EZ 106

separating the monkey from the wrench

a complete guide to section 106

Michigan Historical Center
State Historic Preservation Office

State Historic Preservation Office
Michigan Historical Center
Department of History, Arts & Libraries
702 West Kalamazoo Street
PO Box 30740
Lansing, MI 48909-8240

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Section 106 Contacts

STATE HISTORIC PRESERVATION OFFICE

Michigan Historical Center
702 West Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909
(517) 373-1630
www.michigan.gov/shpo

SECTION 106 STAFF

Martha MacFarlane Faes
Environmental Review Coordinator
(517) 335-2721
faesm@michigan.gov

Diane Tuinstra
Environmental Review Assistant
Responsibility for all projects funded by the U.S. Department of Housing and Urban Development (HUD), including the Michigan Economic Development Corporation (MEDC), and the Michigan State Housing Development Authority (MSHDA).
(517) 335-2723
tuinstrad@michigan.gov

Brian Grennell
Environmental Review Specialist
Information and project status checks
(517) 335-2721
grennellb@michigan.gov

Please direct questions and project status checks to: **er@michigan.gov.**

If you are checking on the status of a project, please provide the following information:

- ER# (if one has been assigned);
- name of project;
- location including street name, if applicable;
- municipal unit and county; and
- federal agency.

An Overview of Section 106

UNDERSTANDING THE FEDERAL LAW

Section 106 of the **National Historic Preservation Act (NHPA) of 1966, as amended,** [16 USC 470, 36 CFR § 800], commonly known as Section 106, requires all federal agencies to take into account the effects of their undertakings on historic properties that are included in, or eligible for inclusion in, the National Register of Historic Places **prior** to the approval of the expenditure of any federal funds or to the issuance of any federal license or federal permit.

THE ROLE OF THE FEDERAL AGENCY

Under Section 106, each federal agency or their federally-delegated authority is responsible for:

1) Determining if there is an undertaking (hereafter referred to as project);
2) Determining the project's area of potential effects (APE).
3) Identifying historic properties within the project's APE, if such properties exist; and
4) Assessing the effect(s) that the project may have on any historic properties in the APE. Agencies must seek to avoid adverse effects to historic properties, but if no alternatives exist, the agency must mitigate the adverse effect. The process culminates in the execution of a Memorandum of Agreement (MOA) – a legally binding document that outlines the terms and conditions agreed upon by the parties to mitigate the adverse effect.

Federal agencies or their federally delegated authorities are **required** to consult with the SHPO during this identification and evaluation process.

The Section 106 Review Process

INITIATE THE PROCESS

- Establish undertaking.
- Identify the appropriate SHPO/THPO.
- Plan to involve the public.
- Identify other consulting parties

NO UNDERTAKING OR NO POTENTIAL TO CAUSE EFFECTS.

If the agency determines that the project is not an undertaking, or if the undertaking has no potential to cause effects, the agency has no further obligations under Section 106.

If the agency determines that the project is an undertaking and does have the potential to cause effects, the next step is to:

IDENTIFY HISTORIC PROPERTIES

- Determine the area of potential effects (APE)
- Identify historic properties in the APE.
- Evaluate historic significance of historic properties. The agency reviews existing information, consults with the SHPO/THPO, seeks information from knowledgeable parties, and conducts additional studies as necessary. Properties that are not listed in the National Register of Historic Places are evaluated against the National Register criteria to determine if the property is eligible for listing.

NO HISTORIC PROPERTIES AFFECTED.

If the agency determines that there are no historic properties present, or that there are historic properties present but the undertaking will have no effect on them, the Section 106 process concludes.

If there are historic properties and they will be affected, the next step is to:

The Section 106 Review Process

(continued)

ASSESS ADVERSE EFFECTS

Apply the criteria of adverse effect.

NO ADVERSE EFFECT

If the criteria of adverse effect is not met, the Section 106 process concludes

CONDITIONAL NO ADVERSE EFFECT

If the specified conditions are met the Section 106 process concludes

ADVERSE EFFECT.

If the criteria of adverse effect is met, the Section 106 process continues.

RESOLVE ADVERSE EFFECTS

Continue consultation.

If an agreement cannot be reached, the next step is to:

SEEK COMMENT BY
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

The mission of the Advisory Council on Historic Preservation is to promote the preservation, enhancement, and productive use of our Nation's historic resources, and advise the President and Congress on national historic preservation policy.

