

FINAL DRAFT FOR PUBLIC REVIEW & COMMENT

Proposed Amendment Language to the PA-MPU (December 22, 2015):

NEW STIPULATION

II.C.3. MPU Undertakings and the Federal Historic Preservation Tax Incentives Program.

A. For an undertaking described under Stipulation II.A.1 that also seeks Federal Historic Preservation Tax Incentives, the Trust shall substitute the following steps for the process described in Appendix K.

This process shall proceed as follows:

- i. The Trust shall prepare a consultation package in order to notify signatory and concurring parties to this agreement in writing that an Applicant has come forward with a proposal to rehabilitate a building identified in Stipulation II.A.1 and to participate in the Federal Historic Preservation Tax Incentives program.
- ii. In addition to the notification the consultation package shall include the following information:
 - a. Confirmation that the appropriate Historic Structure Report (HSR) and Archaeological Management Assessment are adequate and complete in support of the undertaking in accordance with Stipulation II of this PA;
 - b. The Trust will propose in writing to the signatory and concurring parties a revision of the previous finding of adverse effect (Revised Finding of Effect) to a finding of “no adverse effect” with conditions (in accordance with 36 CFR 800.5(b)) for the proposed rehabilitation undertaking seeking Federal Preservation Tax Credit certification. The Trust will cite that the conditions for achieving this finding of “no adverse effect” will be;
 - i. Certification of the project through the Federal Historic Preservation Tax Incentive review process, ensuring consistency with the Secretary’s Standards for the Treatment of Historic Properties (Standards); and
 - ii. Concurrence from the signatory parties with the Trust’s assessment that the undertaking avoids indirect and cumulative adverse effects to the NHLD.
 - c. Documentation to support the finding as specified in 36 CFR 800.11, including a description of the undertaking and an assessment of indirect and cumulative effects;
 - d. A request for signatory, concurring party, and public to comment on the proposed Revised Finding of “no adverse effect with conditions” for the proposed rehabilitation undertaking, along with the Trust’s assessment of indirect and cumulative effects within 30 days of receiving the consultation package;

- e. A request for formal concurrence from the Signatory Parties that the undertaking will not cause indirect or cumulative adverse effects; and
 - f. A date for a Public Information Session on the undertaking proposal. The date of the Public Information Session shall be no fewer than 30 days after the date of the consultation package.
 - g. Direct effects will be assessed through the tax credit review process as described in 36 CFR Part 67.
- iii. In coordination with the release of the consultation package, the Trust will announce the Public Information Session via eNews or equivalent, and make the contents of the package available on the Trust's website.
- iv. The Applicant shall submit Parts 1 and 2 of the Tax Credit application in coordination with the release of the consultation package.
- v. The Trust shall hold a Public Information Session to present the proposed rehabilitation undertaking. Information presented at the Public Information Session shall include:
- a. A description of the proposed rehabilitation undertaking; and
 - b. A summary of the Trust's assessment of the proposed rehabilitation undertaking's indirect and cumulative effects based on the proposal.
- vi. Comments received in writing regarding the proposed rehabilitation undertaking during the 30-day comment period and at the Public Information Session will be posted to the Trust's website and considered by the Trust.
- vii. The signatory parties will have 15 days following the Public Information Session to consider all comments, and to concur with the Trust's finding that the proposed rehabilitation undertaking will not have indirect or cumulative adverse effects. A signatory party may request an extension on this period not to exceed an additional 15 days.
- a. If the signatory parties do not concur, the signatory parties will provide reasons for not concurring with the Trust's assessment, and continue to consult until concurrence is reached for how to modify the proposal to avoid adverse indirect or cumulative effects. Consultation shall not exceed 30 days.
 - b. If concurrence is not reached on the finding, consultation should proceed according to the terms of Stipulation V (Dispute Resolution).
- viii. If the proposed rehabilitation undertaking receives approval of the Part 2 application through the Federal Preservation Tax review, the Trust will notify the signatory parties

that the proposal meets the Standards and will not have direct adverse effects on the property.

ix. Once approval of the Part 2 application has been received, and concurrence on indirect and cumulative effects has been reached under part viii above, Section 106 review is complete.

x. In the event that the Part 2 application is not approved through the Federal Historic Preservation Tax Incentive review process, further review of the undertaking will revert to the process described under Appendix K appropriate to the project, or the project may be modified or completely withdrawn.

B. Monitoring and Modifications

i. The Trust shall monitor the proposed rehabilitation undertaking during the construction phase for compliance with the Finding of No Adverse Effect.

ii. If the Applicant proposes an Amendment to the approved Tax Credit Project Scope of Work, the Trust and Applicant shall proceed as follows:

a. The Applicant will submit an Amendment for review under the Tax Credit Review Process for compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in order to avoid direct adverse effects.

b. Trust will assess if the Amendment constitutes a change to the finding of no adverse indirect or cumulative effect.

1. If the Trust determines that the Amendment will not constitute an adverse indirect or cumulative effect, it will notify signatory parties of this finding via electronic mail.

i. If the signatory parties do not concur, the signatory parties will provide reasons for not concurring with the Trust's assessment via electronic mail within five business days.

ii. Signatory parties will continue to consult until concurrence is reached for how to modify the proposal to avoid adverse indirect or cumulative effects. Consultation shall not exceed 30 days.

iii. If concurrence is not reached on the finding, consultation should proceed according to the terms of Stipulation V (Dispute Resolution).

2. If the Trust determines that the Amendment constitutes an indirect or cumulative adverse effect, the Trust will notify signatory parties of this finding via electronic mail, and will work with the Applicant to modify the proposal to avoid the adverse indirect or cumulative effect.

3. If the Applicant cannot or will not modify the Amendment to avoid the adverse indirect or cumulative effect, the Trust will notify signatory parties of the adverse effect finding and request consultation on ways the project could be changed to avoid the adverse effect. Consultation on the resolution measures shall not exceed 30 days.

c. If the amendment is not approved through the Tax Credit Review and won't be modified to meet approval, or if the consultation to resolve indirect or cumulative effects is unsuccessful, and the Trust intends to proceed with the undertaking, consultation to resolve the adverse effect should proceed according to 36CFR 800.6.

iii. The Trust shall document the work, along with the rest of the undertaking, in its annual Section 106 report in accordance with Stipulation IV.A of this PA.

Process for Reviewing PA-MPU Projects in Coordination with the Federal Historic Preservation Tax Incentives Program:

CLR, Design Guidelines	HSR, AMA	Revised FOE + announcement of the Public Information Session (30-day comment period: public, concurring, signatory comment)	Public Information Session (public, concurring, signatory participation)	Part 2 certified, concurrence on cumulative and indirect effects reached (30 days or more)	Amendments (as necessary)
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