101 for Section 106 of the National Historic Preservation Act

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Phrases to Know

National Historic Preservation Act of 1966, “Section 106”

- National Register of Historic Places (NRHP)
  - Potentially eligible, eligible, not eligible
- State Historic Preservation Officer (SHPO)
- Kentucky Heritage Council, Indiana Department of Natural Resources, Ohio Historical Society
- Advisory Council on Historic Preservation (ACHP)
Phrases to Know (continued)

• Determination of Effects
  o No Historic Places Affected
  o No Adverse Effect
  o Adverse Effect
• Avoid, Minimize, Mitigate
• Memorandum of Agreement (MOA)
• Mitigation
  o Creative Mitigation
Steps of the Section 106 Process:

I. Define the Undertaking
II. Define the Area of Potential Effect
   a) Cultural historic APE
   b) Archaeological APE
III. Identify historic resources
IV. Assessment of adverse effects
V. Resolution of adverse effects
Section 106 of the National Historic Preservation Act of 1966

Established the Advisory Council on Historic Preservation

Established the State Historic Preservation Offices

Section 106
Section 106:

Requires the Federal Agency to “take into account” the effects of their actions on historic properties

IS a consultation process

Provide the Advisory Council on Historic Preservation the opportunity for comment

Does NOT dictate an outcome
Is the Project an “Undertaking”? Does it have federal funding or permits?

Identify the lead agency with federal jurisdiction
Identification Efforts:

What is the Area of Potential Effect or APE?

Define and identify historic properties

Evaluate Historic Significance: Eligible or Not Eligible for National Register of Historic Places
Assessment of Effects

Will the undertaking (project) cause effects to eligible or listed historic resources?

- No Effect
- No Adverse Effect
- Adverse Effect

Decision Point

- Potential to Cause Effects
  - Will the Project affect historic properties?
    - Yes
      - Historic properties are affected
        - Apply criteria of adverse effects
        - Assess adverse effects
    - No
      - No effect to historic properties

Section 106 complete
Resolution of Adverse Effects

Determination of Effect is made by Lead Federal Agency

Avoidance- literally designing to avoid Adverse Effect

Minimization- designing to lessen Adverse Effect

Mitigation- offset Adverse Effects

Section 106 ≠ Section 4(f)
Cultural Historic

Sometimes it’s called architectural history, cultural history, above-ground, historic architecture, etc. For the purposes of Section 106 review they all mean the same thing.

*Cultural Historic* Area of Potential Effect is based on direct impacts, visual impacts, or noise. Existing conditions (intrusions, natural or manmade barriers) are taken into account.

Standard APE for most CEMP, CE Level 1, and CE Level 2 projects is 150’ on either side of proposed centerline.

APE may be large and more complicated depending on the size and scope of the project.
Cultural Historic

Identifying historic properties

What is a historic property?

What is eligible for the National Register?

Who decides?

What if I disagree?-“That looks like a good meal for termites”

Who are Consulting Parties and why do we have to work with them?

What does an Adverse Effect mean to the project?

What if plans change or new areas of right of way or easement are added?

Early coordination saves schedules!
Examples of Historic Properties
You know you are an Archaeologist...

What my friends think I do

What my parents think I do

What the public thinks I do

What developers think I do

What I think I do

What I really do
What we look at:

Archaeology: The Area of Potential Effect is based on the maximum area of impacts – whether that is the disturb limits, new right-of-way, easements (temporary or permanent), whichever is greatest. We also include staging areas!
Types of Archaeological Sites
Archaeological review and investigations MUST occur BEFORE ground disturbing activities begin.

Once the ground is disturbed, we have to assume sites were present, and assume Adverse Effect. This costs the project time and money.
Nom Nom Archy Site

what about the section 106 Process?
AAAAAAAHHH!
IMPORTANT ODDS AND ENDS:

Programmatic Agreement
Consulting Parties
Excess Material Areas
Cemeteries
Revised Plans
Lack of Transparency and Poor Communication
Areas to be Surveyed – 2019
Participate in Archaeology Events!!!

- Public Dig – Corn Island Archaeology
  - SEPT 13 @ NOON
- Gaslight Festival
- 10320 Watterson Tr., Louisville

- Wickliffe Mounds State Historic Site SEPT. 21!!!
- Archaeology Day

- Red River Gorge Geological Area, Daniel Boone National Forest
  - Living Archaeology Weekend SEPT. 21!!!
  - https://www.livingarchaeologyweekend.org/

https://parks.ky.gov/parks/historicsites/wickliffe-mounds/events.aspx
QUESTIONS?
Thank you!

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https://transportation.ky.gov/EnvironmentalAnalysis/