



Module 10: Cultural Resources

- 1 Define the term *historic property* in relation to Section 106 of the National Historic Preservation Act (NHPA)
- 2 Describe the objectives of the Section 106 process
- 3 Identify the cultural resources professionals involved in projects and their roles in Section 106 compliance activities
- 4 Identify the key differences between the two compliance paths (streamlined review vs. standard consultation) under the Section 106 Programmatic Agreement (PA)
- 5 Summarize how to comply with Section 106 PA in the case of emergency projects, discoveries, and encountering human remains
- 6 Describe how Section 106 compliance is to be integrated into the NEPA document
- 7 Explain the process for conducting Section 106 review for project updates



Length of training module: Approximately 25 minutes.



The topic of cultural resources is part of a course covering the requirements for preparing and processing environmental documentation under the NEPA Assignment Program. Keep in mind that the information presented here is intended to be used in conjunction with the *Alaska Department of Transportation and Public Facilities Environmental Procedures Manual*, which serves as a reference and the source material for this training.

This module will provide you with an overview of the processes and procedures necessary for DOT&PF to comply with Section 106 of the National Historic Preservation Act for all Federal-Aid Highway Program projects. This overview focuses on information specific to program compliance; it is not an introduction to the Section 106 process overall.

By the end of this module, you should be able to:

- Define the term *historic property* in relation to Section 106 of the National Historic Preservation Act, or NHPA
- Describe the objectives of the Section 106 process
- Identify the cultural resources professionals involved in projects and their roles in Section 106 compliance activities
- Identify the key differences between the two compliance paths (streamlined review vs. standard consultation) under the Section 106 Programmatic Agreement, or PA
- Summarize how to comply with the Section 106 PA in the case of emergency projects, discoveries, and encountering human remains
- Describe how Section 106 compliance is integrated into the NEPA document
- Explain the process for conducting Section 106 review for project updates

Okay, now let's get started on the next slide by describing what Section 106 of the National Historic Preservation Act is.

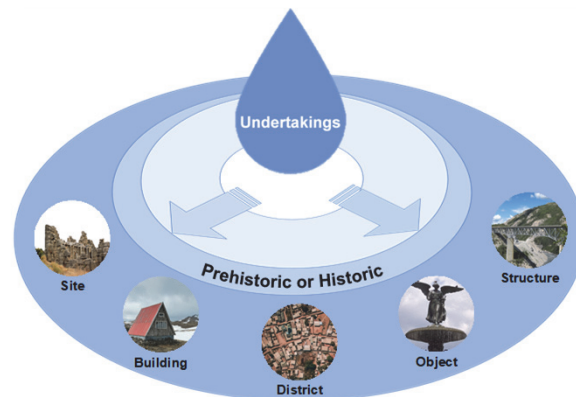


Section 106 of the NHPA



[DOT&PF Historic Properties Webpage](http://www.dot.alaska.gov/stwddes/desenviron/resources/historicproperties.shtml)

Section 106 requires federal agencies to consider the effects of their undertakings on historic properties.



The NHPA was passed in 1966 to establish a legal framework for preservation of historic and archeological sites in the United States of America. The NHPA also led to the creation of the National Register of Historic Places, and the State Historic Preservation Officer positions. Section 106 of the NHPA requires federal agencies to consider the effects of their undertakings on historic properties. DOT&PF must comply with Section 106 for all Federal-Aid Highway Program projects.

An undertaking is defined as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, or that requires a federal permit, license, or approval.

Historic properties are defined as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places.



Please visit the DOT&PF Historic Properties webpage at <http://www.dot.alaska.gov/stwddes/desenviron/resources/historicproperties.shtml> where you can find the NHPA, as well as other resources for DOT&PF's Section 106 compliance activities.

On the next slide, we will introduce the regulations that govern this law and uncover the objective behind it.



