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## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Draft Program Comment for Department of Defense Rehabilitation Treatment Measures

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of intent to issue program comments for Department of Defense Rehabilitation Treatment Measures.

**SUMMARY:** The Advisory Council on Historic Preservation is considering issuing a Program Comment for the Department of Defense setting forth how it will comply with Section 106 of the National Historic Preservation Act when rehabilitating exterior building elements that are character-defining features of historic properties. The Advisory Council on Historic Preservation seeks public input on the proposed Program Comment.

**DATES:** Submit comments on or before October 20, 2008.

**ADDRESSES:** Address all comments concerning this proposed Program Comment to Hector Abreu Cintron, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004. Fax (202) 606-8647. You may submit electronic comments to: [habreu@achp.gov](mailto:habreu@achp.gov).

**FOR FURTHER INFORMATION CONTACT:** Hector Abreu Cintron, (202) 606-8517, [habreu@achp.gov](mailto:habreu@achp.gov).

**SUPPLEMENTARY INFORMATION:** Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation ("ACHP") a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued the regulations that set

forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 ("Section 106 regulations").

Under Section 800.14(e) of those regulations, agencies can request the ACHP to provide a "Program Comment" on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.7. An agency can meet its Section 106 responsibilities with regard to the effects of particular aspects of those undertakings by taking into account ACHP's Program Comment and by following the steps set forth in that comment.

The ACHP is now considering issuing a Program Comment to the Department of Defense (DoD), covering rehabilitation treatment measures for: (1) The removal of mortar joints and repointing; (2) preparation of lime and cement-amended mortars; (3) preparation of lime- or Portland-based stucco; (4) identifying masonry types and failures; and (5) repair and replacement of historic stucco. The Program Comment would include a process for adding new rehabilitation treatment measures, updating existing ones, and removing those that may not be working as intended.

The text of the draft Program Comment, minus its appendices, can be found at the end of this notice. The appendices comprise the technical substance of each of the original five rehabilitation treatment measures and their two implementation guidance documents. Due to their volume, they will not be copied into this notice. However, they can be accessed in their entirety on the Internet at: <http://www.achp.gov/masonryst.html>. Those without access to the Internet can contact Hector Abreu Cintron at 202-606-8517, or by e-mail at [habreu@achp.gov](mailto:habreu@achp.gov), to arrange an alternate method of access to the appendices.

#### I. Background on Previous Proposal for a "Standard Treatment"

Originally, the ACHP and DoD had proposed handling these rehabilitation treatment measures as part of a "Standard Treatment" applicable to all Federal agencies. The ACHP sought public comment on that proposal on June 12, 2008 (73 FR 33387-33389).

However, after considering the resulting public comments, the ACHP met with DoD and recommended that the rehabilitation treatment measures be handled as a "Program Comment" applicable only to DoD.

In general terms, a "standard treatment" is an ACHP approved method that, if used, assists Federal agencies in satisfying their responsibilities under the regular Section 106 process. However, standard treatments do not redefine the regular Section 106 process. An agency must still go through all the regular steps of the Section 106 process before using a standard treatment. So, for example, a Federal agency still has to consult with various parties in identifying the area of potential effects and historic properties within it, and determining whether such historic properties may be affected, before using a standard treatment to either facilitate the determination of adverse effects or facilitate negotiation of an agreement to resolve the adverse effects under the regular process.

While standard treatments have great value in facilitating the regular Section 106 process, the ACHP came to the conclusion that a more streamlined approach was warranted for handling the rehabilitation treatment measures at issue, particularly considering that they are drafted so as to meet the Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards), 36 CFR part 67. A "Program Comment" provides such a streamlined approach. Rather than having DoD go through the entire, regular Section 106 process for rehabilitation activities that will meet the Secretary's Standards, the Program Comment redefines that regular process so that DoD can comply with Section 106 for its rehabilitation activities by simply following the rehabilitation treatment measures appended to the Program Comment and keeping a record of its actions.

