Manual of Standards and Guidelines

In Accordance with the
PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION, THE VERMONT AGENCY OF TRANSPORTATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE VERMONT STATE HISTORIC PRESERVATION OFFICER REGARDING IMPLEMENTATION OF THE FEDERAL-AID HIGHWAY PROGRAM IN VERMONT

HISTORIC BRIDGE PRESERVATION
EASEMENT AGREEMENT
BETWEEN
STATE OF VERMONT
AGENCY OF TRANSPORTATION
AND
TOWNS OF BROOKLINE AND NEWFANE

Bridge No. 19 Town Highway No. 1

VTrans Working to Get You There
VERMONT AGENCY OF TRANSPORTATION

MANUAL OF STANDARDS AND GUIDELINES

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1 APPLICABILITY AND SCOPE

Laws, Regulations, Guidelines

- Programmatic Agreement Among the Federal Highway Administration, the Vermont Agency of Transportation, the Advisory Council on Historic Preservation, and the Vermont State Historic Preservation Officer Regarding Implementation of the Federal-Aid Highway Program in Vermont (AOT PA)

Key Definitions

Implementation

In 1997, the Vermont Agency of Transportation (VAOT), the Vermont Division for Historic Preservation (VDHP), and the Federal Highway Administration (FHWA) began discussing how we could improve the Section 106 process for transportation projects in Vermont. Could we make the process easier, faster, more effective, less redundant, while maintaining an appropriate level of protection for historic and archeological resources? The results were something of a revolution, and are embodied in the Programmatic Agreement (PA) signed on April 5, 2000. It is the first agreement of its kind in the country, and may become a model for other states to follow.

The basic premise of the PA is that VAOT will conduct reviews of its own projects, using qualified historic preservation and archeological professionals on VAOT staff , without further review or input by VDHP and the Vermont State Historic Preservation Officer (SHPO) except in rare instances. It is expected that the PA will enhance early project planning to avoid or minimize impact to historic and archeological resources, will result in more timely and predictable reviews, and will enhance public support for projects. The Manual is a guide to implementing the PA. It interprets and provides more detail on the provisions of the PA. Like the PA, it is the result of a lengthy collaborative effort among VAOT, VDHP and FHWA.

The Manual sets out the qualifications for the VAOT review staff, procedures for project reviews, provisions for soliciting and responding to public comment, standards for evaluating and documenting projects, an annual reporting process, and guidance on using standard mitigation measures and addressing emergency situations and unanticipated discoveries. The Manual is meant to provide guidance for professional evaluation and documentation by historic preservation and archeological professionals employed as staff or consultants for VAOT. The PA and the Manual rely on the sound professional judgement of the VAOT historic preservation and archeological professionals. The guidance in the Manual cannot substitute for professional knowledge and experience.

Documentation

2(A) EMPLOYMENT OF QUALIFIED PERSONNEL

Laws, Regulations, Guidelines

- 36 CFR 61, Appendix A (Professional Qualifications and Standards)
- VT Personnel Dept., Job Specifications
- April, 2000 Federal-Aid Highway Program Programmatic Agreement

Key Definitions

- Archaeology Officer: Qualified professional staff responsible for implementing the provisions of the Programmatic Agreement.
- Historic Preservation Officer: Qualified professional staff responsible for implementing the provisions of the Programmatic Agreement.

Implementation

- Archaeology and Historic Preservation Officers will be experienced professionals in their fields. At a minimum, Officers will have Master's degrees in their respective fields, five years of professional experience, and an understanding of and experience applying the NR criteria and the Secretary's Standards. A Ph.D. may substitute for experience on a six months per semester basis. Consult the Dept. of Personnel job descriptions for full statement of qualifications.

- **Hiring procedure:** Standard hiring procedure assisted by SHPO. SHPO will be consulted by providing written comments for each candidate selected for an interview.

- **Absence of Officers:** In the case of prolonged absence of an officer, VAOT will appoint an acting officer meeting position qualifications.

Documentation

2(B) MANUAL OF ANCILLARY STANDARDS AND GUIDELINES

Laws, Regulations, Guidelines

- Programmatic Agreement Among the Federal Highway Administration, the Vermont Agency of Transportation, the Advisory Council on Historic Preservation, and the Vermont State Historic Preservation Officer Regarding Implementation of the Federal-Aid Highway Program in Vermont (AOT PA)

Key Definitions

Implementation

The AOT PA was signed on April 5, 2000, but it stipulated that the PA would not take effect until an accompanying Manual was completed and accepted by the parties. Work began immediately to create a Manual to implement the provisions of the PA. Under the direction of SHPO Emily Wadhams and VAOT Director of Technical Services John Perkins, the parties established a steering committee to guide development of the Manual. The committee was composed of AOT staff - Scott Newman, Scott Gurley, Duncan Wilkie, Jen Russell, and John Narowski, SHPO staff – Nancy Boone, Giovanna Peebles, Scott Dillon, and Sue Jamele, and FHWA staff – Rob Sikora. MaryAnn Nabor, then of the Advisory Council and currently the FHPO at FHWA, also provided input as questions arose.

Principal authors of the Manual were Scott Newman and Nancy Boone. Generally, they drafted sections of the Manual, corresponding to the sections of the PA, and reviewed them in detail with the steering committee. Some sections of the Manual that dealt primarily with archeological resources were drafted by Jen Russell and Giovanna Peebles. The steering committee spent many hours discussing and reviewing draft sections of the document, and the authors revised the sections in response to committee comments and concerns, and reviewed them again with the committee. This work occurred between April and December 2000. The Manual was completed at the end of December 2000, and accepted by the parties in December, 2000.

Documentation

2(C) COORDINATION OF PROJECT REVIEW AMONG VAOT DIVISIONS

Laws, Regulations, Guidelines

- National Historic Preservation Act , 36 CFR 800
- VAOT Structures Project Development Process Manual
- VAOT Structures Project Development Process Flowchart
- VAOT Local Transportation Facilities Guidebook
- VAOT Programmatic Agreement for Paving and Minor Highway Projects
- VAOT 10/1/99 Paving PA Review – Revised Review Process
- Exempt Activities listed in 4/5/00 VAOT PA Appendix
- VAOT Programmatic Agreement for Projects Involving Historic Bridges
- VAOT Draft Criteria for Evaluation of Concrete Bridges and Guidelines for Project Review
- VAOT Surveys of RR lines and structures.
- VAOT Environmental Permit Process for Town Transportation Projects
- VAOT Environmental Permit Requirements for Federal-Aid Town Highway and Bridge Projects

Key Definitions

Implementation

Federally assisted transportation activities administered by the VAOT and constituting undertakings under 36 CFR 800 fall under separate divisions of the agency. Some have established coordination procedures for Section 106 review, and some are handled in a less formal way at this time. All coordination efforts are periodically reviewed and updated, and revised procedures will be added to the Manual at the time of its annual review.

The VAOT Environmental Specialists (one for each of four regions) obtain and provide lists of programmed projects from all Divisions to the VAOT Officers. Provision of lists remains the responsibility for project managers in each Division. Individual requests for Section 106 review come directly from project managers. Based on the VAOT project schedule and Agency requirements, Officers prioritize and conduct project reviews and are responsible for final approval for all projects. The specialists ensure all environmental reviews required for the NEPA process, including Section 106 are completed and forward the NEPA document to FHWA. Project data is entered into the VAOT environmental database where the permitting progress of all projects can be tracked.

The following is a brief description of undertakings by Division, and a summary of VAOT Section 106 coordination protocols as of 12/2000.

Office of the Secretary

- Special Projects Division
  Projects are few in number but very large, time consuming projects with the capacity for extensive impacts to historic properties. Examples include the Bennington Bypass and Chittenden County Circumferential Highway projects. Projects may be in planning and construction for decades, and Act 250 will normally apply. Projects are normally handled by consultants; special situations will call for input from Officers and may be controversial. Officers will ensure early and ongoing coordination with the project managers which is essential to keeping these projects on track and avoiding unanticipated Section 106 concerns. Officers will review projects, direct changes as needed, and proceed with final approval.

Technical Services Division

- **Right-Of-Way**
  Projects typically include the sale, lease, or exchange of VAOT-owned surplus lands. These transfers are reviewed for the possible application of easements on historic properties within the parcels as appropriate. Information regarding these projects is forwarded to environmental specialists for distribution to the Officers for review and final approval.

- **Utlities**
  Projects include the installation or modification of utilities infrastructure where this work is the primary or sole component of the project: aerial and buried power lines, fiberoptics, water lines etc. Information regarding these projects is forwarded to environmental specialists for distribution to the Officers for review and final approval.

Maintenance Division

- **Aviation**
  Projects include airport infrastructure improvements including runway expansions and work to facilities – some of which may be historic buildings or structures. Archaeological properties may be impacted. It is the responsibility of Aviation project managers to provide information on all proposed projects to the VAOT Environmental Section showing area of potential affect, existing buildings and structures and proposed scope of work including all ground disturbances. The Officers will offer guidance on proceeding with required historic preservation review, likely including an initial request for project maps, plans, and identification of the resources. Once required information is in hand, Officers will review projects, direct changes as needed, and proceed with final approval. Site visits are generally recommended.

- **Maintenance Districts**

  Includes maintenance and upgrading of existing transportation infrastructure and confined to the right-of-way – including guardrail, signage, sight distance projects, bridges and culverts, ditches, bridge washing, water repellant, emergency repairs, and minor bridge repairs. Projects can come in individually, or listed in groups such as "betterment projects," "fast squad" projects, or statewide programs. It is the responsibility of District Administrators to provide information on all proposed projects to the VAOT Environmental Section showing area of potential effect, existing buildings and structures and proposed scope of work including all ground disturbances. The Officers will offer guidance on proceeding with required historic preservation review, likely including an initial request for project maps, plans, and identification of the resources. Once required information is in hand, Officers will review projects, direct changes as needed, and proceed with final approval. Site visits are generally recommended.

Project Development Division

In general, Section 106, Act 250, and VT 22 VSA reviews follow process described in the Project Development Process Manual (pp. 28), and Dec 22, 1997 Project Development Process Flowchart. Program-specific procedures are stipulated for the following sections of the Project Development Division:

- **Construction**

  Archaeology and Historic Preservation Officers schedule annual meetings with each of four construction area engineers to review construction issues. Meetings with project Resident Engineers are requested on an as-needed basis. Pre-construction meetings are mandated in the special provision sections of contracts as required by the Archaeology Officer or Historic Preservation Officer. These meetings are held to ensure that conditions of the Section 106 formal comment letters and other permits are implemented.

- **Local Transportation Facilities**

  Wide array of locally administered projects including transportation enhancements, building rehabilitation, bike/ped facilities, scenic easements, etc. The Local Transportation Facilities Guidebook provides thorough and specific guidance for LTF, local officials, and their consultants on the steps required for Section 106 compliance. Refer to sections 3-26 to 3-46 for environmental review process. It is the responsibility of the VAOT LTF project managers to provide the environmental section with lists of projects and scope of work descriptions, to ensure that qualified professionals are conducting resource ID and effect determinations as required, and to ensure that all review steps undertaken by their local officials and their consultants are carried out in accordance with the guidebook. Once required information is in hand, Officers will review consultants reports, direct changes as needed, and proceed with final approval.

- **Pavement Management**

  Most paving projects (95%) are reviewed under 2/1/96 Programmatic Agreement for Paving and Minor Highway Projects by consultants on retainer with VAOT Engineering subcontractors. Consultants undertake complete

review of projects under PA per 10/1/99 Paving PA Review – Revised Review Process, attach archaeology clearance from VAOT Archaeology Officer, and forward to VAOT Historic Preservation Officer for review and final approval. Consultants should consult Exempt Activities listed in 4/5/00 PA Appendix, which supercedes the Paving PA where the former is inconsistent with the latter.

- **Roadway and Traffic Design**

  Projects can be lengthy and complex. Officers will ensure early and ongoing coordination with Roadway project managers on design questions where significant impacts are possible to historic properties. It is the responsibility of Roadway project managers to provide information on all proposed projects to the VAOT Environmental Section showing area of potential affect, existing buildings and structures and proposed scope of work including all ground disturbances. Programmatic Agreement for Paving and Minor Highway Projects may apply. See Project Development Process and Flowchart. Once required information is in hand, Officers will review projects, direct changes as needed, and proceed with final approval.

- **Structures**

  Projects are frequently complex with potential for significant impact to historic properties. Programmatic Agreement for Projects Involving Historic Bridges may apply. See also Draft Criteria for Evaluation and Guidelines for Project Review. Requires early and ongoing coordination with Structures project managers on design questions where impacts are possible to historic properties. It is the responsibility of Structures Division project managers to provide information on all proposed projects to the VAOT Environmental Section showing area of potential affect, existing buildings and structures and proposed scope of work including all ground disturbances.Once required information is in hand, Officers will review projects, direct changes as needed, and proceed with final approval. See Project Development Process and Flowchart.

Rail Division

Projects may impact historic RR buildings (including 11 VAOT-owned depots), bridges, culverts and lines - most of which qualify as historic districts. Rail project managers advise environmental section of projects with historic resources present. Early and ongoing coordination is necessary to provide for Section 106 review. It is the responsibility of Rail Division project managers to provide information on all proposed projects to the VAOT Environmental Section showing area of potential affect, existing buildings and structures and proposed scope of work including all ground disturbances. Emphasis is given to the protection and preservation of historic RR depots as required by 22 VSA 14. The Programmatic Agreement for Paving and Minor Highway Projects and Exempt Activities listed in 4/5/00 PA Appendix may apply to minor RR related projects. Once required information is in hand, Officers will review projects, direct changes as needed, and proceed with final approval. Consult VAOT surveys of RR lines and structures.

Documentation

Permitting progress and related comments are entered into project files and the environmental database. Separate lists are maintained for projects not entered in database (e.g. enhancement projects, district maintenance projects).

Examples of recommended education and outreach projects:

- VAOT web site and Consultant Web Sites
- Temporary exhibits
- Traveling exhibits
- Permanent exhibits
- Lecture series
- Non-technical booklets
- Vermont Life Magazine article or news bulletin
- Videos
- Press releases
- Community archaeology projects using adult and youth volunteers (Field Schools, Summer Camps)
- Education curricula
- TV programs
- Lecture – slide show
- CD Rom
- Interactive virtual tours
- Digital publications
- Interpretive signage
- Site tours
- Site brochures
- Innovative programs see [Section 2(I)]

2(D) EDUCATION

Laws, Regulations, Guidelines

- Guidelines for Archaeological Studies (1989)

Key Definitions

- *CLG Com mission* : Certified Local Government Historic Preservation Commissions certified through the National Park Service's Certified Local Government Program.

