

OFFICE OF FEDERAL AGENCY PROGRAMS

NORTH HEAD LIGHTHOUSE AT FORT CANBY STATE PARK NEAR LONG BEACH, WA (WST / PORT OF SEATTLE)

INTRODUCTION

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) handles this responsibility.

INFORMATION ABOUT SECTION 106 REVIEW AND CONSULTATION

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 carried out by them or that receives federal financial assistance, permits, or approvals, and provide the ACHP an opportunity to comment on these projects prior to making a final decision. A wide variety of federal projects, ranging from the construction, rehabilitation, or demolition of roads, facilities, buildings, and dams to projects which require the issuance of federal licenses and permits, or loans and grants that might affect historic properties are subject to Section 106 review. Properties listed on or eligible for listing on the National Register of Historic Places, a list maintained by the National Park Service, must be considered under the requirements of Section 106. The National Register includes various types of properties, such as buildings, structures, objects, districts, and sites 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 ACHP is responsible for issuing regulations that implement Section 106.

These regulations are published in the Code of Federal Regulations at 36 CFR Part 800, "Protecting Historic Properties," and can be found on the ACHP's Web site, www.achp.gov.

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. Agencies initiate Section 106 reviews in consultation with state and tribal officials. 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 when historic properties of religious and cultural significance to them are involved.

Consultation is the cornerstone of the Section 106 process and should be initiated in the early stages of project planning. Federal agencies are required to also include local governments and applicants for federal assistance, permits, licenses, and other 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. In order to successfully complete a Section 106 review, federal agencies must follow these four steps:

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

Most Section 106 reviews are completed successfully by the parties involved. When the project may have substantial effects, if

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SECTION 106 CONSULTATION MEETING



ADVISORY COUNCIL ON HISTORIC PRESERVATION
PRESERVING AMERICA'S HERITAGE





BUFFALO KILL AREA AT THE
WARDELL BUFFALO TRAP SITE, WY (BLM)

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important policy or procedural questions are raised, or if there are issues of concern to Indian tribes or Native Hawaiian organizations, the ACHP may elect to participate in consultation. OFAP manages the ACHP's participation in Section 106 consultation and provides guidance, advice, and technical assistance to federal agencies and other participants in the Section 106 process.

When historic properties will be adversely affected by a federal undertaking, the review usually concludes with the negotiation and execution of a legally binding agreement that outlines how the federal agency will resolve those effects. If agreement cannot be reached, the ACHP issues advisory comments, which the head of the federal agency must consider and share its response with consulting parties before making a final decision on the project.

FEDERAL PRESERVATION PROGRAMS

The successful completion of Section 106 reviews depends heavily on strong federal participation. OFAP works closely with federal agencies to identify opportunities for improving their preservation programs and compliance strategies. These improvements are achieved through the ACHP's participation in individual Section 106 reviews, the use of program alternatives such as program comments and standard treatments, partnerships with federal agencies, and the ACHP's review of triennial progress reports required under Executive Order 13287, "Preserve America" regarding federal agency efforts to identify, protect, and use historic properties. The ACHP also participates in studies and reviews to establish efficiencies in federal programs and initiatives that will have effects on historic properties such as alternative energy and disaster response.

SECTION 106 TRAINING AND OUTREACH

For 30 years, the ACHP has provided training to federal, state, and local agencies; Indian tribes and Native Hawaiian organizations; and the public on the requirements of Section 106. Courses are offered for practitioners with different levels of knowledge and experience about Section 106. Courses are offered at various geographic locations each year. Current course offerings are posted on the ACHP's Web site at www.achp.gov/106select.html. OFAP manages the ACHP's Section 106 training program and also works with federal agencies and others to develop Section 106 training tailored to specific programs or issues.

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.



ADVISORY COUNCIL ON HISTORIC PRESERVATION

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