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Fact Sheet #2

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REVIEW AND COMPLIANCE (Section 106 Process)

What is Review and Compliance?

Review and Compliance is the program title for the State Historic Preservation Officer's (SHPO's) efforts under Section 106 of the National Historic Preservation Act, as amended.

What does Section 106 require?

Section 106 of the National Historic Preservation Act requires that federal agencies consider the effects of their actions, and actions they fund, permit, or license, on archeological and historic properties, and that they give the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.

What actions are subject to the Section 106 process?

Federal agencies conduct or participate in many projects and programs that may affect archeological and historic properties. Some of these undertakings are obvious: construction of highways and wastewater treatment plants, for example. Others are less obvious -- the Corps of Engineers issues permits to dredge and fill in waterways; the Federal Deposit Insurance Corporation approves opening branch banks and the installation of automatic teller machines; Community Development Block Grant funds are used by local governments in housing rehabilitation and many public improvements. All of these activities are subject to the Section 106 process. Federal agencies are responsible for determining which of their programs and activities are subject to Section 106 review and for ensuring that their designees and program applicants carry out related responsibilities delegated to them.

What properties must be considered?

As agencies plan projects, they must consider whether or not the projects will affect archeological and historic properties which are listed on or eligible for the National Register of Historic Places. These properties can include buildings, structures, sites, districts, objects, and landscapes.



Chandler Armory, Lincoln County



Rock Creek Bridge, Pittsburg County

What kinds of properties are eligible for the National Register?

Buildings, structures, sites, districts, objects, and landscapes are eligible for the National Register if they meet at least one of the four National Register criteria and retain their overall historic integrity. Properties may be individually eligible for the National Register or eligible as contributing resources in a district. Properties that are significant at either the national, state, or local level are eligible for the National Register.



Sequoyah's Cabin, Sequoyah County

What happens if National Register listed or eligible properties are within a project area?

If properties listed on or eligible for the National Register are identified within a project area, the agency must consult with the SHPO to determine whether the project will have an effect on the archeological or historic properties and whether or not any effect is adverse. If an adverse effect finding is made, the agency must continue the consultation process to mitigate the adverse effect. Sometimes a project can be modified to avoid an adverse effect or to reduce it. Other times it may not be possible to avoid the adverse effect, and a Memorandum of Agreement is developed which stipulates the mitigative measures, such as documentation, that will be taken.

What is the Advisory Council on Historic Preservation?

The Advisory Council on Historic Preservation is the independent federal agency established by the National Historic Preservation Act to comment on federal undertakings and to encourage federal agencies to consider historic resources in their project planning. The Council's regulations entitled Protection of Historic Properties (36 CFR Part 800) govern the Section 106 review process.

How is the Section 106 review process initiated?

At the earliest possible time in the project planning phase, the agency should initiate written contact with the SHPO. Early consultation will prevent delays for the agency and provide the maximum possible consideration of the archeological and historic properties. The SHPO is contacted at: State Historic Preservation Office, Oklahoma Historical Society, Oklahoma History Center, 800 Nazih Zuhdi Drive, Oklahoma City, OK 73105 (405/521-6249).

The Oklahoma Archeological Survey (OAS), through a cooperative agreement with the SHPO, formally participates in the Section 106 review process. OAS reviews projects for possible impacts on prehistoric archeological resources. Contact OAS at: Oklahoma Archeological Survey, University of Oklahoma, 111 East Chesapeake, Building #134, Norman, OK 73019-0575 (405/325-7211). The SHPO and OAS coordinate all aspects of the Section 106 review process. The agency must provide both the SHPO and the OAS adequate documentation including, but not limited to, exact locational information and a description of the proposed project. Other documentation may also be required, such as information about buildings, structures, sites, districts, objects, and/or landscapes that may be present in the project area so that their National Register of Historic Places eligibility can be evaluated.

What responses can the agency expect concerning National Register eligibility?

What happens if the SHPO determines that properties in the project area are eligible for the National Register?

- a. Disagree with the SHPO and submit additional information to the SHPO and request the SHPO to reconsider the opinion, or ask the Keeper of the Register, National Park Service, to resolve the disagreement as provided in 36 CFR Part 800.
- b. Agree with the SHPO that the property is eligible for the National Register and request that the SHPO comment on the effect of the proposed undertaking on the National Register eligible property.

What responses can the agency expect concerning effect?

Once it has been determined that archeological and/or historic properties listed in or eligible for the National Register of Historic Places are within the project area, the SHPO can then comment on the effect of the agency's undertaking on those resources. The SHPO can:

- a. Find that the project will have no effect on historic properties and issue a letter which documents that the agency has completed the Section 106 process.
- b. Find that the project will have no adverse effect on historic properties and issue a letter which documents that the agency has completed the Section 106 process.
- c. Find that the project will have no adverse effect on historic properties provided certain conditions are met and issue a letter which documents that the agency has completed the Section 106 process upon acceptance of the conditions.
- d. Find that the project will have an adverse effect on historic properties and issue a letter which proposes alternatives or modifications to the project, requests further justification for completion of the work as proposed, confirms agreement that no other course of action is possible and request consultation on mitigation measures, or provides other comments as may be appropriate.

Where is more information about the Section 106 process available?

The SHPO presents free workshops on the Section 106 process annually in May and December. Contact the SHPO for specific information. The SHPO staff presents special sessions for agencies upon request.

The Advisory Council on Historic Preservation's web site is an excellent source of information about all aspects of the Section 106 process (<http://www.achp.gov>). Also, the National Park Service offers valuable information about contacting tribal governments in their Native American Consultation Database on the NPS web site (<http://www.cast.uark.edu/other/nps/nacd/>).



Edgemere Park Historic District, Oklahoma County