The Role of the State Historic Preservation Office

State Historic Preservation Offices, created by the NHPA, exist in every state. In Michigan, the SHPO is part of the Michigan Historical Center, Department of History, Arts and Libraries. The SHPO identifies, evaluates, registers, interprets and protects the state's historic properties.

The SHPO is a mandatory consulting party in the Section 106 review process.

The SHPO **is not required** to conduct research, identify historic properties, or determine project effects related to Section 106 projects on behalf of a federal agency.

The SHPO **is required** to respond, either with concurrence or non-concurrence, to a federal agency's adequately documented finding of effect. Furthermore, the SHPO is not a regulatory agency and does not have the authority to either clear or authorize federally funded, licensed or permitted projects.

Objective criteria established by federal guidelines govern the Section 106 process.

Decisions are not made arbitrarily or capriciously

Michigan Historical Center

State Historic Preservation Office

To visit the SHPO website, click the image above.

The Role of the State Historic Preservation Office

(continued)

The following points may help avoid misunderstandings about the SHPO's role in the Section 106 process:

- **THE SHPO DOES NOT HAVE A COMPLETE LIST OR DATABASE OF ALL HISTORIC PROPERTIES IN THE STATE.**

  The SHPO maintains the Michigan's Historic Sites Online website, a list of historic properties that are listed in the National Register of Historic Places and the State Register of Historic Sites. In the case of Section 106 consultation, however, federal agencies or their delegated authorities are required to identify historic properties included in, or eligible for inclusion in, the National Register within the project's area of potential effects (APE). The identification of historic properties is the result of an appropriate level of effort undertaken by the federal agency, or its delegated authority, during the Section 106 process.

- **THE SHPO IS RESPONSIBLE FOR OTHER PROGRAMS IN ADDITION TO SECTION 106 REVIEW ACTIVITIES.**

  In a given year, the SHPO is consulted on approximately 5000 federal undertakings of varying degrees of complexity. In addition to Section 106 review, the SHPO also implements **National Register of Historic Places**, **Michigan Historical Markers**, **Centennial Farms**, **and Certified Local Government (CLG)** programs; and **state** and **federal** tax incentives and grant programs. The SHPO also assists governments in establishing **local historic districts**, and provides planning and technical assistance, and oversees the **state survey** program.

- **THE SHPO CANNOT CONDUCT SITE VISITS.**

  The SHPO generally cannot accommodate requests for site visits concerning Section 106 projects. For this reason, the adequacy of information submitted to the SHPO for a Section 106 review is even more important.

- **THE SHPO CANNOT STOP PROJECTS.**

  A determination of "Adverse Effect" does not mean that the project cannot proceed; it simply means that alternatives must be considered. Ultimately, the decision to proceed with a project rests with the federal agency. The Section 106 review process seeks to accommodate historic preservation concerns with the needs of federal undertakings.

The Role of Consulting Parties

The Section 106 regulations state that federal agencies, or their federally delegated authorities, must actively consult with specific individuals and organizations throughout the Section 106 review process.

A consulting party is defined as:

> "*individuals and organizations with a demonstrated interest in the project due to the nature of their legal and economic relation to the undertaking or affected properties, or their concern with the undertaking's effect on historic properties*" [36 CFR § 800.2(c)(5)].

Mandatory consulting parties include:

- SHPO
- Tribal Historic Preservation Officer (THPO) if applicable
- Federally-recognized tribes if applicable
- Local units of government if the project may affect historic properties within their jurisdiction
- Applicants for federal funds, licenses, or permits

Other individuals and organizations may request to be consulting parties, but that decision is ultimately up to the federal agency. The federal agency, at an early stage of the Section 106 process, is required to consult with the SHPO to identify those individuals and organizations that have the right to be consulting parties.

The Role of the Public

The views of the public are essential to informed decision making during the Section 106 process and it is the responsibility of the federal agency to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties. The federal agency or its federally delegated authority **must** provide the public with information about the project and allow the public to comment. Members of the public may also provide views on their own initiative for the federal agency to consider.

The federal agency must decide early on how and when to involve the public in the Section 106 review process. A formal plan is not required, although that may be appropriate depending upon the scale of the undertaking and the magnitude of its effects on historic properties.

