1/APPENDIX 2

Include in Annual Report for Local Programs to MHT

NO

Local Agency (LA) sends project info to MDOT SHA

MDOT SHA defines APE and sends to MHT and Consulting Parties*

APE Accepted?

YES

NO

LA completes Cultural Resources Survey/Evaluation and submits report to MDOT SHA

MDOT SHA Approves Evaluation/Report?

YES

NO

MDOT SHA makes Effect Determination

MDOT SHA Submits to MHT and Consulting Parties

MHT Concurs with Effect?

NO

YES

LA Revises Report and MDOT SHA continues consultation

No Properties Affected or No Adverse Effect?

NO

YES

Adverse Effect requires Agreement Document

MDOT SHA works with LA and MHT to develop Agreement Document

All signatories sign the Agreement Document

Section 106 Process is Complete

*For smaller projects, APE and Cultural Resources Evaluation may be combined where appropriate.
EXEMPT PROJECTS

Appendix 1 – Minimal Potential to Cause Effects

Appendix 2 – Minor Projects

- All projects that appear to fit exemption categories will be assessed by MDOTSHA cultural resources professionals
  - If it fits an exemption category (and the project doesn’t change), cultural resources review is done!
  - MDOTSHA provides MHT with reports of exempt projects
    - Exemption documentation will be provided to the EM
    - The EM will provide exemption documentation to LPAs
  - MDOTSHA will facilitate further consultation with MHT and consulting parties
Attachment 1. MDOT SHA Local Programs Cultural Resources and Section 106 Flowchart

- Exempt Project?
  - YES
  - APPENDIX 1/APPENDIX 2
  - Include in Annual Report for Local Programs to MHT

- MDOT SHA Cultural Resources Professional Reviews Project

- Notification of Project Received

- Local Agency (LA) sends project info to MDOT SHA
  - MDOT SHA defines APE and sends to MHT and Consulting Parties*
    - APE Accepted?
      - YES
        - MDOT SHA Approves Evaluation/Report?
          - YES
            - MDOT SHA makes Effect Determination
          - NO
            - MDOT SHA Submits to MHT and Consulting Parties
      - NO
        - LA completes Cultural Resources Survey/Evaluation and submits report to MDOT SHA

- MHT Concurs with Effect?
  - NO
    - LA Revises Report and MDOT SHA continues consultation
  - YES
    - No Properties Affected or No Adverse Effect?
      - NO
        - Adverse Effect requires Agreement Document
        - MDOT SHA works with LA and MHT to develop Agreement Document
        - All signatories sign the Agreement Document
      - YES
        - Section 106 Process is Complete

*For smaller projects, APE and Cultural Resources Evaluation may be combined where appropriate.
NON-EXEMPT PROJECTS

Most LPA projects will be exempt!
• Additional coordination required for projects that don’t fit exemption categories

Non-exempt projects may need:
• MHT letter coordination without surveys
• Cultural resources survey and reporting
• A very small number will cause adverse effects and require agreement documents and more extensive coordination
Inadvertent Discovery Plans (IDPs) will almost always be required

- Ensure the on-site contractor has a copy

The IDP template lays out:

- Recognizing Cultural Resources
- On-site Responsibilities
- Local Agency Project Manager’s Responsibilities
- MDOTSHA’s Responsibilities
- Proceeding with Construction – usually possible even while the find is being examined
LPA RESPONSIBILITIES FOR NON-EXEMPT PROJECTS

• Provide adequate project information to MDOTSHA through your EM
• Assist MDOTSHA by identifying potential consulting parties with a special relationship to the project we may not know about
  - (property owners, local residents, etc.)
• Conduct/procure any necessary cultural resources studies
  - MDOTSHA will assist in defining scope and other guidance
• Work with their consultants following MDOTSHA’s review to make any needed revisions prior to MHT submittal
• Work with MDOTSHA and MHT on any agreement documents to resolve adverse effects (if necessary)
FHWA RESPONSIBILITIES

• Delegate responsibility to MDOTSHA to establish undertaking and initiate Section 106 process in accordance with PA

• Ensure tribal nations are identified and consulted; consult directly with tribal nations upon request

• FHWA will participate in consultation if there is an adverse effect to historic properties
MDOT SHA RESPONSIBILITIES

- Determine whether project fits exemption categories
- Define Area of Potential Effects (APE)
- Conduct all formal consultation with MHT
- Coordinate with tribal nations and consult with other identified Consulting Parties
- Review reports and other deliverables prior to MHT submittal
- Make effect determinations prior to MHT submittal
- Take lead on developing agreement documents if adverse effects are unavoidable
MHT = MD SHPO / MD’s State Historic Preservation Office
Visit our website at https://mht.maryland.gov/

- Facilitate Maryland’s compliance with Section 106
- Coordinate with MDOTSHA on projects requiring consultation
- Comment on reports, other deliverables, and effect determinations
- Work with MDOTSHA and other consulting parties to negotiate agreement documents to mitigate adverse effects

Photo: Williamsport Bridge Rehab
SECTION 106 AND TRANSPORTATION PROJECTS IN MARYLAND

During the past 5 years, MHT reviewed 2,565 transportation projects with the following findings:

- **Projects with No Effect/No Historic Properties** = 1,518
- **Projects with No Adverse Effect** = 626
- **Additional Information Requested** = 402
- **Projects with Adverse Effect** = 19

Less than 1% of transportation projects resulted in adverse effects on historic properties.
WELCOME LOCAL PROGRAMS!

• Maryland’s PA for transportation projects has been in effect since 1993, with a proven track record for consultation efficiencies.

• MHT welcomes the addition of local programs to the PA.

• The new coordination process in the PA should benefit LPA projects by:
  ✓ Using MDOTSHA expertise to handle consultation
  ✓ Streamlined review of exempt projects
  ✓ Timely completion of transportation reviews
  ✓ Achieve projects deadlines and schedules

New Market Streetscape
Q &A

Use chat box for questions

If we don’t get to your question today, email your question to Kari Sprengeler:

ksprengeler@mdot.maryland.gov
FOR MORE INFORMATION

Programmatic Agreement: 2021 Programmatic Agreement Amendment

MDOTSHA’s Cultural Resources webpage: https://www.roads.maryland.gov/mdotsha/pages/Index.aspx?PageId=729


Maryland Historical Trust’s website: https://mht.maryland.gov

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THANK YOU