



INTRODUCTION TO THE NATIONAL HISTORIC PRESERVATION ACT

The National Historic Preservation Act of 1966, as amended (NHPA) established a federal policy for the protection of **historic properties**.

Some key elements from the NHPA:

- Sets the federal policy for preserving our nation's heritage
- Establishes a federal-state and federal-tribal partnership
- Establishes the National Register of Historic Places (NRHP) and National Historic Landmarks (NHL) Programs
- Mandates the selection of qualified State Historic Preservation Officers (SHPO)
- Establishes the Advisory Council on Historic Preservation (ACHP)
- Charges Federal Agencies with responsible stewardship
- Establishes the role of Certified Local Governments within the States

Historic properties are any prehistoric or historic districts, sites, buildings, structures, or objects that are eligible for or already listed in the National Register of Historic Places (NRHP). Also included are any artifacts, records, and remains (surface or subsurface) that are related to and located within historic properties and any properties of traditional religious and cultural importance to Tribes or Native Hawaiian organizations (NHOs). This definition includes above ground buildings, structures, etc., and buried archaeological remains.

All projects proposed by an Appalachian National Scenic Trail club or volunteer must be coordinated with your ATC Regional Manager who will then coordinate with the applicable land manager(s). The land manager must evaluate the project's potential impacts on historic properties, consult with other interested parties, and develop an agreement to address any identified adverse effects that cannot be avoided. These evaluations are conducted in accordance with state and federal regulations by professionals that meet the Secretary of Interior Professional Qualification Standards for Architectural History and/or Archaeology ([nps.gov/history/local-law/arch_stnds_9.htm](https://www.nps.gov/history/local-law/arch_stnds_9.htm)). The time required to conduct these evaluations and consultations varies depending upon various factors such as the need for surveys, presence of historic properties, and likelihood of significant impacts. Appalachian National Scenic Trail volunteers should coordinate with their club leadership and Appalachian Trail Conservancy (ATC) regional staff early in project planning.

A brief introduction to the federal project review process under NHPA is provided below along with links to additional online resources.



The National Historic Preservation Act U.S. Code § 300101.Policy

It is the policy of the Federal Government, in cooperation with other nations and in partnership with States, local governments, Indian tribes, Native Hawaiian organizations, and private organizations and individuals, to:

- (1) Use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic property can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations.
- (2) Provide leadership in the preservation of the historic property of the United States and of the international community of nations and in the administration of the national preservation program.
- (3) Administer federally owned, administered, or controlled historic property in a spirit of stewardship for the inspiration and benefit of present and future generations.
- (4) Contribute to the preservation of nonfederally owned historic property and give maximum encouragement to organizations and individuals undertaking preservation by private means.
- (5) Encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment.
- (6) Assist State and local governments, Indian tribes and Native Hawaiian organizations, and the National Trust to expand and accelerate their historic preservation programs and activities.

SECTION 106 CONSULTATION PROCESS

Section 106 of the NHPA requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve, otherwise known as a **federal action** or **undertaking**.

A **federal action** is any activity that:

1. Occurs on federally owned or managed land, e.g., US Forest Service (USFS), National Park Service (NPS), etc.
2. Receives federal funding, e.g., grant, etc.
3. Requires a federal permit, e.g., Section 404 Clean Water Act (CWA) Permit from the US Army Corps of Engineers (USACE)

Federal actions “trigger” **Section 106 compliance** of the NHPA. Regulations for implementing the Section 106 program are codified in [36 CFR Part 800](#).

The Advisory Council for Historic Preservation (ACHP) [4-Step Review Process](#) provides an interactive flow chart that briefly describes the Section 106 Review Process:



1. Initiation
2. Identification
3. Assessing Effect
4. Achieving Resolution

All projects must be coordinated with ATC and the respective federal land management agency to ensure compliance with all applicable historic preservation and other environmental laws.

36 CFR Part 800 – Protection of Historic Properties

§ 800.1 Purposes. (a) Purposes of the section 106 process. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. The procedures in this part define how Federal agencies meet these statutory responsibilities. The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