The public comments received on the originally proposed standard treatment also made it clear that it would be preferable to limit the number of the initial rehabilitation treatment measures to the five indicated above. Under the original draft standard treatment, eighteen rehabilitation treatment measures had been proposed. They included measures regarding historic mortar, historic stucco, historic brick, terra cotta and ceramics, historic adobe

masonry units, stone, masonry restoration, identification of masonry types and failure, and masonry cleaning. The public comments indicated the need to engage in fairly involved technical edits and to more closely examine various issues with several of the rehabilitation treatment measures. So, a decision was made to limit the number of initial rehabilitation treatment measures to a more manageable group and work to improve those.

The public comments, and further internal discussion, also highlighted concerns about standard treatments that would be open to use by all Federal agencies, when some of those agencies may have neither the expertise nor the supervisory capacity to ensure the rehabilitation treatment measures are carried out correctly and consistently. Accordingly, the ACHP has decided to change the draft so that it: (a) Only applies to DoD; (b) includes a recordkeeping mechanism that will help keep track on how the rehabilitation treatment measures are being carried out; (c) specifically allows for updating existing rehabilitation treatment measures and removing those that are not working as intended; and (d) provides for annual meetings to maintain oversight regarding how the Program Comment is working.

## II. Background on the Proposed Program Comment

As indicated above, the ACHP and DoD collaborated to develop various rehabilitation treatment measures to address rehabilitation of exterior building elements that are character defining features of historic properties.

The goal is to encourage use of the Secretary's Standards through the use of rehabilitation treatment measures that detail construction specifications for routine repair and maintenance undertakings that are consistent with those Secretary's Standards, and therefore expected to have no adverse effects on historic properties.

Those rehabilitation treatment measures are designed to codify the numerous "industry standard" practices associated with routine repair and maintenance of historic properties. The appendices to the Program Comment currently under consideration include the two implementation guidance documents (numbered 01060.01 and 01091.01) and the following five treatments measures:

### 04100 Historic Mortar

(1) 04100.01 Removal of Mortar Joints and Repointing

(2) 04100.02 Preparation of Lime and Cement Amended Mortars

### 04110 Historic Stucco

(3) 04110.01 Preparation of Lime or Portland Based Stucco

(4) 04110.02 Repair and Replacement of Historic Stucco

### 04400 Stone

(5) 04400.01 Identifying Masonry Types and Failures

DoD has consulted with the ACHP, the National Park Service (NPS), the National Conference of State Historic Preservation Officers, the National Trust for Historic Preservation and the DoD Historic Preservation Working group. The NPS has been a vital partner in reviewing the draft standard treatments to verify that they are consistent with the Secretary's Standards.

After considering the public comments resulting from the June 12, 2008 **Federal Register** notice (when the rehabilitation treatment measures were presented as part of a "standard treatment"), DoD and the ACHP initiated talks with some of those who provided those comments, and particularly with representatives of the American Institute of Architects, and the American Institute for the Conservation of Historic and Artistic Works.

As a result of those talks, DoD and the ACHP will be revising the mentioned five rehabilitation treatment measures. The original treatment measures were developed for use on historic properties and provided an overview of accepted conservation practices. However, upon further revision it became apparent that their original scope was method based. Most complex conservation application should be subjected to a thorough understanding of the historic resource, its problems, and the work to be accomplished. Many of these applications are extremely complex and require a thorough diagnostic process prior to the execution of any specification.

Therefore, during the present public comment period, the ACHP, DoD, and the NPS will work on modifying the specifications. The new program comment specifications will emphasize industry acceptable conservation performance practices that require minimal pretesting and support cyclical maintenance schedules. Specification will emphasize the gentlest methods possible with materials and techniques whose application will support the stewardship responsibilities of DoD with their historic resources. The current set of proposed specifications will require a minimum of diagnostic

pretesting due to their common applicability by the industry and extensive prior vetting of their technical validity by conservation experts. These common maintenance specifications are currently being discussed with key experts in the conservation field as well as with the National Park Service to ensure their consistency with the Secretary's Standards when applied under the conditions set out in the Program Comment.

