

PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE FEDERAL RAILROAD ADMINISTRATION,  
THE MAINE STATE HISTORIC PRESERVATION OFFICER,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND  
THE MAINE DEPARTMENT OF TRANSPORTATION,  
FOR  
THE TRANSPORTATION PROGRAM IN MAINE

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WHEREAS, on July 27, 2022, the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the Maine Department of Transportation (MaineDOT), the Advisory Council on Historic Preservation (ACHP), and the Maine State Historic Preservation Officer (SHPO) entered into a Programmatic Agreement for the Implementation of the Federal-Aid Highway Program in Maine which delegated certain tasks to MaineDOT related to compliance with the National Historic Preservation Act of 1966 (NHPA), as amended [54 United States Code (U.S.C.) § 306108 et seq.] pursuant to the regulatory provision at Title 36 Code of Federal Regulations Section 800.14 (36 C.F.R. § 800.14); and

WHEREAS, this Programmatic Agreement (Agreement) supersedes and replaces the July 27, 2022, Agreement; and

WHEREAS, 36 C.F.R. § 800.14(b)(2) permits Federal Agencies to fulfill their obligations under Section 106 of the NHPA through the development and implementation of programmatic agreements for an agency's program of undertakings; and

WHEREAS, the FRA issues a variety of dedicated and competitive grants; and pursuant to 49 C.F.R. § 1.81(a)(6), FRA carries out the responsibilities under Section 106 for rail projects for which credit assistance is provided by the U.S. Department of Transportation's Build America Bureau, which administers the U.S. Department of Transportation's credit and loan programs; and

WHEREAS, the FRA Administrator is the "Agency Official" responsible for ensuring that FRA complies with Section 106; and

WHEREAS, FRA has determined that projects funded through FRA grant programs or with credit assistance provided by the Build America Bureau are undertakings pursuant to Section 106 and may have an effect on Historic Properties, and FRA will utilize this Programmatic Agreement for undertakings in the state of Maine for which Maine DOT is the applicant and/or project sponsor; and

WHEREAS, FRA authorizes MaineDOT to utilize the terms of the Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way (Program Comment for Rail Rights-of-Way) in accordance with Section II (A)(3) of the Program Comment for Rail Rights-of-Way.

WHEREAS, MaineDOT administers Federal-aid projects throughout the State of Maine as authorized by Title 23 U.S.C. 302, and may receive financial assistance from FRA or the Build America Bureau; and

WHEREAS, FRA will serve as "Lead Federal Agency" for Section 106 responsibilities for purposes of compliance and having the authority to commit the agency to any obligation it may assume for all FRA actions under this Agreement; and WHEREAS, FHWA funds the Federal-Aid Highway Program (Program) in the State of Maine as authorized by 23 U.S.C. § 101 et seq.; and

WHEREAS, Title 23 United States Code Section 326 (23 U.S.C. 326) and 23 United States Code Section 327 (23 U.S.C. 327) allow the United States Department of Transportation Secretary, acting through FHWA, to assign responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA) and other federal environmental laws to a State Department of Transportation through a memorandum of understanding (MOU); and

WHEREAS, FHWA and MaineDOT have entered into two MOUs, (included in this Agreement as Attachments), as provided for in 23 U.S.C. 326 and 23 U.S.C. 327 respectively, through which FHWA assigned and MaineDOT assumed FHWA's responsibilities for compliance with NEPA and Section 106; and

WHEREAS, FHWA has assigned to MaineDOT the responsibility for project-level environmental reviews including Section 106 reviews on certain Federal-Aid Highway Program Categorical Exclusions in accordance with the 326 MOU (*Attachment 1*), and on certain Federal-Aid Highway Program Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements in accordance with the 327 MOU (*Attachment 1*)

WHEREAS, either FHWA or MaineDOT will serve as "Lead Federal Agency" for Section 106 responsibilities for purposes of compliance and having the authority to commit the agency to any obligation it may assume under this Agreement, dependent upon whether the project or action at issue is a 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) Assigned Project as follows; and

WHEREAS, for projects other than 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) assigned projects, the FHWA Maine Division is the lead Federal agency and the FHWA Division Administrator is the Agency Official for Federal-Aid Highway Program funded projects not assigned under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*), and is a signatory to this Agreement; and

WHEREAS, for 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) assigned projects, MaineDOT is deemed to be the Lead Federal Agency, and the MaineDOT Environmental Office Director is the Agency Official for compliance with 36 CFR Part 800 for Federal-Aid Highway Program funded projects. The Environmental Office Director is advised by MaineDOT staff who meet the Secretary of the Interior professional qualification standards; and

WHEREAS, FHWA and FRA, as Federal agencies, have a unique legal relationship with Native American Tribes as set forth in the Constitution of the United States, treaties, statutes, executive orders, and court decisions, and while Federally Recognized Native American Tribes (Tribes) may agreed to work directly with MaineDOT as part of Section 106 compliance, the FHWA remains legally responsible for government-to-government consultation with Tribes, as described in Section II (B) of

the 326 MOU and Section 2.2.3 of the 327 MOU (*Attachment 1*), and FRA remains legally responsible for government-to-government consultation with Tribes on all undertakings under FRA's authority; and

WHEREAS, the ACHP issues regulations to implement Section 106, provides guidance and advice on the application of the procedures in 36 C.F.R Part 800, and generally oversees the operation of the Section 106 process and participated in consultation on development of this Agreement to 36 C.F.R. § 800.14(b)(2), and is a signatory to this agreement; and

WHEREAS, the responsibilities of the Maine State Historic Preservation Officer (SHPO) under Section 106 and 36 CFR Part 800 are to advise, assist, review, and consult with Federal agencies as they carry out their historic preservation responsibilities and to respond to Federal agencies' requests; and

WHEREAS, FHWA, FRA, and MaineDOT, (herein collectively referred to as the "Federal Agencies, separately each as "Lead Federal Agency") have determined that certain types of transportation projects, identified in Appendix A of this Programmatic Agreement, would have minimal potential to affect properties included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter referred to as historic properties,

