

BORROW PITS AND OTHER “PROJECT-SPECIFIC LOCATIONS”

In conducting reviews under Section 106 of the National Historic Preservation Act, “Project-specific locations” refer to areas not defined as part of a project’s area of potential effect.

These are normally locations outside of the existing or proposed right of way where construction activities may occur and are not locations specifically designated for use by a contractor as part of the project.

Common types of project-specific locations include borrow pits, staging areas, and construction trailers, that only become identified as part of the contract bidding process. FHWA has a long-standing policy of not considering such locations in Section 106 reviews.

POLICY

In a few instances, project-specific locations, including borrow pits may be identified during the Section 106 review process.

But typically, the construction contractor has unrestrained discretion to determine project-specific locations, and, , the contractor thus has sole responsibility for any environmental compliance obligations triggered by the choice of the location.

In the rare case where the project-specific location is specified in the construction contract or otherwise constrained, TxDOT has responsibility for including that spot in its environmental review and Section 106 consultation.

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FEDERAL HIGHWAY ADMINISTRATION

TxDOT has assumed FHWA’s Federal environmental responsibilities for project environmental review pursuant to a Memorandum of Understanding with FHWA. By this assignment TxDOT is deemed to be a Federal decision maker and must follow all Federal laws, regulations, as well as FHWA policies that apply to environmental decision making.