Section 106 Process

Objective: To balance the needs of federal agencies and their undertakings with historic preservation concerns, and to resolve potential conflicts between the two



[36 Code of Federal Regulations \[CFR\]
Part 800](#)



The objective of the Section 106 process is to balance the needs of federal agencies and their undertakings with historic preservation concerns, and to resolve potential conflicts between the two. Consultation is key to this process.



The Section 106 process is described under the NHPA regulations, which you can view online at: <http://www.achp.gov/regs-rev04.pdf>. These regulations describe the overall process for historic property identification and evaluation, determination of project effects on those properties, and resolution of adverse effects. The regulations also provide guidance on coordinating the Section 106 process with NEPA.

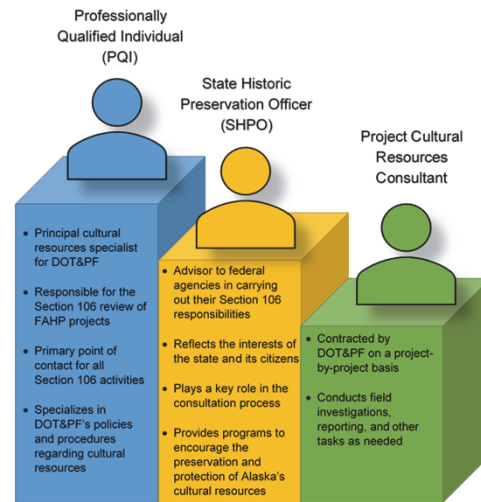
Now we will identify the roles of cultural resources professionals who are generally included in DOT&PF's Section 106 compliance activities.



Cultural Resources Professionals



[Secretary of the Interior \(SOI\) Professional Qualifications Standards](https://www.gpo.gov/fdsys/pkg/CFR-1998-title36-vol1/pdf/CFR-1998-title36-vol1-part61-appA.pdf)



A project-level cultural resources review requires coordination with cultural resources professionals who meet one or more of the Secretary of the Interior, or SOI, Professional Qualifications Standards for cultural resources disciplines. View these standards online at <https://www.gpo.gov/fdsys/pkg/CFR-1998-title36-vol1/pdf/CFR-1998-title36-vol1-part61-appA.pdf>

There are three types of cultural resources professionals who are included in DOT&PF's Section 106 compliance activities, depending on the project: DOT&PF Professionally Qualified Individuals, or PQIs; the State Historic Preservation Officer, also known as SHPO, and their staff; and project cultural resources consultants. Now we'll discuss each cultural resources professional and their roles.

First, the PQI: DOT&PF PQIs serve as the principal cultural resources specialists for DOT&PF. Each DOT&PF region has at least one PQI. These PQIs are responsible for the Section 106 review of Federal-Aid Highway Program projects and are the primary point of contact for all Section 106 activities. Coordination with the PQI during the early stages of project development is essential for meeting Section 106 compliance and consultation requirements. The PQIs are well versed in DOT&PF's policies and procedures regarding cultural resources. PQIs work in the Statewide Environmental Office as well. The PQIs in the Statewide Environmental Office represent DOT&PF as a whole and work directly with other state and federal agencies for cultural resources compliance and policy development for DOT&PF.

SHPO: The SHPO advises and assists federal agencies in carrying out their Section 106 responsibilities. The SHPO reflects the interests of the state and its citizens in the preservation of their cultural heritage and helps ensure that historic properties are taken into consideration in project planning. In Section 106 review, the SHPO plays a key role in

the consultation process. The Review and Compliance Section includes a designated liaison for review of DOT&PF projects. In Alaska, the SHPO also acts as the Chief of the Office of History and Archaeology within the Department of Natural Resources Division of Parks and Outdoor Recreation. The mission of the SHPO is to provide programs to encourage the preservation and protection of the archaeological, historic, and architectural resources of Alaska.