WHEREAS, FHWA and FRA have consulted with Federally recognized Indian tribes (Tribes) with ancestral lands in Maine about this Agreement, requested their comments, and have taken any comments received into account. These Tribes include Mi'kmaq Nation; the Houlton Band of Maliseet Indians; the Passamaquoddy Tribe; and the Penobscot Nation. The Houlton Band of Maliseet Indians replied with no concern. No other Tribes replied; and

WHEREAS, any project involving tribal lands as defined in 36 CFR § 800.16(x), or any project that may affect a historic property identified by a federally recognized Indian tribe as possessing traditional religious and cultural significance, shall not be governed by this agreement, but shall be reviewed by the appropriate Lead Federal Agency in accordance with 36 CFR Part 800 if requested by the tribal parties; and

WHEREAS, the public has been given the opportunity to review and comment on this Agreement through MaineDOT's website, and comments received have been taken into account by FHWA and FRA; and

WHEREAS, Certified Local Governments (CLGs), local historic societies, Maine Preservation, and state agencies have been invited to review and comment on this Agreement through a Virtual Public Input website and comments received have been taken into account by signatories; and

WHEREAS, MaineDOT participated in the consultation and has been invited to be a signatory to this Agreement, and is a required signatory as a Federal Agency under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*).

NOW, THEREFORE, the Federal Agencies, the SHPO, the ACHP, and MaineDOT,

together the Signatories, agree that the Federal Programs in Maine shall be carried out in accordance with the following stipulations in order to take into account the effects of the Federal Agencies' and MaineDOT's transportation undertakings on historic properties in Maine and that these stipulations shall govern compliance of the Federal Agencies' and MaineDOT's transportation undertakings with Section 106 of the NHPA until this Agreement expires or is terminated.

The stipulations of this Agreement are organized in the following order:

- I. Applicability and Scope
- II. Projects Where Multiple Federal Agencies Have Review or Approval Responsibilities
- III. Professional Qualifications Standards
- IV. Responsibilities
- V. Consultation with Tribes
- VI. Participation of Other Consulting Parties and the Public
- VII. Project Review
- VIII. Changes in Scope
- IX. Emergency Situations
- X. Post-Review Discoveries
- XI. Identification and Treatment of Human Remains
- XII. Monitoring and Reporting
- XIII. Dispute Resolution
- XIV. Amendment
- XV. Termination
- XVI. Confidentiality
- XVII. Duration of Agreement

Appendix A – Excluded Projects

Appendix B – Definitions

Attachment 1 – Links

## STIPULATIONS

The Federal Agencies, with the assistance of MaineDOT, shall ensure that the following measures are carried out, and MaineDOT will be responsible for ensuring the following measures under 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) assigned projects:

### I. APPLICABILITY, SCOPE & GOALS

- A. The purpose of this Agreement is to streamline consultation for Section 106 of the NHPA for the Federal Agencies' federally funded and/or authorized transportation undertakings in Maine for which MaineDOT is the Lead Federal Agency, applicant and/or project sponsor.
- B. This Agreement sets forth the process by which the Federal Agencies, with the assistance of MaineDOT, as applicable, will meet their responsibilities pursuant to Section 106 Section of the NHPA (54 U.S.C. § 306108). The Agreement is meant to be a general guide outlining major responsibilities of each signatory party.
- C. More detailed project review procedures will be updated periodically via MaineDOT's Section 106 Standard Operating Procedures (*Attachment 1*)
- D. Through this Agreement the Federal Agencies authorize Maine DOT to initiate and, in many cases, conclude consultation with the SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA for the Federal Agencies' federally funded and/or authorized transportation undertakings in Maine for which Maine DOT is the applicant and/or project sponsor or for which the project is assigned to MaineDOT as the Federal Agency under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*).
- E. This Agreement shall not apply to undertakings that occur on or affect tribal lands as defined in 36 CFR 800.16(x), or any project that may affect a historic property identified by a federally recognized Indian tribe as possessing traditional religious and cultural significance.

### II. PROJECTS WHERE MULTIPLE FEDERAL AGENCIES HAVE REVIEW or APPROVAL RESPONSIBILITIES

Federal agencies who designate FHWA, FRA, or MaineDOT (for projects that fall under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*)) as a Lead Federal Agency for an undertaking may fulfill their obligations under Section 106 of NHPA according with 36 CFR 800.2(a)(2) utilizing this Agreement, provided that the Lead Federal Agency and MaineDOT follow the requirements of this Agreement and the agency's undertaking does not have the potential to cause effects to historic properties beyond those considered by the Federal Agencies and MaineDOT.

For undertakings otherwise subject to this Agreement, that have been previously reviewed by

another federal agency, and for which FRA has verified that the scope of work remains unchanged, FRA may elect to rely on existing Section 106 reviews pursuant with 36 CFR Part 800.3(b) to satisfy its Section 106 requirements. FRA remains responsible for any portions of the undertaking not addressed via previous Section 106 consultation and may utilize this Agreement to satisfy outstanding responsibilities.

### **III. PROFESSIONAL QUALIFICATIONS STANDARDS**

Actions prescribed by this Agreement that involve the identification, evaluation, recording, treatment, monitoring, or disposition of historic properties, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meets the Secretary of the Interior's Professional Qualifications Standards (published in 48 FR 44738-44739) and the Maine State Historic Preservation Officer's Standards for Archaeological Work in Maine, Chapter 812 (94-089). However, nothing in this stipulation may be interpreted to preclude the Lead Federal Agency, MaineDOT or any agent or contractor thereof from using the services of persons who do not meet these qualifications standards, provided their activities are conducted under the supervision of a person who does meet the standards.

MaineDOT will employ contractors and consultants meeting the requirements of the Secretary of the Interior's Professional Qualifications Standards (48FR 190 :44738- 44739) and the Maine State Historic Preservation Officer's Standards for Archaeological Work in Maine, Chapter 812 (94-089).

### **IV. RESPONSIBILITIES**

The following section identifies the responsibilities of the signatories in complying with the terms of this Agreement.