Implementation

- VAOT will provide a significant public education and interpretation component in its undertakings whenever appropriate.
- The goal of the public education effort is to provide information about newly identified resources, their historic context, and/or other similar resources in order to foster understanding of the significance of resources affected by an VAOT project.
- Education and outreach should be directed toward property owners, the town (both local government and community groups), educators, students and the general public, as appropriate.
- VAOT will require its consultants to submit site information as appropriate to the VAOT web site as well as consultant web sites.
- To the greatest extent possible, education outreach projects and programs should be conducted in consultation with the local community and other interested parties both during planning and implementation.
- Education and outreach activities will be coordinated with Native Americans as appropriate.
- The VT SHPO Guidelines for Archaeological Studies (1989) state that "all archaeological studies carried out in Vermont should interpret project results for the public benefit and present those findings to the public." The expected level of education and outreach differs for each study phase and is dependent on project size and results. The Guidelines offer some examples of education and outreach projects but archaeological consultants are encouraged to adopt new and innovative methods as well. The following incorporates recent advances in technology to offer as tools for public education and outreach within the general policy of the 1989 Guidelines.

Additional Guidance for Archeological Public Education Projects:

- Exceptional sites may require education and outreach after the Phase I study.
- Historic archaeological sites may be suited to different types of education and outreach efforts than prehistoric sites.
- Education and outreach activities will be coordinated with Native Americans as appropriate.

Education Specific to the Landowner:

- Site information will be provided to the landowner. Written information should include the Non-Technical Summary, Site Survey Form, and a site map if available.
- Additional site information will be provided to the landowner as it becomes available (including, for example, site reports, non-technical publications, etc.)
- A public meeting for site landowners and other interested persons may be appropriate depending on the results of the study.

Education Specific to the Town:

- To the greatest extent possible, local governments and CLG Commissions (where they exist), should be made aware of the archaeological study; project location, anticipated schedule, site tour information, etc.
- At the conclusion of the archaeological study, site information will be provided to the Town. Information may include the Non-Technical Summary, site map, GPS coordinates and report.
- A presentation to the Selectboard, Planning Commission, CLG Commission, and /or Regional Planning Commmission may be appropriate depending on the results of the archaeological study.

Documentation

- Products will be distributed to appropriate publics.

2(E) TRAINING

Laws, Regulations, Guidelines

Key Definitions

Implementation

- This section sets out training targets for each reporting period. The accomplishment of each training task is encouraged but, given possible changes in staff availability, workload, and timing, they are not mandatory under this agreement. The first period begins 1/1/01 and ends 6/30/01. The second begins 7/1/01 and ends 12/31/01. Reporting periods follow the calendar year thereafter.
- An evaluation of completed training activities and revisions to training targets will be undertaken as part of each annual review. Accomplishments will include development of training materials where the workshop will not yet have taken place.
- Depending on the subject, workshops, seminars and other training activities can be collaborative efforts between VAOT and VDHP and other groups including Native Americans as appropriate.

Training targets for the period 1/1/01 – 6/30/01, and 7/1/01 – 12/31/01:

- Orientation to PA and Manual Section 106 provisions for executive staff.
- Public participation in the Section 106 review process: for VAOT project managers and consultants.
- Best Practices: innovative approaches for Section 106 compliance as highlighted in current and completed VAOT projects, other State DOT's.
- Archaeological Priorities.
- Section 106 training for VAOT District Staff.
- Ongoing compliance workshops for VAOT Project Managers.
- Professional development and training for Officers, including GIS.
- Ongoing training for construction districts and area engineers.

Documentation

Accomplishments will be evaluated and discussed in the annual VAOT report to VDHP. See Annual Report requirements in Section 3A.

2(F) ANNUAL EVALUATION

Laws, Regulations, Guidelines

Key Definitions

Implementation

- The Officers shall produce an Annual Report in January and provide copies to the SHPO and FHWA.
- An Annual Evaluation meeting is due by March 1 of each year, and includes the parties to the PA – VAOT, FHWA and SHPO. AOT and SHPO shall convene the meeting at a mutually agreed upon date and time.
- The SHPO needs to schedule a review of the Report by the Vermont Advisory Council on Historic Preservation prior to the Annual Evaluation meeting.
- Refer to the Annual Report Outline in 3(A) for a summary of what should be included in the Report. The reporting period for the Annual Report is the calendar year. The Report summarizes undertakings and findings in a table format, and includes a narrative description of accomplishments, concerns, and recommendations regarding possible changes to the Manual or the PA.
- After the Annual Evaluation meeting, the SHPO shall provide a written response to the Annual Report within 30 days of the Annual Evaluation meeting. The SHPO may conclude that the terms of the PA and Manual are being met, or that performance under the agreement is less than satisfactory.
- If the SHPO concludes that performance is less than satisfactory, the Officers should consult with the SHPO and FHWA to improve performance, and meet within six months to evaluate improvements.

Documentation

- The Annual Report should follow the Annual Report Outline in section 3(A) of the Manual.

2(G) TRANSITION

Laws, Regulations, Guidelines

Key Definitions

Implementation

- This section acknowledges that transition procedures are required for the following potential situations:

- Projects have been partially reviewed under Section 106 at the time of the implementation of this agreement.
  TRANSITION: VAOT Officers will complete the reviews under the terms of the PA.

- Existing MOA's signed by all parties require SHPO to review documents or monitor compliance with stipulations.
  TRANSITION: VAOT Officers will assume the role of SHPO to carry out tasks specified under existing MOA's.

- Re-considerations of SHPO NR/SR eligibility determinations - rarely made, but can occur under certain conditions.
  TRANSITION: VAOT Officers will request concurrence from SHPO.

- Changed circumstances require modifications to projects previously permitted under Section 106.
  TRANSITION: VAOT Officers will document changed circumstances, new project design, and proceed with new Section 106 review of new design unless changes have no potential to affect historic properties.

Documentation

Documentation for determinations and supporting materials will be generated and copied to other parties per normal PA review procedure.

2(H) DELEGATION

Laws, Regulations, Guidelines

Key Definitions

Implementation

- Archaeology and Historic Preservation Officers are responsible for all findings regarding (i) determination that an undertaking exists; (ii) the potential area of an undertaking's effect; (iii) the eligibility of archaeological or historic properties to the National Register of Historic Places within the projects area of effect; (iv) determinations of effect; (v) interpretation of the Secretary of the Interior's Standards for Historic Preservation Projects; (vi) conformance with Vermont Guidelines for Archeological Studies of 1989; or (vii) applicability of the Manual of Ancillary Standards and Guidelines adopted pursuant to this PA, shall rest with VAOT's Archaeology Officer or Historic Preservation Officer.
- These responsibilities may not be delegated.

Documentation

2(I) INNOVATIVE PROGRAMS

Laws, Regulations, Guidelines

Key Definitions

Implementation

Ongoing:

- Analysis and synthesis of past data accumulated through VAOT/FHWA projects and distribute such information.
- Development of GIS-based Statewide or Watershed-wide Predictive Models.
- Improved data management and access (ex: development of electronic database).
- Development of historic contexts and preservation priorities.
- Consultation with Native American groups on mutually important issues and programs.
- Sponsor special education and outreach programs (ex: VT Archaeology Week).
- Develop GIS based historic building and structure surveys.

Future Consideration:

- Conduct statewide thematic, corridor, or other surveys of historic properties.
- Preparation and implementation of relevant preservation or management plans.
- Encourage creative mitigation when and where appropriate.
- Develop new policies that enhance permanent resource protection (for example, purchase important sites adjacent to ROW, accelerate purchase of important sites after Phase I or II if land purchase is eventually anticipated, purchase easements, etc.).
- Develop and encourage permanent site protection strategies.
- Develop streamlined approach to "property easement" project review.

Creative mitigation includes:

- Contribute to local preservation effort
- Prepare preservation plan or ordinance
- Establish fund for future preservation activities
- Restore or preserve a resource similar to one adversely affected
- Develop off-site mitigation

Documentation

- The type of documentation required will depend on the chosen program implemented.

3(A) TYPES OF DOCUMENTATION

The following forms are included in this section:

1. Historic Buildings and Structures Identification and Evaluation Form
2. Vermont Archeological Inventory Site Review Form (digital template)
3. Exempt Activity Review Form.
4. No Historic Properties Affected Review Form
5. No Adverse Effect Letter Format
6. Adverse Effect – Standard Mitigation Letter Format
7. Memorandum of Agreement Form
8. Annual Report Outline

Vermont Agency of Transportation

HISTORIC BUILDINGS AND STRUCTURES IDENTIFICATION AND EVALUATION

VAOT Project

State Planar Coordinates	**Street Address** **Town** **County**

Property Type	**Date Built**	**Style**

Architectural or Structural Description

Statement of Significance **Meets National Register Criteria A___ B___ C___ D___ Not Eligible ___** **Historic Contexts _____** **Justification:**

Recorded by **Date**

DHP #	**Added to State Register on**

Photographs

Map Attached ____

Vermont Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, Vermont 05602-0501

DRAFT INSTRUCTIONS FOR TEMPLATE DEVELOPMENT and DATA DICTIONARY:

General:

1. **left click on any field brings up pick list (use blank box and arrow)**
2. **Right click on any field brings up data dictionary and HELP info**
3. **Use "undefined," "unknown," and "not applicable" in any pick list where appropriate (this also accommodates existing, incomplete site survey forms)**

**** = pick list**

1. Site No. **[must be formatted w/caps: VT- COUNTY ABBREV -]** _____

2. A. Site Name **[common name of site, sometimes property name, landowner name, nickname used by survey crew, etc.]**

2. B. Other site number **

[suggested pick list:
USFS
Field #
Other
Not Applicable]

3. Town ****[pick list available from VAOT]**

4. County ****[auto loaded, based on town name]**

5. Site Type **[for pick list, look at 93 list]
6. Reported by ****

[Suggested pick list:
DHP staff
CAP
UMF
NRCS
USFS
LCMM
Other [mandatory field: prompt to fill in text]
[how to deal w/ other VT consultants?? Collectors?]

7. Reporter's Address
_____
_____

8. Date Found **[4 digit year field] / /** 9. Date Submitted **[4 digit year field] / / [auto-generated by date emailed out]**

10. Discovered by (if different than reporter] and address **

[suggested pick list:
not applicable
other
[with prompt to fill in address text]

_____

_____

11. Primary Project Sponsor **

** **DHP**
VAOT
NRCS
USFS
Other fed agency
State agency
Private developer
Multiple
Utility
Non-profit
Individual or Academic Researcher
Not applicable
[Should there be Collector field??]

12. Project Name [text field]_____

13. Study Phase **
**** archeological sensitivity assessment (aka field inspection)**
Phase 1
Phase 2
Phase 3
Not applicable

14. Map Location Data **
**** Vt. State Plane NAD 83 Coord.** _____
UTM _____

[must pick one; then appropriate field below opens
add drop down list: if site has gone to Phase II or III studies, provide shape file]

15. If Orthophoto:
VCS NAD 83 Coord. E [6 spaces]_____N [6 spaces]_____

[can be blank if UTM filled out
for QA/QC purposes, put in validation check for min and max coordinate values for the Town]

16. UTM/Zone ** 18
19
[can be blank]

17. If UTM:
Easting [7 spaces]_____ Northing [7 spaces] _____

[can be blank if VCS NAD 83 filled out
for QA/QC purposes, put in validation check for min and max coordinate values for the Town]

18. USGS Format **
**** 7.5**
15
7.5 x 15

19. USGS Quad ****[pick list available from VAOT]** _____

20. Permanent Datum Coordinates (**open field**) _____

21. Directions to Site **[text]** _____

22. Landowner type **
**** private**
town
state/ANR

state/VAOT
state/other
USFS
US Fish & Wildlife
other federal
The Nature Conservancy
Other

23. Landowner Name/Address **[text field]**

24. Site Located By **
** **CRM professional**
researcher
informant
collector
DHP staff
other
[do we need this field?? Seems duplicative . See #6]

25. How Located **
** **surface**
subsurface testing
underwater
archival
other

26. Prehistoric Context ** **[can pick more than 1]**
** **Paleoindian**
Early Archaic
Middle Archaic
Late Archaic
Terminal Archaic
Early Woodland
Middle Woodland
Late Woodland
Contact
Undetermined prehistoric

27. Historic Context ** **[can pick more than 1]**
** **Contact**
Exploration
Conflict
Early Settlement
Industry and Commerce
Agriculture
War and Peace
Tourism
Transportation
Culture and Government
Housing and Community
Undetermined historic

28. Historic Time Range **
** **1600 – 1700**
1700 – 1770
1770 – 1800
1800 – 1850
1850 – 1900

post 1900

undetermined

29. Site Description and Environmental Setting **[text field]**
[Recommend that following information be prompted:
site length and width in m/ft , distance to and type of closest drainage, proximity to relict drainages (include distance and type), proximity to springs, intermittent streams, unnamed intermittent stream, site elevation above closest drainage (in meters), whether or not subject to flooding; if Phase III or III, describe total site area excavated (in sq. m and auto calculate % of site area)

what else??]

30. Data Found **[text field]**
[Recommend that following information be prompted: describe relationship of all cultural materials and features, total artifacts found, artifact distribution, loci number and size, materials not collected, what else???]

31. Greatest Depth Range of Data Found **
**
surface
0 –20 cm
20 –40 cm
40 – 60 cm
60 – 80 cm
80 –100 cm
- **100 cm**

32. Data collection Methodology **
**** surface collection**
eroding surface
subsurface testing
backhoe trenching
underwater recording
other (specify)

33. Total Units Excavated **(0, 1, 2, 3, 4 ……..)**

34. Positive Units Excavated **
**** 0**
specify a number or indicate O

35. Estimated site area **[in sq. m]**

36. Dating methods (use uncalibrated): **
**** C -14 Dates/Lab Numbers [specify] (send hard copy of lab results to DHP)**
diagnostic artifacts
archival
other dating technique

37. Artifact/Data Repository **** [pick list and open text for address]**
**** UVM**
professional CRM consultant
private collection
other university
private owner
collector
State of Vermont
Vermont Archeology Center (in process of development)
Specify other

38. Statement of Significance **[text field]**

39. State/National Register Status ** **[pick 1 or more]**

**** listed on SR**
listed on NR
elig. SR/ NR
not elig. SR /NR
insufficient Information

40. Topographic setting **

**** lakeside**
pondside
streambank
floodplain
relict drainage
rise/knoll
edge of wetland
lake/stream confluence
river/stream confluence
mountain or ridge top
side of draw
head of draw
valley edge
outcrop/ledge
specify another setting

41. Slope **

**** 0-3%**
3-8%
8-15%
> 15 %

42. Elevation **[in m w/ auto display in ft]** _____

43. Aspect ****

****N**
NE
E
SE
S
SW
NW
W

44. Original landform ** (based on VT Surficial Geology Map)**

**** Champlain Sea or glacial lake shoreline**
glacial deposits:
- **till and moraine sediments**
- **glacial fluvial sediments**
  - **kame deposits**
  - **esker deposits**
  - **outwash deposits**

aeolian deposits
glacial marine sea/lake bottom sediments
marine sea/lake delta complex
pluvial sediments
bedrock
Holocene fluvial deposits
not applicable [for underwater sites]

45. Current setting ****

**** crop land**
sand blow

lawn/yard
urban
deciduous woodland
coniferous woodland
mixed woodland
scrub/old field
park
beach
water's edge
underwater
specify other