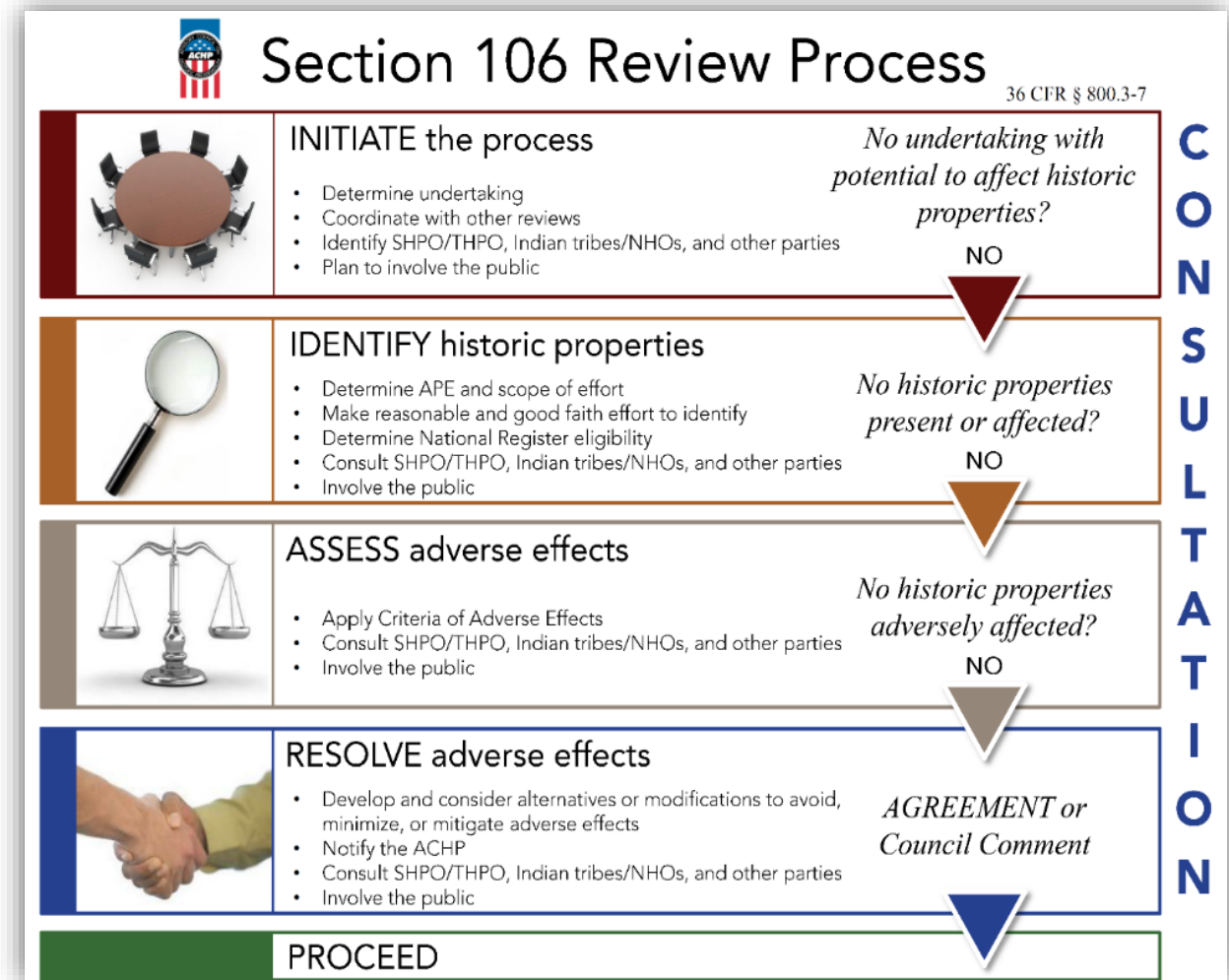


Figure 1. ACHP Section 106 Review Process

HISTORIC PRESERVATION RESOURCES:

Advisory Council for Historic Preservation (ACHP), “An Introduction to Section 106”, www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106

---, “A Citizen’s Guide to Section 106 Review”, www.achp.gov/sites/default/files/documents/2017-01/CitizenGuide.pdf

---, 36 CFR Part 800 – Protection of Historic Properties, www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf

National Park Service (NPS), “Federal Historic Preservation Laws, Regulations, and Orders”, www.nps.gov/subjects/historicpreservation/laws.htm

---, “Federal Historic Preservation Laws: The Official Compilation of US Cultural Heritage Statutes, 2018 Edition”,



www.nps.gov/subjects/historicpreservation/upload/NPS-FHPL-book-revised-final-online-3.pdf

---, Federal Preservation Institute, www.nps.gov/fpi/Index.html

---, "National Historic Preservation Act", www.nps.gov/history/local-law/nhpa1966.htm

National Conference of State Historic Preservation Officers (NCHPO),
ncshpo.org/resources/national-historic-preservation-act-of-1966/

National Preservation Institute, www.npi.org/

***URLs and hyperlinks provided in this document for convenience and were accurate as of May 20, 2021. If a link fails, use the resource title or keyword(s) in internet search engine.*