#### **A. FHWA Responsibilities**

1. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(a)(1-4), FHWA remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by MaineDOT on undertakings exempted from the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*). At any point in the Section 106 process, FHWA may inquire as to the status of any undertaking carried out under the authority of this Agreement and may participate directly in any undertaking at its discretion.
2. FHWA will notify the ACHP of findings of adverse effect and invite ACHP to participate in resolving the adverse effect of an undertaking in accordance with 36 CFR 800.6(a)(1) for FHWA projects not assigned under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*).
3. FHWA retains the responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m), regardless of whether a project is developed under or exempted from the 326 MOU (*Attachment 1*) or 327 MOU

(Attachment 1). FHWA may ask MaineDOT to assist in consultation if a Tribe agrees to alternate procedures.

4. FHWA shall be responsible for resolving disputes and objections pursuant to Stipulation XIII of this Agreement when acting as the Lead Federal Agency for Section 106 for projects not assigned under the 326 MOU (Attachment 1) and 327 MOU (Attachment 1).

#### B. FRA Responsibilities

1. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(a)(1-4), FRA remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by Maine DOT under the authority of FRA. At any point in the Section 106 process, FRA may inquire as to the status of any undertaking carried out under the authority of this Agreement and may participate directly in any undertaking at its discretion.
2. FRA will notify the ACHP of findings of adverse effect and invite the ACHP to participate in resolving the adverse effect of an undertaking in accordance with 36 CFR 800.6(a)(1).
3. FRA retains the responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m). FRA may ask MaineDOT to assist in consultation if a Tribe agrees to alternate procedures.
4. FRA shall be responsible for resolving disputes and objections pursuant to Stipulation XIII of this Agreement when acting as the Lead Federal Agency for Section 106.

#### C. MaineDOT Responsibilities

1. MaineDOT, using staff and/or consultants meeting the Secretary of the Interior's professional qualifications standards (48 FR 44738-9) and the Maine State Historic Preservation Officer's Standards for Archaeological Work in Maine, Chapter 812 (94-089), will independently perform the work and consultation described in 36 CFR 800.3 – 36 CFR 800.6 (including any succeeding revisions to the regulations) on behalf of the Federal Agencies for the Federal Agencies' federally funded and/or authorized transportation undertakings in Maine for which MaineDOT is the applicant and/or project sponsor. Delegation of these responsibilities is based on ongoing adequate and appropriate performance by MaineDOT as evaluated in monitoring by the Federal Agencies pursuant to Stipulation XII of this Agreement. These responsibilities include carrying out the following requirements:

- a. Determining whether exempted activities listed in Appendix A of ACHP's Program Comment for Rail Rights-of-Way are fully or partially applicable to the undertaking.
- b. Reviewing all documentation prepared by consultants or subcontractors prior to submittal for SHPO or Federal Agency review.

- c. 36 CFR 800.3(a) Determine whether the undertaking is a type of activity that has the potential to cause effects on historic properties.
- d. 36 CFR 800.3(c) and (d) Determine whether the undertaking may occur on or has the potential to affect historic properties on tribal lands.
- e. 36 CFR 800.3(e) solicit public comment and involvement.
- f. 36 CFR 800.3(f) identify additional consulting parties who should be invited to participate in the undertakings covered by this Agreement.
- g. 36 CFR 800.4(a) and (b) determine and document, in consultation with the SHPO, the scope of identification efforts and level of effort, including the undertaking's area of potential effects (APE).
- h. 36 CFR 800.4(b) In consultation with the SHPO, identify properties within the APE included in or eligible for listing in the NRHP.
- i. 36 CFR 800.5(a)(1) Determine whether historic properties may be affected by the undertaking by applying the criteria of adverse effect in consultation with the SHPO/Tribal Historic Preservation Officer (THPO) and any Tribe that attaches religious and cultural significance to identified historic properties.
- j. 36 CFR 800.6 In consultation with the Lead Federal Agency, the SHPO, the ACHP (if it has chosen to participate), and any other consulting parties address any adverse effects through the development, circulation, and execution of a MOA, as appropriate.
- k. Provide the Lead Federal Agency copies of all correspondence sent out on its behalf (e.g. letters to SHPO or Tribes) for all non-assigned projects under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*).

2. Lead Federal Agency for projects assigned under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*), for purposes of this programmatic agreement.

3. MaineDOT will organize an annual meeting (if requested by any signatory to this programmatic agreement) and invite the Federal Agencies, Federally Recognized Tribes, ACHP and the SHPO to assess activities conducted under this Agreement, and the status of the Agreement.

#### D. SHPO Responsibilities

1. The SHPO will consult with the applicable Lead Federal Agency, MaineDOT, or their designee on the definition of the APE, identification of historic properties, evaluation of National Register eligibility, assessment of effects and resolution of adverse effects, according to the terms of this Agreement.
2. The SHPO will respond to requests from the applicable Lead Federal Agency, MaineDOT, or their designee, for information about historic properties held by the SHPO. Only Lead Federal Agency staff, MaineDOT staff, or their designee, who are qualified professionals, will be allowed access to historic property information held by the SHPO. Access to historic property information may be through online systems or hard copy site files, Geographic Information Systems (GIS) data, survey

reports, or other records.

3. SHPO will review and monitor activities carried out pursuant to this Agreement, which includes reviewing summary reports on 1) projects exempted from Section 106 review, and 2) project scope changes that did not require additional consultation with SHPO. The SHPO will participate in an annual meeting (if requested by a signatory of this programmatic agreement) to evaluate implementation of this Agreement.

#### E. ACHP Responsibilities

1. ACHP will attend annual meetings to evaluate implementation of this Agreement, as needed.
2. ACHP will participate in the resolution of disputes that may occur through the implementation of this Agreement.