46. NRCS soil map series **** [available from NRCS??]**

47. Drainage Basin **** [get pick list from duncan]**

48. Watershed Affiliation **** [14 digit identifiers based on NRCS hydrological units]**

49. Closest water to site **

**** existing [if this field checked, complete 50]**
relict [if this field checked, complete 51]
no apparent water within 500' [??][if this field checked, goes to 52]

50. Closest existing water to site** **[pick list w/ mandatory text field for each]**

** **river [ ] distance in m ____**
brook/stream [ ] distance in m ____
seasonal flowage [ ] distance in m ___
lake [ ] distance in m ___
pond [ ] distance in m ___
wetland [ ] distance in m ___
not applicable

51. Closest relict water to site ** [how to deal with it??]

**** oxbow**
spring
drainage
beach line
glacial lake
wetland
specifiy other
not applicable

52. Site Integrity **

**** never plowed**
plowed
disturbed
heavily disturbed
road,
erosion
looting or other type of vandalism
development
specify other

53. Report title **** [note: may not yet be available when inventory form submitted]**

** **not applicable**
in progress
report completed (add text field:
author(s)

date
full title
prepared by
prepared for

54. Previous collections **
**** not applicable**
specify name/address

55. Other site information ******
**** Historic Map References**
**** ID map and date:**
Beers
Walling
Sanborn
USGS 15'
other

Artifact Catalog
Site Maps
Other Database Links
Digital Photos
Published paper
Unpublished manuscript
Other Data
None known

// | VDHP USE ONLY
|\\

56. DHP Environmental Review Number **[text]**_________________

57. Act 250 Permit Number **[text]** _________________________________

58. 36 CFR 61 Certified **

**** yes**
no
reviewed by 36 CFR 61 DHP staff

59. Updated Site Form **[can use multiple dates]**__________

60. Management Status/Conservation Easements and Holders **** [and text]**

**** conservation easement [specify name/address of easement holders]**
Underwater Historic Preserve
State Archeological Landmark

61. a. DHP staff QA/QC verification and database entry **[text: specify name]**
VDHP date entered **[4 digit year field]** / /

61. b. DHP staff QA/QC verification and database entry **[text: specify name]**
VDHP date entered **[4 digit year field]** / /

00 **Vermont Agency of Transportation** **Section 106 Review Form**

Exempt Activity

Comment:

VAOT Project

GIS / State Planar Coordinates

Street Address
Town **County**

Applicable Exempt Activities

Example
ROADWAY
1. Rehabilitation of existing pavement and/or application of new pavement on existing travel lanes and existing paved shoulders with shoulder backing.

CULVERTS AND DITCHING
1. Reestablishment of existing ditches to original width.

UTILITIES
2. *Replacement and relocation of existing utility poles between edge of sidewalk and road.*

I have reviewed the attached plans dated _____ for this project and have determined that the project involves only those activities listed above and will not have any other effects on historic and archeological resources. Completion of this form in accordance with the VAOT PA evidences that FHWA has satisfied its Section 106 responsibilities for this undertaking.

_____ _____
Archeology Officer Date

_____ _____
Historic Preservation Officer Date

Vermont Agency of Transportation **Section 106 Review Form**

No Historic Properties Affected

VAOT Project

GIS / State Planar Coordinates

Street Address
Town **County**

Project Description

Area of Potential Effect

☐ **Map Attached**

☐ **Project does not involve any ground disturbance.**

☐ **There are no known or expected archeological sites in the Area of Potential Effect. See attached supporting documentation or further explanation and justification on reverse.**

☐ **There are known or expected archeological sites in the Area of Potential Effect, but the project will have no effect, positive or negative, on them. See attached supporting documentation or further explanation and justification on reverse.**

Completion of this form in accordance with the VAOT PA evidences that FHWA has satisfied its Section 106 responsibilities for this undertaking.

_____ _____

Archeolog y Officer **Date**

OVER

☐ **There are no buildings or structures in the APE.**

☐ **There are no historic buildings, structures, or landscapes in the Area of Potential Effect. See further explanation and justification below.**

☐ **There are historic buildings, structures, or landscapes in the Area of Potential Effect, but the project will have no effect, positive or negative, on them. See further explanation and justification below.**

Completion of this form in accordance with the VAOT PA evidences that FHWA has satisfied its Section 106 responsibilities for this undertaking.

_____ _____

Historic Preservation Officer **Date**

Further explanation and justification for determination of No Historic Properties Affected

Use this space to explain why the building, structure or potential archeological site present in the APE is not an Histori c Property or why it will not be affected by the project. Include enough information to justify the conclusion. For instance, summarize the negative results of a field investigation of a potential archeological site, or explain how buildings greater than 50 years old have lost integrity to the extent that they are no longer eligible for the National Register. Be specific, so that a reader can reach the same conclusion from the information provided. Generalize about a group of resources, if that is appropriate. The use of photographs for buildings is encouraged, but not required. Provide attachments as appropriate.

Photos Attached ____
Map Attached ____

Historic Resource Group, Environmental Section
Vermont Agency of Transportation
National Life Building, Drawer 33
Montpelier, VT 05633

Archaeology 802-828-3965 (fax) 828-2334 duncan.wilkie@state.vt.us
Historic Preservation 802-828-3964 (fax) 828-2334 scott.newman@state.vt.us

MEMORANDUM

To: Rob Sikora, FHWA

Date:

Subject: **NO ADVERSE EFFECT**

Project Name:

Project Number:

Location:

Distribution: State Historic Preservation Office
Project Files, Environmental Section
VTrans Project Manager

The Vermont Agency of Transportation has reviewed this undertaking according to the standards and procedures detailed in the 4/5/99 Programmatic Agreement to implement the Federal-Aid Highway Program in Vermont and, the PA Manual of Standards and Guidelines. Project review consists of identifying the project's potential impacts to historic buildings, structures, historic districts, historic landscapes, and settings, and to known or potential archeological resources. The following details the VAOT Officers findings supporting our effect determination for this project of No Adverse Effect. Completion of this document evidences that FHWA has satisfied its obligations under Section 106 for this undertaking.

Project Description: *Describe project: type, specific location(s), purpose and need, scope of work, specific effects to historic properties. Attach map(s) as required.*

Above-Ground Historic Properties: *Define Area of Potential Effect (APE)and attach map if required. List surveyed historic properties in APE with Survey # references. List unsurveyed historic properties in APE with building Identification and Evaluation forms, and VAI forms. Note boundaries of existing, new, or amended historic districts and attach district map. Specify properties that are affected and nature of effect.*

Archaeological Resources: *List all known and discovered archaeologically sensitive sites and properties in the APE. Provide VAI references, maps, GIS data, and consultants reports to support findings as required. Specify properties that are affected and nature of effect..*

Public Participation: *Provide information and/or documentation regarding public input for this project. Specify the nature and frequency of consultation and who was consulted. Describe significant changes to design that have been the result of public involvement.*

Analysis: *Discuss the application of the the Secreatary's Standards to project to support finding of No Adverse Effect. Be specific about nature of all effects: direct, indirect, reasonably forseeable, and cummulative to all known and potential historic and archaeological properties..*

Stipulations: *Specify all conditions on implementation of project that support the finding of No Adverse Effect. scope of work, responsible parties, timing, performance criteria, and monitoring. Specify all stipulations to be included in the spcial provisions section of the construction contract.*

Attachments: *Attach supporting documents required to support finding of No Adverse Effect: maps, photographs, plans, building Identification and Evaluation forms, VAI forms, correspondence etc. List attachments in this section.*

Archaeology Officer	Date	Historic Preservation Officer	Date

Historic Resource Group, Environmental Section
Vermont Agency of Transportation
National Life Building, Drawer 33
Montpelier, VT 05633

Archaeology 802-828-3965 (fax) 828-2334 duncan.wilkie@state.vt.us
Historic Preservation 802-828-3964 (fax) 828-2334 scott.newman@state.vt.us

MEMORANDUM

To: Rob Sikora, FHWA

Date:

Subject: **ADVERSE EFFECT - STANDARD MITIGATION APPLICABLE**

Project Name:

Project Number:

Location:

Distribution: State Historic Preservation Office
Project Files, Environmental Section
VTrans Project Manager

The Vermont Agency of Transportation has reviewed this u ndertaking according to the standards and procedures detailed in the 4/5/99 Programmatic Agreement to implement the Federal-Aid Highway Program in Vermont and, the PA Manual of Standards and Guidelines. Project review consists of identifying the project ' s potential impacts to historic buildings, structures, historic districts, historic landscapes, and settings, and to known or potential archeological resources. The following details the VAOT Officers findings supporting our effect determination for this pro ject of Adverse Effect - STANDARD MITIGATION APPLICABLE. Completion of this document evidences that FHWA has satisfied its obligations under Section 106 for this undertaking.

Project Description: *Describe project: type, specific location(s), purpose and n eed, scope of work, specific effects to historic properties. Attach map(s) as required. Specify anticipated adverse effect.*

Above-Ground Historic Properties: *Define Area of Potential Effect (APE) and attach map if required. List surveyed historic properties in APE with Survey # references. List unsurveyed historic properties in APE with building Identification and Evaluation forms, and VAI forms.*

Note boundaries of existing, new, or amended historic districts and attach district map. Specify properties that are adversely affected and nature of effect.

Archaeological Resources: *List all known and discovered archaeologically sensitive sites and properties in the APE. Provide VAI references, maps, GIS data, and consultants reports to support findings as required. Specify properties that are adversely affected and nature of effect..*

Public Participation: *Provide information and/or documentation regarding public input for this project. Specify the nature and frequency of consultation and who was consulted. Describe significant changes to design that have been the result of public involvement.*

Analysis: *Discuss the application of the the Secreatary's Standards to project to support finding of Adverse Effect. Be specific about nature of all effects: direct, indirect, reasonably forseeable, and cummulative to all known and potential historic and archaeological properties. Provide evidence that no reasonable and feasable alternatives exist that would avoid the adverse effect.*

Standard Mitigation Application: *Quote verbatim and list the standard mitigation measures to be applied to mitigate the adverse effects. Provide specifics about the application of the measures and how they achieve adequate mitigation.*

Stipulations: *Specify all implementation details of standard mitigation measures:scope of work, responsible parties, timing, performance criteria, and monitoring. Specify all stipulation to be included in the spcial provisions section of the construction contract.*

Attachments: *Attach supporting documents required to support finding of Adverse Effect – Standard Mitigation Applicable: maps, photographs, plans, building Identification and Evaluation forms, VAI forms, correspondence etc. List attachments in this section.*

_____ _____

Archaeology Officer Date Historic Preservation Officer Date

MEMORANDUM OF AGREEMENT

AMONG THE FEDERAL HIGHWAY ADMINISTRATION (FHWA),
THE AGENCY OF TRANSPORTATION (VTRANS),
AND THE STATE HISTORIC PRESERVATION OFFICER (SHPO)

REGARDING *name of undertaking / project #*

WHEREAS, the FHWA proposes to *what is proposed in regard to the undertaking* to implement *name of undertaking*; and

WHEREAS, the FHWA has established the *name of undertaking* 's area of potential effects, as defined at 36 CFR 800.16(d), to be *specify area of potential effects*; and

WHEREAS, the FHWA has established that *name of undertaking* will have adverse effects on *specify historic property/properties, including citations of reports, etc. giving locations and descriptions*; and

WHEREAS, the FHWA has determined that the Standard Mitigation Measures as defined in the VTrans Manual of Standards and Guidelines are not appropriate to mitigate the adverse effects; and

WHEREAS, the FHWA has consulted with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 (NHPA) and its implementing regulations (36 CFR Part 800) to resolve the adverse effects of *name of undertaking* on historic properties; and

(Optional) WHEREAS, the FHWA and the SHPO have invited *specify others invited to concur* to participate in consultation and to concur in this MOA; and

(Optional -- other WHEREAS clauses as needed to explain pertinent circumstances)

NOW, THEREFORE, the FHWA and the SHPO agree that, upon the FHWA's decision to proceed with *name of undertaking*, the FHWA shall ensure the following stipulations are implemented to in order to take into account the effects of *name of undertaking* on historic properties.

Stipulations

On behalf of the FHWA, the VAOT shall ensure that the following stipulations are implemented:

(Insert stipulations)

(refer to workbook Section 106: An Advanced Seminar by Thomas F. King for guidelines on the development and writing of MOA stipulations)

(*MOA must contain sunset provision)*

(MOA must contain provision for archaeological discoveries as written and included with this section of the Manual)

Execution of this MOA by the FHWA and the SHPO, its subsequent acceptance by the Council, and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on *name of undertaking* and its effects on historic properties, and that the FHWA has taken into account the effects of *name of undertaking* on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

_____ Date: _____
FHWA Division Administrator

STATE HISTORIC PRESERVATION OFFICER

_____ Date: _____
State Historic Preservation Officer

Concur:

VT AGENCY OF TRANSPORTATION

By: _____ Date: _____

VAOT ARCHAEOLOGY OFFICER

_____ Date: _____

VAOT HISTORIC PRESERVATION OFFICER

_____ Date: _____

(Other invited concurring parties)

(Minimum Stipulations for Projects That May Involve Significant Ground Disturbance)

Stipulations: Archaeological Properties: FHWA will ensure archaeological study is conducted in a manner consistent with the Secretary of the Interior's Standards. The completed survey will be sufficient to determine the nature and extent of resources, evaluate their National Register significance, and determine appropriate treatment measures. If the survey results in the identification of properties eligible for the National Register, effects on these properties' values will be assessed to determine the importance of preservation in place versus data recovery. If preservation in place is necessary, a change in design or location will be recommended, if feasible and prudent. If the properties are solely valuable for the information they contain, a data recovery plan will be developed and implemented.

STIPULATIONS

A: Archaeological Resources:

1. All archaeological studies will be completed in accordance with the Secretary of the Interior's Standards and guidelines for Archaeology (48 FR 44734-37), Vermont State Historic Preservation Officer's (SHPO) Guidelines for Archaeological Studies (1989).
2. All archaeological studies must be completed prior to the initiation of any ground disturbing activities or any other construction activity related to the project.

B: Discovery:

1. The project will stop immediately if previously unidentified archaeological sites, including human remains and/or cultural items, are discovered during project construction.
2. Burials are considered archaeological sites under state & federal laws.
3. The Construction Company or Resident Engineer will immediately notify the VAOT Archaeology Officer who will notify the SHPO.
4. No further construction will proceed in the site area until it has been reviewed and documented according to 36 CFR 800.11.
5. The VAOT Archaeology Officer will conduct a field inspection of the site to determine its potential National Register eligibility and the project's potential effects.
6. The VAOT Archaeologist or the Archaeology Officer may hire an Archaeological Consultant if additional information is necessary to determine site boundaries and NR eligibility.
7. If the site is determined NR eligible, the preferred treatment is to avoid it and protect it in place.
8. Site significance and treatment options should be discussed with the appropriate interested public parties and documented.

9. If site avoidance is not possible, then data recovery of the site must be completed in accordance with 36 CFR 800 and the Guidelines for Archaeological Studies.