Project cultural resources consultants: Project cultural resources consultants are private contractors in cultural resources disciplines. Project cultural resources consulting firms generally have broad experience with, and knowledge of, cultural resources laws and regulations; general knowledge of Alaska prehistory, history, and architectural history; and familiarity with federal and state policies related to the identification, evaluation, treatment, and management of cultural resources. Cultural resources consultants may be contracted by DOT&PF on a project-by-project basis to assist DOT&PF in meeting Section 106 compliance requirements. They may assist the PQI and project team by conducting cultural resources field investigations, reporting, and similar cultural resources tasks.

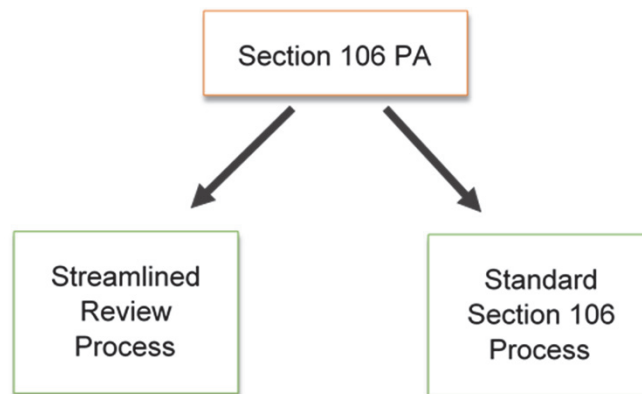
Next we will dive into how the Section 106 process is implemented in the Federal Aid to Highways Program.



Project Reviews Under the Section 106 Programmatic Agreement (PA)



[Section 106 PA](#)



FHWA, DOT&PF, and SHPO developed the Section 106 PA to govern compliance with Section 106 for FAHP projects in Alaska.

Under the Section 106 PA, there are two compliance paths:

- Streamlined review, listed under Appendices B and C, and
- The standard Section 106 consultation process, listed under Appendix D.



View the Section 106 PA online at

<http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106.pdf>.

It is essential that Environmental Impact Analysts work closely with their region's PQIs on PA compliance activities for FAHP projects early in the planning process to determine the appropriate compliance path.



Streamlined Review

Projects that qualify for streamlined review do not require further review or consultation under Section 106 and:

- ✓ Have low potential to affect historic properties
- ✓ Must consist of activities covered on the current Tier 1 or Tier 2 list
- ✓ Must meet any other associated conditions under Appendix B



[Appendix B of Section 106 PA](#)



The Section 106 PA specifies “Programmatic Allowances,” which establish two tiers of streamlined project review for DOT&PF FAHP projects that have low potential to affect historic properties, and do not require further review or consultation under Section 106.

Identification of Programmatic Allowances is undertaken by the appropriate PQI. The Environmental Impact Analyst and members of the project team must provide the PQI with detailed, up-to-date project information and supporting documentation, and timely notice of any project changes so the PQI can make a well-informed decision. To qualify for the streamlined process, the entire project must consist of activities covered on the current Tier 1 or Tier 2 list and meet any other associated conditions stipulated in Appendix B of the Section 106 PA.

Please visit Appendix B online at



http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_appendix_b.pdf to view the full list of these activities and conditions.

When a project is determined by a PQI to qualify as a Tier 1 or Tier 2 Programmatic Allowance, the decision is documented in the project file using the Streamlined Review form, as shown on the next slide.

Alaska Department of Transportation & Public Facilities

Streamlined Review Form

 If a project does NOT qualify as a Tier 1 or Tier 2 Programmatic Allowance, then it must go through the standard Section 106 consultation process



[Appendix C of Section 106 PA](#)

106 PA Streamlined Project Review Screening Record Form version 10-12-17

This form is required when Programmatic Allowances are being considered. It is not applicable to construction and design projects. See the consultation under Appendix C.

