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The Section 106 Process

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 project. The ACHP's Office of Federal Agency Programs (OFAP) coordinates this responsibility.

[Office of Federal Agency Programs Fact Sheet](#)

Section 106 plays a central role in the federal historic preservation program. Section 106 requires federal agencies to 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.

[An Introduction to Section 106](#)

[Section 106 Flow Chart](#)

[A Citizen's Guide to Section 106 Review](#)

[Guía del ciudadano sobre la revisión de proyectos conforme a la Sección 106](#)

The ACHP promulgates the Section 106 regulations, "Protection of Historic Properties" (36 CFR Part 800).

[36 CFR Part 800](#)

The Section 106 regulations offer program alternatives through which agencies can tailor the Section 106 review process for a group of undertakings or an entire program that may affect historic properties. Program alternatives can improve the effectiveness and efficiency of Section 106 reviews and streamline routine interactions while focusing effort on more complex projects or historic properties most important to communities.

[Program Alternatives Chart](#)

The Section 106 process can result in successful outcomes for a diverse range of projects. The ACHP's *Section 106 Success Stories* and public outreach efforts profile different ways the process has led to successful outcomes across the country. Some examples:

[Moving Flood Prone Houses Saves History and Engages Community](#) (FEMA, Iowa)

[Expressway Halted and Historic Waterfront Community Thrives](#) (FHWA, Fells Point, Baltimore)

[Fort Leonard Wood Restoration](#) (Army, Missouri)

[On Your Knees Cave/Shuká-Káa](#) (USFS, Prince of Wales Island, Alaska)

[Johnson Space Center's Apollo Mission Control Room Restoration Honored with Chairman's Award](#)
(NASA, Texas)

Recent Noteworthy Section 106 Cases, Program Management Activities, and Program Alternatives:

- The ACHP issued a [program comment](#) for the U.S. Department of the Army in September 2020 that sets forth the way in which the Army complies with Section 106 for its inventory of Inter-War Era historic housing management actions, including: maintenance, repair, rehabilitation, renovation, abatement, mothballing, demolition, replacement construction, new construction, lease and conveyance.
- In response to the COVID-19 pandemic, the ACHP has maintained an active webpage with information and guidance, particularly [regarding Section 106](#). To assist federal agencies in carrying out emergency undertakings, the ACHP extended the emergency provisions of the Section 106 regulations to May 31, 2021. The extensions allowed agencies to conduct an expedited consultation process for those actions that responded to COVID-19. FEMA developed specific emergency procedures in accordance with 36 CFR Section 800.12(a) for its COVID response undertakings, portions of which also remain in effect.
- Currently, the ACHP staff is engaged in assisting a number of federal agencies with the development of program alternatives to tailor the Section 106 review process. These include development of a nationwide Programmatic Agreement (PA) for the Navy for a shipyard modernization program; a nationwide PA for the U.S. Forest Service for phasing implementation of large landscape projects; a nationwide PA for the U.S. Forest Service for routine maintenance activities; Program Comments for the U.S. Forest Service for decommissioning facilities built 1933-1980 no longer needed for the agency mission; and a nationwide PA for the U.S. Postal Service for routine and emergency undertakings. The ACHP staff has also participated in recent discussions with the National Aeronautics and Space Administration, the Bureau of Reclamation, and the National Park Service about the utility of Section 106 program alternatives to specific portions of their work.
- The ACHP issued [formal comments](#) to the Department of Agriculture regarding a U.S. Forest Service undertaking involving the exchange of land in the Tonto National Forest in Arizona containing a site known as Oak Flat (Chí'chil Bį́ldagoteel) that is deeply significant to several tribes for use in a mine project for Resolution Copper. In 2014, the National Defense Authorization Act (NDAA) mandated transfer of Oak Flat out of federal ownership. Because the statute required specific actions be taken, the parties to the Section 106 review were not able to consider an alternative that would avoid all adverse effects to historic properties. The ACHP

terminated consultation in early 2021. In its comments, the ACHP recommended USDA work with the Biden Administration and Congress to take steps to halt the land transfer. Among the ACHP's other recommendations were those focused on USFS improving its consultation efforts for controversial or challenging Section 106 consultations as well as better coordinating environmental and historic preservation reviews for large-scale projects. The comments further urge USFS to pursue initiatives to strengthen early coordination with Indian tribes in the region regarding proposed mining activities.

The ACHP's Section 106 training program is a critical component of improving the efficiency, timeliness, and success of the Section 106 process. In response to the pandemic, the ACHP dramatically modified its training efforts. Three new classroom courses were converted to a digital classroom format. The first two of these courses reached more than 150 students in the first two months they were offered during summer 2020. The new digital classroom courses continue the ACHP's commitment to distance learning, recognizing that budget and travel restrictions in other agencies limit participation in on-site training opportunities. The ACHP's instructor-led webinars continue to grow in popularity with new courses introduced each year. In FY 2017, the ACHP launched its on-demand e-learning platform. In 2019, the ACHP removed fee requirements for all on-demand courses and saw a dramatic increase in the number of participants. E-learning courses have been accessed over 3,000 times already in FY 2021. Given that on-demand e-learning courses are now reaching hundreds of new participants, the ACHP is expanding this catalog of material.

Total participation in all ACHP training formats is expected to reach a record 4,300 participants in FY 2021. There also has been an increase in requests for special courses tailored to individual agencies, and the ACHP anticipates this to continue in FY 2022.

[Training Program Overview](#)

[ACHP e-Learning Portal](#)

Federal agencies' statutory obligations under the National Environmental Policy Act (NEPA) and NHPA are independent, but integrating the processes creates efficiencies, promotes transparency and accountability, and supports a broad discussion of effects to the human environment. The Council on Environmental Quality (CEQ) and the ACHP developed a Handbook to promote better integration of the two review processes in 2013. A supplementary flow chart with updated definitions was prepared following issuance of revised NEPA regulations in 2020.

[NEPA and NHPA: A Handbook for Integrating NEPA and Section 106](#)

[NEPA-Section 106 Coordination EIS Flow Chart](#)