



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Treatment of Certain
Bridges Under Section 106 and Section 4(f)

Date: March 25, 2016

From: Gloria M. Shepherd *Gloria M. Shepherd*
Associate Administrator for
Planning, Environment, and
Realty

In Reply Refer To: HEPE

To: Directors of Field Services
Division Administrators

On December 4, 2015, the President signed into law the *Fixing America's Surface Transportation* (FAST) Act (Pub. L. 114-94). Section 1303 of the FAST Act amended the Section 4(f) statute (at 23 U.S.C. § 138(e) and 49 U.S.C. § 303(g)) to exempt from Section 4(f) review common post-1945 concrete or steel bridges or culverts (as described in 77 Fed. Reg. 68790 (Nov. 16, 2012)) that are exempt from individual review under Section 106 (54 U.S.C. § 306108).

In November of 2012, the Advisory Council on Historic Preservation (ACHP) issued a Program Comment¹ that eliminated individual historic review requirements under Section 106 of the National Historic Preservation Act of 1966 for common post-1945 concrete and steel bridges and culverts in States where the relevant FHWA Division (in consultation with the State) has identified a list of exceptional bridges that meet the criteria in IV.C. of the Program Comment. This Program Comment ensures that more unique historic bridges receive the attention they deserve, while the process is substantially streamlined for common, "cookie-cutter" bridges that are unlikely to be significant for preservation in place. To date, thirty-three (33) States and Puerto Rico have reported the results on the Bridge Program Comment Excepted Bridges list (https://www.environment.fhwa.dot.gov/histpres/bridges_list.asp). Until the FHWA Division submits a report for a State, it is not eligible to use the ACHP Program Comment or the Section 4(f) exemption provided by the FAST Act.

Application of the Section 4(f) bridge exemption and the Program Comment eliminates case-by-case Section 4(f) and Section 106 reviews for exempt bridges and culverts, while retaining the requirement for FHWA to consider the effects of its actions on any other historic properties affected by a proposed project. To rely upon these exemptions, the NEPA

¹ See ACHP's "Program Comment Issue for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges," 77 Fed. Reg. 68790 (Nov. 16, 2012).

documentation that is prepared for the project should note the circumstances that make the exemptions applicable.

If you have any questions about this matter, please contact Owen Lindauer Ph.D., Acting FHWA Federal Preservation Officer, at (202) 366-2655, or Diane Mobley in the Office of the Chief Counsel, at (202) 366-1366.