



Guidance

List of Projects that Do Not Require Review or Coordination for Non-Archeological Historic Property Compliance

Introduction

The ENV's Historical Studies team (ENV-HIST) reviews projects under Section 106 of the National Historic Preservation Act, using the Section 106 Programmatic Agreement for Federal Highway Administration (FHWA)-funded projects (PA). ENV-HIST also reviews projects under the Antiquities Code of Texas for state- and locally funded projects in TxDOT ROW.

Districts should use the following two lists to answer the Historical Studies question on the WPD II Tool. See Section 5.8.1 of the Environmental Guide, Vol. 1, on the [Environmental Compliance Toolkit](#) for more information.

The lists identify the types of project activities that require no review or coordination by ENV-HIST under federal and state cultural resource regulations.

Note that state- or locally funded projects with no FHWA involvement but that require action by another federal agency—such as a historic bridge replacement with a USACE permit—may need additional consideration to comply with that agency's Section 106 policies.

- 1) Districts should review the lists closely. They differ in some important details.
- 2) Choose the correct list for the project based on whether there is FHWA involvement.
 - a. If **all** project activities appear on the list, answer YES to the WPD II question.
 - b. If one or more activities do not appear on the list, answer NO.
- 3) If project details change, such as activity types or FHWA involvement, Districts should update the answer to the WPD II question.

Contact ENV-HIST with any questions about what may or may not be included. Review *Guidance: Historical Review Procedures* from the [Historic Resources Toolkit](#) for more information.

List 1: FHWA projects that do not require screening by ENV-HIST¹

Use List 1 for a project with FHWA funding or FHWA approval. This list corresponds to Appendix 3 of the PA. Projects limited to the following activities do not require screening and review by ENV-HIST or consultation regarding their potential effects on non-archeological historic properties:

1. installation, repair, or replacement of fencing, signage, traffic signals, railroad warning devices, safety end treatments, cameras, and intelligent highway system equipment;
2. in-kind repair or replacement of lighting, signals, and non-native stone curbs and gutters;
3. maintenance, repair, or replacement of non-brick roadway surfacing, including crack seal, overlay, milling, grooving, resurfacing, and restriping;
4. removing sediment, debris, and vegetation from drainage ditches and swales;
5. addition or removal of turn lanes, crossovers, shoulders within current paved right-of-way (ROW);

¹ List 1: Pursuant to the Section 106 regulations, specifically 36 CFR 800.3(a)(1), certain routine projects have limited potential to cause effects on non-archeological historic properties. Through the 2023 Section 106 PA, TxDOT, FHWA, and the Texas Historical Commission identified several categories of project activities that district staff can proceed on with no screening by ENV-HIST.



6. purchase, construction, replacement, or rehabilitation of ferry vehicles;
7. installation, repair, or replacement of ferry fenders on docks or fenders/dolphins near any bridge;
8. installation, repair, widening, or replacement of non-masonry culverts less than 45 years old at time of let date;
9. replacement, upgrade, and repair of safety barriers, non-irrigation ditches, and storm drains;
10. replacement of or repair/rehabilitation of buildings and structures at TxDOT facilities and picnic and rest areas that are less than 45 years old at time of let date or have been previously determined to be not eligible for listing in the National Register of Historic Places (NRHP);
11. installation of landscaping and cable barriers within current right-of-way;
12. relocation or new construction of turn lanes and exit ramps between existing main lanes and existing frontage roads within current right-of-way (ROW);
13. Electric Vehicle Supply Equipment (EVSE) Level 1, 2, or 3 charging stations if proposed for existing parking facilities and that meet the following conditions, as defined by the 2022 ACHP exemption (87 FR 66201):
 - a. use reversible, minimally invasive, non-permanent techniques to affix the infrastructure;
 - b. minimize ground disturbance to the maximum extent possible, and ensure that it does not exceed previous levels of documented ground disturbance;
 - c. use the lowest profile EVSE reasonably available that provides the necessary charging capacity;
 - d. place the EVSE in a minimally visibly intrusive area; and
 - e. use colors complementary to surrounding environment, where possible.
14. Bridge projects comprised of the following activities, as long as such undertakings are not within or adjacent to a historic district listed in or eligible for listing in the National Register of Historic Places (NRHP), do not require any new ROW or permanent easements, and involve one of the types of bridges outlined in items i–v below:
 - a. Routine maintenance, such as asphalt overlays, cleaning deck drains and vegetation, sealing concrete, installing rip rap and other scour protection, and bridge cleaning;
 - b. Widening;
 - c. Upgrades, including rail/guardrail repair and/or replacement;
 - d. Repair;
 - e. Replacement;
 - f. Bridge undertakings in these categories only apply to the following types of bridges:
 - i. Bridges less than 45 years old at the time of construction letting;
 - ii. Bridges on the interstate system not previously listed in the NRHP or exempted from Section 106 as part of the Interstate Highway System (cannot be one of the six on this list: https://www.environment.fhwa.dot.gov/histpres/highways_list.asp);
 - iii. Concrete or steel bridges constructed after 1945 and part of the Program Comment for Common Post-1945 Concrete or Steel bridges (cannot be one of the bridges in Groups I, II, or III as listed in Appendix 7 of the Section 106 PA, which also appear in Appendix A of *Guidance: Determining Appropriate Level of Non-Archeological Historic Properties Review for Bridge Projects*);
 - iv. Concrete bridge-class culverts; and
 - v. Timber stringer bridges.