C: Treatment of Human Remains:

1. If human remains and/or associated cultural items are discovered during construction, that portion of the project will stop immediately. The remains will be respectfully covered and the project resident engineer will immediately contact the VAOT Archaeology Officer who will notify the SHPO.
2. The VAOT Archaeology Officer will also contact the Town Sheriff, Town Clerk , Chief Medical Examiner, and State Police as well as Native Americans, when appropriate, and shall follow the requirements of state law.
3. If the human remains are identified as Native American, then a treatment and reburial plan will be developed in full consultation with the appropriate Native American group(s) as identified above.
4. Human remains and cultural items should not be disturbed or removed from their original location if at all possible. [refer to Advisory Council for Historic Preservation Policy Statements: Native American Concerns (1993)]
5. Avoidance and preservation in place is the preferred option for treating human remains.

6. All determinations will be made or approved by the Archaeology Officer.
7. If human remains are identified, a written treatment plan will be developed in consultation with the VAOT Archaeology Officer, SHPO and with public parties such as Native Americans, local government and others as appropriate.
8. Recovery when necessary, should be done carefully, respectfully and completely in accordance with the proper archaeological methods (as outlined in 36 CFR 800 and the Guidelines for Archaeological Studies, 1989) [also refer to Advisory Council for Historic Preservation Policy Statements: Native American Concerns (1988, 1993)].
9. Refer to Programmatic Agreement Manual of Standards and Guidelines, Section 4 (J) for additional guidance.

12/00 **Annual Report Outline for 2(F)**

Table summary

-project name /numbers
-town
-identification findings (# of properties added to inventories, determined NR eligible, etc.)
-determination of effect
-resource results in adverse effects (Standard Mitigation Measures, archeo phase 3 studies, moved buildings, demolitions, etc.)

summary statistics from each category

Narrative (2- 4 pages, combined archeology and buildings)

-observations on statistics in table (e.g. explanation of anomalies, year to year comparisons)
-accomplishments
  -highlights of resource protection activities
  -innovative programs
  -summary of important archeo logical discoveries
-problems/concerns
-recommendations for changes to process, PA, Manual, etc.
-summary of staff and consultant training held
-summary of staff and consultant training needed
-views of AOT on the effectiveness of the PA

Performance Statement

-a statement that the Officers believe that VAOT satisfactorily met the terms of the PA and Manual during the review period
-signature lines for the Historic Preservation Officer and the Archeology Officer

Enclosures

-any VAI or VHSSS forms or other documentation not previously submitted during the year

3(B) GIS Systems

Laws, Regulations, Guidelines

- Guidelines for Archaeological Studies (1989)

Key Definitions

- *GIS*: Geographic Information Systems.
- *ArcView*: a user friendly software for storing, manipulating, and retrieving GIS information.
- *VAI*: Vermont Archeological Inventory, maintained by the SHPO to document the state's recorded archeological sites.
- *VCGI*: Vermont Center for Geographic Information .

Implementation

- The SHPO is developing a survey plan for architectural resources that will include a strong GIS component, and when it is completed, pertinent information from the plan will be included here. Planning for a GIS system for archeological resources is further advanced , and is outlined below.
- Convert all archaeological site information into electronic data files (both site data and geographic information) so VAOT can use this information in planning and reviewing projects for archaeological resources.
- Collaborate with SHPO to plan and implement the archeological data conversion project from paper to electronic systems.
- Conduct "Feasibility Study for Developing an Archaeology Predictive Model for the State of Vermont" (**completed 9/97**).
- Hold Statewide Workshop on Developing a Vermont Archaeological Predictive Model (**held 2/99**).
- Develop appropriate VAI site form template for use by consultants and as basis for electronic data base (final draft nearing completion).
- Contract with VCGI to supply technical knowledge for development of a number of RFP tasks (development of electronic site form, ArcView date files for all known sites, and development of predictive modeling), assist in selection of GIS consultant, and review consultant deliverables and QA/QC on all electronic data .
- Collect all available electronic files on archaeological sites in Vermont (sources: NRCS, GMNF, UVM-CAP, UMF), and convert to standard ArcView file format. Identify the number of professionally recorded sites which do not have electronic site locations. Determine the exact number of professionally recorded sites to be used in the predictive modeling.
- Develop procedures and timeframe for entering other paper data onto database and GIS maps. Identify cost and how and who can accomplish.
- Design database and mapping format and protocols for use by VAOT/SHPO and consultants.
- Consult with likely users after development of system proto-type.
- Identify respective responsibilities of VAOT and SHPO in operations and maintenance of archeology data base and GIS mapping.

Documentation

3(C) ARCHAEOLOGY PLANNING AND RESEARCH

Laws, Regulations, Guidelines

- 36 CFR 79 [Curation of Federally Owned and Administered Archaeological Collections]
- 36 CFR 800 [Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites]
- National Historic Preservation Act [Section 101(a)(7)(A)])
- Archaeological Resources Protection Act [Section 5]
- Vermont Historic Preservation Act (22 VSA 14), sections 723(8), 764, 767
- Guidelines for Archaeological Studies (1989)
- Advisory Council on Historic Preservation Policy Statements: Native American Concerns (1993)
- Native American Graves Protection and Repatriation Act (PL. 101-601) and its regulations (43 CFR Part 10)

Key Definitions

- *Archeological collections*: include artifacts, soils and feature samples, floral and faunal data, records, reports, photographs and other sets of data recovered from an archeological site and determined to require collections care.

Implementation

1) Conduct a Feasibility Study in consultation with the Division for creating a Vermont Archeology Research Center, for permanently caring for AOT-derived archeological collections, and for maximizing and enhancing their interpretive and educational values.
2) Develop a schedule for implementing the feasibility study; in collaboration with the Division, identify project partners and additional sources of funding; consult with Native Americans and other partners in project planning and implementation
3) Immediately implement short-term recommendations affecting statewide consultants, for example:
    - Establish interim collections care facility
    - implement appropriate collections care fees structure
    - implement data collecting and retention guidelines as provided by project consultant
    - provide information on the archeology research center project, collections care policies and guidelines, and other related topics on the VAOT web site
    - Establish and implement a process for securing legal agreements with landowners, for making loans to other institutions, etc.
    - Identify staffing and additional resources needed to implement feasibility study, both short-term and long-term

4) Establish working group to continue work on Native American repatriation (NAGPRA) issues and other issues important to AOT.

Documentation

- Feasibility Report.
- AOT archeological collections data managed on database with public access component
- Legal agreement documents including:
- permanent loan, gift, or donation agreements from landowner
- partner commitments for Vermont Archeology Research Center
- other

4(A) DETERMINATION OF UNDERTAKING AND ASSESSMENT OF AREA OF POTENTIAL EFFECT

Laws, Regulations, Guidelines

- 36 CFR 800.3 (Initiation of Section 106 Process)

Key Definitions

- *Undertaking* means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license, or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency [36 CFR 800.16(y)].
- *Area of Potential Effect (APE)* means the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking [800.16(d)].

Implementation

- FHWA delegates to VAOT Archaeology and Historic Officers the responsibility to: 1, determine whether proposed action is an undertaking; 2, determine and document the area of potential effects (APE) and: 3, determine whether historic properties may be affected.
- The APE is the area in which historic properties may be affected by direct and/or indirect effects, and effects that may be cumulative or reasonable foreseeable (refer to Manual section 4(G) for criteria for, and examples of, adverse effects.)
- The APE may be significantly larger than the project construction area, to possibly include viewsheds, traffic corridors, historic downtowns and rural historic districts.
- The APE may be discontiguous.
- Federal undertakings that may affect historic properties include leasing properties, property easements, land transfers, and right-of-way purchases.

Documentation

- APE will be documented in a brief written description, map, and/or GIS database.

4(B) IDENTIFYING HISTORIC PROPERTIES

Laws, Regulations, Guidelines

- 36 CFR 800.4 (Identification of Historic Properties)
  www.achp.gov/usersguide
- 36 CFR 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places)

- National Register Bulletins (selected relevant Bulletins)
  - How to Apply the National Register Criteria for Evaluation
  - How to Complete the National Register Registration Form
  - Defining Boundaries for National Register Properties
  - Guidelines for Evaluating and Documenting Rural Historic Landscapes
  - Guidelines for Evaluating and Documenting Historic Aviation Properties
  - Guidelines for Evaluating and Registering Historic Archeological Sites and Districts
  - Guidelines for Evaluating and Documenting Traditional Cultural Properties (TCP)
  - Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years
  - Guidelines for Evaluating and Registering Cemeteries and Burial Places
  - Nominating Historic Vessels and Shipwrecks to the National Register
  - How to Evaluate and Nominate Designed Historic Landscapes
  - Guidelines for Evaluating and Documenting Properties Associated with Significant Persons

  www.cr.nps.gov/nr

- The Vermont Historic Preservation Plan – Historic Contexts
- Multiple Property Documentation Forms (MPDF's) for National Register Listings
  - Metal Truss, Masonry, and Concrete Bridges in Vermont
  - Agricultural Resources of Vermont
  - Historic Resources of the Mad River Valley
  - Educational Resources of Vermont
  - Historic Government Buildings of Vermont
  - DRAFT Hydroelectric Generating Facilities in Vermont
  - DRAFT Maritime Resources of Vermont
  - DRAFT Chittenden County Circumferential Highway (Prehistoric Resources) UVM-CAP, Report No. 197, May 1988.

Vermont Historic Sites and Structures Survey Manual
- Secretary's Standards and Guidelines for Identification

Guidelines for Archeological Studies (1989)

Key Definitions

Historic Property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization (TCP) and that met the National Register criteria. The term *eligible for inclusion in the National Register* includes both properties formally

determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria. [36 CFR 800.16 (l)]

Implementation

- The Division for Historic Preservation's Resource Room contains information on over 30,000 historic and archeological properties, filed by town. However, the inventory is far from complete.
- Check files and other data sources of existing information on historic and archeological properties including, at minimum, the National Register of Historic Places, Vermont Historic Sites and Structures Survey, Vermont Archeological Inventory, index of National Register Preliminary Reviews, index of Vermont Archeological Studies/Reports, and standard historic maps.
- Archeological studies must meet the SHPO's Guidelines for Archeological Studies (1989).
- If undertaking a survey of a previously unidentified historic district, AOT should consult with the SHPO in developing the scope of work, commensurate with the scale of the project.
- If undertaking a survey that identifies additional properties in or adjacent to an existing district, consultation with the SHPO is not necessary.
- AOT should verify previously identified resources in the field to determine if they remain or have changed.
- If the undertaking is an exempt activity, no identification or documentation of historic properties is required. However, an Exempt Activity form is required. See 3(A).
- Seek information from individuals and organizations likely to have knowledge about historic properties in the APE, if such information is not readily available in published sources or existing inventories.

Documentation

Resources not previously identified shall be documented in a standard format for inclusion in the Vermont Historic Sites and Structures Survey or the Vermont Archeological Inventory, and for inclusion in a database system accessible to AOT and SHPO. See section 3(A) of the Manual. Supplemental information on existing State Register or National Register properties shall be provided to the Division for Historic Preservation in a standard format that is easy to integrate into existing State Register and National Register files. See section 3(A) of the Manual.

4(C) PUBLIC PARTICIPATION AND NOTIFICATION

Laws, Regulations, Guidelines

- 36 CFR 800.2c(4),(6) (Consulting Parties)
- 36 CFR 800.2d(1) (The Public)
- 36 CFR 800.2d(2) (Providing Notice and Information)
- 36 CFR 800.2d(3) (Use of Agency Procedures)
- Advisory Council on Historic Preservation Policy Statements: Native American Concerns (1993)
- "Protecting Historic Properties: A Citizen's Guide to Section 106 Review" available at www.achp.gov

Key Definitions

- *Consultation* means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process [36 CFR 800.16(f)].
- *CP* means consulting party
- *Cons* means VAOT Consultant
- *Pr Mgr* means VAOT Project Manager
- *Env Sp* means Environmental Specialist
- *VT AC* means VT Advisory Council for Historic Preservation
- *SHPO* means Vermont Historic Preservation Officer
- *FHWA* means Federal Highway Administration

Implementation

- For most projects, and consistent with 36 CFR 800.2d(3), public notification and consultation will be achieved through the standard VAOT Project Development Process, as follows:

  All Meetings: Invite representatives from local government, Regional Planning Commission, CLG, Historical Society, and groups with an interest in historic properties in the APE; warn meeting to public. Make public input brochure available to participants.

  Both the VDHP Involving the Public Brochure and VAOT Public Input Guidebook should be consulted in determining public input requirements.

  Public Concerns Meeting: Provide overview of Section 106 provisions and opportunities for public involvement; inform meeting attendees of the presence and nature of known historic and archaeological properties in the APE and seek input concerning other historic and archaeological resources in the APE.

  Alternatives Meeting: Show historic and archaeological resources plotted on project alternative plans; inform meeting attendees about the potential effect on these resources for each alternative presented; seek input from public concerning these potential effects, and discuss avoidance or mitigation options as appropriate; consider the views of and seek agreement with the public, if feasible, concerning impacts to historic properties.

- Native American consultat ion: consultation with Native Americans should be initiated early in the project development process and in discovery situations where appropriate. Where the Archaeology Officer determines, based on scope and location of project, that there is potential for effect to Native American cultural property, he/she will consult with the Abenaki Self Help Association and the Governor's Advisory Council on Native American Affairs.

- For projects with the potential for significant adverse effect, or projects which may impact a large number of properties, additional public meetings may be required at the discretion of the VAOT Archaeology and Historic Preservation Officers, to discuss and seek resolution of Section 106 issues.

Documentation

The degree and nature of Public involvement for a project will be documented in the Section 106 Formal Comment Letter by written description.

4(D) EVALUATING HISTORIC AND ARCHEOLOGICAL SIGNIFICANCE

Laws, Regulations, Guidelines

- 36 CFR 800.4 (Identification of Historic Properties) www.achp.gov/usersguide
- 36 CFR 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places)
- National Register Bulletins (selected relevant Bulletins)
  - How to Apply the National Register Criteria for Evaluation
  - How to Complete the National Register Registration Form
  - Defining Boundaries for National Register Properties
  - Guidelines for Evaluating and Documenting Rural Historic Landscapes
  - Guidelines for Evaluating and Documenting Historic Aviation Properties
  - Guidelines for Evaluating and Registering Archeological Sites and Districts
  - Guidelines for Evaluating and Documenting Traditional Cultural Properties
  - Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years
  - Guidelines for Evaluating and Registering Cemeteries and Burial Places
  - Nominating Historic Vessels and Shipwrecks to the National Register
  - How to Evaluate and Nominate Designed Historic Landscapes
  - Guidelines for Evaluating and Documenting Properties Associated with Significant Persons

  www.cr.nps.gov/nr

- The Vermont Historic Preservation Plan – Historic Contexts

- Multiple Property Documentation Forms for National Register Listings
  - Metal Truss, Masonry, and Concrete Bridges in Vermont
  - Agricultural Resources of Vermont
  - Historic Resources of the Mad River Valley
  - Educational Resources of Vermont
  - Historic Government Buildings of Vermont
  - Hydroelectric Generating Facilities in Vermont (in process)
  - Maritime Resources of Vermont (in process)
  - DRAFT Chittenden County Circumferential Highway (Prehistoric Resources) UVM-CAP, Report No. 197, May 1988.

