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ADVISORY COUNCIL ON HISTORIC PRESERVATION

Working Principles for Revising the Advisory Council on Historic Preservation's "Policy Statement Regarding Treatment of Human Remains and Grave Goods"

AGENCY: Advisory Council on Historic Preservation (ACHP).

ACTION: Notice of intent to reconsider the Advisory Council on Historic Preservation's "Policy Statement Regarding Treatment of Human Remains and Grave Goods."

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is revisiting its "Policy Statement Regarding Treatment of Human Remains and Grave Goods," adopted in 1988 (1988 Human Remains Policy). A Task Force composed of ACHP members has drafted a set of Working Principles, which are presented below, to guide possible revision of the 1988 Human Remains Policy. The ACHP invites your views and observations on these principles. The Task Force will use your comments to prepare a draft revision of the 1988 Human Remains Policy. That draft will then be subject to further consultation and opportunity to comment, before a final draft is presented to the ACHP membership for adoption.

DATES: Submit comments on or before November 4, 2005.

FOR FURTHER INFORMATION CONTACT: Address all comments concerning these working principles to the Archaeology Task Force, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606-8672. Comments may also be submitted by electronic mail to: archeology@achp.gov. Please note that all responses become part of the public record once they are submitted to the

ACHP. Please refer any questions to Dr. Tom McCulloch at 202-606-8505.

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is preparing to revisit its "Policy Statement Regarding Treatment of Human Remains and Grave Goods," adopted 1988 (1988 Human Remains Policy).

In April 2004 the ACHP formed a Task Force on Archaeology (Task Force), and sought comments on suggested modifications and additions to existing ACHP policy guidance regarding how archeology is carried out pursuant to Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (Section 106), and its implementing regulations, 36 CFR part 800 (Section 106 regulations). Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment on such undertakings.

The Task Force solicited the comments of Federal, Tribal and State Historic Preservation Officers, all Federally-recognized Indian tribes, Native Hawaiian organizations, and major professional archaeological organizations in this effort.

From these comments, the Task Force identified several key issues requiring attention. One of the priority issues is revisiting the 1988 Human Remains Policy. At its Spring 2005 meeting, the ACHP membership voted unanimously to direct the Task Force to revisit the 1988 Human Remains Policy. The Task Force has drafted a set of Working Principles, which are presented below, to guide this effort.

We invite your views and observations on these principles. The Task Force will use your comments to prepare a draft revision of the 1988 Human Remains Policy. This draft then will be subject to further review and comment. The Task Force recognizes the unique legal relationship that exists between the Federal Government and Federally-recognized Indian tribes. Accordingly, the ACHP's consultation with Indian tribes will be held on a Government-to-Government basis. Following consideration of all comments provided, the Task Force may present a revised, draft policy statement to the full ACHP membership for adoption.

Background Information

The Section 106 process and purpose of the 1988 Human Remains Policy: Section 106 seeks to accommodate historic preservation concerns through a process of consultation between the Federal agency official and other parties having an interest in the effects of undertakings on all kinds of historic properties. In some cases, these properties contain cemeteries or other burial grounds with human remains and funerary objects. The Section 106 process requires that the Federal agency consult with other parties, and then make an informed and reasoned decision about what should be done in each case. Although final decisions in the Section 106 review process are the responsibility of the Federal agency official with approval authority over the undertaking, Federal or state law may prescribe a certain outcome. It is in reaching these decisions that Federal agencies look to the 1988 Human Remains Policy for guidance.

The current ACHP policy is a formal statement, endorsed by the full ACHP membership in 1988, representing the membership's collective thinking about what to consider in reaching decisions about human remains and funerary objects encountered in undertakings on Federal, tribal, State, or private lands (the term "funerary objects" will be used in any revised policy statement to replace the term "grave goods." As NAGPRA defines them they are "items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains"). Unlike Federal and State laws that may circumscribe how human remains and funerary objects are treated on Federal, tribal, and State lands, the 1988 Human Remains Policy does not prescribe a specific outcome, but rather serves to focus thinking about what needs to be considered in reaching a decision.

Nature of the current debate: Most people would agree that human remains and the items buried with them should not be disturbed, initiated early enough, the Section 106 process should allow for alternatives to disturbance of locations known to contain human remains, including avoidance and preservation in place, to be thoroughly explored. However, during consultation about

what to do when disturbance of human remains is unavoidable, the parties' viewpoints tend to fall somewhere into one of two broad camps. Some believe that the information human remains and funerary objects can provide about the past when studied by archaeologists and other specialists requires that the remains, which usually are removed from the ground at public expense, be subject to scientific analysis. Others argue that human remains and their associated funerary objects, due to their cultural significance and spiritual value to living communities, should be immediately and respectfully reburied or repatriated for reburial without study.

