



April 1, 2013

Mr. Paul Loether
Chief, National Register of Historic Places
and National Historic Landmark Programs
National Park Service
1849 C Street NW 2280
Washington, DC 20240

RE: National Register Bulletin 38 Guidelines for Evaluating and Documenting
Traditional Cultural Properties

Dear Mr. Loether:

The American Cultural Resources Association (ACRA) is pleased to have an opportunity to provide comments for a revised draft of Bulletin 38. ACRA is the trade association for private-sector cultural resource management companies. Many of our member firms are involved in Traditional Cultural Property (TCP) issues as part of Section 106 and related processes requiring cultural resource identification, evaluation, and treatment.

Our comments are broadly similar to those of the Society for American Archaeology (SAA), as expressed in their letter of September 21, 2012. In summary, these concern the general absence of guidance for the identification, evaluation, and treatment of TCPs within the framework of federal undertakings and the requirements of Section 106.

We appreciate that the Bulletin's main purpose is to provide guidance on evaluating, documenting, and registering TCPs for the National Register. Much of the work involving TCPs, however, involves not National Register nominations, but the need to address these resources within the Section 106 process. The key questions in this context are how to identify and delineate TCPs, and how to assess the effects of development projects on such properties.

We therefore endorse the SAA's observation that "how to define appropriate Areas of Potential Effects and determining whether an undertaking will diminish the integrity of a TCP . . . are critical to Section 106 but not a consideration in the registration process." Like the SAA, we urge the Register and the Advisory Council to consider providing more specific Section 106 guidance in a revision to the Bulletin.

We would also suggest that consideration be given to providing additional guidance on the following:

- Criteria to be used by Section 106 practitioners in identifying the "traditional communities" to be included in the consultation process.

ACRA Headquarters:

3601 East Joppa Road | Baltimore MD 21236 | t. 410-931-8100 | f. 410-931-8111 | www.acra-crm.org

- The growing numbers of Section 106-driven requirements to search for currently unknown TCPs. Are these requirements consistent with the definition of TCPs as properties “important in maintaining the continuing cultural identity of the community”?
- The applicability of Criterion A to the eligibility of extensive ethnographic landscapes. The great size of some of the areas makes it difficult to make meaningful decisions about both eligibility and effect.
- The process of, and criteria for, defining boundaries for TCPs. In order for TCPs to be adequately incorporated into the Section 106 process, boundaries must be established, even though it is recognized that such boundary definitions are unlikely to be wholly satisfactory.

We recognize that TCPs are a complex and evolving issue in historic preservation, and that there are many cultural, social, and political matters to be considered in the appropriate treatment of these resources. We agree that a revision to the Bulletin, while a challenging task, is needed. We thank you for this initiative and for the opportunity to comment.

Very respectfully,



Teresita Majewski, Ph.D., RPA, FSA
President