

Lesson Overview

This lesson describes Step 1 of the historic preservation review process, as outlined in Section 106 of the National Historic Preservation Act (NHPA).

Lesson Objectives

At the end of this lesson, you will be able to:

- Determine if an undertaking exists.
 - Identify the appropriate consulting parties.
 - Establish the review process.
 - Determine if an emergency situation exists.
 - Apply the historic preservation review process to a case study.
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Step 1: Initiate the Process

Let's begin with an overview of Step 1 of the process.

Key Points

- Step 1 of the Section 106 process includes:
 - Determining if an undertaking exists.
 - Identifying the appropriate consulting parties.
 - Establishing the review process.
 - Determining if an emergency situation exists.
 - Step 1 ends with a determination that either:
 - There is no undertaking, or there is no potential to cause effects on historic properties; or
 - The undertaking is the type that might affect historic properties.
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Determine If an Undertaking Exists

To begin the Section 106 process, the reviewer determines if the project, program, or activity is an undertaking.

If the project meets the definition of an undertaking, then the reviewer decides whether the project is the type of activity with the potential to cause effects to historic properties.

Determine the Review Process

After FEMA determines that an undertaking has the potential to affect historic properties, then a historic preservation specialist becomes involved. The historic preservation specialist:

- Assists in completing the historic preservation review process.
- Determines which review process will be used.

The review process will follow the standard review process established in 36 CFR Part 800, unless the Tribe/State and FEMA have executed a Programmatic Agreement.

Programmatic Agreement

A Programmatic Agreement completely replaces the standard Section 106 process. It excludes review of routine activities by the SHPO/THPO and shortens timeframes for review.

A Programmatic Agreement is executed between:

- FEMA.
- The SHPO.
- The THPO, as appropriate.
- The State Emergency Management Agency.
- The Tribal government, if grantee.
- The Advisory Council on Historic Preservation (ACHP), if participating.

To find out if a Programmatic Agreement has been executed, ask the Regional Environmental Officer.

Emergency Undertakings

The historic preservation review process, under both Section 106 and a Programmatic Agreement, includes provisions for emergency undertakings.

Immediate rescue and salvage operations to protect life and property are the only emergency undertakings completely excluded from Section 106 review.

Examples of Emergency Actions

Other emergency actions, as defined by Section 102(1) of the Stafford Act, require an expedited review by the SHPO/THPO and the ACHP.

These emergency actions may occur before or after a disaster declaration.

Examples of emergency actions include:

- Sandbagging.
 - Temporary shoring of damaged buildings.
 - Installation of temporary housing.
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Emergency Undertakings: Review Periods

The review periods for the SHPO/THPO and the ACHP, if participating, to comment on emergency actions are as follows:

- Under the standard Section 106 process, the review period for emergency actions is 7 days.
 - Under a Programmatic Agreement, the review period for emergency actions is usually 3 days.
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Emergency Undertakings: Expedited Review Process

To assist in expediting the review of an emergency undertaking, FEMA should:

- Call the SHPO/THPO and the ACHP, if participating, to discuss the nature of the emergency and the need for an expedited review. A call will, in most cases, result in much more timely comments than written correspondence.
 - Collect the required documentation about the project. If possible, obtain digital photographs and electronic documentation that can easily be forwarded by e-mail.
 - Follow up with the SHPO/THPO or ACHP, if participating, when comments are not received within the designated review period.
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Initiate Consultation

Early in the process, FEMA should:

- Identify the appropriate SHPO/THPO.
- Establish contact with a SHPO/THPO staff member.
- Identify those who may have interest in the undertaking. The SHPO/THPO may be particularly helpful in this regard.

The next screen describes the process for involving the public.

Involving the Public

FEMA should also begin to develop a plan to involve the public in the review process. In developing this plan, FEMA may consult with:

- The SHPO/THPO.
- Tribal/State emergency management agencies.
- Federally-recognized Tribal governments, if appropriate.
- Applicants.
- Local governments.
- Local historical societies or other similar organizations.
- The ACHP, if appropriate.

The next screen explains the process for involving the ACHP.

ACHP's Role

FEMA should involve the ACHP early in the process if the project may:

- Have significant public controversy;
- Affect a National Historic Landmark; or
- Be of concern to Native American Tribes.

In this case, FEMA should:

- Invite the ACHP to be a consulting party.
 - Explain why the project may warrant their participation.
 - Provide the ACHP with appropriate project documentation as specified in 36 CFR 800.11.
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Moving to Step 2

Before moving to Step 2, the following steps should have been completed:

- FEMA determined that an undertaking exists.
 - FEMA determined that the undertaking is the type of activity that has the potential to cause effects to historic properties.
 - FEMA established the appropriate review process.
 - FEMA determined whether an emergency situation exists.
 - FEMA initiated consultation with the appropriate parties including the SHPO/THPO, the public, and (if necessary) the ACHP.
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Lesson Summary

You have now completed the third lesson in the Historic Preservation section of this course. You should be able to:

- Determine if an undertaking exists.
 - Identify the appropriate consulting parties.
 - Establish the review process.
 - Determine if an emergency situation exists.
 - Apply the historic preservation review process to a case study.
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