NEW YORK STATE DEPARTMENT OF TRANSPORTATION
SECTION 106 PROCEDURES

ACTIVITIES THAT ARE UNDERTAKINGS WITH NO POTENTIAL TO CAUSE EFFECTS ON HISTORIC PROPERTIES
Pursuant to 36 CFR 800.3(a)(1)

I. Introduction

In accordance with the New York State Department of Transportation (NYSDOT) established procedures, any project with Federal funding, license, permit, or approval should be assessed to determine the required steps for compliance with Section 106 of the National Historic Preservation Act. Under Section 106 regulations (36 CFR Part 800), steps to identify historic properties and assess effects pursuant to 36 CFR Part 800.4 through 800.5 apply only to undertakings determined to have the potential to affect historic properties. A determination that a project has no potential to cause effects on historic properties is based on the nature and scope of the project itself, regardless of whether historic properties are present, or may be present, within the project limits.

The Regional Cultural Resource Coordinator (CRC) should refer to the following list of project activities which, in coordination with the Federal Highway Administration (FHWA), have been determined to have no potential to cause effects on historic properties. If the project scope is limited to the activities listed in this guidance, there are no further obligations under Section 106. The Regional CRC should document this assessment in the project file or design approval document, citing the reason for the assessment that the project has no potential to cause effects on historic properties, in accordance with 36 CFR 800.3(a)(1).

For projects that involve activities not listed in this guidance, additional steps are needed to initiate consultation and determine the scope of efforts to identify historic properties, following the NYSDOT established Section 106 procedures.

II Restrictions on Applicability

Projects will have no potential to cause effects on historic properties when all work is limited to activities in this guidance, and the following conditions are met:

1. The project limits are entirely within the existing right of way, or the project requires only minor strips of new right-of-way acquisition.

2. All earth work will occur in disturbed soils.

3. The proposed removal of trees or other vegetation will not occur on the property of buildings over 50 years old.

4. The project is not within a known or potential historic district (listed in or eligible for listing in the National Register of Historic Places); or the project is within a known or potential historic district but the proposed work is limited to in-kind repair, pavement markings or routine maintenance. Any other project activities within historic districts require consultation and review following the NYSDOT established Section 106 procedures.
**Definitions**

**In-kind**: As used in this document, “in-kind” refers to work which provides the same basic functionality; occurs at the same approximate location(s); and is of similar size, shape, and material as the existing conditions.

### III. Activities with No Potential to Cause Effect on Historic Properties

#### Pavement

- **Routine** pavement/shoulder maintenance such as crack filling, patching, joint repair, grooving, etc.
- Pavement/shoulder rehabilitation in-kind, no undercutting of existing sub base in cut sections
- Pavement/shoulder overlays in-kind
- Asphalt overlays on PCC pavement/shoulders or replacing asphalt pavement/shoulders with concrete pavement within the existing roadway limits
- Adding rumble strips to existing pavement

#### Curb & Sidewalk

- Curb replacement in-kind
- Adding new curb within the existing roadway width
- Replacement of sidewalk in-kind
- Making sidewalks handicap-accessible
- Providing “bulb outs” and other traffic calming elements

#### Signs and Markings

- Pavement markings including 1) raised markings and 2) changes in lane width within the existing overall pavement width
- In kind replacement of signs
- New signs

#### Appurtenances

- Replacement of existing guide rail
- New guide rail placed on existing shoulders
- Safety end treatments for guide rail
- Replacement of existing median barrier in kind

#### Drainage & Utilities

- In kind replacement of existing culverts of common types and built after 1945
- Adding new drainage pipes within the existing roadway prism
- Replacing or repairing existing underground utilities in the same general location and pavement to be restored “in kind”
- Upgrading underground utilities within the existing roadway prism with in kind pavement restoration
- Replacing/upgrading utility poles in approximately the same location
Bridges

- Routine maintenance of bridges including washing, cleaning, and other periodic maintenance
- Bridge painting (matching existing color in historic district)
- Substructure repairs to bridges where no excavation is proposed
- For bridges less than 50 years old: replacement of the bridge if all work is within the existing roadway prism or disturbed areas; rehabilitation of existing deck or approach pavement; resurfacing of existing bridge decks; milling or grooving bridge decks; replacement of expansion joints and/or membranes; and replacement of railings (in kind in historic district); and repair of railings

Other

- Adding or revising channelization and turning lanes at intersections within the existing curb lines
- Installation of ramp metering
- Replace existing traffic signals (in kind only if in Historic District)
- Upgrade existing highway lighting
- Replace existing lighting in kind (or with lighting previously used in historic districts)
- Installing electronic ITS equipment such as CCTV, computerization, pavement loops
- Adding flush or raised medians within the overall roadway width
- New RR signals and gates
- Replacement “in kind” of railroad signals and gates