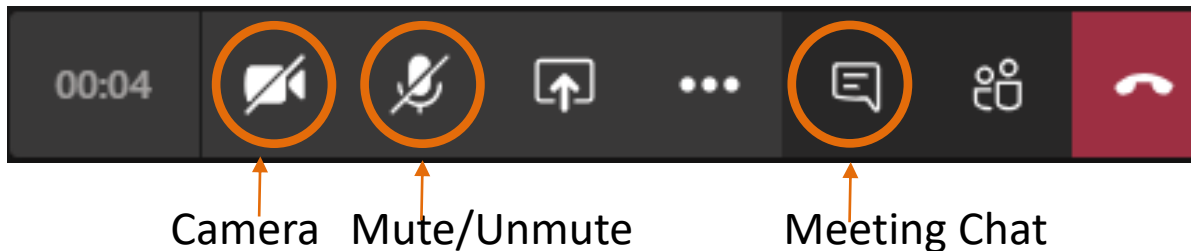


NHPA Section 106 PA Kick-off Meeting

Michigan Division Office

Welcome. The meeting will begin 1:00 pm EST.

Use the toolbar to mute and unmute, turn your camera on and off, and to view messages.



This meeting is being recorded.

If you have dialed in on a telephone, use *6 to mute and un-mute yourself.
Q&A will follow the presentation.

NHPA Section 106 PA Kick-off Meeting

Michigan Division Office



Title VI of the Civil Rights Act

Title VI of the Civil Rights Act of 1964 requires MDOT to provide the opportunity for everyone to comment on transportation programs and activities that may affect their community. Please take this 3-question survey:

<https://bit.ly/3dU9fxl>

You can help MDOT comply with Title VI and related statutes, which require the collection of statistical data to aid in assessing MDOT's outreach efforts among those who are affected or interested in this project.



NHPA Section 106 PA Kick-off Meeting Welcome



Lumberman's Monument

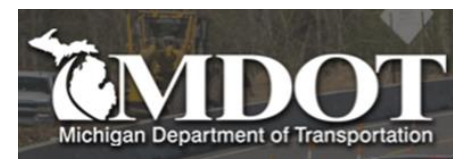
Michigan Division Office



Ruth Hepfer
FHWA
Environment/ROW
Specialist
Michigan Division



Margaret Barondess
MDOT
Manager,
Environmental
Services Section





NHPA Section 106 PA Kick-off Meeting

Michigan Division Office



Lumberman's Monument



- **Purpose:** Development of a NEW Section 106 Programmatic Agreement (PA)
- **Goals:**
 - Background and History of Current PA
 - Why the PA must be updated
 - Potential Role in the PA
 - How to Participate in development of the new PA
 - Next Steps: Milestones and Schedule