List 2: Non-FHWA projects on non-federal public lands of the State of Texas that do not require screening by ENV-HIST²

Use List 2 for a non-FHWA project on non-federal public land, such as a state- or locally funded project occurring within TxDOT ROW. This list includes activities with limited potential to affect non-archeological historic properties as defined under the Antiquities Code of Texas. Note that projects with state or local funding but non-FHWA federal permits may still require additional consideration.

- A. Maintenance, repair, installation, or replacement, of transportation-related features, including fencing, signage, traffic signals, railroad warning devices, safety end treatments, cameras and intelligent highway system equipment, non-historic bridges, railroad crossings, lighting, curbs and gutters, safety barriers, ditches, storm drains, non-historic culverts, overpasses, channels, rip rap, and noise barriers;
- B. Maintenance and in-kind repair of designated historic bridges, picnic areas, rest areas, roadside parks, and culverts;
- C. Maintenance, repair, or replacement of roadway surfacing, including crack seal, overlay, milling, grooving, resurfacing, and restriping;
- D. Maintenance, repair, reconfiguration, or correction of roadway geometrics, including intersection improvements and driveway and street connections;
- E. Maintenance, repair, installation, or modification of pedestrian and cycling-related features, including American with Disabilities Act ramps, trails, sidewalks, and bicycle and pedestrian lanes, unless they are on historic properties protected as State Antiquities Landmarks (SALs), county courthouse, or by preservation easement or covenant;
- F. Maintenance, repair, relocation, addition, or minor widening (less than double original pavement profile) of roadway, highway, or freeway features, including turn bays, center turn lanes, shoulders, U-turn bays, right turn lanes, left turn lanes, travel lanes, interchanges, medians, and ramps;
- G. Maintenance, repair, replacement, or relocation of features at crossings of irrigation canals, including bridges, new vehicle crossings, bank reshaping, pipeline and standpipe components, canal conversion to below-grade siphons, and utilities;
- H. Repairs needed as a result of an event, natural or man-made, which causes damage to a designated state highway, resulting in an imminent threat to life or property of the traveling public, or which substantially disrupts or may disrupt the orderly flow of traffic or commerce;
- I. Design changes for projects that have completed all applicable review and consultation where the new project elements comprise only one or more of the activities listed above.

² List 2: The Antiquities Code of Texas governs activities that could affect cultural resources on public property. TxDOT and the Texas Historical Commission agreed to a process for TxDOT processes using a Memorandum of Understanding (MOU). Pursuant to the MOU, codified at 43 TAC 2.270, TxDOT excludes certain projects from review for non-archeological historic resources. The List 2 activities in this guidance are those that do not require ENV-HIST to review for work on non-federal public property in Texas. Note that projects with state/local funding but with federal permits other than FHWA may require additional consideration.



Appendix A

The following table shows the revision history for this guidance document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
May 2024	Version 3 was released. Updated with execution of 2023 PA. Text updated for clarity and for inclusion of additional activities for List 1.
January 2020	Version 2 was released. Updated title to match ECOS Work Plan Development.
November 2018	Version 1 was released.