- SHPO's Guidelines for Archeological Studies (1989)

Key Definitions

Historic Property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that met the National Register criteria. The term *eligible for inclusion in the National Register* includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria. [36 CFR 800.16 (l)]

Implementation

- Seek information from individuals and organizations likely to have knowledge of historic properties in the APE, if such information is not readily available in published sources or existing inventories. See 4(C).
- The level of information that needs to be developed is a level sufficient to evaluate National Register eligibility. It is not necessary to fully develop information under all National Register criteria, if one criteria is met. However, it is necessary to develop information under criterion D, in addition to A, B, and/or C if an archeological component of a property may be impacted by the project.
- Archeological studies must meet the SHPO's Guidelines for Archeological Studies (1989).
- Connecticut River bridges included in the 1985 Vermont Historic Bridge Survey have been determined by the Vermont SHPO to be eligible for the National Register of Historic Places.
- Concrete 'slab and girder' or 'beam and slab' bridges shall be evaluated according to criteria established by the SHPO and AOT.
- Where relevant MPDF's exist, evaluations shall use the Registration Requirements in the MPDF.

Documentation

- Resources not previously identified shall be documented in a standard format for inclusion in the Vermont Historic Sites and Structures Survey or the Vermont Archeological Inventory, and for inclusion in a database system accessible to AOT and SHPO. See Section 3 of the Manual.
- Supplemental information on existing State Register or National Register properties shall be provided to the Division for Historic Preservatioon in a standard format that integrates easily into existing State and National Register files. See Section 3 of the Manual.
- AOT shall distribute additional reports, as appropriate, to the local library and/or historical society, UVM, special interest repositories, local colleges or other schools, etc.

The *Hydroelectric Generating Facilities MPDF* Provides a context for evaluating hydro facilities for the National Register. Some facilities, noted in the MPDF file, have already been determined eligible for the Register.

The *Metal Truss, Masonry, and Concrete Bridges MPDF* Contains the history of bridge-building in Vermont and gives Registration Requirements for truss, and masonry and concrete arch bridges. Many individual bridges have been nominated to the National Register using the MPDF.

Copies to:	FHWA	SHPO	VT AC	Env Sp	Pr Mgr	Cons	CP

4(E) FINDING OF NO HISTORIC PROPERTIES AFFECTED

Laws, Regulations, Guidelines

- 36 CFR 800.4(d)1 (No Historic Properties Affected – Requirements for Finding)
- 36 CFR 800.11(d) (No Historic Properties Affected – Documentation Requirements)

Key Definitions

- *Effect* means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

Implementation

- Finding of No Historic Properties Affected appropriate only when:

For projects that require an Act 250 permit or are funded exclusively with state funds, follow Appendix B of the PA, "Review of VAOT Undertakings under Vermont State Law."

- 1. There are no Historic Properties in the project Area of Potential Effect (APE), or
- 2. The project will have no effect, positive or negative, on historic properties located within the APE.

- Finding of No Historic Properties Affected inappropriate when:

- 1. A historic property is positively or negatively affected by direct, indirect, cumulative, reasonably foreseeable effects (see 4G for explanations and examples of effects.), or
- 2. When significant data is recovered from an NR-eligible archaeological site.

Documentation

- Findings of No Historic Properties Affected will be documented on the corresponding form in section 3(A).
- Provide enough information to justify the conclusion. Be specific, so that a reader can reach the same conclusion from the information provided. See additional guidance on the No Historic Properties Affected form in section 3A.
- Attach relevant documents: Archaeological Resource Assessment (ARA), Field Inspection, Phase I Study, or photographs, if appropriate.
- If demolition of a building over 50 years old is proposed in the project, attach a photo of the building.

4(F) FINDING OF NO ADVERSE EFFECT

Laws, Regulations, Guidelines

- 36 CFR 800.5 (Assessment of Adverse Effects)
- Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Vermont Agency of Transportation, the Vermont Historic Preservation Officer, and the Vermont Agency of Commerce and Community Development Regarding Implementation of a Program for Projects involving Historic Bridges (Bridge PA)

Key Definitions

- *Effect* means alteration to the characteristics of a historic property qualifying it for inclusion in the or eligibility for the National Register [36 CFR 800.16(I)].
- *Criteria of Adverse Effect* An adverse effect is found when an undertaking may alter, directly or indirectly, the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, setting, design, materials, workmanship, feeling, or association [36 CFR 800.5a(1)].

Implementation

- Finding of No Adverse Effect appropriate only when:

5) There are Historic Properties in the project Area of Potential Effect (APE), and;
6) The project will not adversely effect the historic properties (see 4(G) for explanations and examples of adverse effects.)

For projects that require an Act 250 permit or are funded exclusively with state funds, follow Appendix B of the PA, "Review of VAOT Undertakings under Vermont State Law."

- Finding of No Adverse Effect inappropriate when:

1) There are no historic properties located in the APE or;
2) A historic property is adversely affected by direct, indirect, cumulative, reasonably foreseeable effects (see 4(G) for explanations and examples of effects.) or;
3) When data is recovered from a archaeological site

- Projects involving metal truss bridges are addressed in the Bridge Programmatic Agreement (PA) and the Bridge Plan incorporated within it. Refer to section 9 of the PA. Bridges assigned to categories A, B, and C in the Bridge Plan are "No Adverse Effects." Bridges assigned to categories D, E, and F are "Adverse Effects."

Documentation

- Findings of No Adverse Effect shall be documented in a written report.
- The degree and nature of Public involvement for a project will be documented in the Section 106 Formal Comment Letter by written description.
- Refer to Section 3(A) for letter format.

Examples of Adverse Effects

1. Physical destruction of or damage to all or part of a property;
2. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of Historic properties (36 CFR part 68) and applicable guidelines;
3. Removal of a property from its historic location;
4. Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance;
5. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;
6. Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural siginificance to an Indian Tribe or Native Hawaiian organization; and
7. Transfer, lease, or sale of a property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long tern preservation of the property's historic significance. [36 CFR 800.5a(2)]

4(G) FINDING OF ADVERSE EFFECT

Laws, Regulations, Guidelines

- 36 CFR 800.5 (Assessment of Adverse Effects)
- 36 CFR 800.6 (Resolution of Adverse Effects)
- Recommended Approach for Consultation on Recovery of Significant Information From Archeological Sites

Key Definitions

- *Criteria of Adverse Effect* An Adverse effect is found when an undertaking may alter, directly or indirectly, the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. [36 CFR 800.5a(1)].

Implementation

- Examples of direct effects include destruction in part or in whole of an archaeological site or above-ground historic property.
- Examples of indirect effects may include those on a historic downtown due to bypass construction or other traffic rerouting; visual and audible effects on historic properties from new construction, road widening or traffic rerouting and; changes to settings of historic properties.
- Examples of cumulative adverse effects may include successive upgrades around historic village centers resulting in pressure to upgrade roads within the village; and successive curb cuts on a bypass resulting in sprawl and; successive development projects in rural areas whose sum total constitutes an adverse effect on archaeological properties;
- Examples of reasonably foreseeable adverse effects may include closing a historic bridge to traffic without a rehabilitation and maintenance plan.
- Data recovery of an archaeological site is considered an adverse effect.
- Projects involving metal truss bridges are addressed in the Bridge Programmatic Agreement (PA) and the bridge plan incorporated within it. Refer to Section 9 of the PA. Bridges assigned to categories A, B, and C in the Bridge Plan are "No Adverse Effects." Bridges assigned to categories D, E, and F are "Adverse Effects."

FOR PROJECTS THAT REQUIRE AN ACT 250 PERMIT OR ARE FUNDED EXCLUSIVELY WITH STATE FUNDS, FOLLOW APPENDIX B OF THE PA, "REVIEW OF VAOT UNDERTAKINGS UNDER VERMONT STATE LAW."

Documentation

Findings of Adverse Effect [4(G)(1)-standard mitigation, 4(G)(2) - memorandum of agreement, 4(G)(3) - national historic landmark] will be documented per the corresponding format.

- Refer to Section 3(A) for documentation requirements.

4(G)(1) STANDARD MITIGATION MEASURES APPLICABLE

Laws, Regulations, Guidelines

Key Definitions

Implementation

- When appropriate, the VAOT Officers may select one or more Standard Mitigation Measures from the list below to mitigate or compensate for an adverse effect on historic and/or archeological resources.
- The list includes measures that directly address affected resources, measures that address similar resources, and off-site mitigation measures.
- Standard Mitigation Measures should only be considered when there is compelling reason(s) to accept the adverse effect on the resource. All possible efforts to avoid the adverse effect should be made prior to consideration of Standard Mitigation Measures.
- AOT must seek the views of previously identified interested parties on proposed Standard Mitigation Measures and include then in project documentation.

Documentation

- The Measures shall be incorporated verbatim into VAOT's formal written finding of adverse effect, and supplemented with additional specific details where appropriate. See Section 3 of the Manual.
- VAOT shall inform the SHPO when the Measures have been completed.

1. **Photographic Documentation**. The VAOT shall ensure that the Historic property is recorded prior to its demolition, alteration or relocation in accordance with Historic American Buildings Survey (HABS) or Historic American Engineering Record (HAER) standards, for nationally significant properties, or, for other properties, the Photographic Documentation Standards for Historic Structures adopted by the SHPO. The VAOT shall retain one copy, provide one to DHP, and one or more to appropriate local depositories. Copies of original plans for engineering structures should be part of the documentation package, if possible.

Should be considered only after rehabilitation and continued use have been proven infeasible. Rehab costs equal to new construction are generally considered reasonable and feasible. For nationally significant properties, consult NPS for documentation requirements.

2. Marketing and Sale. The VAOT shall develop a marketing plan and ensure that a property is advertised for sale in newspapers of general local circulation for a minimum of 30 days (???) prior to the demolition or relocation of historic properties. The VAOT Officers shall review all purchase offers and may consult with the SHPO. If VAOT selects a successful purchaser, VAOT may include preservation covenants in the transfer deed, upon recommendation of the VAOT Officers. If no successful purchaser is identified, VAOT may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to standards listed in 1. Above.

A good faith effort and effective public outreach are expected.

A good faith effort and effective public outreach are expected.

3. Relocation. In relocating the building, every effort shall be made to Reestablish it's hist oric orientation, immediate setting, and general environment in the new location, in accordance with 36 CFR 60. The VAOT Historic Preservation Officer shall evaluate the continued eligibility of the moved building for the National Register of Historic Places, and provide a written evaluation to the SHPO. If the building is located within an existing National Register historic district, VAOT shall prepare an amendment to the existing nomination form to reflect the relocation..

Appropriate when a covenant or easement would be too onerous or incompatible with the scale of the effect.

4. Future Work on Buildings. Future work on the exterior and/or Interior of the building shall meet the Secretary of the Interior's Standards for Rehabilitation.

5. Lectures/Tours. The VAOT shall ensure that a qualified Professional organize public lectures and tours of ongoing projects and excavations. Involvement of local school groups is encouraged. See Section 2D for more options.

Good media coverage should by part of the plan. Opportunities for public participation are encouraged where appropriate. VAOT may consult with SHPO and/or request that SHPO partner with VAOT on public education projects. Projects could include community archeology programs, educational curricula, TV or video programs, etc.

6. Public Education. VAOT shall develop a public education program or project that enhances public understanding and appreciation of the reso urces on site or resources similar in location or type to the resources adversely affected by the project., and provide an outline of the program or project to the SHPO. VAOT shall report the results to the SHPO. See Section 2D for more options.

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Wide distribution to interested audiences is expected.

7. Popular Publications. The VAOT, through the use of consultants as appropriate, shall produce and distribute a popular version of a technical report and/or, a booklet , pamphlet, or brochure that illustrates the work on a property , archeological resources recovered from a site, the site's history, or its historic context. See Section 2D for more options.

8. Web Site. The VAOT shall post material on its web site, with links to related sites , or, as appropriate, develop a new non-VAOT web site or enhance an existing one , to aid public understanding of the resources on site or resources similar in location or type to the resources adversely affected by the project. See Section 2D for more options.

Uniform regional or statewide graphics are encouraged.

9. Interpretive Signage. The VAOT, through the use of research, Design and fabrication consultants as appropriate, shall produce one or more signs to describe the work on a property, archeological resources recovered from a site, the site's history, or its historic context.. VAOT and/or local interested parties shall plan the sign(s) and address maintenance and long-term care of permanent sign(s). See Section 2D for more options.

10. Exhibits. The VAOT, in conjunction with appropriate Consultants, shall develop and install a professional quality exhibit that describes the work on a property, archeological resources recovered from a site, the site's history, or its historic context. Local installations or exhibits that travel to local schools are encouraged. See Section 2D for more options.

The measure should stipulate the properties to be surveyed, or reference another document that specifies them.

11. Survey. The VAOT shall ensure that a qualified professional Undertake a survey of _____ to meet the standards for the Vermont Historic Sites and Structures Survey and/or the Vermont Archeological Inventory.

The measure should stipulate the properties to be nominated.

12. National Register. The VAOT shall ensure that a qualified Professional prepare a National Register of Historic Places nomination form(s) for the following resource(s): _____.

13. Development of Historic Context. The VAOT shall ensure that a Qualified professional research and prepare a written historic context statement for the class of resources affected by the project. The format of the context statement shall be determined in conjunction with the SHPO.

Appropriate when there is a likelihood that the features would be appropriately reused elsewhere.

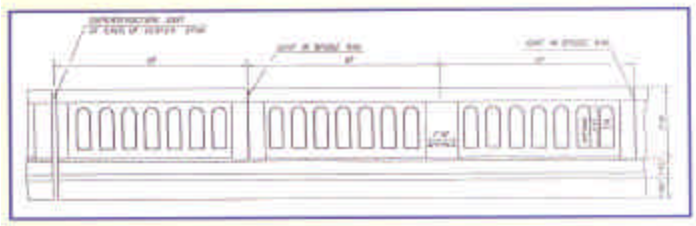
14. Salvage of Architectural or Engineering Features. VAOT shall identify appropriate parties to receive salvaged architectural or engineering features. VAOT shall ensure that the features are salvaged prior to demolition activities and properly stored and curated. When feasible, salvaged architectural features shall be reused in other preservation projects.

15. Data Recovery of archeological information. The VAOT Archeology Officer shall develop an Archeological Data Recovery Plan that meets the

Council's Treatment of Archeological Properties, the SHPO's Guidelines for Conducting Archeological Studies, and the "Recommended Approach for Consultation on Recovery of Significant Information From Archeological Sites" (Federal Register, May 18, 1999, Appendix B). Data Recovery projects shall include a significant public education and interpretation component . Materials recovered shall be curated and stored in accordance with 36 CFR 79. The VAOT Archaeology Officer shall provide a draft Archaeological Data Recovery Plan, including a detailed draft scope of work, to the SHPO prior to finalizing the Data Recovery Plan and offer the SHPO an opportunity to comment on it within 30 days.

May be particularly appropriate for replication of an ornamental bridge railing where it is a very important feature of the bridge, has severely deteriorated, and provides a gateway feature or otherwise enhances community identity in an historic district. It is not appropriate if repair of the original feature is feasible.

