The National Historic Preservation Act (NHPA), passed in 1966, helps protect American archaeological sites, historic buildings, and other cultural resources. It established the National Register of Historic Places, a list of historically significant properties in the United States. It directs federal agencies to take our history into account when it faces potential loss or damage from development. It also provides opportunities for local communities to voice concerns.

For a federal development project (called an undertaking), it is sometimes necessary for the federal agency to conduct a historic preservation review of the affected land. This is called a Section 106 review. The purpose of the review is to determine if the undertaking will harm historically significant resources. Those are resources that meet the eligibility criteria for the National Register of Historic Places.

States and territories in the United States have State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs). SHPOs and THPOs advise and track agencies’ compliance with the NHPA and Section 106 within their borders. The Advisory Council on Historic Preservation (ACHP) advises at the national level.

**COMMON MISCONCEPTIONS**

**MYTH** Federal historic designations restrict local property rights

**FACT** Historic designations do not change property rights based on federal law

**MYTH** Compliance with the law is too burdensome and causes delays

**FACT** The process of complying with the NHPA is flexible and delays are rare

**MYTH** Protecting historic properties is economically onerous

**FACT** Protecting historic properties promotes economic growth for communities

Historic properties, on the National Register of Historic Places or not, always belong to the landowner or property owner. Some local zoning laws or homeowner association rules may involve restrictions on private property, but not federal historic preservation laws.

The NHPA is intentionally flexible, emphasizing good-faith efforts and negotiation rather than mandating particular outcomes. SHPOs usually have 30 days to respond to a review, and that deadline is almost always met.

Based on state studies, historic preservation increases heritage tourism, property values, and local employment. In 2017, the Federal Historic Preservation Tax program alone added about 107,000 jobs and $6.2 billion in GDP.
No Section 106 review necessary.

In 2018:

Over 109,800 federal undertakings reported nationwide.

Could the project potentially adversely affect those historic properties?

Section 106 review is complete.

Are there properties that meet the eligibility criteria to be listed on the National Register of Historic Places?

Section 106 review is complete.

Is this undertaking:

- conducted by a federal agency;
- permitted or licensed by a federal agency;
- funded by a federal agency;
- or on federal land?

No

28% of properties reviewed met the eligibility criteria

YES

17% of undertakings found effects or properties

YES

4% of undertakings with effects required a formal agreement

YES

The consulting parties sign a formal agreement for their next steps. The law encourages avoiding or minimizing damage to historic properties, but it does not dictate how to do so. The federal agency files the agreement with the ACHP. Section 106 review is complete. Much of America's heritage has been discovered through the Section 106 review process.

Compiled in 2019 by the Society for American Archaeology with the assistance of the National Conference of State Historic Preservation Officers. The 2018 fiscal year data was collected by the National Park Service from 59 State Historic Preservation Offices, last updated on March 5, 2019.