Objectives of an updated policy: In revisiting the 1988 Human Remains Policy, the ACHP wishes to assert its leadership in historic preservation for the Federal Government and for parties affected by the Section 106 process. The ACHP hopes that any new policy it might develop for application to decisions made in the context of the Section 106 review process will provide an important model for other organizations, agencies, or governments seeking to develop their own policies on the treatment of all human remains, burial sites, and associated funerary objects.

Through any revision to the existing policy or any new policy it might develop, the ACHP hopes to offer leadership in resolving how to balance the public interest in the desire to treat human remains in a respectful and sensitive manner, while recognizing the public interest in knowing its collective past. Specifically, any new policy would guide decision-making under Section 106 when questions involving the treatment of human remains and funerary objects must be resolved in the absence of Federal or State law circumscribing the treatment of human remains and funerary objects. Any new ACHP human remains policy statement would not be bound by geography, ethnicity or nationality; it would apply to the treatment of all human remains encountered in Section 106 review.

The Section 106 consultation process does not mandate a particular outcome. Accordingly, any new policy would not direct Federal agencies to make specific decisions. Rather, as a statement of the collective thinking of the ACHP membership, a new policy should guide Federal agencies in resolving the difficult question of what to do with human remains when Federal or State laws do not already prescribe a certain outcome.

The following is the text of the working principles on which comment is sought through this notice:

Working Principles

Any ACHP revised and updated policy will:

- Address treatment of all human remains and funerary objects in the context of compliance with Section 106 of the National Historic Preservation Act (Section 106);
- Encourage Federal agencies to initiate the Section 106 process early in their planning processes;
- Address human remains and funerary objects of all people;
- Be consistent, and work in concert, with other Federal, State, tribal, and local laws;

Principle 1: The policy statement should recognize that human remains must be treated with respect and dignity.

Principle 2: The policy statement should clarify the intersection between Section 106 and other legal authorities.

- The policy statement needs to clarify the intersection between the requirements of Section 106 and the Native American Graves Protection and Repatriation Act (NAGPRA).
- The policy statement needs to clarify the intersection between the requirements of Section 106, State burial laws and other applicable laws.
- The policy statement needs to recognize that a Federal agency official under Section 106 has a duty for the care of human remains and funerary objects.

Principle 3: The policy statement should emphasize that avoidance, followed by preservation in place, is the preferred alternative to disturbance of human remains and funerary objects.

- Federal undertakings should disturb human remains and funerary objects only if absolutely necessary, and then only after exploring other alternatives early in project planning.
- In order to realistically consider avoidance and preservation in place, Federal agencies need to initiate the Section 106 process early in planning.
- Federal agencies must recognize that simple avoidance of a site does not necessarily ensure that site's long-term preservation.

Principle 4: The policy statement should recognize that Federal agencies are responsible for meaningful consultation with all interested parties as a means to achieve compliance with the law.

- In accordance with the NHPA, the Federal agency official with jurisdiction over the undertaking has the responsibility to make the final decisions in Section 106 review after completing, and being informed, by the consultation process. However, it is recognized that Federal or State law may prescribe a certain outcome.

- Agency decisions regarding treatment and ultimate disposition must be based on a careful consideration of all views.
- The legal Government-to-Government obligations of Federal agencies to Indian tribes emanating from various statutes, Executive orders, treaties or court decisions should have a bearing on Federal agency decisions regarding the treatment

and disposition of Native American human remains and funerary objects.

- Planning for the disposition of human remains should occur early in the process.

Principle 5: The policy statement should guide the Federal agency official in decision making.

- The policy statement should clarify the roles of different groups concerned with the effects of the undertaking on historic properties in making decisions.
- The policy statement should clarify how the Federal agency weighs the views presented by the different parties in arriving at a final decision, recognizing that Federal or State law may prescribe a certain outcome.

Principle 6: The policy statement should call for Federal agencies to develop procedures for the preservation and treatment of human remains discovered inadvertently, or when there is the potential for an undertaking to discover human remains.

