



About the Proposed Amendment to National Programmatic Agreement for Phasing Large-Scale, Multi-Year Projects (Phasing NPA)

The Forest Service (FS) proposes three technical amendments to the body of the Phasing NPA. This resource highlights the three minor technical amendments and their justification.

Change: Allow activities at 36 CFR § 220.6(d) to qualify for use of the Phasing NPA if Agency official develops project or case file and decision document under the National Environmental Policy Act (NEPA)

Language excerpt:

IV. C. Disqualifying criteria. A FS unit shall not apply this NPA for Projects that:

5) Comply with NEPA via categorical exclusions (e.g. those listed at 36 CFR § 220.6(d)) that ~~which~~ do not require a project or case file and decision memo, unless the Agency Official opts to develop a project or case file and decision memo, or.

Reason for amendment: The NPA disqualifies activities listed under 36 CFR § 220.6(d) because they do not require a project case file and decision memo. However, the FS may elect to develop a project case file and decision memo even if they are not required to under this specific regulation. Therefore, this sentence may be edited to clarify that categorial exclusions, including those listed under 36 CFR § 220.6(d), may qualify if an agency official chooses to develop a project or case file and decision memo, thus preserving the intent to disqualify projects that do not have a NEPA decision.

Change: Clarify which Agency Official may accept a Tribal signatory page

Language excerpt:

*IV. D. NPA application on Tribal lands. A Tribe may authorize use of this NPA for any Project(s) ... by submitting the Tribal Signatory Page in Appendix D... to the ~~Chief of the Forest Service or designated~~ Agency Official **applying the NPA**. Once a written and signed notification is received by the ~~Chief of the Forest Service or designated~~ Agency Official **applying the NPA**, receiving it on behalf of the Chief of the Forest Service, the Agency Official must notify the WO Heritage Program, the ACHP, NCSHPO, any other existing Tribal signatories, and the relevant SHPO/THPO. Once the Agency Official has provided notice to Phasing NPA signatories, the Tribe will become Tribal Signatory to the NPA and provisions of the NPA will be applicable to the proposed Project(s) that may occur on or affect historic properties on that Tribe's lands.*

Reason for amendment: The NPA requires the FS Chief or designated Agency Official to accept the Tribal Signatory on behalf of the FS Chief. The FS proposes to clarify the Agency Official applying the Phasing NPA accepts the Tribal signatory on the Chief's behalf. Further, the amendment proposes to require notification to signatories to ensure that they are aware of new Tribal signatories.

Change: Allow acceptance of non-written responses from HIP consulting parties to FS initial HIP invitations

Language excerpt:

*V. C. Managing responses... **The Agency Official shall document the status of parties' responses in the project record, including non-responses, and written and non-written responses. If within (30) days of receipt of Agency Official's notification/invitation, parties:***

- 1) Do not provide a written **or other form of** response, the Agency Official will not consider nonresponsive parties as HIP Consulting parties.*
- 2) Respond with written **or other form of expressed** interest, ...*
- 3) Respond with written concerns, ...*

Reason for amendment: The NPA requires the Agency Official to only consider written responses to the agency's invitations to participate in the HIP consultation. However, not all HIP consulting parties who participated in HIP consultation meetings had accepted the FS invitation through a written communication, as required by the Phasing NPA. FS proposes this amendment to avoid confusion about HIP consulting party status and to simplify the process for parties to accept invitations.

About the amendment process

The body of the NPA may be amended when such an amendment is agreed to in writing by all Signatories, including current Tribal Signatories to the NPA at the time of the amendment's execution. Signatories will consider any comments or proposals from Tribes, SHPOs/THPOs, or other consulting parties Please submit comments to the National Heritage Program via email at SM.FS.HeritAgrmnt2@usda.gov.