

ARCHAEOLOGY ANSWERS

A bulletin series for the Archaeology Program of the Michigan State Historic Preservation Office



Bulletin 6 | www.michigan.gov/archaeology/

Archaeologists Kiersten O'Connor (left) and Errin Mitchell (right) working on a data recovery project in Detroit.

Section 106 & Archaeology

What is Section 106 of the National Historic Preservation Act?

[Section 106 of the National Historic Preservation Act](#) (NHPA) requires federal agencies to consider the effects of their undertakings on historic properties and to consult with relevant parties and the public to avoid, minimize, or mitigate adverse effects. This requirement applies to projects that are carried out, assisted, funded, permitted, licensed, or approved by federal agencies. Historic properties can include buildings, districts, landscapes, and archaeological sites that are eligible or listed in the [National Register of Historic Places](#). The Section 106 process is governed by [36 CFR Part 800](#), which outlines the procedures federal agencies must follow to comply with the law. Agencies must initiate the Section 106 review early in project planning, before the expenditure of federal funds or issuance of permits, to allow consideration of alternatives that could avoid, minimize, or mitigate adverse effects on historic properties.

The Section 106 review involves consultation with State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPOs), and local governments, and interested public stakeholders. After the federal agency establishes the area of potential effect (APE) for the undertaking, they or designees follow the Section 106 process:

1. *Initiate consultation* by notifying appropriate parties.
2. *Identify historic properties* that may be affected and determine their eligibility for NRHP.
3. *Assess effects* of the undertaking on these properties and determine if they are adverse.
4. *Resolve adverse effects* by developing alternatives or mitigation strategies, formalized in a legally binding Memorandum of Agreement (MOA).

Section 106 of the NHPA is a critical mechanism for protecting historic resources in the United States.

Commonly Asked Questions about Section 106

What are a federal agency's responsibilities under Section 106 of the NHPA?

The federal agency is in charge of the process. They define the undertaking, area of potential effect (APE), initiate consultation, ensure a good faith effort of identification of historic properties, and provide a reasonable opportunity for consultation on the effects of the undertaking on historic properties. Generally, any project that disturbs the ground may have the potential to have an adverse effect on archaeological sites.

What are my responsibilities under Section 106?

If you are receiving grants or funding from a federal program or require a federal permit, you may need to comply with Section 106, even on private land. The responsibilities of the applicant may vary depending on which federal program you are working with, but in many cases the applicant is responsible for the costs of archaeological surveys.

What is an archaeological survey or assessment?

An archaeological survey is the process of identifying and documenting archaeological sites present on a landscape by a qualified archaeologist. Survey may require a variety of field methods, as well as background research, depending on the field conditions. The background research is often called assessment or a “desktop review” and should be conducted prior to survey.

Why might an archaeological survey be conducted on my land for a Section 106 undertaking?

In order to complete Section 106, federal agencies must fulfill their obligation to identify historic properties. This is why an undertaking might require an archaeological survey. Failure to complete the identification process could result in a “foreclosure” and forfeiture of federal funds or permits.

How do I hire an archaeological consultant to conduct survey on my property?

The SHPO maintains a list of [qualified professional archaeologists](#) who can conduct survey. We recommend requesting bids from at least three consultants. Look for companies with a proven record of completing Section 106 survey. For archaeology, this will include conducting a “desktop review” or assessment, completing field survey, and preparing a report following [SHPO guidelines](#). We recommend checking the consultant’s references to verify successful completion of Section 106 compliance, and asking for experience and expertise in your region.

Will finding an archaeological site stop an undertaking from proceeding?

The short answer is no. Identifying historic properties will not halt a project, but it does mean that the federal agency and consulting parties will need to work together to identify a way to minimize or mitigate the effects of the undertaking. This process can take time, which is why it is important to engage in Section 106 as soon as possible and have surveys completed early.

Why is it important to report archaeological sites on my property?

If you know about archaeological sites on your land, it is a good idea to proactively report them to the SHPO. The SHPO maintains the Michigan State Archaeological Site File (SASF). Planners, state and federal agencies, and Tribal Historic Preservation Officers use SASF to address Section 106 requirements. Learn more in [Bulletin 1](#).

Who owns the artifacts recovered from private land?

Artifacts recovered from private lands during Section 106 review are the property of the landowner, unless state or local law mandates otherwise. See [Bulletin 1](#) for additional information.

If you have additional questions, please visit www.michigan.gov/SHPO or reach out to SHPO Section 106 staff.

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