



FCC Environmental and Historic Preservation Compliance Training

Introduction to archaeology and the Section 106 process

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What we'll talk about today

- What are archaeological sites?
- What is Section 106 review?
 - Who is responsible for compliance with 106?
 - What is a historic property?
 - Who participates in a Section 106 review?
 - What are the four steps?
 - What are the possible outcomes of Section 106?

What is an archaeological site?

Archaeology is the study of past human life via physical remains ≠ paleontology, which is the scientific study of life existent prior to early hominids

The National Park Service defines an **archaeological site** as *"the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains"*

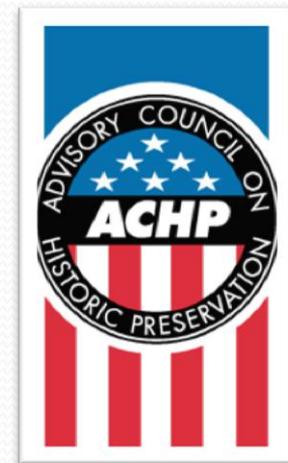
Section 106 of NHPA

(16 USC 470f)

- Section 106 directs federal agencies to carry out two primary tasks:
 - “Take into account” the effects of their actions on historic properties
 - Provide the ACHP a “reasonable opportunity” to comment

Advisory Council on Historic Preservation: *Just who are these guys?*

- Independent Federal regulatory agency
- ACHP is primary policy advisor to President and Congress on historic preservation issues
- 23 member body consisting of Presidential appointees and Secretaries of 9 Federal agencies
- ACHP staff of c. 35 preservation professionals led by Executive Director
- ACHP staff oversee “Section 106 process”



What could trigger Section 106 review?

- Federal project on federal or non-federal lands
 - Federal permit, license,
 - Federal financial assistance, loan guarantee; *and*
- PLUS***
- Is it the TYPE of activity that *may* affect historic properties ?

Section 106 Regulatory Philosophy

- Section 106 review is a framework for problem solving-
does not dictate outcomes!
- Grounded in consultation among concerned parties
- Provides stakeholders access to federal decision-making
- Philosophy: historic preservation is not the only useful public purpose
- Results range from full preservation to total loss of historic properties

Four Steps in Completing Section 106

1: Initiate the process: *Do I need to go through 106 review? If so, who else do I need to talk to?*

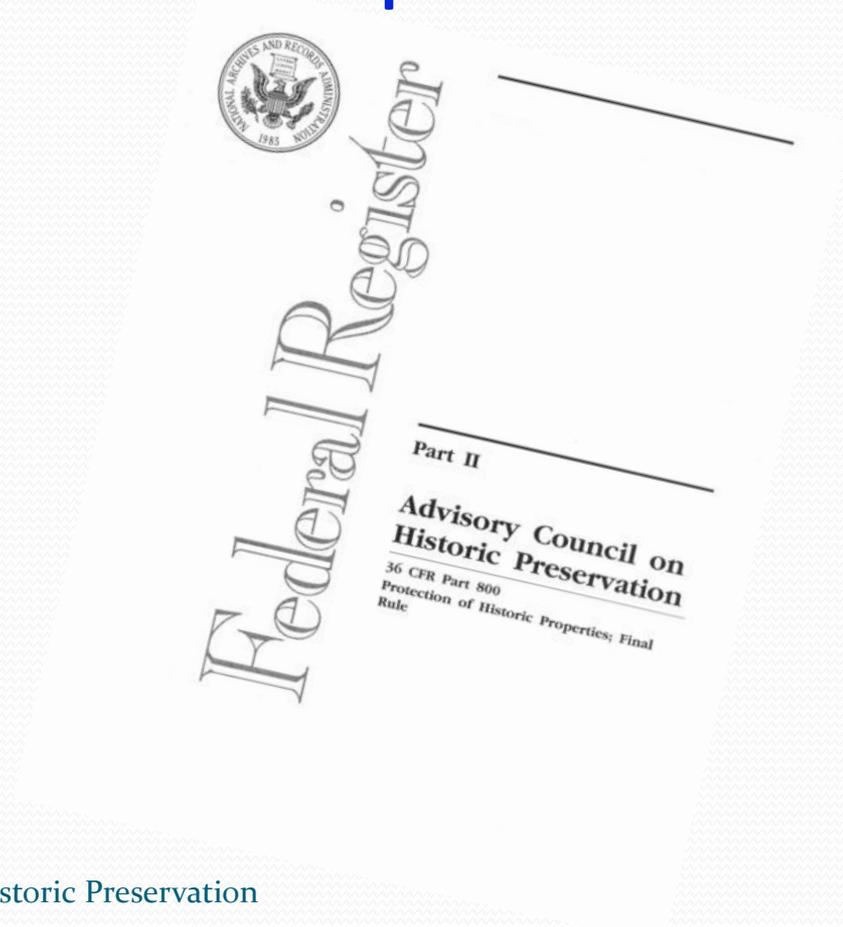
2: Identify historic properties: *What historic properties may be out there?*