### V. CONSULTATION WITH TRIBES

A. On undertakings exempted from the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) or for which FRA is the Lead Federal Agency, the Lead Federal Agency with assistance from MaineDOT, shall identify and consult with Tribes consistent with the requirements of 36 CFR 800.2(c)(2) and 36 CFR 800.3(c)-(f). MaineDOT, may provide general coordination information to Tribes. For undertakings that fall under 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*), Maine DOT shall be the Lead Federal Agency and shall identify and consult with Tribes consistent with the requirements of 36 CFR 800.2(c)(2) and 36 CFR 800.3(c)-(f).

FRA and FHWA shall retain ultimate responsibility for all federal requirements pertaining to government-to-government consultation.

- B. MaineDOT shall ensure that consultation with Tribes is initiated early in the project planning process to identify cultural, confidentiality, or other concerns and to allow adequate time for consideration of Tribal input, regardless of whether a project is developed under or exempted from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*).
- C. Per 36 CFR 800.3(f)(2), federally recognized Tribes that have cultural affiliation with lands in Maine are invited to consult regardless of project location, and regardless of this programmatic agreement.
- D. The Lead Federal Agency, shall ensure that consultation continues with Tribes throughout the Section 106 review process prescribed by this Agreement for undertakings exempted from the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) or for which FRA is the Lead Federal Agency. For undertakings that fall under 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*), FHWA will participate in consultation whenever Tribes request government-to-government consultation.
- E. The Lead Federal Agency may ask MaineDOT to participate in government-to-government consultation if the Tribe agrees.
- F. As soon as possible, the MaineDOT shall make the Lead Federal Agency and

SHPO aware of any and all Tribal concerns as it relates to properties of religious and/or cultural significance to the Tribes.

## **VI. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC**

### **A. Other Consulting Parties**

1. For undertakings exempted from the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*) or for which FRA is the Lead Federal Agency, consulting parties for each undertaking shall be identified in writing by MaineDOT, in consultation with the SHPO, pursuant with 36 CFR 800.3(c-f) and consulting party participation in undertakings covered under this Agreement shall be governed by 36 CFR 800.3(f)(3). Individuals and organizations with a demonstrated interest in an undertaking shall be invited by MaineDOT, in consultation with the Lead Federal Agency, to participate in the Section 106 process. Any land-managing agency whose land may be affected by an undertaking shall be invited by MaineDOT to participate in the Section 106 process. Written requests by individuals, organizations, and agencies to become consulting parties will be evaluated on a case-by-case basis by MaineDOT and the Lead Federal Agency, in consultation with the SHPO.
2. For undertakings that fall under 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*), consulting parties for each undertaking shall be identified in writing by MaineDOT, in consultation with the SHPO, pursuant with 36 CFR 800.3(c-f) and consulting party participation in undertakings covered under this Agreement shall be governed by 36 CFR 800.3(f)(3). Individuals and organizations with a demonstrated interest in an undertaking shall be invited by MaineDOT to participate in the Section 106 process. Any land-managing agency whose land may be affected by an undertaking shall be invited by MaineDOT to participate in the Section 106 process. Written requests by individuals, organizations, and agencies to become consulting parties will be evaluated on a case-by-case basis by MaineDOT, in consultation with the SHPO.

### **B. Public Involvement**

1. Public involvement in planning and implementing undertakings covered by this Agreement shall be governed by FHWA's, FRA's and MaineDOT's environmental compliance procedures. MaineDOT's Public Involvement Plan (*Attachment 1*) provides further guidance for identifying, informing, and involving the public. Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d), 800.3(e), and 800.11(c)(1 and 3).
2. The MaineDOT shall continue to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the effects on historic properties, to remain consistent with the intent of 36 CFR Part 800, as amended.
3. As soon as possible, the MaineDOT shall make the Lead Federal Agency and SHPO aware of any and all public controversy as it relates to the historic properties

potentially affected by the proposed undertaking.

## VII. PROJECT REVIEW

Project review procedures are outlined below. Directions for Maine DOT staff on tracking and processing projects can be found in the *MaineDOT's Section 106 Standard Operating Procedure (SOP) (Attachment 1)*, as amended.

### A. Projects that have no potential to cause effects to historic properties:

1. In accordance with 36 CFR 800.3(a)(1), there are actions that by their nature, will not result in effects to historic properties if they are present. These are limited to only non-construction related activities. For example, purchasing equipment, release of funds for planning studies and design (see *Appendix A*) all fall under this portion of the regulation and do not require further review under this Agreement.
2. All other projects that include construction and maintenance activities have the potential to cause effects. MaineDOT's SOI qualified cultural staff will make these determinations.

### B. Projects with minimal potential to affect historic properties (“Projects Excluded from Further Review”):

1. Certain types of transportation projects have minimal potential to affect historic properties, whether or not there may be historic properties in the project area. The signatories to this Agreement agree that minor projects limited to the activities listed in Appendix A will require no further coordination under this Agreement.
2. MaineDOT, the SHPO, and Federal Agencies may petition to add or remove additional activities to the list in Appendix A upon written amendment to and concurrence from all signatories to this agreement following the process in Stipulation XIV.
3. For projects that are limited to the activities listed in Appendix A, MaineDOT will document its finding that the action is excluded from further review and maintain that documentation in its project files and include it in an annual report (Stipulation XII).

### C. Projects with potential to affect historic properties:

1. No Historic Properties Affected. MaineDOT shall consult, as needed, with the Lead Federal Agency on the scope of the undertaking and its APE for undertakings exempted from the 326 MOU (*Attachment 1*), 327 MOU (*Attachment 1*) or which have FRA as the Lead Federal Agency. For undertakings developed under the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*), MaineDOT is responsible for establishing the undertaking APE. For undertakings in which there are: a) no previously recorded historic properties within the APE and b) no newly identified historic properties within the APE (as

determined in accordance with MaineDOT's SOP (*Attachment 1*), and Maine Historic Preservation Commission's Survey Guidelines (*Attachment 1*), MaineDOT's cultural resource staff will issue a finding of "no historic properties affected" and will forward this finding and supporting documentation to the SHPO for concurrence. MaineDOT will notify all consulting parties and make the documentation available for public inspection.