Because Section 106 compliance is the responsibility of the federal agency or its federally delegated authority, concerns expressed by the public about specific projects should **first** be directed to the appropriate federal, state, county or municipal contact. The SHPO does not monitor public comment on a project. Reliance on the SHPO may result in inefficient and erroneous communication and possible unforeseen delays in the consultation process. Therefore, members of the public should contact the SHPO only if communication efforts with the federal agency or its federally delegated authority have been unsuccessful. Communication efforts can be defined as contacting the federal agency or its federally delegated authority and receiving a response. The failure of the federal agency or its federally delegated authority to agree with the public **does not** constitute a failed communication effort.

The **Advisory Council on Historic Preservation** has published *"Protecting Historic Properties A Citizens Guide to Section 106 Review."* Intended for the general public, this publication addresses the public's opportunity to comment on federal projects and its role in the Section 106 review process. This publication is available on the Council's website at: **http://www.achp.gov/citizensguide.html**

Definitions

The following definitions are frequently referenced in this document. Additional definitions can be found in the Section 106 regulations [36 CFR § 800.16].

ADVERSE EFFECT

When a project will affect a historic property, the agency must apply the criteria of adverse effect to determine if the effect will be adverse, or negative. An adverse effect is defined in 36 CFR § 800.5(a)(1) as an action that may:

> ***"alter, directly or indirectly, any of the characteristics that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. . . adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative."***

Adverse effects include, but are not limited to:

- Demolition
- Alteration
- Removal of a property from its original setting
- Change in use
- Neglect or abandonment
- Introduction of visual, atmospheric, or audible elements
- Transfer out of federal ownership

AREA OF POTENTIAL EFFECTS (APE)

The APE is defined in 36 CFR § 800.16 as the:

> ***"geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking."***

THE AREA OF POTENTIAL EFFECTS (APE)

Every project has an APE. Determining a project's APE is one of the most *critical* steps in the entire Section 106 process. Only after the APE has been determined can you proceed with the remainder of the steps in the Section 106 process. The following questions are intended to assist you in determining a project's APE.

What must I do before determining the APE?

You must first establish if your project is an undertaking. By establishing an undertaking, you recognize that the project has the *potential* to affect historic properties. Knowing that an undertaking has the potential to affect historic properties does not mean you have to know whether historic properties are present and may be affected.

How do I determine the APE?

You've established an undertaking and thus recognized that there is at least the potential to affect historic properties. What now? You need to determine if there *really are* any historic properties that may be affected. How do you do this? Before you can decide *what* an project may affect, you must first decide *where* to look. This is the APE – the area(s) in which you will look for historic properties that may be affected by the project

What do I need to consider when determining the APE?

Typically, when determining the APE, you need to consider not only the direct physical effects that the project may have on historic properties, but you must also consider the potential for:

1. Visual effects. Consider the area(s) within which an undertaking will be visible.
2. Audible effects. Consider the area(s) within which the project's noise, if any, could be heard.
3. Sociocultural effects. Consider the area(s) within which the project may cause changes in land use, traffic, public access, etc.
4. Indirect or secondary effects. Consider how the project may affect the area's future.

What is the typical size of an APE?

There is no typical size for an APE. In general, each project has a different APE because the APE is dependent upon the size and the scope of the undertaking and the effects that the undertaking will have on the area(s). A six-lane highway will not have the same APE as that of a bike path or a 100-foot cellular communications tower. Each project differs in the way it may impact an area.

Many Section 106 project submissions fail to address the issue of indirect or secondary effects. When considering indirect or secondary effects, imagine what may occur as a result of the undertaking. For example, if you build it, will future development follow? Will erosion result? Will public use of the area(s) decrease? Etc. You cannot predict the future, but you should speculate, to a reasonable manner how the project will impact the area(s).

- A common mistake is to identify historic properties and then determine the APE. The Section 106 regulations are very specific and require that you *first* determine the APE, and only *after* the APE has been determined should you take the necessary steps to identify historic properties. When determining the APE, it *is not necessary* to know whether any historic properties exist. . . anywhere. Again, before you can decide *what* an undertaking may affect, you must first decide *where* to look.
- A common mistake is to base the APE on the location of historic properties. The APE cannot be manipulated to avoid including historic properties. Determining the APE is not intended to center on what is convenient and to avoid affecting historic properties.