3: Assess adverse effects: *Will my project harm historic properties?*

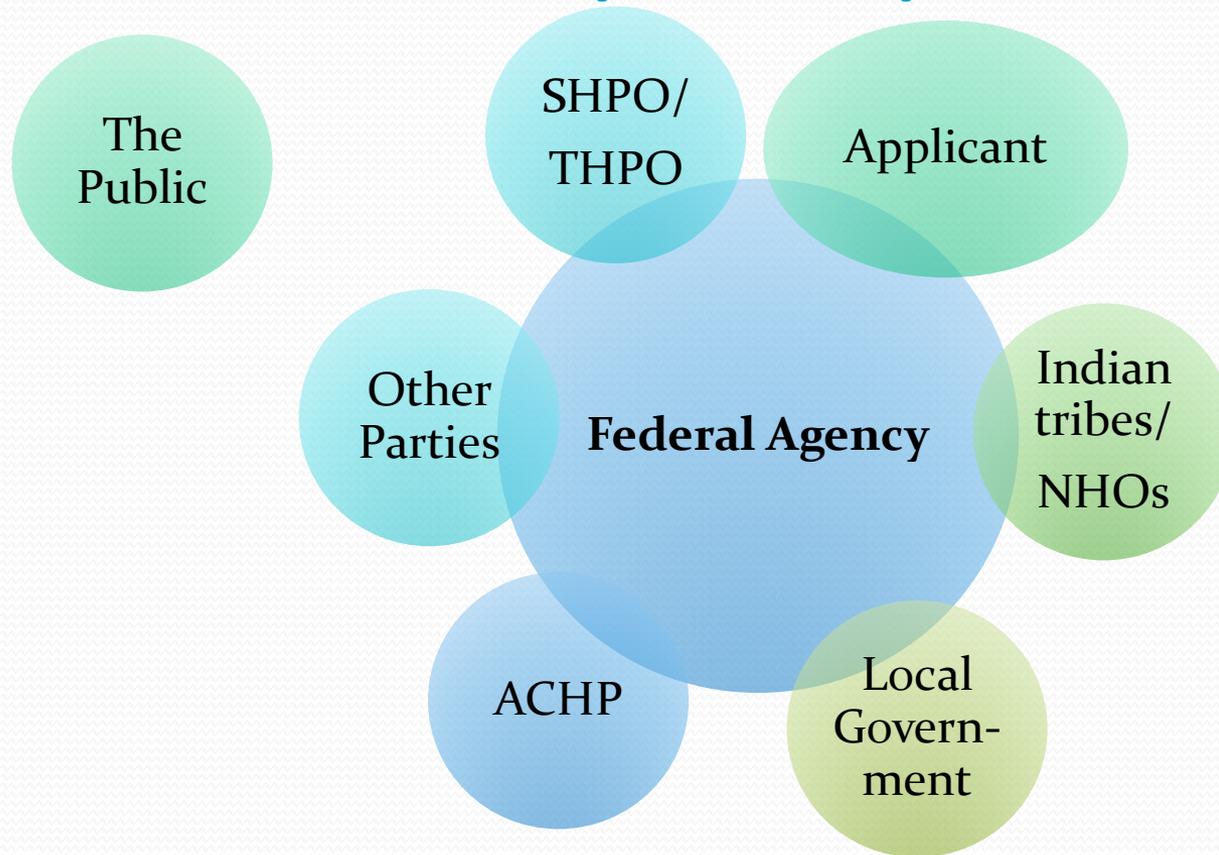
4: Resolve adverse effects: *What is appropriate to mitigate adverse effects in the public interest?*

36 CFR Part 800: Protection of Historic Properties

*The how-to manual
for carrying out
Section 106 review*



Section 106 participants



What do we consult about, and when?