16. Replication of Bridge Feature. The new feature shall match the old in design, appearance, materials, craftsmanship, etc. as closely as possible.



The overlook may focus on natural and/or historic resources, including historic bridges and building ruins.

17. Development of a Scenic Overlook. VAOT shall incorporate into the project design a place for the public to see and appreciate the scenic view at the site. Provision of the overlook should not create an adverse effect.

Existing historic landscape features that contribute to a property's significance and setting should be retained, e.g. large front yard trees, tree lines, stone walls, etc. Replacement trees should be as large as feasible.

18. Landscaping. VAOT shall incorporate a landscape plan in the project design that enhances historic features, and /or replaces removed or missing specimen trees and other plantings, tree canopies, roadway features such as stone walls, or other historic or traditional landscape features. The VAOT Officers shall review and approve final landscape plans.

Creative modern designs are encouraged where appropriate.

19. Design of a New Bridge. VAOT shall design a new bridge that is compatible with the surrounding historic and natural environment in design, massing, scale, width, materials, color, etc. The design shall be recognizable as contemporary, and while it may reference the design of the previous bridge, it shall avoid creating an inappropriate false historic appearance.

4(G)(2) FINDING OF ADVERSE EFFECT – MEMORANDUM OF AGREEMENT

Laws, Regulations, Guidelines

- 36 CFR 800.6 (Resolution of Adverse Effects)
- 36 CFR 800.11(f) (Memorandum of Agreement - Documentation requirements)

Key Definitions

Memorandum of Agreement(MOA) means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking on historic properties [36 CFR 800.16(0)].

Implementation

- Use of MOA is appropriate only when Officers have determined that standard mitigation (4G1) is inappropriate for mitigating adverse effect of undertaking on historic properties.
- "Process MOA's" may under certain rare circumstances be drafted and executed to expedite acquisition of the NEPA document. This may be appropriate where there are extensive archaeological requirements, complex and time-consuming design elements which will not adversely affect historic properties, or for phased review of complex projects. In these cases, both the Archaeology and Historic Preservation Officers shall sign the MOA assuming the signatory role of the SHPO.

Documentation

- Memorandums of Agreement will be prepared, and supporting documentation attached in accord with the format prescribed in Section 3A.

- Refer to workbook Section 106: An Advanced Seminar by Thomas F. King for guidelines on the development and writing of MOA stipulations.

MOA must contain sunset provision and provision for discoveries.

4(G)(3) FINDING OF ADVERSE EFFECT - SPECIAL REQUIREMENTS FOR PROTECTING NATIONAL HISTORIC LANDMARKS

Laws, Regulations, Guidelines

- 36 CFR 800.10 (Special Requirements for Protecting National Historic Landmarks)

Key Definitions

- *National Historic Landmark (NHL) means* a property that the Secretary of the Interior has designated a National Historic Landmark [36 CFR 800.16(p)].

Implementation

- Regulations governing the resolution of adverse effects to NHLs (36 CFR 800.10) mandate participation by the Federal Advisory Council and Secretary of the Interior.
- VAOT officers will contact the Regional Office of the National Park Service, which participates on behalf of the Secretary of the Interior, in every instance of adverse effect to an NHL, and coordinate procedures for project review with the Council.

Documentation

- Findings of Adverse Effect to an NHL will be documented in accordance with 36 CFR 800.10(d).

NATIONAL HISTORIC LANDMARKS

Addison County
Robert Frost Farm, Ripton
Emma Willard House, Middlebury
Mount Independence, Orwell
Rokeby, Ferrisburgh

Caledonia County
St. Johnsbury Athenaeum, St. Johnsbury

Chittenden County
Ticonderoga, Shelburne
Round Church, Richmond

Orange County
Justin Smith Morrill Homestead, Strafford

Washington County
Socialist Labor Party Hall, Barre
Vermont Statehouse, Montpelier

Windham County
Naulakha, Dummerston
Rockingham Meeting House, Rockingham

Windsor County
Calvin Coolidge Homestead District, Plymouth
Robbins and Lawrence Armory & Machine Shop, Springfield
George Perkins Marsh Boyhood Home, Woodstock
Stellafane Observatory, Springfield

4(H) EMERGENCY SITUATIONS

Laws, Regulations, Guidelines

- 36 CFR 800.12 (Emergency Situations)

Key Definitions

The PA recognizes two classes or categories of emergency situations:

- Immediate rescue and salvage operations conducted to preserve life or property such as necessitated by natural disaster or other catastrophic event;
- Operations that are responding to a disaster or emergency that pose immediate threats to life or property that are
- declared by the President or Governor , or
- declared by the Secretary of Transportation in consultation with the VAOT Archaeology or Historic Preservation Officers, or if unavailable, the SHPO
- and for which corrective measures are initiated within 30 days after the disaster or emergency has been formally declared

Implementation

- For emergencies that involve immediate rescue and salvage operations conducted to preserve life or property such as necessitated by natural disaster or other catastrophic event, no Section 106 review is required. This exemption is intended to be very narrowly interpreted i.e. to apply only to events like tornadoes, catastrophic floods, and other acts of God.
- For emergencies declared by the President, Governor, or Secretary of Transportation, Officers will:
- Request and obtain a written declaration of the emergency from the authorizing office;
- Follow standard Section 106 process with shortened periods for comment as required;
- Consult with interested parties before corrective measures are undertaken depending on the nature of the emergency and the timeframe available for corrective actions;
- Recommend, as appropriate, post-emergency mitigation for unavoidable adverse effects to historic resources caused directly or indirectly by the emergency or corrective actions.

Documentation

- All facets of the undertakings (Declarations, APE, resource ID, Determination of Effect, Avoidance, Minimization and Mitigation Measures) will be documented in accordance with Section 106, but with modified timeframes to account for urgent corrective measures as appropriate. If necessary, documentation may occur after the undertaking as in the case of natural disasters.

Examples of archaeological sites that may be discovered during project construction:

1. Native American sites that are not anticipated by the general predictive model or sensitivity studies
2. Human remains which are unanticipated
3. Foundations and other structural remains including wells obscured by later disturbances
4. Deeply buried sites in flood plains which are missed by standard testing methods
5. Historic archaeological sites which are not identified on historic maps (Beers, Wallings, etc.)

4(I) DISCOVERY OF ARCHAEOLOGICAL SITES DURING PROJECT CONSTRUCTION

Laws, Regulations, Guidelines

- 36 CFR 800.13(b) (Discoveries without Prior Planning)
- Guidelines for Archaeological Studies (1989)

Key Definitions

- *Discoveries without prior planning:* "Historic properties" (specifically archaeological sites) which are discovered, or the unanticipated effects on such properties which are found after the VAOT Archaeologist or Archaeology Officer has completed the Section 106 process [36CFR 800.13(b)].

Implementation

- The project will stop immediately if previously unidentified archaeological sites, including human remains and/or cultural items, are discovered during project construction [see also Manual Section 4(J) and 4C].
- Burials are considered archaeological sites under state & federal laws.
- The Construction Company or Resident Engineer will immediately notify the VAOT Archaeology Officer who will notify the SHPO.
- No further construction will proceed in the site area until it has been reviewed and documented according to 36 CFR 800.11.

Documentation

- The VAOT Archaeology Officer will conduct a field inspection of the site to determine its potential National Register eligibility and the project's potential effects.
- The VAOT Archaeologist or the Archaeology Officer may hire an Archaeological Consultant if additional information is necessary to determine site boundaries and NR eligibility.
- If the site is determined NR eligible, the preferred treatment is to avoid it and protect it in place.
- Site significance and treatment options should be discussed with the appropriate interested public parties and documented.
- If site avoidance is not possible, then data recovery of the site must be completed in accordance with 36 CFR 800 and the Guidelines for Archaeological Studies.

[see also Section 4(J) if human remains are discovered]

Unauthorized Removal of Human Remains: a person who, not being authorized by law, intentionally excavates, disinters, removes or carries away a human body or the remains thereof, interred or entombed in this state, or intentionally excavates, disinters, removes or carries away an object interred or entombed with a human body in this state, or knowingly aids in such excavation, disinterment, removal or carrying away, or is accessory thereto, shall be imprisoned not more than 15 years or fined not more than $10,000.00 or both [Title 13 VSA Section 3761].

4(J) TREATMENT OF HUMAN REMAINS

***Note: This section applies to *any* human remains which are discovered at *any* time either during Section 106 review studies before construction or accidental discovery during construction.**

***If human remains are discovered, the project will stop immediately.**

Laws, Regulations, Guidelines

- Council Memorandum on Archaeological Burial Sites
- Native American Grave Protection and Repatriation Act, 1989 (NAGPRA)
- Native American Burial Site Preservation act of 1989
- Title 13 Vermont Statutes Annotated Sections 3761(Unauthorized Removal of Human Remains)
- Title 13 VSA Section 3764 (Cemeteries and Monuments – Grave markers and historical tablets)
- Title 18 VSA Section 5212 (Permit to Remove Dead Bodies)
- Advisory Council for Historic Preservation Policy Statements: Native American Concerns (1988)

Other Key Definitions Related to Native American Grave Sites

Cultural Items: human remains and
(A) *"associated funerary objects"* and
(B) *"unassociated funerary objects"* "which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later…" [see NAGPRA Section 2(3A and 3B) for full definitions]
Sacred Objects: "specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents" [NAGPRA Section 2(3C)].
Cultural Patrimony: "an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual native American…" [see NAGPRA Section 2(3D) for full definition]

Key Definitions

- *Burial Site:* "any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited." [NAGPRA Section 2(1)]
- *Native American:* "of, or relating to, a tribe, people, or culture that is indigenous to the United States." [NAGPRA Section 2(9)].
- See sidebar for additional key definitions

Implementation

- Avoidance and preservation in place is the preferred option for treating human remains.
- The Transportation Archaeology Officer or Archaeological Consultant will evaluate the potential for burial sites or associated cultural items within the project area. If the project area is considered sensitive for Native American burials, then the appropriate Native American group(s) will be contacted. Native American groups may also notify VAOT of burial site potential concerns.
- Examples of these appropriate groups are identified as the Abenaki Self-Help Organization and the Governor's Advisory Council on Native American Affairs.

- If human remains and/or associated cultural items are discovered, the project will stop and the Archaeological Consultant will immediately contact the Archaeology Officer who will notify the SHPO.
- If human remains and/or associated cultural items are discovered during construction, the resident engineer will contact the VAOT Archaeology Officer.
- The VAOT Archaeology Officer will also contact the Town Sheriff, Town Clerk , Chief Medical Examiner and State Police as well as Native Americans when appropriate.
- If the human remains are identified as Native American, then a treatment and reburial plan will be developed in full consultation with the appropriate Native American group(s) as identified above.
- Human remains and cultural items should not be disturbed or removed from their original location if at all possible. [refer to Advisory Council Policy Statement, 1988]
- All determinations will be made or approved by the Archaeology Officer.

Documentation

- If human remains are identified, a written treatment plan will be developed in consultation with the VAOT Archaeology Officer, SHPO and with public parties such as Native Americans, local government and others as appropriate.
- Recovery when necessary, should be done carefully, respectfully and completely in accordance with the proper archaeological methods (as outlined in 36 CFR 800 and the Guidelines for Archaeological Studies, 1989) [refer to Advisory Council Policy Statement, 1988].

5. SUPPLEMENTARY REVIEW

Laws, Regulations, Guidelines

Key Definitions

Implementation (copied from PA)

- This Programmatic Agreement is intended to provide for complete, thorough, and streamlined review of VAOT transportation projects. It is agreed that the formal supplementary review process described below is intended for use in circumstances of significant disagreement only. For the purposes of informal consultation, the SHPO may at his or her discretion, consult via telephone, memo, or in a meeting with the VAOT's historic and archaeological preservation staff.

- If, for any undertaking, formal written comment or formal written objection, so titled, is made within 30 days by FHWA, VAOT, SHPO, the Council, or any consulting party, to any findings made by either the Archaeology Officer or Historic Preservation Officer regarding: (i) determination that an undertaking exists; (ii) the potential area of an undertaking's effect; (iii) the eligibility of archaeological or historic properties to the State or National Register of Historic Places within the project area of effect; (iv) determinations of effect; (v) interpretation of the Secretary of the Interior's Standards for Historic Preservation Projects; (vi) conformance with Vermont Guidelines for Archeological Studies of 1989, and any successors to those guidelines; (vii) applicability of the Manual of Ancillary Standards and Guidelines adopted pursuant to this PA; (viii) the appropriateness of the Standard Mitigation Measures, the Archaeology Officer or Historic Preservation Officer shall consult, as appropriate, with SHPO, ACHP, FHWA, or VAOT. If, after consultation, agreement on Federal undertakings cannot be reached regarding any such findings, any party may request the project be reviewed pursuant to the procedures identified in 36 CFR Part 800 et seq. In such event, the terms of this agreement shall be superseded by the provisions contained in 36 CFR Part 800 et seq for that single undertaking only.

Documentation

- Formal written objections shall clearly state which determination is being objected to, and specifically why the objection is being made.
- Officers will retain formal objection documents in project files and forward copies of same as received to SHPO.

PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE VERMONT AGENCY OF TRANSPORTATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE VERMONT STATE HISTORIC PRESERVATION OFFICER
REGARDING IMPLEMENTATION OF THE FEDERAL-AID HIGHWAY PROGRAM
IN VERMONT
April 5, 2000

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WHEREAS, the Federal Highway Administration (FHWA) proposes to administer its Transportation Program in Vermont authorized by 23 U.S.C. 101 et seq. through the Vermont Agency of Transportation (VAOT) (23 U.S.C. 315); and

WHEREAS, FHWA: (1) has determined that undertakings may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places; (2) has consulted with the Advisory Council on Historic Preservation (Council) and the Vermont State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f); (3) wishes to insure that VAOT will conduct its programs in a manner consistent with 36 CFR 800; and (4) intends to integrate its historic and archaeological preservation planning and management decisions with other policy and program requirements to the maximum extent possible consistent with Sec 110 of the NHPA; and

WHEREAS, 36 CFR Part 800 encourages Federal Agencies to efficiently fulfill their obligations under Section 106 of the National Historic Preservation Act through the development and implementation of cooperative programmatic agreements.

WHEREAS, VAOT has participated in the consultation and has been invited to execute this Programmatic Agreement (PA); and

WHEREAS, FHWA and VAOT are committed to the design of transportation systems that: (1) achieve a safe and efficient function appropriately placed within the Vermont context; (2) avoid, minimize and mitigate adverse effects on historical and cultural resources; (3) recognize that investment in these historic, archaeological, and cultural resources is critical to Vermont=s continued growth and prosperity; and (4) respond to the needs of Vermont communities,

WHEREAS, FHWA, the Council, SHPO, and VAOT aspire to engage in meaningful, long term planning for the protection of historic and archaeological properties and, toward that end, desire to: (1) develop a comprehensive and efficient process for all Section 106 undertakings; (2) simplify procedural requirements to the maximum extent possible; (3) eliminate unnecessary paperwork; (4) reduce the role of SHPO to the minimum extent required; (5) devote a larger percentage of time and energies identifying transportation-related concerns threatening historic and archaeological properties; and (6) create innovative programs to address those problems.

