



Cultural Resource Protection—Section 106 and 707

What is it?

Protecting historic, architectural, and archaeological sites as part of the public planning process is one of the Illinois State Historic Preservation Office's (IL SHPO) primary responsibilities. Section 106 of the National Historic Preservation Act of 1966, as amended, and the Illinois State Agency Historic Resource Preservation Act (Section 707) require state and federal agencies to consider the effects of their actions on historic properties listed or eligible for listing in the National Register of Historic Places. Those actions include projects that involve state and/or federal permits, licenses, and funds.

Benefits

It is in the public good for cultural resources to be safeguarded when public monies or actions are being considered. Sections 106 and 707 ensure that the public is engaged in the decision-making process when state and federal actions have an impact on America's heritage.

Provisions

Of the thousands of projects that the IL SHPO reviews every year, most do not involve places listed in or eligible for the National Register. But, when a project does involve such a site, state and federal agencies consult with the IL SHPO to avoid or lessen their projects' potentially harmful impacts. The following gives an overview of the review and compliance process. For more detailed information, please see the Section 106 Regulations Users Guide and A Citizen's Guide to Section 106 Review. ► **Participants:** The lead state or federal agency undertaking the project must identify potential consulting parties, including the State Historic Preservation Office (SHPO), Tribal Historic Preservation Officer (THPO), local governments, applicants for federal assistance, interested parties, and the public. Additional parties may include groups with a demonstrated interest in a project, like a Main Street organization or historical society. The lead agency must invite parties to participate in consultation and provide basic information about the undertaking. In some cases, the Advisory Council on Historic Preservation (ACHP) will also participate. After considering the views of consulting parties, the lead agency is ultimately responsible for determining whether to proceed with the project. ► **Initiating Consultation:** First, the lead agency determines if a proposed action may affect historic properties and, if so, initiates consultation by providing the required documentation to the IL SHPO for review and comment. ► **Area of Potential Effects (APE):** The lead agency, in consultation with the IL SHPO, must identify geographical areas where its project could directly, indirectly, or cumulatively affect historic properties. The APE is influenced by the scale and nature of the project and generally is an area broader than the project footprint. ► **Identifying Historic Properties:** The lead agency must gather information to determine which properties in the APE are listed in or eligible for listing in the National Register and provide that information to the IL SHPO for comment. ► **Assessing Effects on Historic Properties:** The lead agency must determine whether the project will alter the characteristics of a property that qualify it for listing in the National Register. Effects can be direct or indirect and can be physical, visual, audible, or economic. If the IL SHPO concurs that no historic properties will be affected or that there will be no adverse effect on the historic properties in the APE, no further consultation is required. If the IL SHPO determines that the proposed project will have no adverse effect if certain conditions are met, the lead agency must follow those conditions, and no further consultation is required. If the IL SHPO determines that the project will have an adverse effect on historic properties, the lead agency must notify the ACHP, continue consultation with all parties, and seek public comment with the goal of avoiding, minimizing, or mitigating the adverse effects. ► **Resolving Adverse Effects:** If the lead agency agrees to revise the project to avoid all adverse effects, the project may proceed without further consultation. However, if the adverse effect cannot or will not be avoided, the lead agency must enter into a Memorandum of Agreement with the IL SHPO and potentially with other consulting parties. This legally binding agreement describes actions that will minimize or mitigate the adverse effect and allows the project to proceed as amended.

Questions?

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