**Sophia Tidler**

**National Historic Preservation Act**

**Section 106 Review**

**SUMMARY:**

Requires Federal and State agencies to take into account potential impacts from a project on historic properties.

By law, the nation’s people have a voice when a project involving federal action, approval, or funding may affect properties that qualify for the National Register of Historic Places, the nation’s official list of historic properties. Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires consideration of historic preservation in the multitude federally involved projects across the nation.

**PERMIT NAME:**

Section 106 Review

**APPLICABILITY:**

If properties in the area that may be affected by the project are listed, or are eligible for listing in the National Register of Historic Places. Section 106 applies only if a federal agency is carrying out the project, approving it, or funding it.

**PROCESSING:**

A 30 day calendar review period is provided for within the permit application, post receipt of all necessary information. If additional information is requested, the 30-day review period will reset upon receipt of the new information.

Evaluation results in one of the following findings or measures:

* “no historic properties affected
* No adverse effect to historic properties
* Adverse effect to historic properties that requires an memorandum of agreement (MOA) to be in place prior to beginning construction
* Mitigate measures such as monitoring are stipulations of MOAs.

**AGENCY COORDINATION:**

Alaska Department of Natural Resources (DNR) Office of History and Archeology (OHA) and State Historic Preservation Officer (SHPO).

The Alaska Archeological Survey Unit conducts cultural resources investigations in cooperation

with local, state, and federal agencies, universities, and museums to comply with the Alaska

Historic Preservation Act, the NHPA, and other laws.

**COMPLEMENTARY ROLES OF OTHER PUBLIC AGENCIES:**

The NHPA Amendments of 1992 further clarified Section 110 and directed Federal agencies to establish preservation programs commensurate with their missions and the effects of their authorized programs on historic properties.”

The 1992 amendments also included provisions for Indian tribes to assume the responsibilities of the SHPO on tribal lands, and establish the position of a Tribal Historic Preservation Officer (THPO).

Participants within Alaska **always** include the lead agency official, the SHPO, representatives of local governments, the applicant/project proponent and the THPO if on tribal lands. Additional consulting parties **may** include certain individuals, organizations and indigenous populations with a demonstrated interest in the undertaking's effect on historic properties and the public.

**INFORMATION NECESSARY:**

* Project scope with map
* Project Boundary with map
* Contact Information
* Landownership within the Project boundary
* Current and past land use within the Project boundary
* Listing of all known cultural resources within the project boundary
* Description of steps taken to identify cultural resources

Tribal Consultation – required under 36 CFR 800.2

**ENFORCEMENT AND PENALTIES:**

The HPO has several modes of recourse for addressing offenses where work has commenced on a protected structure without a permit or construction is completed outside the conditions of a permit (or in defiance of a denied permit). The HPA subjects offenders to criminal and civil penalties as well as civil fines for violations of the Act and its regulations.30 Criminal penalties include, “upon conviction, [fines of] not more than $1,000 for each day a violation occurs or continues or . . . [imprisonment] for not more than 90 days, or both.” Criminal penalties, as such, must be brought in D.C. Superior Court by the Office of the Attorney General for the District of Columbia.

**REGULATIONS (CFR)**

54 U.S.C. Antiquities Act of 1906: Authorizes president to proclaim national monuments on federal lands.

54 CFR 300100 section 306108 NHPA: mandates federal agency decision maker s consider historic properties during project planning.

1966

**Resources**

<https://www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf>

<https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1025&context=hpps_papers>

<https://ncshpo.org/directory/alaska/>