- A common mistake is to equate the APE with the "footprint", or physical boundaries, of the undertaking. For example, the APE for the construction of a new house is not the footprint of the house or the property boundaries. Rather, you must consider how the construction will impact the neighborhood. Infrastructure in a proposed industrial park will result in the construction of several new buildings that, in turn, may impact the surrounding area(s) in a variety of ways. i.e. increased traffic volume, change in land use from agricultural to industrial, the removal of a tree line which would make the park much more visible, etc. The impacts that an undertaking may have on the surrounding area(s) are not confined to the physical boundaries of the undertaking.

How do I document the APE?

You are required to document the APE. Explain how the APE was determined (e.g. balloon test, visual reconnaissance, study of land use patterns, etc.) Simply stated, why did you chose the boundaries that you did? What are your reasons? Support your choice with graphic materials (e.g. photographs, maps, and drawings, etc.) that illustrate the APE. The Michigan SHPO requests that, at a minimum, the APE is highlight on a localized map. All documentation should be clear enough to enable any party to comprehend the APE.

EFFECT

Effect is defined in 36 CFR § 800.16 as: *"alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register."* These characteristics relate to the design, materials and workmanship of the historic property, as well as location, setting, feeling, and association. For example, a farmstead may have a setting that will be affected by a project. The contributing elements to the setting (i.e. fields, fences, trees, etc.) may be just as important to the farm as the buildings themselves. All of these characteristics must be considered when assessing the effects of a project.

HISTORIC PROPERTY

A historic property is defined in 36 CFR § 800.16 as:

> *"any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places."*

The term "eligible for inclusion in" refers to properties that are not listed in the National Register, but do meet the criteria for listing in the National Register.

NATIONAL REGISTER OF HISTORIC PLACES

The National Register of Historic Places is the official list of properties recognized by the federal government as worthy of preservation. To be included in, or eligible for inclusion in, the National Register a property must:

1. be at least 50 years of age;
2. retain its integrity; and
3. meet at least one of the following four criteria:
   a. Association with events, activities, or broad patterns of history;
   b. Association with persons significant in the past;
   c. Characteristic of a type, period, or method of construction, or has high artistic value; or
   d. Potential to yield information.

The National Register is not a complete list of all historic properties – it is being added to continuously. A property may never be listed in the National Register and for this reason it is necessary to consider properties that are eligible for inclusion in the National Register in the Section 106 review process.

UNDERTAKING

An undertaking is defined in 36 CFR § 800.16 as:

"a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; those requiring a federal permit, license or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a federal agency."

WHAT IS INTEGRITY?

Integrity is the ability of a property to convey its significance.

Historic properties either retain integrity - the essential physical features that define both why a property is significant and when it was significant - or they do not.

Alteration or removal of these features thus diminishes integrity.

The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance.

All properties change over time and it is not necessary for a property to retain all of its historic physical features or characteristics in order to be listed in, or eligible for listing in, the National Register.

The property must simply retain essential features or characteristics.

Condition does not equal integrity.

A property may be in poor physical condition (i.e. peeling paint on the wood clapboards and poor windows), but the integrity may still be intact.

Guidelines for Consultation with the SHPO

PROJECT PLANNING AND SECTION 106

The Section 106 review process is intended to be a planning tool, providing full consideration of appropriate treatments for historic properties. Early project review permits modifications to a project while they are still relatively easy to make and, therefore, reduces the potential for conflict and delay. Additionally, if the review is initiated early in the planning stages of a project, a broad range of alternatives can be considered. It is imperative that federal agencies seek to avoid adverse effects on historic properties, and planning is key if this is to be achieved. It may be possible to include preservation activities as eligible project costs.

SEGMENTATION

Federal case law related to Section 106 compliance has supported the interpretation that if a portion of a contiguous project is carried out with federal funds/assistance, the entire project is considered a federal project. Portions of a project cannot be withdrawn from Section 106 review if they are serving a unified end. For example:

- A road that is being built from Point A to Point B with federal dollars cannot extract or exclude Section X in the middle of the road from Section 106 review even if Section X is being undertaken with local funds, the argument being that Section X would not be built were it not for the project between Point A and Point B. They are serving a unified end.
- Similarly, suppose a community wants to build a conference center with local funds, but the site they have chosen would require that the Federal Highway Administration (FHWA) construct a highway off-ramp in order to access the new site. The new conference center, regardless of the resources used to construct it, would be subject to Section 106 review because its very existence depends upon the highway off-ramp. They are serving a unified end.

COMPLIANCE WITH SECTION 106 AND THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Both NEPA and the Section 106 review processes are intended as analytical tools so that issues concerning both the natural and built environments receive reasonable and fair consideration. These review processes are performed in the project planning stage, when adverse impacts to the environment can still be avoided or mitigated. Therefore, your compliance with these federal laws is essential to a timely execution of projects at the state and local level.