2. If there are potential historic properties identified within the APE:
  - a. MaineDOT's cultural resource staff will apply the National Register Evaluation Criteria in consultation with the SHPO and consulting parties to assess the need for any additional investigation and determine National Register eligibility in accordance with 36 CFR 800.4.
  - b. MaineDOT initiates consultation with tribes for all projects with a federal nexus (regardless of this PA). If any tribe requests Government to Government consultation, then MaineDOT will notify the lead Federal Agency, either FHWA or FRA. FHWA or FRA will lead the consultation.
3. No Adverse Effect
  - a. MaineDOT will apply the Criteria of Adverse Effect to any historic properties in consultation with the Maine SHPO and other consulting parties, as appropriate, in accordance with 36 CFR 800.5.
  - b. If MaineDOT determines that the undertaking will have no adverse effect on historic properties, it will notify SHPO and any other consulting parties in writing and make it available for public review. The SHPO will review the determination and provide written comments within 30 calendar days from receiving MaineDOT's finding and supporting documentation as set forth in 36 CFR 800.11.
  - c. If SHPO concurs with MaineDOT's no adverse effect determination, and no consulting parties disagree with the finding, MaineDOT shall document that finding, and proceed with the undertaking as planned.
  - d. The MaineDOT shall include the following documentation in the project file:
    - i. Any records on consultation.
    - ii. Any records on efforts to identify historic properties.
    - iii. Any findings of eligibility.
    - iv. Any findings of effect.
4. Adverse Effect
  - a. If MaineDOT determines that the undertaking will have an adverse effect on historic properties:
    - i. MaineDOT shall continue consultation with SHPO/THPO, the Lead Federal agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking), and other consulting parties to develop and evaluate alternatives or modifications to the undertaking that could avoid or minimize adverse effects on historic properties.
    - ii. If the adverse effect cannot be avoided, MaineDOT shall prepare a Finding of Adverse Effect. If the undertaking is exempt from

the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*), Maine DOT will provide the Finding of Adverse Effect for FHWA to notify ACHP in accordance with 36 CFR 800.11(e). For undertakings prepared under the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*), the Maine DOT will notify the ACHP directly.

For FRA lead projects, MaineDOT will provide a draft Finding of Adverse Effect for FRA to review, approve, and sign before distribution to the SHPO. MaineDOT will provide FRA with a final Finding of Adverse Effect to use for notification to the ACHP in accordance with 36 CFR 800.11(e).

- b. MaineDOT's cultural resource staff will then consult with the SHPO and other consulting parties to resolve adverse effects and conclude the Section 106 process in accordance with 36 CFR 800.6.

## VIII. CHANGES IN SCOPE

- A. When there is a project scope change, or a new project element is added to an undertaking after Section 106 review has concluded, or when a project undergoes an environmental re-evaluation, then MaineDOT, in consultation with the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking), will assess the need for additional consultation with SHPO and other consulting parties following the process laid out below. MaineDOT is the lead federal agency for projects that fall under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*).

Additional consultation will not be required under the following conditions:

- The APE has not changed beyond the limits of previous identification efforts; and
- There is no change to the earlier effects finding; and
- Less than 5 years have passed since cultural resources have been recorded within the APE; and
- The project scope change is an action listed in Appendix A and is exempted from further review and consultation.

MaineDOT will document in ProjEx (MaineDOT's project database) the changes and that the above conditions have been met and no additional consultation is required.

- B. If the above conditions are not met, MaineDOT will review the project scope change in consultation with SHPO, Tribes and other consulting parties following Section 106 requirements.

## IX. EMERGENCY SITUATIONS

In the event that the State of Maine (or a county or counties in Maine) experiences a disaster (natural or otherwise) event triggering a state of emergency, as declared by the President of the

United States and/or the Governor of Maine, expedited reviews and procedures will be implemented. Guidance in the MaineDOT Section 106 SOP identifies the procedure and expedited review for Emergency Repairs as defined in 36 CFR § 800.12 and 23 CFR 668.103 for federally funded projects where FHWA is the Lead Federal Agency or MaineDOT is the lead Federal agency for projects assigned under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*). In all cases the Lead Federal Agency shall ensure that notification and request for comment are made to SHPO and appropriate THPOs and any Indian tribe that may attach religious and cultural significance to historic properties likely to be affected prior to the undertaking.

Emergencies are defined consistent with 36 C.F.R. § 800.12 as occurrences that require emergency highway system and facility repairs that are necessary to:

- (1) protect the life, safety, or health of the public;
- (2) minimize the extent of damage to the highway system and facilities;
- (3) protect remaining highway facilities; or
- (4) restore essential traffic.

The following stipulations apply to emergency situations:

- A. Repairs to address emergency situations as defined above can occur regardless of funding category or declarations made by Federal, state, or local agencies. MaineDOT may take immediate remedial action without waiting for comment if such action is necessary to prevent further escalation of the emergency by the circumstances causing it. Immediate rescue and salvage operations conducted to preserve life or property are exempt from Section 106 review, per MaineDOT Section 106 SOP.
- B. If the emergency repair project could affect historic properties, MaineDOT's HC (Historic Coordinator) will work with the Environmental Team Leader in these situations and shall notify the SHPO/THPO, FHWA, and Tribes within 48 hours, when feasible. If possible, the SHPO/THPO and any Tribe that may attach religious and cultural significance to historic properties likely to be affected shall be given seven calendar days to respond. If the HC determines that circumstances do not permit seven calendar days for comment, the ACHP and SHPO/THPO will be notified and invited to comment within the time available.
- C. For projects where the repair must be made within the first 30 calendar days of the occurrence of the event that caused the emergency or the declaration of the emergency by an appropriate authority, the processing of environmental documentation will happen concurrently or after the fact. In these cases, MaineDOT will comply with the procedures to the extent possible, but the reviews will likely be conducted after the emergency work is completed.
- D. For projects taking longer than 30 calendar days for repair, MaineDOT will comply with 36 CFR 800.3-800.5.

