



From left, OLD MAIN BUILDING, MILWAUKEE SOLDIERS HOME (MATTHEW GILSON); TRANS-ALASKA PIPELINE (© SARKOPHOTO); WALNUT STREET BRIDGE, CHATTANOOGA, TN (© BRADFORD LUMLEY)

SECTION 106 REVIEW

A key responsibility of the Advisory Council on Historic Preservation (ACHP) is to administer the requirements of Section 106 of the National Historic Preservation Act (NHPA), a review process that ensures historic properties are considered during the development of any federal or federally assisted project. The ACHP's Office of Federal Agency Programs manages the ACHP's participation in Section 106 consultation and provides guidance, advice, training, and technical assistance to diverse audiences on using the Section 106 process. The ACHP strives to ensure all Section 106 reviews proceed as efficiently and effectively as possible.

SECTION 106 REVIEW AND CONSULTATION

Section 106 plays an important central role in the federal historic preservation program. Federal agencies must consider the effects on historic properties of any project they carry out or which receives federal financial assistance, permits, or approvals, and provide the ACHP an opportunity to comment on these projects prior to making a final decision.

Agencies meet their Section 106 responsibilities through a process set forth in regulations issued by the ACHP. These regulations are published in the Code of Federal Regulations at [36 CFR Part 800](#), "Protection of Historic Properties."

A wide variety of federal projects that might affect historic properties, ranging from the construction, rehabilitation, or demolition of roads, buildings, and dams to projects which require federal licenses and permits, or receive federal loans and

grants are subject to Section 106 review. Properties listed in or eligible for listing in the National Register of Historic Places, a list maintained by the National Park Service, must be considered under the requirements of Section 106. Historic properties can be buildings; structures; objects; sites; and districts of national, state, or local importance.

Section 106 encourages, but does not mandate, preservation outcomes. The process provides for the consideration of alternatives that promote preservation and offers the public and stakeholders the opportunity to influence federal decision making.

The federal agency implementing the project or providing assistance, licenses, permits, or approvals for a proposed project is responsible for consulting with stakeholders and completing Section 106 prior to making a final decision. Consultation is the cornerstone of the Section 106 process and should be initiated in the early stages of project planning. Agencies work closely with state and Tribal officials in Section 106 reviews. Appointed by each state governor, the State Historic Preservation Officer (SHPO) coordinates the state's historic preservation program and consults with agencies during Section 106 review. Agencies also consult with federally recognized Indian Tribes and Native Hawaiian Organizations (NHOs) when historic properties of religious and cultural significance to them are involved.

Federal agencies are required to include local governments and applicants for federal assistance, permits, licenses, and other

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MISSION STATEMENT: The Advisory Council on Historic Preservation, an independent federal agency, promotes the preservation, enhancement, and sustainable use of the nation's diverse historic resources and advises the President and the Congress on national historic preservation policy.





HISTORIC MISSILE ROW AT CAPE CANAVERAL AIR FORCE STATION © EVERETT HISTORICAL



MUD PLASTERING WORKSHOP,
OWE'NEH BUPINGEH PRESERVATION
PROJECT, NM (TANIA HAMMIDI)

The ACHP's website includes a wide range of information about Section 106 and federal agency preservation programs:
www.achp.gov



approvals in the Section 106 review process. Other consulting parties, such as individuals or groups interested in historic preservation, should be invited to consult, too. Federal agencies follow these four steps to carry out a review, which may conclude after any of the steps depending on the agency's findings:

- ▶ **INITIATE** Section 106 and determine if it applies to a given project;
- ▶ **IDENTIFY** any historic properties in the area where the project could have effects;
- ▶ **ASSESS** the effect of the project on identified historic properties; and
- ▶ **RESOLVE** adverse effects by exploring alternatives to avoid, minimize, or mitigate the effects.

When the project may have substantial effects, if important policy or procedural questions are raised, or if there are issues of concern to Indian Tribes or NHOs, the ACHP may elect to participate in consultation.

When historic properties will be adversely affected by a federal undertaking, the review usually concludes with the execution of a legally binding agreement that outlines how the federal agency will resolve those effects. In rare circumstances where agreement cannot be reached, the ACHP issues advisory comments to the head of the federal agency who must then consider them in making a final decision about whether the project will proceed.

The Section 106 process is highly effective in informing project planning and protecting historic properties. About 120,000 projects nationwide are subject to review each year, and of these, only about 2,000 reviews result in a finding that "adverse effects," or potential harm to a historic property, might result. That means roughly 98 percent of projects are designed in ways that avoid adverse effects to historic properties.

ADAPTING SECTION 106 TO SPECIFIC PROGRAMS AND NEEDS

So long as key determinations are made about the presence of historic properties, their significance, whether an activity will affect them, and how to resolve those effects, the Section 106 review process can be tailored to meet many program needs or challenges. Five program alternatives in the regulations give agencies a wide range of ways to adapt the process to specific program or project needs.

Through direct and active involvement in negotiations and interagency groups like the Permitting Council, the ACHP urges stakeholders to use those flexibilities while being faithful to the NHPA and the agency's mission to promote the preservation, enhancement, and sustainable use of the nation's diverse historic resources.

SECTION 106 TRAINING

The ACHP provides training to federal, state, and local agencies; Indian Tribes and NHOs; and the public on the requirements of Section 106. Courses are offered for practitioners with different levels of knowledge and experience about Section 106 and take place at locations around the country each year and online.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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