Section 106 and NEPA are **not** the same – they are two separate laws. The information submitted for a NEPA review will not suffice for a Section 106 review, **in many instances**. You should plan to complete your responsibilities under Section 106 **first** and then address historic properties in your NEPA compliance.

A project that is "categorically-excluded" under NEPA is **not** exempt from Section 106 review. If a project qualifies as an undertaking according to the Section 106 regulations [36 CFR § 800.3(a)], a Section 106 review must be completed.

HOW TO SUBMIT YOUR PROJECT, AND WHEN TO EXPECT A RESPONSE.

Specific guidelines for submitting projects have been developed by the SHPO. ***You may download the forms from the SHPO website.*** Projects that are not submitted to the SHPO in the appropriate format or that do not provide complete information may be returned for revision and resubmission or with a request for more information. To assure a timely response from the SHPO, you are advised to initiate all consultation with the SHPO in accordance with the above-referenced guidelines.

The SHPO has thirty (30) calendar days from the receipt of an adequately-documented finding of effect to respond. The SHPO **cannot guarantee** a thirty-day response to projects submitted without: 1) adequate documentation; and/or 2) demonstration of a reasonable, good-faith effort to identify historic properties within the project's area of potential effects (APE) and to assess the effects of the project on historic properties.

WHAT IS AN ADEQUATELY-DOCUMENTED FINDING?

The adequacy of documentation necessary to support a finding of effect and documentation specifics are outlined in 36 CFR § 800.11. A finding must be supported by sufficient documentation to enable any reviewing parties to understand its basis. Documentation specifics are reflected in the information the SHPO requires for a project review.

WHAT IS A REASONABLE AND GOOD FAITH EFFORT?

36 CFR § 800.4(b)(1) indicates that federal agencies shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. The agency shall take into account past planning, research and studies, the magnitude and nature of the project and the degree of federal involvement, the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the project's area of potential effects (APE).

WHAT IS A FINDING OF EFFECT?

According to the Section 106 regulations, the final step in the process is to assess the effect(s) that a project may have on any historic properties in the APE. There are three findings of effect:: 1) no historic properties affected; 2) no adverse effect; and 3) adverse effect.

1) **No historic properties affected [36 CFR § 800.4(d)(1)]**. This determination means that: 1) there are no historic properties in the project's APE; **or** 2) there are historic properties present in the APE but the project will have no effect on them.

2) **No adverse effect [36 CFR § 800.5(b)].** This determination means that there are historic properties present in the project's APE and the project will have an effect on them, however, this effect does not meet the criteria of adverse effect.

3) **Adverse effect [36 CFR § 800.5(d)(2)].** This determination means that there are historic properties present in the project's APE, the project will have an effect on them, and this effect does meet the criteria of adverse effect.

WHO CAN SUBMIT PROJECTS TO THE SHPO?

Consultants and property owners are not recognized as federally delegated authorities.The SHPO is mandated to respond to the federal agency or their delegated authority. Copies of correspondence can be sent to consultants and other interested parties upon request. Although projects may be submitted to the SHPO by some of these entities, excluding property owners, the project information must include the name, address, telephone, and fax number of the federal agency or the federally delegated authority contact. A response will not be provided for projects that fail to provide this information.

Where to go for information about historic properties

The SHPO recognizes that it may be difficult to gather information about historic properties in a project's APE and there may not be any information available in some instances. However, it is the responsibility of the federal agency or federally delegated authority to conduct research on historic properties before submitting project information to the SHPO. The SHPO suggests that the following resources be considered:

General Resources

- City or county assessor's offices
- Colleges and universities, particularly those whose faculty are interested in local history
- Local historians
- Local historical societies
- Local, regional, or state libraries
- Long-term property owners and neighbors
- Local historic district commissions

Specific Resources

- City directories
- City atlases and plat maps
- County and local histories
- Deed records
- Property abstracts
- Tax records
- Historic Newspapers
- Michigan's Historic Sites Online

In addition, the National Park Service maintains a list of properties listed in the National Register of Historic Places. You may reference their website at: **www.cr.nps.gov/nr/.**

Finally, the SHPO maintains a list of historic preservation professionals who can assist you in conducting research and identifying historic properties. You may contact the **environmental review staff** if you wish to obtain this list.