## **X. POST-REVIEW DISCOVERIES**

- A. Planning for Subsequent Discoveries

When MaineDOT's identification efforts indicate that historic properties are likely to be discovered during implementation of an undertaking, MaineDOT shall include in any environmental document, contract, and specifications, a plan for discovery of such properties. Implementation of the plan as originally proposed, or modified as necessary owing to the nature and extent of the properties discovered, will be in accordance with 36 CFR 800.4-6.

**B. Late Discoveries**

1. If previously unidentified archaeological or historic properties, or unanticipated effects, are discovered after MaineDOT has completed its review under this Agreement, that portion of the project will stop immediately, in accordance with State of Maine Standard Specification 105.9 (*Attachment 1*).
2. No further construction within 100' of the area of discovery will proceed until the requirements of 36 CFR 800.13 have been satisfied, including consultation with Tribes that may attach traditional cultural and religious significance to the discovered property. MaineDOT will notify SHPO/THPO and Tribes within 48 hours of discovery.
3. MaineDOT, in coordination with the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking), will record, document, and evaluate NRHP eligibility of the property and the project's effect on the property, then consult with SHPO/THPO and Tribes and notify other Consulting Parties, as appropriate, regarding design of a plan for avoiding, minimizing, or mitigating adverse effects on any eligible property.
4. If neither the SHPO/THPO nor a Tribe files an objection within 72 hours of MaineDOT's plan for addressing the discovery, MaineDOT may carry out the requirements of 36 CFR 800.13 on behalf of the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking), and the ACHP does not need to be notified.

**XI. IDENTIFICATION AND TREATMENT OF HUMAN REMAINS**

- A. If human remains are identified prior to, during or after project construction, MaineDOT will develop a draft treatment plan in consultation with the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking) and the SHPO within 10 business days of discovery. If discovery is during construction, the SHPO will be notified within 48 hours and any work within 100' of the discovery area will stop. If it is determined that the human remains are associated with a historic property of religious or cultural significance to Tribes, MaineDOT and the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking) will consult with the Tribes prior to the development or execution of a treatment plan.
- B. All work conducted on human remains and abandoned cemeteries will comply with Title 30-A, §3107: *Abandoned cemeteries (Attachment 1)*.

## **XII. MONITORING AND REPORTING**

1. FHWA shall monitor the provisions of this Agreement no more than every 24 months after the date of execution of this agreement. The monitoring effort shall consist of a review of project records and interviews of staff at MaineDOT, SHPO/THPO, as well as interviews with consulting parties. FHWA shall prepare a report that summarizes the conclusions of monitoring that will be posted and publicly available on the MaineDOT website. FHWA will also transmit the monitoring report to the ACHP for review.
2. FRA shall monitor the implementation of this Agreement when MaineDOT submits NEPA documentation to FRA for review and approval, which should include all relevant Section 106 documentation.
3. MaineDOT shall prepare a written report annually on a calendar year basis. MaineDOT shall submit the annual report to the Federal Agencies, the SHPO, and ACHP no later than March 31 of each year. If any party requests, a meeting will be held to discuss the annual report. The report shall be made available to the public.
4. MaineDOT shall include in the annual report information to document the effectiveness of the Agreement. The report will provide a description of the number and effect finding type for projects that were reviewed during the calendar year. The report will also describe accomplishments/successes achieved over the course of the year as well as suggestions for improvements. Additional categories of information can include, but are not limited to, a summary of actions taken under the Agreement, and unanticipated discoveries. Any public objections (see Section XIII.10) raised to signatory agencies shall be documented in the report.
5. The range and type of information included by MaineDOT in the written report and the manner in which this information is organized and presented must facilitate the ability of the reviewing parties to assess accurately the degree to which the Agreement and its manner of implementation constitute an efficient and effective program alternative under 36 CFR 800. The written report should be used to determine whether this Agreement should remain in effect, and if so, whether and how it should be improved through appropriate amendment.

## **XIII. DISPUTE RESOLUTION**

### **Resolving Objections to Implementation of this Agreement**

1. Should any signatory party object in writing to the Federal Agencies regarding the manner in which the terms of this Agreement are carried out, the Federal Agencies will immediately notify the other signatory parties of the objection and proceed to consult with the objecting party to resolve the objection. The Agencies will honor the request of any signatory party to participate in the consultation and will take any comments provided by such parties into account. The Agencies shall establish a reasonable time frame for such consultations.
2. Should any party object to a MaineDOT determination of eligibility, the Lead Federal Agency if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU

(*Attachment 1*) or is a FRA undertaking) will attempt to resolve the dispute through further consultation with all parties to the dispute. For undertakings developed under the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*), MaineDOT will lead dispute resolution efforts.

3. If these methods are not successful, the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is an FRA undertaking) or the MaineDOT (for actions developed under the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*)) will submit the eligibility determination to the Keeper of the National Register of Historic Places for resolution.
4. If the objection is resolved through consultation, the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking) or MaineDOT (for undertakings developed under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*)) may authorize the disputed action to proceed in accordance with the terms of such resolution.
5. If after initiating such consultation, the Lead Federal Agency (if the undertaking is exempt from the 326 MOU (*Attachment 1*) or 327 MOU (*Attachment 1*) or is a FRA undertaking) or MaineDOT (for undertakings developed under the 326 MOU (*Attachment 1*) and 327 MOU (*Attachment 1*)) determines that the objection cannot be resolved through consultation, the Lead Federal Agency or MaineDOT, as applicable, shall forward all documentation relevant to the objection to the ACHP and other signatory parties, including the Lead Federal Agency's or MaineDOT's proposed response to the objection. Within 30 calendar days of receipt of all pertinent documentation, ACHP shall exercise one of the following options:
  - i. Advise the Lead Federal Agency or MaineDOT, as applicable, that ACHP concurs in their proposed response to the objection, whereupon the Lead Federal Agency or MaineDOT will respond to the objection accordingly; or
  - ii. Provide the Lead Federal Agency or MaineDOT, as applicable, with recommendations, which the Lead Federal Agency or MaineDOT shall take into account in reaching a final decision regarding its response to the objection; or
6. Should ACHP not exercise one of the foregoing options within 30 calendar days after receipt of all pertinent documentation, the Lead Federal Agency or MaineDOT, as applicable, will resolve the objection without the ACHP.
7. The Lead Federal Agency or MaineDOT, as applicable shall take into account any ACHP recommendation or comment and any comments from the other signatory parties to this Agreement in reaching a final decision regarding the objection. The Lead Federal Agency's or MaineDOT's responsibility to carry out all actions under this Agreement that are not the subject of the objection shall remain unchanged.
8. The Lead Federal Agency or MaineDOT, as applicable shall provide all other signatory parties to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
9. The Lead Federal Agency or MaineDOT, as applicable, may authorize any action subject to objection under this Stipulation to proceed, provided the objection has