1. During identification of historic properties:
 - *did we talk to the right people?*
 - *was a “reasonable and good faith” effort made?*
2. In assessment of project effects to historic properties:
 - *all reasonable, foreseeable, effects considered?*
3. In determining appropriate mitigation:
 - *what treatment/mitigation measures are appropriate given the properties’ significance and the effects?*
 - *what is in the public interest?*

Role of State/Tribal Historic Preservation Officer (SHPO/THPO)

SHPO:

Designated by governor

Administer NHPA programs at state level

Run state's National Register program

Maintain data about historic properties (survey)

Provide advice and views to federal agencies in 106 reviews

THPO:

Designated by tribal government

Tribes may assume some or all of SHPO functions on tribal land

Programs certified by NPS—not all tribes have THPOs

Roles of applicants

- A consulting party by right
- Assist federal agency in fulfilling its 106 responsibilities
- May be authorized to initiate consultation with SHPOs/THPOs
- Federal agency remains responsible for all findings

Government-to-Government Consultation with Indian tribes

- Federally recognized tribes are sovereign nations.
- Federal decision-maker consults with the head of the Federally recognized tribe.
- Applicants cannot consult on behalf of an agency unless the tribe agrees.
- Agreements between tribes and agencies may be executed outlining consultation parameters

Historic are historic properties?

In order to be considered eligible for the National Register, a property must possess *significance* and *integrity*

Criteria of significance:

A: Events and patterns in history

B: Significant persons

C: Architecture, design, craftsmanship

D: Data, or the potential to yield information

Integrity= a preservable entity

Traditional Cultural Property (TCP)

A *historic property* eligible for the National Register because it is associated with “religious or cultural practices or beliefs of a living community that:

- (a) are rooted in that community’s history, and
- (b) are important in maintaining the continuing cultural identity of the community.”

To be eligible for the National Register a TCP must be:

- (a) a property (i.e., be a physical place), and
- (b) have a history of use for traditional religious and cultural activities or association with religious or cultural beliefs or the life of the citizens.

Definition from NPS National Register Bulletin 38: *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (now being revised)

“SPECIAL EXPERTISE”



Federal agency official shall acknowledge that Indian tribes and Native Hawaiian organizations possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them.

36 CFR § 800. 4(c)(1)

Who determines historic significance?

- Most determinations made by federal agency in consultation with SHPO (“consensus determination”).
- Federal agency consults with THPO & Tribes or NHOs that attaches religious or cultural significance to property.
- Property does not need to be listed on National Register to be considered under Section 106.
- Disputes over significance are settled by NPS’ Keeper of the National Register, whose decision is final.

ASSESS ADVERSE EFFECTS

Will my project result in:

- Physical destruction or damage?
- Alterations that don't meet SOI Standards?
- Removal from historic location?
- Change in character of use or setting?
- Introduction of visual, atmospheric or audible elements?
- Neglect?
- Transfer, lease or sale out of federal ownership?

Resolving Adverse Effects

- Look for ways to avoid, minimize, or mitigate adverse effects
- Aim is to redress or offset unavoidable adverse effects to historic properties
- Solutions arise out of consultation process—reflects public interest
- Creative approaches encouraged

What does *mitigation* mean?

- “Mitigation” can mean:
 - Repair, rehabilitate, reuse, restore, record...
 - Reduce or eliminate some adverse effects
 - Compensate for the adverse effect(s)
- Mitigation should:
 - Accommodate the needs of all parties, especially those who ascribe value to the property
 - Give back to the community
 - Enhance knowledge, protection of historic properties

Think creatively about what is appropriate and in the public interest

Alternatives to data recovery

The Plantation Course

**Ranked as one of the top 10 courses for women
by *Golf for Women*.**

The Plantation Course is an Arnold Palmer and Ed Seay design that challenges players of all skill levels. The 6,432-yard, par-72 course favors accurate iron play and good putting.

Fairway landing areas are generous, but water comes into play on eight holes, and there's no shortage of deep woods or yawning ravines. Greens are large and provide inviting targets for approach shots. Once on the putting surface, undulations and swales make getting down in two a satisfying accomplishment.

