The Advisory Council on Historic Preservation issued revised regulations effective June 17, 1999 regarding Protection of Historic Properties, pursuant to Section 106 of the National Historic Preservation Act. The regulations permit the Federal Agency Official to authorize an applicant to initiate consultation with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO) and other consulting parties.

In accordance with the provisions in Title 23 of the U.S. Code for a State-administered Federal-aid program, and pursuant to 36 CFR, Subpart A, Section 800.2(c)(5), the New York State Department of Transportation (NYSDOT) is authorized to initiate consultation with the SHPO/THPO and other consulting parties (as defined in Section 800.3), on behalf of the Federal Highway Administration (FHWA).

The FHWA retains legal responsibility for all Section 106 findings and determinations. Therefore, please copy this office on all correspondence with consulting parties.

Similar delegation of the initiation of Section 106 consultation may be desired by local governments. We would support efforts to delegate to locals, which is in keeping with the environmental streamlining initiatives under TEA-21 legislation. This, however, would require your specific project by project authorization, assessing the procedures/process and staff that would be used by the locals to meet the Section 106 requirements of the Federal regulations. We request copies of all correspondence between NYSDOT and the local government that is related to the Section 106 consultation process.

Jonathan D. McDade
Chief, Planning & Program Development