- been resolved in accordance with the terms of this Stipulation.
10. At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory party to this Agreement, that signatory party shall immediately notify the other signatories. Any signatory party may choose to comment on the objection. The signatories shall establish a reasonable time frame for this comment period, to be no less than 30 calendar days. The signatories shall consider the objection, and in reaching its decision, the signatories will take all comments from the other parties into account. Within 15 calendar days following closure of the comment period, the signatories will render a decision regarding the objection and respond to the objecting party. The signatories will promptly notify the other signatories of its decision in writing, including a copy of the response to the objecting party. The decision regarding resolution of the objection will be final. Following the issuance of its final decision, the signatories may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.

#### **XIV. AMENDMENT**

- A. Any signatory party to this Agreement may at any time propose amendments, whereupon all signatory parties shall consult to consider such amendment. This Agreement may be amended only upon written concurrence of all signatory parties.
- B. Each attachment to this Agreement may be individually amended through consultation of the signatory parties without requiring amendment of the Agreement. MaineDOT will file all updated attachments with ACHP and provide a copy to all signatories.

#### **XV. TERMINATION**

- A. Any signatory party may propose to terminate this Agreement. If this Agreement is not amended as provided for in Stipulation XIV, or if any signatory party proposes termination of this Agreement, the party proposing termination shall notify the other signatory parties in writing, explain the reasons for proposing termination, and consult with the other parties for no more than 30 calendar days to seek alternatives to termination.
- B. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement.
- C. Should such consultation fail, the signatory party proposing termination may terminate this Agreement by promptly notifying the other parties in writing.
- D. Beginning with the date of termination, the Federal Agencies and MaineDOT, as applicable, shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 CFR 800.
- E. If any party objects to extending the Agreement, or proposes amendments, MaineDOT will consult with the parties to consider amendments or other actions to avoid termination.

## **XVI. CONFIDENTIALITY**

All parties to this Agreement acknowledge that information about historic properties, potential historic properties, or properties considered historic for purposes of this Agreement are or may be subject to the provisions of 36 CFR 800.11(c) and Section 304 of NHPA. Section 304 allows the Federal Agencies to withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if Federal Agencies or MaineDOT determines that disclosure may: 1) cause a significant invasion of privacy; 2) risk harm to the historic resource; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all parties to this Agreement will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of Section 304 of the NHPA.

All parties in this agreement must also adhere to Maine State Statute *Protection of Site Location Information* 27 MRS § 377, as amended (*Appendix I*). To protect the site or protected site from unlawful excavation or harm, any information in the possession of the Maine Historic Preservation Commission, the State Museum, the Bureau of Parks and Lands, other state agencies or the University of Maine System about the location or other attributes of any site or protected site may be designated by the Maine Historic Preservation Commission or State Museum as confidential and exempt from Title 1, chapter 13.

## **XVII. DURATION OF AGREEMENT**

This Agreement shall remain in effect for a period of ten (10) years after the date the last signatory sign unless it is terminated prior to that time. Twelve months prior to the conclusion of the 10-year period, the Federal Agencies and MaineDOT will notify all parties in writing of its intent to renew. If there are no objections from the signatories, the term of the Agreement will be extended for an additional 10 years through an amendment, consistent with Stipulation XIV.

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the Federal Highway Administration, Federal Railroad Administration, Advisory Council on Historic Preservation, Maine State Historic Preservation Officer (Maine Historic Preservation Commission), and the Maine Department of Transportation, with separate pages for each agency provided.

Federal Highway Administration

Signed by:  
  
By: FE2FA25C0E11422...  
Hank Rettinger  
Maine Division Administrator

Date: 4/15/2026

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the Federal Highway Administration, Federal Railroad Administration, Advisory Council on Historic Preservation, Maine State Historic Preservation Officer (Maine Historic Preservation Commission), and the Maine Department of Transportation, with separate pages for each agency provided.

Federal Railroad Administration


By: *Amanda Murphy* \_\_\_\_\_  
Amanda Murphy  
Federal Preservation Officer

Date: 4/15/2026

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the Federal Highway Administration, Federal Railroad Administration, Advisory Council on Historic Preservation, Maine State Historic Preservation Officer (Maine Historic Preservation Commission), and the Maine Department of Transportation, with separate pages for each agency provided.

Advisory Council on Historic Preservation

By:  \_\_\_\_\_  
Reid Nelson  
Executive Director

Date: April 20, 2026

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the Federal Highway Administration, Federal Railroad Administration, Advisory Council on Historic Preservation, Maine State Historic Preservation Officer (Maine Historic Preservation Commission), and the Maine Department of Transportation, with separate pages for each agency provided.

Maine Historic Preservation Commission

By: *Kirk A. Mohney*  
Kirk Mohney  
State Historic Preservation Officer

Date: *4/15/2026*

EXECUTION AND IMPLEMENTATION

SIGNATORIES include the Federal Highway Administration, Federal Railroad Administration, Advisory Council on Historic Preservation, Maine State Historic Preservation Officer (Maine Historic Preservation Commission), and the Maine Department of Transportation, with separate pages for each agency provided.

