SECTION 106

2 DAYS INTO 30 MINUTES

FORUM 2014: A KEYSTONE CONNECTION
NATIONAL ALLIANCE OF PRESERVATION COMMISSIONS FORUM
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WAIT!!

I THOUGHT THIS WAS ABOUT ARCHAEOLOGY?

WHY TALK ABOUT SEC. 106?

• Underpins many state and local regulations
• Most investigations follow the work phases, established by practice, since NHPA’s inception.
SECTION 106
NHPA OF 1966, AS AMENDED

- Seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation... commencing at the early stages of project planning. 36 CFR 800.1(a)

- Section 106 Requires Federal agencies to:
  - take into account effects of an undertaking on historic properties; and
  - afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment prior to project approval or issuance of a license or permit.
HOW IT WORKS

• Initiation the Section 106 Process
• Identify Historic Properties
• Evaluate Eligibility to the NRHP
• Apply the Criteria of Adverse Effect
• Resolve Adverse Effect
• Memorandum of Agreement (MOA)
• Programmatic Agreement (PA)
• Completing the Process
Consultation

THE SECTION 106 PROCESS

FINDINGS

No Undertaking/ No Potential to Cause Effects

Initiate Section 106 Process
- Establish undertaking
- Identify appropriate SHPO/THPO
- Plan to involve the public
- Identify other consulting parties

 Undertaking is type that might affect historic properties

Identify Historic Properties
- Determine scope of efforts
- Identify historic properties
- Evaluate historic significance

Historic Properties are affected

Assess Adverse Effects
- Apply criteria of adverse effect

Historic properties are adversely affected

Resolve Adverse Effects
- Continue consultation

Memorandum of Agreement

FAILURE TO AGREE
COUNCIL COMMENT
WHO SHOULD I TALK TO?

WHAT SHOULD I DO?

• State Historic Preservation Office
• Federal Agency – usually in environmental review section or cultural resource
• Local Leaders

• Go to public meetings and ask who to contact,
• Offer information on archaeological and architectural resources
• Conduct internet searches for project information
• Request consulting party status
Initiating Section 106

- Determine if project is an undertaking
- Identify involved Federal agencies
- Determine whether a Tribe and THPO is involved
- Identify and contact consulting parties
- Plan for public involvement
IDENTIFY

• Determine APE
• Identify known/recorded historic properties in APE
• Identify additional historic properties
  ➢ Archival research
  ➢ Archaeology research
  ➢ Architectural research
  ➢ Battlefield/Landscape research
• What are some other study types?
IDENTIFICATION AND EVALUATION

• Archival Research – primary sources
• PH I Archaeology
• PH II
• Architectural Survey
• Architectural Intensive Survey
• Battlefield/Landscape/Viewshed studies
  ➢ GIS, Photo-simulations, line of sight
• Cemetery Delineation
HISTORIC PROPERTIES

Eligible for listing or listed on the National Register of Historic Places.

- Buildings
- Structures,
- Objects,
- Sites,
- Districts,
- Landscapes, and
- Traditional Cultural Properties
EVALUATE NRHP ELIGIBILITY

- Are resources significant?
- Do they have integrity?
- Is there consulting party and SHPO concurrence on eligibility?
- Are historic properties affected?
ELIGIBILITY CRITERIA

Significant at the National, State, or Local Level

• Criteria A. That are associated with events…; or

• Criteria B. That are associated with … persons significant in our past; or

• Criteria C. That embody the distinctive characteristics …. of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

• Criteria D. That have yielded, or may be likely to yield, information important in prehistory or history.
NRHP INTEGRITY

Integrity is the ability of a property to convey its significance.

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association
ADVERSE EFFECT

Criteria of Adverse Effect

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association

Resolution of Adverse Effects

- Identify measures to avoid, minimize, or mitigate adverse effects.
- Seek ACHP comment if Consulting Parties cannot agree.
- If agreement, execute MOA or PA.
AGREEMENT DOCUMENTS

Memorandum of Agreement
• Prepared at end of process.
• Resolves adverse effects.
• Little decision making.

Programmatic Agreement
• Prepared early in process.
• Establishes a process for compliance.
• Considerable decision making – after PA is signed.
MOA & PA DOCUMENTATION

• Data Recovery Excavations – PH III
• Architectural Documentation
• Historic American Building Survey (HABS)
• Historic American Engineering Survey (HAER)
• Historic American Landscape Survey (HALS)
• Primary Source Research
• Oral History
POSSIBLE REVIEW FINDINGS

• Initiate Section 106
  • Not an undertaking or is an undertaking and won’t affect historic properties.

• Identify historic places and evaluate their NRHP eligibility.
  • No Historic Properties Affected.

• Applying the criteria of adverse effect.
  • No Adverse Effect.
  • Adverse Effect.
QUESTIONS?