- The policy should encourage Federal agencies to develop policy and operational procedures for treatment of human remains and funerary objects when they are inadvertently discovered.
- The policy should encourage Federal agencies to develop policy and operational procedures for treatment of human remains and funerary objects where they may be anticipated to be encountered as part of National Register eligibility investigations and data recovery investigations.
- The policy should encourage Federal agencies to develop policy and operational procedures for treatment of human remains and funerary objects exposed during natural disasters or encountered during emergency responses to such disasters.
- The policy should encourage Federal agencies to develop these procedures in consultation with all interested parties consistent with Principle 4.
- If a site is avoided, Federal agencies should have a procedure in place to provide the owners with guidance developed by the Secretary of the Interior under Section 112(b) of the NHPA and supplemental guidance that encourages protection of important archaeological properties, including burial sites.

End of text of the principles.

The following is the text of the 1988 Human Remains Policy. It is reproduced here only for reference purposes. Again, the comments sought through this notice are on the principles presented above.

Policy Statement Regarding Treatment of Human Remains and Grave Goods

Adopted by the Advisory Council on Historic Preservation September 27, 1988, Gallup, New Mexico

When human remains or grave goods are likely to be exhumed in connection with an undertaking subject to review under Section 106 of the National Historic Preservation Act, the consulting parties under the Council's regulations should agree upon arrangements for their disposition that, to the extent

allowed by law, adhere to the following principles:

- Human remains and grave goods should not be disinterred unless required in advance of some kind of disturbance, such as construction;
- Disinterment when necessary should be done carefully, respectfully, and completely, in accordance with proper archaeological methods;
- In general, human remains and grave goods should be reburied, in consultation with the descendants of the dead.
- Prior to reburial, scientific studies should be performed as necessary to address justified research topics;
- Scientific studies and reburial should occur according to a definite, agreed-upon schedule; and,
- Where scientific study is offensive to the descendants of the dead, and the need for such study does not outweigh the need to respect the concerns of such descendants, reburial should occur without prior study. Conversely, where the scientific research value of human remains or grave goods outweighs any objections that descendants may have to their study, they should not be reburied, but should be retained in perpetuity for study.

Authority: 16 U.S.C. 470j

Dated: August 26, 2005.

John M. Fowler,

Executive Director.

[FR Doc. 05-17437 Filed 8-31-05; 8:45 am]

BILLING CODE 4310-K6-M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 26, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget

(OMB),
OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Social Dimensions of Fuel Reduction Treatment in the Southern Appalachian Region.

OMB Control Number: 0596-NEW.

Summary of Collection: The Forest and Rangeland Renewable Resources Research Act of 1978, as amended, authorizes the Forest Service (FS) to collect information to help identify the range of knowledge, attitudes and values interested publics hold toward fuel-load reduction and resulting aesthetic and ecological changes. Fuel loads in the forest of the Southern Appalachian Mountain pose significant risk of wildfire. Among forest ecologists there is a growing awareness that there may be some value to conducting prescribed fires and mechanical thinning to reduce the concentration of shrubs and under-story trees in some parts of the Southern Appalachian Mountains. These treatments, particularly if they were to be implemented over large areas, would change the visual and ecological character of the Southern Appalachian Mountains. FS will collect information using the Internet and a mail-back questionnaire.

Need and Use of the Information: FS will collect information describing respondents' perceptions of the aesthetic (visual), economic and ecological results of prescribed fire and mechanical thinning. The collected information will provide profiles of different groups or clusters of people and how each group perceives the economic, aesthetic and ecological results of forest management action. Without the information programs will be less efficient and accurate and unneeded conflicts and

misunderstandings may be more common.

Description of Respondents: Individuals or households.

Number of Respondents: 600.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 304.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05-17380 Filed 8-31-05; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses for the 2006 Tariff-Rate Import Quota Year

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the fee to be charged for the 2006 tariff-rate quota (TRQ) year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles which are subject to tariff-rate quotas set forth in the Harmonized Tariff Schedule of the United States (HTS) will be \$150.00 per license.

EFFECTIVE DATE: January 1, 2006.

FOR FURTHER INFORMATION CONTACT:

Bettyann Gonzales, Dairy Tariff-Rate Import Quota Program, Import Policies and Programs Division, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-1021 or telephone at (202) 720-1344 or E-mail at Bettyann.Gonzales@fas.usda.gov.

SUPPLEMENTARY INFORMATION: The Dairy Tariff-Rate Import Quota Licensing Regulation promulgated by the Department of Agriculture and codified at 7 CFR 6.20-6.37 provides for the issuance of licenses to import certain dairy articles that are subject to TRQs set forth in the HTS. Those dairy articles may only be entered into the United States at the in-quota TRQ tariff-rates by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of licenses by the license holder to import dairy articles is monitored by the Dairy