Maine Department of Transportation

By:  \_\_\_\_\_  
Joyce Taylor  
Deputy Commissioner

Date: 4/15/2026

## APPENDIX A

### Excluded Projects

The following are activities in which MaineDOT routinely utilizes Federal Aid Highway and Federal Railroad Administration funds and which have minimal potential to affect historic properties, provided they are limited to the activities listed and are not part of a larger project. MaineDOT Cultural Resource staff will review projects to ensure that proposed exemptions are consistent with this section. Projects limited to these activities shall not require Section 106 consultation with SHPO nor any further consideration under Section 106:

#### **A. Replacement (same type/size and no impact outside of previously constructed limits)**

- ADA tip-downs, warning fields
- Road base, pavement
- Historic bridges: wearing surfaces, protective coating or sealing, paint (same color as existing)
- Non-historic bridges: decks, wearing surfaces, railings, wing walls, paint (excludes railroad bridges)
- Culverts (excludes railroad culverts and stone boxes)
  - Added length will not exceed ten feet in total (sum of both sides)
- Rail: track structure, ballasts, ties
- Signs, traffic signals
- Guardrail, curb, sidewalks
- Fences (not including stone walls), plant material
- Marine facility infrastructure: transfer bridges, pen, dolphins, piers, pilings, floats, moorings, boats

#### **B. Maintenance and replacement activities with visual changes where effects on historic properties are foreseeable and likely to be minimal or not adverse**

- Replacement/upgrades to signs, traffic signals, and associated equipment
  - Must be approximate in size, appearance, and location to existing and not outside of previously constructed limits
- Guardrail end-treatment replacement/upgrades
  - Added impervious pavement for end-treatment replacement/upgrades not to extend beyond six feet and toe of slope not to extend beyond six feet
- Extending/adding curb on existing sidewalk (must use in-kind materials)
- Adding new ADA tip-downs and warning fields

#### **C. Routine maintenance and repair that restores original/constructed conditions (no visual changes apparent and no impact to previously undisturbed ground)**

- Items listed under B above
- Vegetation management
- Drainage systems

- Crack sealing
- Scour countermeasures (e.g., filling in scour holes, eroded areas)
- Removing winter sand (all methods)
- Re-establishing ditches

**E. Structural/Strengthening work limited to non-historic, non-eligible bridge, not within an historic district (includes abutment repair above ground only - subsurface disturbance needs review)**

- Piers
- Abutments
- Joints

**F. Work on the Interstate or other controlled access highways within existing interchanges, medians, and travel ways within previously constructed slope limits**

**G. Work within previously constructed limits with no visual changes apparent**

- Paving over existing paved surface
- Installing in-pavement or in-fill technologies (e.g., scales)
- Slip and invert lining of non-historic culverts
- Rail lines

**H. Activities causing minimal or no disturbance to natural ground**

- Installing signs with wooden or “u” channel posts
- Placing or removing above ground temporary or easily moved items (e.g., benches, boulders)
- Planting within plow layer (12-16 inches)
- Loaming, seeding

**I. Archaeology Only - work within existing non-interstate intersections, medians, highways, rail lines, within previously constructed limits**

- Paving shoulders
- Installing signals

## Appendix B

### Definitions

- A. *Excluded Projects*: Undertakings which typically have minimal potential to cause effects on historic properties. Work is limited to the activities listed in Appendix A. An undertaking will not qualify as excepted from review if conditions must be imposed to ensure that potential historic properties would not be affected.
- B. *Ground disturbance* is defined as any work or activity that results in a disturbance of the earth, including excavating, digging, trenching, drilling, augering, backfilling, clearing, and grading.
- C. *Review Period (Days)*: All time designations are in calendar days unless otherwise stipulated. If a review period ends on a Saturday, Sunday or federal holiday, the review period will be extended until the next business day. All review periods start on the day the documents are provided to the relevant parties, which constitutes notification, unless otherwise stipulated in this Agreement.
- D. *Other Terms*: For purposes of this agreement, all definitions provided in 36 CFR Part 800.16 (a) through (y) shall apply.

## Attachment 1

### Links

[23 U.S.C. 326 MOU](#)

<https://www.maine.gov/dot/programs-services/environmental-efforts/nepa/nepa-assignment>

[23 U.S.C. 327 MOU](#)

<https://www.maine.gov/dot/programs-services/environmental-efforts/nepa/nepa-assignment>

[MaineDOT Section 106 SOP](#)

[https://www.maine.gov/dot/sites/maine.gov.dot/files/inline-files/Appendix%20J%20-%20Section%20106%20SOP\\_09.16.25.pdf](https://www.maine.gov/dot/sites/maine.gov.dot/files/inline-files/Appendix%20J%20-%20Section%20106%20SOP_09.16.25.pdf)

[MaineDOT Public Involvement Plan](#)

<https://www.maine.gov/dot/programs-services/environmental-efforts/nepa/public-involvement>

[State of Maine Standard Specifications](#)

<https://www.maine.gov/dot/programs-services/environmental-efforts/nepa/public-involvementhttps://www.maine.gov/dot/sites/maine.gov.dot/files/docs/contractors/publications/standardspec/docs/2020/2020%20Standard%20Specification.pdf>

[Title 30-A, §3107: \*Abandoned cemeteries\*](#)

<https://legislature.maine.gov/statutes/30-a/title30-Asec3107.html>

[Title 27, §377: \*Protection of Site Location Information\*](#)

<https://legislature.maine.gov/statutes/27/title27sec377.html>

[MHPC Survey Guidelines](#)

<https://www.maine.gov/mhpc/index.php/programs/survey/architectural>

[Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System](#)

<https://www.achp.gov/digital-library-section-106-landing/exemption-regarding-historic-preservation-review-process>

[Program Comment for Actions Affecting Post-1945 Concrete and Steel Bridges](#)

<https://www.achp.gov/digital-library-section-106-landing/program-comment-actions-affecting-post-1945-concrete-and-steel>

[Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way](#)

<https://www.achp.gov/digital-library-section-106-landing/program-comment-exempt-consideration-effects-rail-properties>

[Exemption From Historic Preservation Review for Electric Vehicle Supply Equipment](#)

<https://www.achp.gov/digital-library-section-106-landing/exemption-historic-preservation-review-electric-vehicle-supply>