Project Name: Parks Highway Rehabilitation to Willow Farmstead Preservation

State Project #: CT04070026 Federal Project #: TBD Antiquities: ☒ ☐

Project Description

The proposed project includes construction of a sub-surface of conditions in support of a larger road resurfacing project. All 25.00 locations are within OCTPA ROW and include areas along the Parks Highway between Houston and Willow, Alaska (Figure 1). General disturbance will be no more than 2.5 feet. Conditions are on the paved road surface and 1.5 located on the ditch immediately off the paved road surface (Figures 2a-2d). Investigations will be conducted with a Geoprobe R400 OT or equivalent drilling. Drilling will advance 8 inch outside diameter hollow stem auger to depths ranging from 10-20 feet. The borings will be backfilled with super cappings. 1-inch PVC pipes may be installed in the bore holes to measure groundwater levels.

Project Activities (please list individually, continue on next page if needed)

Project Activity	Is it a Programmatic Allowance activity? (Yes, No, or Tier 1 or Tier 2)	Are all conditions met?
Geotechnical investigation	2.4	☒ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

*If you submit documentation of distribution effects that support the decision, this documentation must be sufficient to allow any necessary investigation to be conducted for the decision. The final distribution effects (APE) must be included in its documentation for Tier 2 activities.

Description of APE (Area of Potential Effects): All activities occur on Tier 1 and APE is not required.

Does the project include any activities which are not covered under the Appendix B Programmatic Allowances and/or which do not meet the conditions? (Yes, No, or Tier 1 or Tier 2) ☐ Yes ☒ No

Screening Results:

Does the project include any activities which are not covered under the Appendix B Programmatic Allowances and/or which do not meet the conditions? (Yes, No, or Tier 1 or Tier 2) ☐ Yes ☒ No

I have screened this project and determined that it ☒ does ☐ does not qualify for processing as a Programmatic Allowance.

Eric D. Hildner Date: 02/27/2018

Continuation Sheet - 106 PA Screening Review Record

Project Activities (Continuation)

Project Activity	Is it a Programmatic Allowance activity? (Yes, No, or Tier 1 or Tier 2)	Are all conditions met?
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Additional comment space:

A review of the APE on-line map on February 26, 2018, showed that no NHP or listed properties are within the project APE.

There are no Tier 1 impacts.

This project meets the general conditions for Tier 2 Allowances.

(1) It is part of a transportation project or activity on an existing transportation facility; (2) the APE is not within a National Historic Landmark;

(3) The project has assessed the project's possible effects on historic and/or archaeological districts;

(4) no standing buildings or structures within the APE are 45 years of age;

(5) general disturbance occurs either are previously disturbed and/or have been evaluated by a PQ that no archaeological resources are present or that project activities occur in a low probability area;

(6) the project has no known listed concerns or public concerns; and

(7) No TE list needs are present in the project area.

As noted in the project description, the special conditions for Tier 2a geotechnical investigations are met as the drilling equipment will operate from the paved road surface and not on the road prism.

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The Streamlined Review form can be found under Appendix C of the Section 106 PA, which you can view online at

http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_appendix_c_forms.pdf.

Note that there are two streamlined review forms: one for new projects, and one for project updates. On the slide is an example of a Streamlined Review form for a project processed under Tier 2. The form must include a project description, a list of project activities, and details on how applicable conditions are met. Tier 2 projects also include a description of the Area of Potential Effects, or APE. On the back of the form, there is space to include additional comments to help support the streamlined review decision.

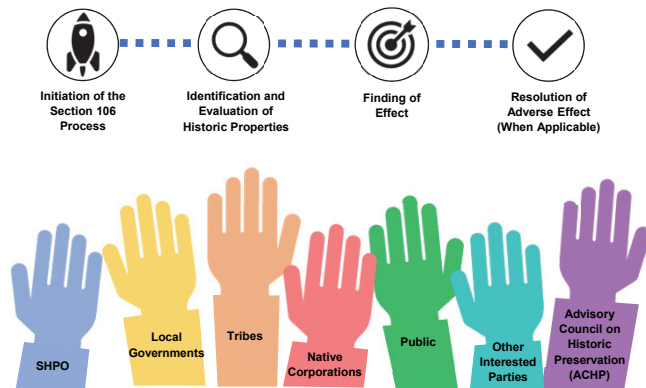
When a project does not qualify as a Tier 1 or Tier 2 Programmatic Allowance, then the project must go through the standard Section 106 consultation process.



