

## Section 106 of the National Historic Preservation Act



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## National Historic Preservation Act



- Established partnerships with States and Tribes or historic preservation
- Establishment of State and Tribal Historic Preservation Offices
- Establishment of the Advisory Council on Historic Preservation
- Created a consultation process on Federal actions
- Established Preservation as an environmental discipline
- Established the National Register of Historic Places

Lady Bird Johnson

## Section 106 is **NOT** New

- NHPA has been law since 1966.
- Number of amendments and iterations in its regulations.
- Most recent update August 5, 2004
- It is a process
- Responsibility of the Federal Agency
- Consultative



## Section 106 An Overview

- Requires substantive technical information and informed decision making.
- Involves a number of parties.
- Over the past 35 years the general evolution of the process has been towards a more consultative process with more parties that address more types of resources.

## Undertaking

Means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out with federal financial assistance; those requiring a federal permit, license, or approval, those subject to State or local regulation administered pursuant to a delegation or approval by a federal agency.



## Examples of Undertakings Projects which utilize Federal money

- FERC Licenses, BLM grazing permits,
- FS Timber Sales, recreation developments
- COE permits, dredging, construction projects
- FHWA highway funding projects of State DOT and local government roads
- FDIC ATMs, and FCC Cell Towers
- HUD, CDBG

## Key Participants

- The Federal Agency or Agencies
- THPO: Tribal Historic Preservation Officer
- SHPO: State Historic Preservation Officer
- Applicant for Funding, License, Permit, etc.
- ACHP: Advisory Council on Historic Preservation.
- Public or Local Government (CLG)

## Step 1: Define the APE

- Determine Undertaking
- Identify Concerned Parties
- Define Area of Potential Effect (APE)



Action	Product
Initiation of Process	Letters/ Maps

## Define the APE

- Who is responsible for initiating the consultation process?
- What is the proposed action you are about to undertake?
- Where are the limits of your project effects and can you illustrate & define those limits?

## Step 2: Identify the Sites

- Acquire background and historic information
- Conduct on the ground survey
- Author Report, Inventory forms,
- Consult with parties on findings

**Products**

- *Open File:*
- *Letters, APE map*
- *Response letters*
- *EXEMPT Documents*
- *Site forms, Reports,*
- *Maps with site locations*
- *DOE forms, reports*



## Evaluation of the Significance

- Evaluating the Significance of the sites in the APE using the National Register of Historic Places.
- Follow Secretary of Interior Standards, and guidelines from the National Register of Historic Places ( www.nps.gov)
- Requires the Federal Agency to consult and seek the concurrence of THPO or SHPO
- If disagree, forward to the Keeper of the NR

## Step 3: Evaluate Effects

- What are the impacts of the proposed project upon the National Register sites?
- Consult with the parties to determine:
  - *No Historic Properties effected*
  - *No Effect*
  - *No Adverse Effect*
  - *Adverse Effect*



### Assessing Effects

- **No Historic Properties Affected:** No historic or cultural resources affected.
- **No Effect:** No change to the NR eligible site.
- **No Adverse Effect:** Will be a change, but not damaging to the qualities that make a resource significance.
- **Adverse Effect:** Where you have an impact that will alter, damage, destroy or change the characteristics that make the property significant and eligible to the National Register.



### Step 4: Treatment Plan: MOA

- Memorandum of Agreement (MOA) is a legal document that formalizes the specific actions the Federal Agency will take to avoid, minimize, or mitigate the adverse effect.
- Agency must notify ACHP and invite participation
- Consult with the THPO and/or SHPO



### Final Step

- Implement the MOA
- Report back to assure the consulting parties that the terms and conditions of the MOA were met.
- If no agreement notify ACHP for formal ACHP comment to Agency Head.
- If conditions change notify parties of need for amendment.