WHEREAS it is desirable to integrate and streamline project reviews under parallel state historic preservation and environmental laws.

NOW THEREFORE, FHWA, the Council, VAOT and SHPO hereby agree that the review of FHWA undertakings shall be administered according to the following stipulations in order to satisfy FHWA=s Section 106 responsibilities and to integrate, to the maximum extent feasible, the manner in which FHWA meets its historic and archaeological preservation responsibilities with its other responsibilities under Federal and State statutory or regulatory authorities and policies.

STIPULATIONS

FHWA will ensure that the following measures are carried out:

1. Applicability and Scope. This PA sets forth the process by which FHWA, with the assistance of VAOT, will meet its responsibilities under Section 106 of the NHPA and the regulations set forth in 36 CFR Part 800 as amended adopted to implement that act. For purposes of this PA, the definitions for terms appearing in 36 CFR 800.16 (a) through (y) inclusive shall be employed whenever applicable.

(A) Applicability. This PA shall apply to all FHWA undertakings administered under its Federal-aid Highway Program in Vermont. Those undertakings partially reviewed under any existing programmatic agreements or memorandums of agreement will be superseded by this agreement to the extent that the terms of the former are inconsistent with the latter. A list of those programmatic agreements is attached hereto as Appendix D. See Appendix B for programmatic review of State-funded transportation projects.

(B) Scope. The objective of this PA is to render more efficient the methods by which FHWA and VAOT review individual undertakings that may affect historic properties and to establish the process by which FHWA, the Council, the SHPO, and interested persons will be involved in any such review.

2. **General Requirements.** In compliance with its responsibilities under NHPA and as a condition of its award of any assistance under the Federal-aid Highway Program to VAOT, FHWA shall require that VAOT carry out the requirements of 36 CFR 800 inclusive, all applicable Council standards and guidelines, or the requirements set forth in this PA, for all FHWA undertakings. FHWA will insure that VAOT observes the following requirements.

(A) Employment of Qualified Personnel. For the purpose of implementing this agreement, VAOT shall continue to employ qualified professional staff and consultants who meet the requirements of 36 CFR Part 61, Appendix A. At a minimum, the professional staff shall consist of two permanent, full time, classified service positions: (1) an archaeologist; and (2) an architectural historian or historic preservation professional. The individuals holding these positions shall have the titles: (1) VAOT Archaeology Officer; and (2) VAOT Historic Preservation Officer. These two individuals will report directly to the Environmental Services Engineer. Where the VAOT Archaeology Officer and/or the VAOT Historic Preservation Officer determine that a project may be controversial, the officers may at their discretion consult their Division Director and/or the Secretary of Transportation, and/or, refer a project for review under 36 CFR 800. SHPO shall be consulted in the selection of individuals to fill these two positions. In the event of a prolonged absence of the archaeology officer or the historic preservation officer, VAOT will, in consultation with SHPO, appoint acting officers that meet the requirements of 36 CFR Part 61, Appendix A.

(B) Manual of Ancillary Standards and Guidelines. In addition to the Secretary of the Interior=s Standards for Historic Preservation Projects (36 CFR Part 68), and the Vermont SHPO Guidelines for Archeological Studies, as revised, VAOT, FHWA, and SHPO shall prepare a document titled AManual of Ancillary Standards and Guidelines≅ to implement this PA, to provide guidance for the drafting of any findings or other documents produced by the VAOT Archaeology Officer or Historic Preservation Officer, and to prescribe measures to mitigate any adverse effects caused to historic resources. This document shall, by reference, be incorporated into this PA and will serve as a manual for the Section 106 review by VAOT of all FHWA undertakings in Vermont. The Manual of Ancillary Standards and Guidelines will be prepared by September 30, 2000, or within six months of the date of execution of this agreement, whichever is later. An Outline of Topics for the Manual of Ancillary Standards and Guidelines is attached hereto as Appendix A.

(C) Coordination of Project Review Among VAOT Divisions. VAOT will prepare a detailed written procedure for Section 106 review of FHWA undertakings among its various divisions, and this procedure will be included in the Manual of Ancillary Standards and Guidelines..

(D) Education. FHWA and VAOT, in collaboration with SHPO, will provide a significant public education and interpretation component in its undertakings whenever appropriate.

(E) Training. FHWA and VAOT will collaborate with SHPO in ensuring periodic training for VAOT personnel and their consultants to assure compliance with Section 106 responsibilities. Creative initiatives are encouraged.

(F) Annual Evaluation. VAOT, FHWA, and SHPO shall meet six months after the date this agreement takes effect to evaluate the agreement, suggest revisions to its provisions or to the Manual of Ancillary Standards and Guidelines, and to evaluate the quality of the resource identification and protection activities carried out under the agreement. After the initial period, evaluations shall take place annually, by March 1. Prior to the annual evaluation, VAOT shall submit a report to FHWA and SHPO. This report shall include, but is not limited to, summaries in table form identifying all undertakings and specifying project names, towns, and all findings pursuant to 36 CFR 800. The report shall also contain a narrative description of accomplishments, concerns, and recommendations regarding any changes to this PA or to the Manual of Ancillary Standards and Guidelines.

The SHPO shall provide a copy of the VAOT annual report to the Vermont Advisory Council on Historic Preservation and shall schedule a meeting with the Council to discuss the report prior to the annual review meeting. The SHPO shall provide a written response to the report, after considering the comments of FHWA, the Vermont Advisory Council, and other interest groups and, if appropriate, concur that the terms of the PA and Manual are being met satisfactorily. If the SHPO concludes that performance under the agreement is less than satisfactory, the parties shall consult to improve performance, and meet again within six months to evaluate improvements.

(G) Transition. This PA will become effective upon the date of its execution by all parties and, acceptance of the Manual of Ancillary Standards and Guidelines by AOT, FHWA, and the SHPO. If issues arise regarding FHWA undertakings partially reviewed prior to the date this PA becomes effective, the Archaeology Officer or Historic Preservation Officer shall consult with SHPO, ACHP, FHWA, or VAOT as appropriate. If, after consultation, agreement cannot be reached regarding any such prior review, any party may request project review pursuant to the procedures identified in 36 CFR Part 800 et seq. In such event, the terms of this agreement shall be superseded by the provisions contained in 36 CFR Part 800 et seq for that single undertaking.

(H) Delegation. Responsibility for any findings regarding (i) determination that an undertaking exists; (ii) the potential area of an undertaking=s effect; (iii) the eligibility of archaeological or historic properties to the National Register of Historic Places within the project=s area of effect; (iv) determinations of effect; (v) interpretation of the Secretary of the Interior=s Standards for Historic Preservation Projects; (vi) conformance with Vermont Guidelines for Archeological Studies of 1989, and any successors to those guidelines; or (vii) applicability of the Manual of Ancillary Standards and Guidelines adopted pursuant to this PA, shall rest with VAOT=s Archaeology Officer or Historic Preservation Officer. These responsibilities may not be delegated to project sponsors.

(I) Innovative Programs Envisioned. To facilitate historic and archaeological preservation planning and actions, VAOT will establish and promote progressive programs and activities of mutual interest to, and in consultation with, FHWA, SHPO, ACHP, or other consulting parties. In its annual reports, VAOT will identify special needs that should be addressed through such programs and activities and will prepare a plan and cost estimate to address those needs. Examples of programs envisioned may include: (i) analysis and synthesis of past data accumulated through VAOT/FHWA projects; (ii) statewide thematic or other surveys of historic properties; (iii) statewide predictive models; (iv) improved data management and access; (v) development of historic contexts and preservation priorities; (vi) identification and survey of properties considered eligible for the National Register of Historic Places; (vii) consultation with Native American groups and (viii) preparation and implementation of relevant preservation or management plans; project information internet site.

3. Documentation. Documentation assembled by the VAOT Archaeology Officer, the VAOT Historic Preservation Officer, their staff, or their consultants, to support any Section 106 findings shall be consistent with 36 CFR 800.11. Copies of supporting documentation shall be forwarded as generated to SHPO to be made available for public inspection and use. Scoping reports, corridor studies, EA's and EIS's, and alternative alignment studies shall be included in the documentation. FHWA shall insure that VAOT prepare a plan to address the following requirements, and this plan will be included in the Manual of Ancillary Standards and Guidelines.

A. Types of Documentation. The documentation required to support findings of effect and eligibility to the National Register will be incorporated into a database system as described in the Manual of Ancillary Standards and Guidelines. A list of all FHWA undertakings reviewed each year under this agreement will be included in a report that will be submitted as part of the annual review described in Section 2(F) herein. VAOT shall provide to SHPO copies of all identification, evaluation, treatment and data recovery reports, survey forms, digital survey information, and other relevant resource information as they are generated.

B. GIS Systems. Procedures for incorporating pertinent documentation into GIS systems will be developed as part of the Manual of Ancillary Standards and Guidelines, and FHWA and VAOT will coordinate with SHPO to accomplish this objective. These procedures shall include the development of an historic and archeological resource recovery database and statewide predictive model. SHPO, FHWA, and VAOT will share technology and information by providing mutual access to site data, historic contexts, and any other information pertaining to cultural resource sensitivity analysis and/or site prediction modeling .

C. Archaeology Planning and Research. FHWA and VAOT shall provide for archaeological planning and research that includes, but is not limited to, appropriate care, access, and interpretation of data collections recovered from the above undertakings. FHWA and VAOT, in consultation with SHPO, will partner with other organizations who maintain or are responsible for Vermont collections to assess needs, identify alternative solutions, and implement the most appropriate collections care, research, and interpretation program for Vermont. Any archaeological research center shall meet the standards set forth by the US Department of the

Interior in 36 CFR 79. Archaeological research priorities and a public education and outreach plan will be included in the Manual of Ancillary Standards and Guidelines.

4. Requirements for Project Review by FHWA and VAOT. For all FHWA undertakings reviewed pursuant to this PA, FHWA and VAOT shall observe the following requirements:

A. Determination of Undertaking and Assessment of Area of Potential Effect. On behalf of the FHWA, the VAOT Archaeology Officer and Historic Preservation Officer shall follow the procedures in 36 CFR 800.3 and 800.4 to (i) determine whether proposed projects, activities, or programs constitute an undertaking; and (ii) establish the undertaking=s area of potential effects.

B. Identifying Historic Properties. Pursuant to 36 CFR 800.4, the VAOT Archaeology Officer and Historic Preservation Officer shall identify historic and archaeological properties that may be affected by the undertaking and gather sufficient information to evaluate the eligibility of these properties for the National Register of Historic Places. Information shall be obtained through cultural resource surveys or other appropriate investigations. Identification of historic and archaeological properties shall follow the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716), applicable SHPO guidelines, and agency programs to meet the requirements of Section 110(a)(2) of NHPA.

C. Public Participation and Notification The VAOT Archaeology Officer and Historic Preservation Officer shall, through opportunities afforded by the VAOT project development process, 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, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking. VAOT will use existing procedures to solicit public participation early in the project planning process and consistent with 36 CFR Part 800.3.

D. Evaluating Historic and Archaeological Significance. For any undertaking that may affect properties that have not been previously evaluated for eligibility to the National Register of Historic Places, the VAOT Archaeology Officer and Historic Preservation Officer shall apply the National Register Criteria (36 CFR 60.4), and shall make an appropriate finding regarding eligibility pursuant to 36 CFR 800.4(c). VAOT shall notify FHWA and any interested person that this finding has been made and shall provide copies to SHPO of adequate documentation to support that finding for inspection by the public.

Prior to any finding of eligibility or non-eligibility, VAOT may consult with SHPO regarding application of the criteria contained in 36 CFR 60.4. Copies of these findings with supporting documentation shall be forwarded as they are generated to SHPO for their records.

E. Finding of No Historic Properties Affected. If VAOT finds that either there are no historic properties present or there are historic properties present but the undertaking will have no effect on them as defined in 36 CFR Part 800.16(i), the VAOT Archaeology Officer and

Historic Preservation Officer shall make a formal finding of No Historic Properties Affected. Prior to any such finding, VAOT may consult with SHPO regarding application of the criteria. VAOT shall notify FHWA and any interested person that this finding of No Historic Properties Affected has been made and shall forward copies of adequate documentation as set forth in 36 CFR Part 800.11(d) to support that finding to SHPO for inspection by the public. No further review under Section 106 is required for a finding of No Historic Properties Affected unless supplementary review pursuant to Section 5 herein, is requested.

F. Finding of No Adverse Effect. For any undertaking that includes, within the area of potential effects, listed or eligible properties that will not be adversely affected by the undertaking, as defined by the Criteria of Adverse Effect set forth in 36 CFR 800.5(a), the VAOT Archaeology Officer and Historic Preservation Officer shall make a formal finding of no adverse effect and specify those conditions, if any, that shall be imposed to secure that finding. FHWA and VAOT shall ensure that specified conditions are met. VAOT shall notify FHWA and any interested person that this finding of no adverse effect has been made and shall forward copies of adequate documentation to support that finding to SHPO for inspection by the public. No further review under Section 106 is required for a finding of no adverse effect unless supplementary review pursuant to Section 5, herein, is requested.

Prior to any finding of no adverse effect, VAOT may consult with SHPO regarding application of the criteria. Copies of these findings of no adverse effect with supporting documentation shall be forwarded to SHPO as available for their records.

G Findings of Adverse Effect. For any undertaking that includes, within the area of potential effects, listed or eligible properties that will or may be adversely affected by the undertaking, as defined by the Criteria of Adverse Effect set forth in 36 CFR 800.5(a), the VAOT Archaeology Officer and Historic Preservation Officer shall make a formal finding of adverse effect. When a finding of adverse effect has been made, VAOT shall, at a minimum, evaluate in consultation with consulting parties alternatives to the project that would avoid any adverse effect and document them in the project files. If no such alternatives exist, VAOT shall undertake all possible steps to minimize or mitigate the adverse effect, taking into account the requirements of the Secretary of the Interior=s Standards for Historic Preservation Projects; the Vermont Guidelines for Archeological Studies of 1989 and its subsequent revisions, together with the Manual of Ancillary Standards and Guidelines adopted pursuant to this PA.

(1) Adverse Effect - Standard Mitigation Measures Applicable. Prior to any finding of adverse effect, VAOT may consult with SHPO regarding application of the criteria and appropriateness of utilizing the Standard Mitigation Measures set forth in the Manual of Ancillary Standards and Guidelines. If VAOT makes a determination regarding applicability of the Standard Mitigation Measures, those measures shall be incorporated into a formal written finding of adverse effect. VAOT shall notify FHWA, SHPO, consulting parties and interested members of the public that this finding of adverse effect has been made and shall forward copies of adequate documentation to support that finding to SHPO for inspection by the public. No further review under Section 106 is required for a finding of adverse effect unless supplementary review pursuant to Section 5, herein, is requested.