They will also further clarify the role of conservators and architects (professionally qualified) versus the role of the contractor. The conservator/architect would always be responsible for diagnostic surveys and materials testing, in addition to approval of mock-ups (as is already documented).

Please understand that these modifications are not yet reflected in the rehabilitation treatment measures that you will find at <http://www.achp.gov/masonryst.html>. The modifications are outlined here so the public interested in commenting is aware of them and may be able to comment on the direction the ACHP plans to take.

## III. Expected Benefits

This Program Comment was conceived to promote best preservation practices within the military.

As explained above, the Program Comment and its rehabilitation treatment measures were conceived as a way to assist DoD in rehabilitating its large inventory of historic properties without getting bogged down in an unnecessarily long Section 106 process, particularly since use of the rehabilitation treatment measures (which are consistent with the Secretary's Standards) would not result in adverse effects.

Once the public comments resulting from this notice are considered, and edits are incorporated as deemed appropriate, the ACHP will decide whether to issue the Program Comment. The ACHP expects to make that decision at its upcoming quarterly meeting scheduled on November 14, 2008 in Washington, DC.

## IV. Text of the Proposed Program Comment

As stated above, the appendices to the proposed Program Comment comprise the substantive rehabilitation treatment measures and the two implementation guidance documents. Due to their volume, they will not be copied into this notice. However, they can be accessed on the Internet at <http://www.achp.gov/masonryst.html>. Again, various modifications to those rehabilitation treatment measures, while

outlined above to help the public understand the direction being considered, will not be reflected on the versions at the cited Web address. The ACHP, DoD, NPS and others will be working to incorporate such modifications during the public comment period.

Those without access to the Internet can contact Hector Abreu Cintron at 202-606-8517, or by e-mail at [habreu@achp.gov](mailto:habreu@achp.gov) to arrange an alternate method of access to the documents.

The following is the text of the Program Comment, minus the appendices:

#### **Program Comment for Department of Defense Rehabilitation Treatment Measures**

*I. Establishment and Authority:* This Program Comment was issued by the Advisory Council on Historic Preservation (ACHP) on (date of establishment) pursuant to 36 CFR 800.14(e).

It provides the Department of Defense (DoD) with an alternative way to comply with its responsibilities under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and its implementing regulations, 36 CFR part 800 (Section 106), with regard to the effects of rehabilitation treatment measures appended to this Program Comment.

The intent of this Program Comment is to reduce compliance timeframes for routine repair and maintenance undertakings involving historic properties where DoD chooses to repair and maintain those resources in accordance with the Secretary of the Interior's Standards for Rehabilitation, 36 CFR part 67 (Secretary's Standards for Rehabilitation).

*II. Applicability to Department of Defense:* Only DoD may use this Program Comment.

*III. Date of Effect:* This Program Comment will go into effect on (date of establishment).

#### *IV. Use of Rehabilitation Treatment Measures To Comply With Section 106 Regarding Their Effects:*

(1) DoD may comply with Section 106 regarding the effects of rehabilitation treatment measures on historic properties, and those properties whose eligibility has not yet been determined, by:

(i) Conducting such work as provided by the relevant rehabilitation treatment measure(s) appended to this document, in conformance with the implementation guidance documents numbered 01060.01 and 01091.01 in those appendices;

(ii) Ensuring that all work described in the rehabilitation treatment measures is conducted under the supervision and approval of a cultural resources professional who meets the relevant standards outlined in the Secretary of the Interior's Professional Qualification Standards, pursuant to 36 CFR part 61 (Secretary's Standards on Professional Qualification); and