In conclusion, the Section 106 review process is a model of cooperation between all levels of government, individuals, and organizations. The Section 106 review process encourages the involved parties to "think outside the box" - to look beyond their immediate needs and work cooperatively towards a common goal. The Section 106 review process is a vital component of historic preservation - it ensures that federal monies are not being used to diminish our nation's heritage.

Archaeology and Section 106

An archaeological survey is not required for an initial project submission; however, surveys may be submitted in addition to the other material required for a Section 106 review.

WHAT TO SUBMIT

When submitting a project for a Section 106 review that involves **any** ground-disturbing activity, ensure that the following information is included:

- A description of the proposed ground disturbance, including the type of activity, length, width, and depth.
- A portion of a USGS topographic map with the map name, site location and boundaries clearly marked. Portions, photocopies of portions, and electronic USGS maps are acceptable. Maps must be printed and 8 ½ x 11 at 1:24000 scale.
- Information regarding previous land use and ground disturbances.
- Information on current land use and conditions.
- Photographs of the site.

Always ask the property owner if they are aware of any artifacts or remains of structures that have been found on the property.

WHAT YOU CAN DO

Walk the area of proposed ground disturbance. Do you see any artifacts, foundations, square depressions, non-native plants and trees or anything else unusual that does not appear to be a natural occurrence?

If you do see anything, take a picture of it and leave it where you found it. Unless you are a professional archaeologist performing an archaeological survey do not excavate any soil.

WHAT TO LOOK FOR

The following are items that you may find on the surface while you are walking the area of proposed ground disturbance. **You do not need to know what each one of these items is; the key is to be aware of something that looks unusual.**

- Prehistoric items include: fire-cracked rock (angular, blocky pieces of granite or granite-like rock); flint chips; pottery fragments; chipped stone tools such as projectile points, arrowheads, knives and drills; bones or bone fragments; and bumps, hollows or rings in the soil.

- Historic items include: bottles; cans; tools and other debris; foundations, structures or remains of structures; somewhat square depressions or a series of depressions; clearings; non-native plant and tree species such as lilacs, roses, and fruit trees; pairs or lines of trees different from the surrounding environment; quarries, mines and kilns.

AREAS OF POSSIBLE ARCHAEOLOGICAL SENSITIVITY

Although one cannot exactly predict the location of archaeological sites, there are some patterns to be aware of. Examples of these patterns include:

- Prehistoric sites can often be found in upland areas immediately adjacent to waterways and/or lakes and at the junction of waterways and/or lakes (both interior and the Great Lakes).

Archaeology and Section 106

(continued)

- Prehistoric sites can also be found on ancient beach ridges - the former shoreline - as well as in areas away from water but associated with trail or food-gathering activities.
- Historic homesteads are often located along section lines or major historic roads.
- Logging sites are located in forested or formerly forested areas often, but not always, along waterways.
- Mines, quarries and industrial sites usually leave behind traces that are easily found.

Be aware of the names of roads and bodies of water. For example, names such as Mound Street, Indian Cemetery Road, and Mill Pond may indicate the presence of archaeological sites.

ARCHAEOLOGICAL SURVEYS

If an archaeological survey is necessary, contact a qualified archaeologist to perform the survey. The SHPO has a consultant contact list available that lists some, but certainly not all, qualified archaeologists. It is often helpful, but not required, to hire an archaeologist who works primarily in the state of Michigan. The knowledge of archaeologists familiar with Michigan archaeology and the project area is very helpful in completing a thorough and timely survey. Unfortunately, there is not a set of rules for survey that applies to the entire state. Survey requirements depend on the type of project, project location, topography, history of the area, surface visibility, etc. A qualified archaeologist will know the proper survey method to employ. It is recommended that you receive three or more estimates before choosing an archaeologist. Comparing the work descriptions and prices will help you determine what is most appropriate for your project.

WHAT HAPPENS IF AN ARCHAEOLOGICAL SITE IS FOUND?

Many surveys reveal that no archaeological sites are within the project's boundaries.

If an archaeological site is discovered, it will be evaluated to determine if it is eligible for listing in the National Register of Historic Places. Many sites that are found are either too small or too badly damaged to require mitigation.