(2) Adverse Effect - Memorandum of Agreement (MOA) If VAOT determines that the Standard Mitigation Measures are not applicable, VAOT will consult with SHPO, FHWA, and consulting parties on the special provisions adopted to avoid, minimize, or mitigate the adverse effect, and draft an MOA to reflect the agreement. This MOA, together with copies of the documentation necessary to support the finding of adverse effect, will be forwarded to SHPO and FHWA wherein they will, within 30 days, either sign the agreement or initiate consultation with the Council. Copies of the MOA and findings of adverse effect with supporting documentation shall be forwarded to the Council, and SHPO as generated for their records and inspection by the public.

(3) Adverse Effect - Special Requirements for Protecting National Historic Landmarks
If VAOT determines that an undertaking may adversely affect a National Historic Landmark, VAOT shall request the SHPO , the Council and the Secretary of the Interior to participate in consultation to resolve any adverse effects, as outlined in 36 CFR 800.10.

H. Emergency Situations. This document prescribes review processes for two classes of emergency situations. The first class exists when (1) the undertakings are operations that are responding to a disaster or emergency declared by the President or governor, or that are responding to immediate threats to life or property, or (2) that are responding to immediate threats to life or property that are declared emergencies by the Secretary of Transportation in consultation with the VAOT Historic Preservation and Archaeology Officers or, if unavailable, the SHPO and (3) corrective measures are initiated within 30 days after the disaster or emergency has been formally declared. Reviews in these emergency situations shall utilize the review process described in Section 4, but with a shortened timeframe for participation by the SHPO, consulting parties, and the general public as time permits. Written notification of the emergency action being considered shall be provided to the SHPO, the legislative body of the Municipality and the Municipal Planning Commission. The notice shall be clearly and prominently marked as an emergency notification, and shall include a brief description of the significance of the resources involved, the nature and anticipated effect of the emergency action on the resource(s), and the anticipated timeframe available for comment. Notification may be similarly provided to the general public in a box ad in a newspaper of general circulation in the area. VAOT is encouraged to also communicate with consulting parties by telephone.

The second class of emergencies as defined by immediate rescue and salvage operations conducted to preserve life or property such as necessitated by natural disaster or other catastrophic event, are exempt from the provisions of Section 106 and this Programmatic Agreement.

I. Discovery. If previously unidentified archaeological or historic sites are discovered after VAOT has completed its review under this programmatic agreement, that portion of the project will stop immediately. The resident engineer will immediately contact the SHPO. No further construction will proceed until the requirements of 36 CFR 800.13 have been satisfied. FHWA and VAOT will consult with SHPO to record, document and evaluate National Register eligibility of the site and the project's effect on the site, and to design a plan for avoiding or mitigating adverse effects on a potentially eligible site.

J. Treatment of Human Remains. In accordance with state laws that protect unmarked burials, if previously unidentified Native American remains are discovered during construction, that

portion of the project will stop immediately. The remains will be respectfully covered over and the project engineer will immediately consult with FHWA, VAOT's archaeologist, and SHPO. A treatment and reburial plan will be developed by FHWA, VAOT, and SHPO in consultation with appropriate Native Americans. FHWA and VAOT will ensure that the treatment and reburial plan is fully implemented. Avoidance and preservation in place is the preferred option for treating human remains.

5. Supplementary Review This Programmatic Agreement is intended to provide for complete, thorough, and streamlined review of VAOT transportation projects. It is agreed that the formal supplementary review process described below is intended for use in circumstances of significant disagreement only. For the purposes of informal consultation, the SHPO may at his or her discretion, consult via telephone, memo, or in a meeting with the VAOT's historic and archaeological preservation staff.

If, for any undertaking, formal written comment or formal written objection, so titled, is made within 30 days by FHWA, VAOT, SHPO, the Council, or any consulting party, to any findings made by either the Archaeology Officer or Historic Preservation Officer regarding: (i) determination that an undertaking exists; (ii) the potential area of an undertaking's effect; (iii) the eligibility of archaeological or historic properties to the State or National Register of Historic Places within the project area of effect; (iv) determinations of effect; (v) interpretation of the Secretary of the Interior's Standards for Historic Preservation Projects; (vi) conformance with Vermont Guidelines for Archeological Studies of 1989, and any successors to those guidelines; (vii) applicability of the Manual of Ancillary Standards and Guidelines adopted pursuant to this PA; (viii) the appropriateness of the Standard Mitigation Measures, the Archaeology Officer or Historic Preservation Officer shall consult, as appropriate, with SHPO, ACHP, FHWA, or VAOT. If, after consultation, agreement on Federal undertakings cannot be reached regarding any such findings, any party may request the project be reviewed pursuant to the procedures identified in 36 CFR Part 800 et seq. In such event, the terms of this agreement shall be superseded by the provisions contained in 36 CFR Part 800 et seq for that single undertaking only.

6. Dispute Resolution. Should any party to this agreement object within 30 days to any actions proposed pursuant to this agreement not covered by Section 5 (Supplementary Review), FHWA, VAOT, SHPO, and the objecting party shall consult to resolve the objection. If the objection cannot be resolved, FHWA and VAOT shall request comment from the Council pursuant to 36 CFR 800.6(b). Any Council comment provided in response to such a request will be taken into account by FHWA and VAOT in accordance with 36 CFR 800.6(c)(2) with reference only to the subject of the dispute. The responsibility of VAOT, FHWA, and SHPO to carry out all actions under this agreement, other than those that are the subject of the dispute, will remain unchanged.

7. Amendment. Any party to this agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.14 to consider such amendment. The responsibility of VAOT, FHWA, and SHPO to carry out all actions under this agreement**,** other than those subject to the amendment, will remain unchanged.

8. Right to Terminate. Any party to this PA may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties will consult during the period before termination to seek agreement on amendments or other action that would avoid termination. In the event of termination, the FHWA shall comply with 36 CFR 800 with regard to the individual undertakings covered by this PA.

9. **Duration.** This Programmatic Agreement will be in effect for three years from the date of execution, with renewal upon agreement by all parties.

****

Execution and implementation of this PA evidences that the FHWA has satisfied its Section 106 responsibilities for all individual undertakings of the Federal-aid Highway Program in Vermont.

_____	_____	_____	_____
Division Administrator, Federal Highway Administration	date	Executive Director, Advisory Council on Historic Preservation	date
_____	_____	_____	_____
Vermont State Historic Preservation Officer	date	Secretary, Vermont Agency of Transportation	date

APPENDIX A

MANUAL OF ANCILLARY STANDARDS AND GUIDELINES
Outline of Topics

1. Applicability and Scope
   (A) Applicability
   (B) Scope

2. General Requirements
   (A) Employment of Qualified Personnel
   (B) Manual of Ancillary Standards and Guidelines
   (C) Coordination of Project Review Among VAOT Divisions
   (D) Education
   (E) Training
   (F) Annual Evaluation
   (G) Transition
   (H) Delegation
   (I) Innovative Programs Envisioned

3. Documentation
   (A) Types of Documentation
   (B) GIS Systems
   (C) Archaeology Planning and Research

4. Requirements for Project Review by FHWA and VAOT
   (A) Determination of Undertaking and Assessment of Area of Potential Effect
   (B) Identifying Historic Properties
   (C) Public Participation and notification
   (D) Evaluating Historical and Archaeological Significance
   (E) Finding of No Historic Properties Affected
   (F) Finding of No Adverse Effect
   (G) Finding of Adverse Effect
      (3) Adverse Effect - Standard Mitigation Measures Applicable
      (2) Adverse Effect - Memorandum of Agreement
      (5) Adverse Effect - Special Requirements for Protecting National Historic Landmarks

   (H) Emergency Situations
   (I) Discovery
   (J) Treatment of Human Remains

5. Supplementary Review

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10. Appendices
    (A) Manual of Ancillary Standards and Guidelines. Outline of Topics
    (B) Review of AOT Undertakings under Vermont State Law
    (C) Exempt Activities
    (D) Statewide Programmatic Agreements

APPENDIX B

Review of VAOT Undertakings under Vermont State Law

1. INTRODUCTION TO STATE REVIEW PROCEDURES. In addition to Section 106 review of VAOT projects, state law requires that state undertakings be reviewed under 22 V.S.A. 14, the Vermont Historic Preservation Act, and in some cases, under 10 V.S.A. 151, Act 250, the State's land use permit law. VAOT undertakings that comply with the review requirements of Section 106 or Act 250 shall be considered to be in compliance with the requirements of 22 V.S.A.14. Compliance with 22 V.S.A.14, however, generally does not satisfy the review requirements of Section 106 or Act 250.

A. 22 V.S.A. 14. In those circumstances where there is no federal or Act 250 involvement in an AOT undertaking, the Vermont Advisory Council on Historic Preservation (VACHP) delegates to the VAOT and VAOT's qualified historic and archaeological preservation professionals the responsibility to identify potentially significant resources, to evaluate project impacts, and to develop mitigation measures that avoid or minimize adverse impacts, as outlined in the Division's rules for State undertakings. For undertakings that do not result in an adverse effect, AOT shall provide a copy of the determinations to the VACHP. For undertakings that may have an impact on a listed or eligible State or National Register resource, VAOT shall consult with the VACHP as outlined in the rules.

B. 10 V.S.A. 151, Act 250. VAOT shall identify the applicability of Act 250 to VAOT projects early in the planning process. For undertakings that require an Act 250 permit, the VACHP delegates to the VAOT and VAOT's qualified historic and archaeological preservation professionals the responsibility to identify potentially significant resources, and the Vermont Division for Historic Preservation delegates the responsibility to evaluate project impacts and to develop mitigation measures that avoid, minimize, or mitigate impacts, as outlined in the Division's rules for state undertakings.

(1) Finding of No Effect. For any undertaking that does not include a listed or eligible State or National Register resource within the area of potential effects, or alternatively includes listed or eligible properties that will not be affected by the undertaking, the VAOT Archaeology Officer and Historic Preservation Officer shall make a formal finding of no effect. VAOT shall forward copies of this finding to the District Environmental Commission and the SHPO and these comments shall serve as the SHPO's comments on the project for Criterion 8 and other applicable criteria. No further review by AOT under Act 250 is required.

(2) Finding of No Adverse Effect. For any undertaking that includes, within the area of potential effects, a listed or eligible State or National Register resource that will not be adversely affected by the undertaking as defined in the Division's rules, the VAOT Archaeology Officer and Historic Preservation Officer shall make a formal finding of no adverse effect and specify those conditions, if any, that shall be imposed to secure that finding. VAOT shall forward copies of this finding to the District Environmental Commission and the SHPO and these comments shall serve as the SHPO's comments on the project for Criterion 8 and other applicable criteria. No further review by AOT under Act 250 is required.

(3) Finding of Adverse Effect. Prior to any finding of adverse effect, VAOT may consult with SHPO regarding application of the criteria of adverse effect in the Division's rules. For undertakings that may have an adverse effect on a listed or eligible State or National Register resource, VAOT shall consult with the SHPO, and prepare for the SHPO's concurrence a recommendation for mitigation measures that would avoid an undue adverse effect. The recommendation, with the SHPO's concurrence, shall be submitted to the District Commission and shall serve as the Division's comments on the project for Criterion 8 and other applicable criteria. If the SHPO does not concur, either in the assessment of undue adverse effect or in proposed mitigation measures, the SHPO may issue his or her own comments to the District Commission.

2. PUBLIC NOTIFICATION. VAOT shall also be responsible for notifying towns or municipalities when a property is being evaluated for the SR/NR as required by Title 22, Vermont Statutes Annotated, Section 723(11) and related policies. Such notification shall be incorporated into existing VAOT procedures as appropriate. VAOT and SHPO will coordinate any requested public hearings requested pursuant to that act.

_____ _____
Vermont Advisory Council for Historic Preservation — date

_____ _____
Vermont State Historic Preservation Officer — date

_____ _____
Secretary, Vermont Agency of Transportation — date

APPENDIX C

Exempt Activities

ROADWAY

1. Rehabilitation of existing pavement and/or application of new pavement on existing travel lanes and existing paved shoulders with shoulder backing
2. Sub-base improvement limited to the depth of the existing sub-base, for drainage purposes.
3. Routine pavement maintenance such as crack filling.
4. Routine sign maintenance, such as in-kind replacement of damaged or down signs, and in-kind replacement of signs, guardrails, lights, signals, curbs, sidewalks, shoulder backing, and pavement markings at their existing locations. For projects not located in historic districts, minor modifications in size, locations, content, and material composition of these features are permitted and do not require review.
5. Interstate projects involving: (1) installation of guardrails to replace existing guardrails; (2) installation of new guardrails on existing shoulders; and (3) maintenance projects, including construction of cross-overs, on previously disturbed median strips.
6. Converting existing drop inlets to traversable designs.
7. Safety end treatments (standard flares) for guardrails.
8. Installation of new guardrail on existing shoulders outside historic districts.
9. Installation of rumble strips on existing pavement.

CULVERTS AND DITCHING

1. In kind replacement of 48" or smaller culverts not fifty years old, provided replacement is confined to existing locations. In-kind replacement shall mean construction of a new facility substantially the same in materials and size.
2. In kind replacement of 49" or larger culverts not fifty years old, provided replacement is confined to existing locations, no temporary bridge or culvert is required, and no approach work is undertaken. In-kind replacement shall mean construction of a new facility substantially the same in materials and size and in footprint.
3. Reestablishment of existing ditches to original width.

BRIDGES

1. Washing, cleaning, and regular maintenance.
2. In-kind repairs to abutments where no excavation is proposed.
3. For bridges that are not fifty years old, rehabilitation of existing pavement and/or application of new pavement on bridge decks, replacement of membranes, and replacement of expansion joints, and replacement/repair of railings where bridge is located outside a historic district.

AIRPORTS

1. Repaving of existing runways.
2. Repairing existing less than 50 year old safety components including beacons on airport property as long as no new access is required.
3. In kind replacement or repair of existing beacons less than 50 years old not on airport property as long as no new access is required.
4. General maintenance of existing airport facilities.

RAILROADS

1. Installation of new RR signals and replacement/repair of existing less than 50 year old RR safety components.
2. Resurfacing on railroad crossings.
3. In-kind replacement of existing bolt connected RR tracks and wood ties.

ENHANCEMENTS

1. Installation of Bike Racks.
2. Maintenance and minor improvements to existing Park and Rides, except lighting, where no excavation will take place.
3. Modification to concrete sidewalks and curb ramps to satisfy the Americans with Disabilities Act.

UTILITIES

1. Replacing/repairing existing underground utilities in kind and within existing footprint.
2. Replacement and relocation of existing utility poles between edge of sidewalk and road.

PROCEDURAL

1. Minor changes to previously permitted projects where those changes fall under the exempt activity category as described in this appendix.

APPENDIX D

Existing Statewide Programmatic Agreements

1. Paving and Minor Highway Project Programmatic Agreement, executed February 1, 1996

Programmatic Agreement among the Federal Highway Administration, the Vermont Agency of Transportation, the Vermont State Historic Preservation Officer, and the Advisory Council on Historic Preservation regarding Paving and Minor Highway Projects.

2. Historic Bridge Programmatic Agreement, executed July 7, 1998

Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Vermont Agency of Transportation, the Vermont Agency of Natural Resources, and the Vermont Agency of Commerce and Community Development regarding implementation of a program involving historic bridges.