### Throughout the consultation process...

Contact and consult with tribes and local government agencies, and interested members of the public about their concerns



### Consultation Time

- Consultation takes as long as necessary to define the APE
- There is no limit specified in Section 106 as to how long this process should take
- It is a matter of SHPO policy to review all APE determinations within 30 days
- Section 106 submittals that come to SHPO with all necessary documentation, takes less time to review



### National Register of Historic Places & Determination of Eligibility



### Designated Historic Sites

- 1,434 listings on the National Register of Historic Places statewide.
- 163 National Register Historic district listings.
- 522 listings on the Washington Heritage Register of Historic Places statewide.
- 24 National Historic Landmark listings.



### National Register of Historic Places Property and Resource Types

- Buildings
- Sites
- Structures
- Objects
- Districts



### The Criteria for listing on the National Register

Integrity and Historical significance

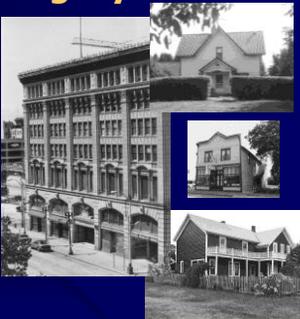


### The 50 year rule



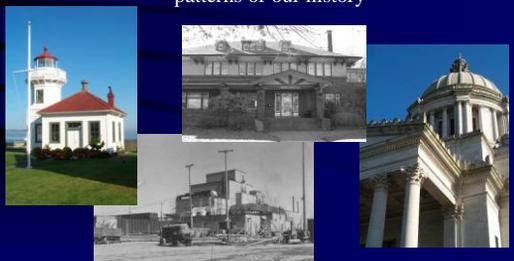
### The qualities of Integrity

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association



### Criterion A

Properties that are associated with events that have made a significant contribution to the broad patterns of our history



### Criterion B

Properties that are associated with the lives of persons significant in our past.



### Criterion C

Properties that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components lack individual distinction.



### Criterion D

Properties that have yielded, or may be likely to yield, information important in prehistory or history.



### HUD Project Review Section 106 and consultation with DAHP

The process and the required forms

The process and the required forms



### Attachment EZ1

#### Project Review Worksheet

**PROJECT REVIEW SHEET – EZ1**  
HISTORIC & CULTURAL RESOURCES REVIEW

PROPERTY / CLIENT NAME: \_\_\_\_\_ FUNDING AGENCY: \_\_\_\_\_

Project Applicant:  
Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_ Country: \_\_\_\_\_  
Phone/FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Funding Agency:  
Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Project Location

Map: \_\_\_\_\_  
County: \_\_\_\_\_

place Map Here

**PLEASE DESCRIBE THE TYPE OF WORK TO BE COMPLETED**  
(as included in previous to avoid redundancy)

Provide a detailed description of the proposed project:

Describe the existing project site conditions:

Describe the proposed ground disturbing activities:

Please be aware that this form may only initiate consultation. For some projects, DAHP may require additional information to complete our review such as plans, specifications, and photographs. An historic property inventory form may need to be completed by a qualified preservation professional.

### Attachment EZ3

#### Building Rehabilitation Worksheet

**BUILDING REHABILITATION WORKSHEET – EZ3**

PROPERTY / CLIENT NAME: \_\_\_\_\_ DAHP Log # \_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_

Funding Agency: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_

**PLEASE DESCRIBE THE TYPE OF WORK TO BE COMPLETED**  
(as included in previous to avoid redundancy)

**PLEASE CHECK, UNCHECKED AND PHOTOGRAPH FOR WORK AND DESCRIBE THE NATURE OF CONSTRUCTION, ALTERATION OR REPAIRS AND PROVIDE DETAILS.**

ROOF

INSULATION

WINDOWS AND DOORS

FOUNDATION

GROUND DISTURBING ACTIVITIES

OTHER

Check if there are any ground disturbing activities. If so, please complete a DAHP Attachment Project Worksheet "EZ2" form for the proposed project.