(iii) Keeping a record, at the relevant DoD installation, detailing each use of a rehabilitation treatment measure under this Program Comment for no less than five years from the final date of the implementation of the rehabilitation treatment measure. Each record must include the following information:

(a) A description of the implementation of the rehabilitation treatment measure (including the specific location of the treatment);

(b) the date(s) when the rehabilitation treatment measure was implemented;

(c) the name(s) of the personnel that carried out and/or supervised the use of the rehabilitation treatment measure;

(d) a summary of the treatment implementation, indicating how the rehabilitation treatment measure was carried out, any problems that arose, and the final outcome; and

(e) a summary of any refinements to the rehabilitation treatment measures that the installation and relevant State Historic Preservation Officer (SHPO) have agreed upon per Stipulation IV(4), below. DoD must provide copies of these records, within a reasonable timeframe, when requested by the ACHP or the relevant SHPO.

(2) Before it begins using this Program Comment, a DoD installation must provide written notification to the relevant SHPO stating that it intends to begin using it and specifying which rehabilitation treatment measures it deems appropriate for use with regard to the historic properties at the installation. The installation may begin using this Program Comment 30 days after such notification.

(3) A DoD installation must also provide written notification to the relevant SHPO when it intends to begin using a rehabilitation treatment measure that has been added to this Program Comment per Stipulation VI. The installation may begin using such an added rehabilitation treatment measure 30 days after such notification.

(4) If, in the opinion of a DoD personnel or DoD contractor meeting the Secretary's Standards on Professional Qualification, quantifiable scientific or qualitative historic data indicates that a rehabilitation treatment measure covered by this Program Comment should be refined to accommodate a

specific material or rehabilitation technique that is more suitable for the relevant historic properties at the installation and/or that more specifically meets the intent of the Secretary's Standards for Rehabilitation, the installation shall notify the relevant SHPO of that proposed refinement. (An example of a refinement would be the selection of a mortar joint profile appropriate for the historic property under consideration.) If, within 30 days of receiving that notification, the relevant SHPO disputes whether the proposed refinement to the rehabilitation treatment measure meets the Secretary's Standards for Rehabilitation, the installation and the relevant SHPO shall consult to attempt to resolve that dispute. If the relevant SHPO and the installation agree to a proposed refinement, or the relevant SHPO fails to dispute it within the 30-day period, the installation may proceed in accordance with the proposed refinement. Consultation about, and agreement or disagreement regarding, proposed refinements does not affect the ability of an installation to continue using this Program Comment and any of its existing rehabilitation treatment measures.

*V. Program Comment Does Not Cover Aspects of Undertakings Beyond the Specific Rehabilitation Treatment Measures:* While DoD may comply with Section 106 regarding the effects of rehabilitation treatment measures on historic properties in accordance with this Program Comment, the effects of those aspects of its undertakings that are not specifically covered by the appended rehabilitation treatment measures must still undergo Section 106 review in accordance with the process found at 36 CFR 800.3 through 800.7, or applicable alternatives under 36 CFR 800.14 other than this Program Comment. For example, a DoD undertaking that includes the treatment of the exterior masonry of a historic building (in accordance with a rehabilitation treatment measure of this Program Comment) and the demolition of its interior walls, will still have to undergo Section 106 review outside this Program Comment for those aspects of the undertaking involving the demolition of the interior walls.

*VI. Process for Adding or Updating Rehabilitation Treatment Measures:* While this Program Comment, as originally adopted, was limited to five rehabilitation treatment measures, the ACHP expects more rehabilitation treatment measures to be added to it. The ACHP also expects that rehabilitation treatment measures included in the Program Comment may

eventually need updating. Accordingly, rehabilitation treatment measures may be added to this Program Comment, or updated, as follows:

(1) DoD will notify the ACHP, the National Conference of State Historic Preservation Officers (NCHSPO), and DOI (collectively, parties) that it wants to add a rehabilitation treatment measure to the Program Comment, or to update a rehabilitation treatment measure that is already a part of the Program Comment. Such a notification will include a draft of the proposal.

