

THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS HIGHWAY DEPARTMENT

INTEROFFICE MEMORANDUM

TO: John Blundo, P.E., Deputy Chief Engineer, Projects Division
Kelly O'Neill, P.E., Deputy Chief Engineer, Operations Division

FROM: Gregory Prendergast, Deputy Chief Engineer, Environmental

ATTN: David Anderson, P.E., Project Management Engineer, Projects

DATE: November 5, 2003

RE: Engineering Directive E-02-005 – Early Coordination under Section 106

In order to secure MassHighway approval of all future 25% design submissions, MassHighway and City/Town project managers or their design consultants must document their compliance with the requirements of MassHighway's "Early Environmental Coordination for Design Projects" Engineering Directive (E-02-005).

This memorandum outlines standard procedures for project managers/design consultants to follow in order to comply with E-02-005 as it regards cultural resources (i.e., the federal "Section 106" review process). The directive requires early notification of the Massachusetts Historical Commission (MHC), and early coordination with local historical commissions (LHCs) and (where appropriate) Tribal Historic Preservation Officers (THPOs) in order to identify any cultural resources concerns that these organizations might have with the project. Early contact with the MHC and the LHCs is required for virtually all federally funded or permitted projects*; early contact with a THPO is required only when a project falls within a federally recognized tribe's area of jurisdiction. Project managers/design consultants should contact MassHighway's Cultural Resources Section (CRS) staff to determine whether their particular project will require early coordination with a THPO.

A sample letter that can be modified and sent to either an LHC or a THPO is attached. If a project extends into two or more communities, a letter should be sent to the LHC of *each* community. A brief scope of work and a locus plan should be included with each letter to an LHC or THPO. (See the attached copy of the most recent list of Local Historical Commission and Historic District Commission Chairpersons for addresses.) No separate letter to the MHC is required; a copy of the letter to the LHC (with its attachments) should be forwarded to the MHC (at the address on the attached THPO/MHC address list) in order to notify them that a

* Project managers/design consultants for minor, primarily maintenance, projects should contact MassHighway's CRS staff to determine whether the early cultural resources coordination outlined in this memo will be required for their project.

project is being developed. The MHC may (or may not) respond by sending back a list of the known, inventoried properties within the project area.

There are currently two federally recognized Native American tribes in Massachusetts: the Wampanoag Tribe of Gay Head (Aquinnah); and the Stockbridge-Munsee Band of Mohicans. The federally recognized ancestral homeland of the Wampanoag Tribe includes all of the Cape and Islands and most of the mainland communities in southeastern Massachusetts (most of MassHighway District 5), while the jurisdiction of the Stockbridge-Munsee Band includes only those towns and cities in the extreme western portion of District 1 (see attached, annotated city/town list). Current mailing addresses for the two tribes are attached; please note that a copy of each letter to the Stockbridge-Munsee THPO should be forwarded to the Band's Northeastern representative. Copies of all letters to either THPO should be forwarded to both the MHC and MassHighway's CRS.

Please note that in each of these LHC/THPO letters, Geoffrey Fulgione of MassHighway's CRS should be named as the contact for any written responses; CRS will forward copies of all responses to the appropriate project managers. If no response to a letter has been received within 45 days, support for the project, or indifference, will be assumed. Any comments received from a LHC or THPO in response to these early coordination efforts must be given consideration (to the extent feasible) by the project proponent in the further development of the project design.

These notification/early coordination letters will mark the initial step in the Section 106 consultation process for each project, and CRS staff will document these coordination efforts in the Section 106 effect finding for each project. Copies of these letters will evidence MassHighway's good faith efforts to notify the MHC and to coordinate with the appropriate LHCs and THPO under Section 106. MassHighway's CRS staff will initiate detailed Section 106 consultation with the MHC once each project has advanced sufficiently through the design process.

MassHighway's CRS and Project Management Division staff have developed these procedures as a systematic means of implementing the Section 106 "early coordination" requirements of the engineering directive. It is our belief that the up-front paperwork involved in these early coordination efforts will eliminate added process and potential for delays as projects approach their advertisement dates. If there are any questions, please feel free to contact John Rempelakis (ext. 7493), Stephen Roper (ext. 7492) or Geoffrey Fulgione (ext. 8253).

Atts: Sample letter
List of LHC chairpersons
THPO/MHC address list
Annotated town/city list for tribes