Standard Section 106 Consultation Process



[Appendix D of Section 106 PA](#)



If the PQI determines that any element of the project does not meet the requirements for streamlined review, DOT&PF follows the standard Section 106 consultation process, which is described in Appendix D of the Section 106 PA. Please view this appendix online at http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_appendix_d.pdf

The DOT&PF *Environmental Procedures Manual* does not go into detail on this process.

The standard Section 106 consultation process includes:

- Initiation of the Section 106 process,
- Identification and evaluation of historic properties,
- Finding of effect, and
- Resolution of adverse effect, when applicable.

The PQI conducts the standard Section 106 consultation process. The Environmental Impact Analyst and project team members provide the PQI with detailed, up-to-date project information and supporting documentation to conduct Section 106 consultation and ensure that the PQI has timely notification of project changes.

Unlike the streamlined review process, the standard Section 106 consultation process requires consultation with the SHPO, tribes, Native corporations, local governments, the public, and other interested consulting parties regarding project effects on historic properties.

When a project is determined to have an adverse effect on historic properties, the PQI continues consultation with the Section 106 consulting parties, and the Advisory Council on Historic Preservation, also known as ACHP, if it decides to participate. Resolution of

adverse effects is documented in a memorandum of agreement, or MOA, or another appropriate agreement document, which records the terms and conditions agreed upon to resolve the adverse effect(s) of the undertaking. Prior to filing the MOA with the ACHP, the agreement document is signed by DOT&PF, the SHPO, and any other consulting parties that chose to be signatories to the agreement.



Emergency Projects, Inadvertent Discoveries, and Encountering Human Remains



[Stipulation VI, VII, and VIII](#); [Appendix F](#); [Appendix H](#)

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The Section 106 PA also provides programmatic procedures for emergency projects, inadvertent discoveries of cultural resources, and discovery of human remains. Let's discuss the programmatic procedures for each icon on this page's graphic.

Emergency projects are those that require emergency highway system and/or facility repairs that are necessary to protect the life, safety, or health of the public; minimize the extent of damage to the highway system and its facilities; protect remaining highway facilities; or restore essential traffic. Stipulation VI of the Section 106 PA provides guidance on what steps to take if an emergency project is necessary.

If a cultural resources discovery is made during project activities, Stipulation VII and Appendix F of the Section 106 PA provide information on what to do, regardless of whether an archaeological monitor is present at the time of discovery. Individual projects may also have case-specific Inadvertent Discovery Plans that were developed during the course of Section 106 consultation.

Stipulation VIII and Appendix H of the Section 106 PA provide procedures to be followed in the event of discovery of human remains. If such a discovery occurs, work will stop immediately, and the remains will be treated with respect. Unless another agreement document is in place, parties will follow the appropriate procedures delineated in the Section 106 PA.

View Stipulations VI, VII, and VIII; Appendix F; and Appendix H online at the following links:

- http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_body.pdf
- http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_appendix_f.pdf
- http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/106/pa106_appendix_h.pdf





Confidentiality and Coordination with NEPA

The Environmental Impact Analyst integrates the information from Section 106 compliance into NEPA documentation under the following sections:

- Public involvement
- Agency coordination activities
- Analysis of environmental impacts



Confidentiality requirements may limit the cultural resources information that can be included in the public NEPA document.



[DOT&PF Cultural Resources Confidentiality Guidelines](#)



The Environmental Impact Analyst integrates the information from Section 106 compliance into the project's NEPA documentation as part of public involvement, agency coordination activities, and the analysis of impacts to the human environment. The Environmental Impact Analyst must coordinate with the PQI to ensure that Section 106 compliance is appropriately integrated into the NEPA document. The Section 106 process is completed before the NEPA decision document is issued.



