



GEORGIA DEPARTMENT
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Danielle Gosselin
Director of the Office
of Environmental Analysis
395 E Street SW
Washington, DC 20423-0001

**RE: STB: Revised National Environmental Policy Act (NEPA) Procedures
Nationwide
TA-260325-001**

Dear Ms. Gosselin:

Please find the Georgia Historic Preservation Division's (HPD) general comments below regarding the updates proposed by the U.S. Department of Transportation (DOT) Surface Transportation Boards (STB) related to STB implementing the National Environmental Policy Act (NEPA). HPD is the State Historic Preservation Office (SHPO) for the State of Georgia. As the Georgia SHPO, our primary responsibilities are outlined in the National Historic Preservation Act of 1966, as amended (NHPA), rather than in NEPA. However, HPD has an interest in providing comments on the proposed changes related to future NEPA compliance, as it relates to historic properties in general and the impact that the revised NEPA regulations/guidance may have on the ability of the STB to comply with Section 106 of the NHPA in Georgia.

HPD recommends ensuring updated NEPA regulations and/or guidance address concerns regarding accountability, professional qualifications, consultation, compliance with other laws including the NHPA, emergency procedures, and categorical exclusions. By addressing these concerns, appropriate transparency can be maintained and strengthened.

Specifically, the Georgia SHPO recommends considering the following additional guidance or strengthening STB's existing guidance as follows:

- **Accountability**
 - Utilize, to the extent possible, appropriate program alternatives, including programmatic agreements, to carry out Section 106 compliance under the NHPA.
 - When drafting NEPA regulations and guidance, make it clear how all interested parties, including SHPOs, will be able to, in any sort of practical manner, track changes to guidance, projects, and related documents, regardless of how the documentation is publicized.
 - As applicable, invest in substantive studies, reports, plans, and guides produced by qualified professionals that specifically address the presence of historic properties so that when routine maintenance activities or other projects are undertaken, historic properties are adequately accounted for in project planning and not adversely impacted by ill-considered activities.
 - Institute a robust, annual reporting procedure that offers stakeholders detailed information related to undertakings assessed by the STB under NEPA, how categorical exclusions are applied, the procedures in place to track the decisions of STB staff and provide information on who or what holds STB staff accountable to the American people for their NEPA-related decisions through the recommended reporting process.



- **Professional Qualifications**
 - Clarify the level of expertise required of people who are making decisions under the new NEPA compliance scheme. Regarding historic properties, the person making determinations should be a Secretary of the Interior (SOI) qualified professional.
 - Define the role of all STB staff tasked with decision-making under the agency's NEPA guidance.
- **Consultation**
 - Provide clear, comprehensive, and practical instructions on conducting NEPA consultation with the public, SHPOs, Tribal Historic Preservation Office/rs (THPO), local governments, and other stakeholders/entities in all NEPA documentation. Prevalent new guidance appears to exclude outside entities (public, local and state governments, etc.) from most Environmental Assessment (EA) processes until a Finding of No Significant Impact (FONSI) is issued, which appears to foreclose the opportunity of these entities to provide compelling consultation that could improve the project.
- **NEPA Compliance with the NHPA**
 - Appropriately consider and assess the cumulative impact of projects as outlined in the NEPA statute. If the STB's project will push impacts to historic properties 'over the edge' when done around the same time as a third-party, or where there is no agency oversight, these impacts should be taken into account regardless of the STB's ability to 'control' the other projects being done. If the agency's project tips the scales, those impacts to historic properties should be incorporated in the appropriate NEPA documentation.
 - Consider the use of NEPA public participation processes as a means to comply with NHPA public participation. With changing NEPA guidance, public participation processes should remain in order to utilize these efficiencies.
- **Categorical Exclusions**
 - Keep in mind that not all adverse effect determinations under the NHPA can be categorically excluded simply because they are being mitigated. Recommend revising lists of categorical exclusions to remove those that while they may seem inconsequential on paper, could still cause impacts to historic properties, such as the disposal of property without legally enforceable preservation protections, operations and maintenance on buildings 50 years old or older, or boundary changes that contain historic or archaeological resources.

In general, it appears to HPD that various proposed NEPA changes deliberately remove the power/standing of the public, small entities, local interests, tribes, and state governments in the NEPA process in favor of the federal agency. As such, it is HPD's opinion that changes in the NEPA process, as they relate to historic properties, presage likely substantive negative impacts in terms of compliance under the NHPA.

If we may be of further assistance, please contact Stacy Rieke, Environmental Review Program Manager, at Stacy.Rieke@dca.ga.gov or (470) 522-7979.

Sincerely,



Jennifer Flood, MHP, LEED Green Associate
Division Director
Deputy State Historic Preservation Officer