(2) The parties will provide a copy of the draft to the National Trust for Historic Preservation, the American Institute of Architects, the American Institute for the Conservation of Historic and Artistic Works, and the Association for Preservation Technology, and consult with them before finalizing the proposal. The parties may invite other entities, including members of professional associations with expertise on the particular subject matter of the proposed rehabilitation treatment measure or update, to the consultation.

(3) After such consultation, DoD will submit the finalized version to DOI with a request for confirmation from DOI that the proposed rehabilitation treatment measure or update meets the criteria set forth in the Secretary's Standards for Rehabilitation. DOI will have 45 days to provide a written response to DoD. Should DOI determine that the proposed rehabilitation treatment measure or update does not meet the Secretary's Standards for Rehabilitation, DoD may consult with those listed on sub stipulations (1) and (2), above, and revise the proposal for reconsideration by DOT.

(4) After DOI confirmation that the proposal meets the Secretary's Standards for Rehabilitation, or after the allotted 45 days pass without a DOI response (at which point, DOI confirmation will be assumed), DoD may submit the finalized version to the ACHP Executive Director. If the ACHP Executive Director approves it, the ACHP will publish a notice of availability of the approved addition or update in the **Federal Register**. The addition or update will go into effect upon such publication.

VII. *Process for Removing Rehabilitation Treatment Measures*: The ACHP may remove a rehabilitation treatment measure from the Program Comment by publishing a **Federal Register** notice to that effect. The Program Comment will continue to operate with the other rehabilitation treatment measures that have not been removed.

VIII. *Latest Version of the Program Comment*: DoD and/or the ACHP will include the most current version of the Program Comment (with the latest amendments and updates) in a publicly accessible Web site. The latest Web address for that site will be included in each of the **Federal Register** notices for amending, removing or updating rehabilitation treatment measures in the Program Comment. This document and its appended rehabilitation measures will initially be available at <https://www.denix.osd.mil/ProgramAlternatives>.

IX. *Annual Reports and Meetings*: The parties shall meet once a year, in November, to discuss the implementation of the Program Comment and to consider whether rehabilitation treatment measures that have not been updated in five years should be updated in accordance with Stipulation VI. At least 60 days prior to such meetings, the parties may request of DoD more information on any issues at specific military installations. DoD will collect information from these military installations on their experience, for the previous twelve months, on how often and where the Program Comment has been utilized, examples of successful implementation, and examples of failures or problems with implementation.

X. *Amendment*: The ACHP may amend this Program Comment (other than the appended rehabilitation treatment measures themselves, which are amended according to Stipulations VI and VII, above) after consulting with the parties and publishing a **Federal Register** notice to that effect.

XI. *Termination*: The ACHP may terminate this Program Comment by publication of a notice in the **Federal Register** 30 days before the termination takes effect.

XII. *Sunset Clause*: This Program Comment will terminate on its own accord on November 1, 2018, unless it is amended before that date to extend that period.

XIII. *Historic Properties in Tribal Lands and Historic Properties of Significance to Indian Tribes and Native Hawaiian Organizations*: This Program Comment does not apply in connection with effects to historic properties that are located on tribal lands and/or that are of religious and cultural significance to Indian tribes or Native Hawaiian organizations.

XIV. *Definitions*: The definitions found at 36 CFR part 800 apply to the terms used in this Program Comment.

XV. *Rehabilitation Treatment Measure Appendices*: (starting on next page).

**Authority**: 36 CFR 800.14(e).

Dated: September 15, 2008.

**John M. Fowler,**

*Executive Director.*

[FR Doc. E8-21885 Filed 9-18-08; 8:45 am]

**BILLING CODE 4310-K6-M**

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## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

September 15, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB),

*OIRA\_Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Rural Utilities Service

*Title*: 7 CFR 1726, Electric System Construction Policies and Procedures—Electric.