Confidentiality requirements may limit the cultural resources information that can be included in the public NEPA document. State and federal laws protect the confidentiality of historic properties and their locations by restricting the availability of sensitive information that could result in damage to historic properties. DOT&PF has developed guidelines to ensure confidentiality and protection of those cultural resources. Please visit http://www.dot.state.ak.us/stwddes/desenviron/assets/pdf/resources/cultural_resources_confidentiality_guidelines.pdf to view these guidelines.



Section 106 Updates

Circumstances that warrant Section 106 updates include, but are not limited to:



A change in project activities



A change in the Area of Potential Effects (APE)

A Section 106 update *may* be needed if:



Five or more years has passed since the last historic property identification was conducted



The appropriate compliance path (streamlined review or the standard Section 106 consultation process) will be determined by the PQI when performing a Section 106 update.



When the project changes, or goes through the re-evaluation process, the Environmental Impact Analysts and project team members need to coordinate with the designated PQI to ensure that cultural resources are addressed appropriately.

Section 106 updates are separate from the NEPA document re-evaluation process covered in Module 6, although they may occur in tandem. Circumstances that warrant Section 106 updates include, but are not limited to, a change in project activities or the area of potential effects, also known as the APE, after the previous Section 106 process was completed. Additionally, if five or more years have passed since the last historic property identification was conducted for the project, the PQI will review the Section 106 documentation to determine whether an update is necessary.

A Section 106 update may be addressed through streamlined review or the standard Section 106 consultation process. Streamlined review may be employed for an update if the PQI determines that all of the new proposed work falls within the streamlined review parameters, including all conditions. This process may apply to projects which originally completed the Section 106 process with either standard consultation or streamlined review. If the update does not qualify for streamlined review, then it must follow the standard Section 106 consultation process.



Other Cultural Resources Laws, Regulations, and Executive Orders

FAHP projects may also be required to comply with:

- Alaska Historic Preservation Act
- Archaeological Resources Protection Act of 1979
- American Indian Religious Freedom Act
- Native American Graves Protection and Repatriation Act
- Department of Transportation Act, Section 4(f)
- Executive Order 11593 (Protection and Enhancement of the Cultural Environment)
- American Antiquities Act of 1906
- Executive Order 13007 (Indian Sacred Sites)
- Alaska Statutes (AS) 11.46.482(a)(3), AS 12.65.5, and AS 18.50.250



Chapter 10 of DOT&PF Environmental
Procedures Manual

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In addition to the NHPA, FAHP projects may also be required to comply with other cultural resources laws, regulations, and executive orders. While the NHPA is the principal statute concerning cultural resources, it is also important to evaluate proposed projects in the context of the other applicable laws for cultural resources. This is generally handled through the Section 106 process and reported on in the project NEPA document. Other cultural resources laws, regulations, statutes, and executive orders that may apply to FAHP projects are listed on the slide. Links to each of these can be found in Chapter 10 of the DOT&PF Environmental Procedures Manual, which you can view online at

<http://dot.alaska.gov/stwddes/desenviron/assets/pdf/manual/epm18/ch10.pdf>.



Environmental Impact Analysts need to coordinate with PQIs to identify which cultural resources laws are applicable to their specific projects.



Module Review

Module 10: What You've Learned...



- The definition of *historic property*, in relation to Section 106 of the NHPA
- The objective of the Section 106 process
- The cultural resources professionals involved in DOT&PF projects and their roles in Section 106 compliance activities
- Key differences between the two compliance paths under the Section 106 PA (streamlined review vs. standard consultation)
- How to comply with the Section 106 PA in the case of emergency projects, discoveries, and encountering human remains
- How Section 106 compliance is to be integrated into the NEPA document
- The process for conducting Section 106 project updates



This concludes Module 10 of DOT&PF's Environmental Procedures Manual Training Program.

We'll now take the module quiz to complete the requirements for this training course.