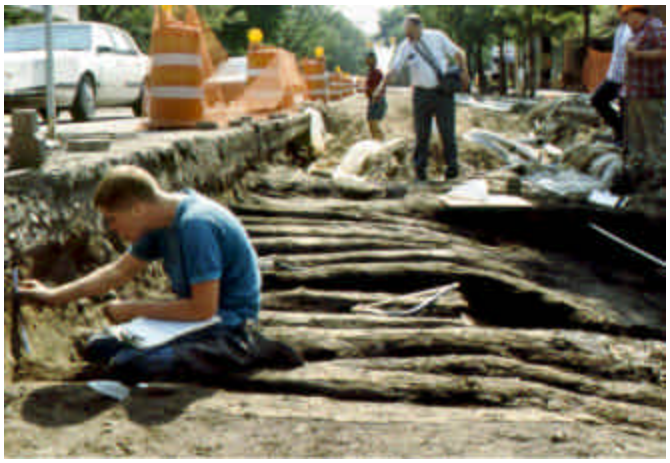
If an archaeological site is found to be National Register eligible, mitigation will be necessary.

WHAT IS MITIGATION?

Mitigation can be defined as moderating or alleviating an adverse effect(s) that a project may have on prehistoric or historic resources. In the case of archaeological mitigation, it is best to address issues that may require mitigation before construction begins. However, even with the most careful planning, unforeseen situations can occur in the field that may require mitigation. Archaeological mitigation often necessitates only minor changes to the scope of a project and may not entail a Memorandum of Agreement (MOA) as is frequently the case for an adverse effect(s) on above-ground historic resources.

Archaeology and Section 106

(continued)



Archaeological mitigation often involves only minor changes to a project or the presence of an archaeologist during excavation activity. In very rare cases, a full-scale excavation may be necessary to retrieve information that would be lost if the project were to continue as planned.

WHAT HAPPENS IF BONES OR ARTIFACTS ARE FOUND DURING CONSTRUCTION?

Even the best archaeological survey will not always discover an isolated burial or a deeply buried site. If bones or artifacts are discovered during construction, stop the construction activities and contact the State Archaeologist immediately. In the case of skeletal remains, you must contact the local police authority as well. A find made during construction will be regarded as an emergency and every effort will be made to avoid delay or inconvenience to the project.

SHPO Resource List

THE FOLLOWING IS A LIST OF RESOURCES AVAILABLE THROUGH THE STATE HISTORIC PRESERVATION OFFICE TO ASSIST YOU IN THE SECTION 106 PROCESS.

Michigan State Historic Preservation Office Documentation Guidelines

Sample Section 106 Project
An example of an acceptable project submitted for a Section 106 Review.

Sample Department of Housing and Urban Development Memorandum

Sample Memorandum of Agreement (MOA)

Sample Programmatic Agreement (PA)

Sample Preservation Covenant

Consultants Lists

Archaeological Consultants
A list of consultants that specialize in archaeological research, most of whom have submitted their credentials to the Michigan Historical Center and have been found to meet or exceed the professional requirements for archaeologists as stated in "Archaeology and Historic Preservation: Secretary of Interior's Standards and Guidelines", Federal Register 48 (190), September 29, 1983.

Historical Consultants
A list of individuals that meet the minimum federal professional qualifications set forth in 36 CFR § 61.

Preservation Technical Consultants
Individuals on this list have demonstrated that they meet or exceed the professional requirements for "Historic Architecture" as stated in 36 CFR § 61.

Researching Historic Properties
An introductory guide to property research.

Online Resource List

THE FOLLOWING IS A LIST OF RESOURCES AVAILABLE THROUGH THE INTERNET TO ASSIST YOU IN THE SECTION 106 PROCESS.

The National Historic Preservation Act of 1966, as amended (http://www.achp.gov/nhpa.html)

Section 106 Regulations (http://www.achp.gov/regs.html)

Section 106 Consultation Guidelines for Cellular Communications Projects (http://www.michigan.gov/shpo)

Protecting Historic Properties: A Citizen's Guide to Section 106 Review (http://www.achp.gov/pubs-citizensguide.html)

Using Section 106 to Protect Historic Properties (http://www.achp.gov/pubs-using106.html)

The Secretary of Interior's Standards for the Treatment of Historic Properties (www2.cr.nps.gov/tps/standguide/index.html)

The Secretary of Interior's Standards for and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards (http://www.cr.nps.gov/habshaer/)

National Park Service Preservation Briefs (www2.cr.nps.gov/tps.briefs/presbhom.html)

Federally Recognized Tribes in Michigan. (http://www.michigan.gov/fia)