Mail this form to: Department of Planning and Historic Preservation or to: 1000 N. California, Suite 700, P.O. Box 6000, Oklahoma City, OK 73106-6000

(PRINT IN BLACK. DAHP WILL MAIL THIS! RETURN BACK TO PAGE.)

Please be aware that this form may only initiate consultation. For some projects, DAHP may require additional information to complete our review such as plans, specifications, and photographs. An historic property inventory form may need to be completed by a qualified preservation professional.

# Common Mistakes Made on Housing Reviews Case Studies

**BUILDING REHABILITATION WORKSHEET – EZ3**

PROPERTY / CLIENT NAME: Bill Fletcher      DHP# Log # 201110-01 HSD  
 Address: 661 S. Highway 6666, CT.      City: Spokane,      County: Spokane  
(Insert name and address)

Funding Agency: \_\_\_\_\_  
 Manager Name: \_\_\_\_\_  
 Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State: Spokane, WA      Zip: 99201  
 Phone: \_\_\_\_\_

**PLEASE DESCRIBE THE TYPE OF WORK TO BE COMPLETED**  
(Be as detailed as possible to avoid having to provide additional information)

PLEASE CHECK WHICH ITEMS ARE PROPOSED FOR WORK AND DESCRIBE THE NATURE OF CONSTRUCTION, ALTERATION OR ADDITION AND PROVIDE ADDITIONAL PHOTOS OF AREAS OF WORK.

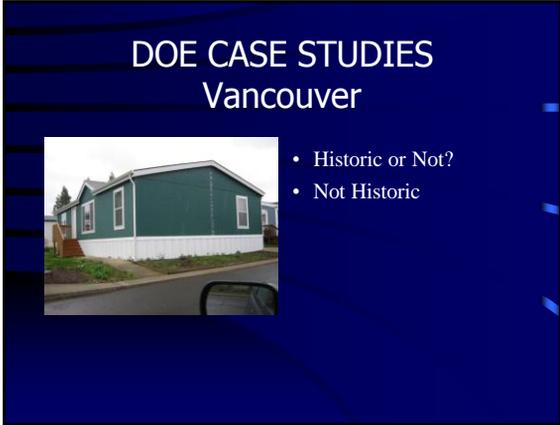
**ROOF**  
 Roof replacement \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**INSULATION**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**WINDOWS AND DOORS**  
 Paint & repair door \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



# Determination of Eligibility and Adverse Effects Case Studies



### DOE CASE STUDIES Spokane

- Historic or Not?
- Can't tell
- More Information Needed



### DOE CASE STUDIES Port Hadlock

- Historic or Not?
- Historic
- Eligible or Not?
- Distinctive Character
- Craftsmanship
- High Integrity
- Artistic Value
- Criterion C



### DOE CASE STUDIES Vancouver



- Historic or Not?
- Historic
- Eligible or Not?
- Exceptional craftsmanship
- Character Defining Features
- High Degree of Integrity
- Criterion C

### DOE CASE STUDIES Sprague

- Historic or Not?
- Historic
- Eligible or Not?
- Average degree of integrity
- Better examples of similar construction in the community



### DOE CASE STUDIES Wenatchee

- Historic or Not?
- Historic
- Eligible or Not?
- At least two additions
- Chimney does not appear to be original
- Use of non in-kind materials and windows
- Not Eligible



### DOE CASE STUDIES Richland

- Historic or Not?
- Historic
- Eligible or Not?
- Associated with Hanford
- High Degree of Integrity
- Criterion A & C



### DOE CASE STUDIES Richland

- Adverse Effect or Not?
- Eligible
- Adverse Effect
- Exact same house as previous slide



### DOE CASE STUDIES Pomeroy

- Adverse Effect or Not?
- Eligible
- Adverse Effect



### DOE CASE STUDIES Clarkston

- Adverse Effect or Not?
- Eligible
- Work started prior to receiving a Determination of Eligibility
- DAHP was foreclosed in the review process