With landmarks from Richard Kingsmill's 1736 plantation woven into the landscape, a round on the Plantation Course is truly historic.



Kingsmill Resort - Williamsburg, VA

***Abington Plantation
Washington, DC***

Think creatively about what is appropriate and in the public interest

Innovative public archaeology

Kids Dig Reed - Homepage

KIDS DIG REED

Reed Farmstead Archaeological Site

Hey Kids!

Welcome to the Reed Farmstead Archaeological Site! Follow me as we discover an actual site, learn about archaeology and how archaeologists work, and reconstruct how our ancestors lived over 150 years ago!

Through a series of games, puzzles, and a virtual site tour, I'll introduce you to the families who lived on the farmstead and how these people were able to make a living in the rugged uplands of eastern West Virginia!

Have a "MOO"velous time!!

NEW
Click here to see whats New!!

DISCOVERY ZONE

GAMES & PUZZLES

HISTORY

ARTIFACTS GALLERY

ASK US

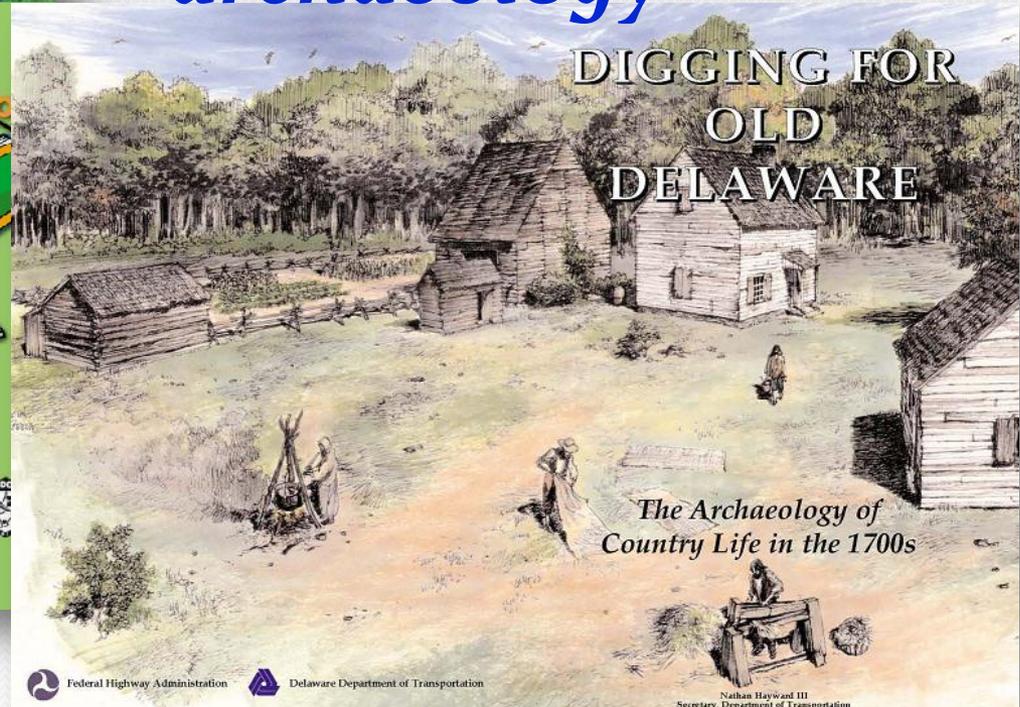
INSTALL NOW

To see all the cool stuff on this site, you will need the Flash plug-in. Click here if you don't have it.

Contact our [Webmaster](#) or [Archaeologist](#) with comments or questions regarding this site. This site is currently under development by Michael Baker Jr. Inc. for West Virginia Department of Transportation.

Baker

DIGGING FOR OLD DELAWARE



The Archaeology of Country Life in the 1700s

Federal Highway Administration

Delaware Department of Transportation

Nathan Hayward III
Secretary, Department of Transportation

Issue to consider:
Who, exactly,
is being affected
by your project?



Documenting consultation outcomes with Section 106 Agreements (MOA/PA)

- Record the outcome of consultation to resolve adverse effects
- Agreements govern the undertaking or program and all of its parts
- Obligate signatories to carry out terms
- Are legally binding and enforceable in court

Where to go for help...

ACHP

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www.achp.gov