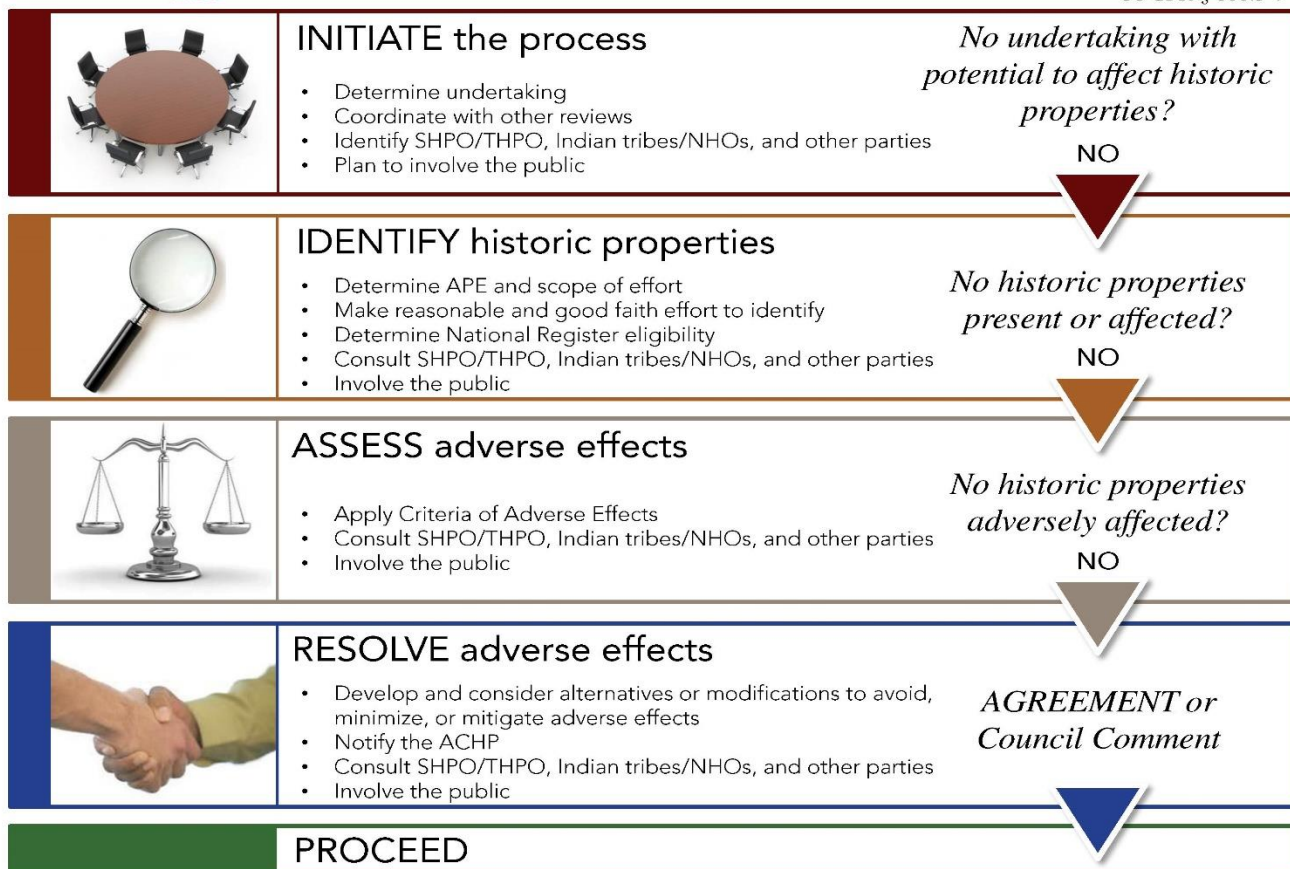
Section 106 Process

Michigan Division Office



Section 106 Review Process

36 CFR § 800.3-7



CONSULTATION

Source: <https://www.achp.gov/digital-library-section-106-landing/section-106-review-process-flowchart>

2011 PA Highlights

Michigan Division Office

- Covers “trunk line” projects
- Defines qualified staff
- Outlines the Section 106 steps to be performed by qualified staff
- Authorizes MDOT to carry out day-to-day consultation with Tribal Nations, if all parties agreeable
- Streamlines by allowing qualified staff to make eligibility assessments and impact determinations



Current Process for Tribal Consultation

Michigan Division Office

- FHWA delegates project-specific consultation to MDOT & Tribal Nations can always consult with FHWA
- Major actions – EA AND EIS studies
- Categorical Exclusions – Exemptions
- Categorical Exclusions – ground disturbance beyond existing shoulder/curb and gutter researched, sensitivity/risk analysis
 1. No Consultation - low probability of impacting cultural resource(s)
 2. Consultation - within or near known burial sites or sites with a potential for burials
 3. Consultation – MDOT conducts survey, evaluation, data recovery
- Tribal Nations may request documentation from MDOT at any time
- Immediate notification of human remains



MDOT *Local Agency Program*

Michigan Division Office

Current Process

- MDOT reviews 500+ local agency projects annually
- Not addressed in Programmatic Agreement
- Exempt determination
 - If not, local agency initiates Section 106 consultation
- MDOT requires SHPO clearance letter prior to obligation

Future Process

- Incorporate local agency projects into new Programmatic Agreement
- MDOT will clear projects



Tracie Leix, Local Agency Programs (LAP)
Section Manager



2019 Fiscal Year Statistics



Michigan Division Office

<u>Trunkline Projects Reviewed by MDOT staff</u>	<u>Local Agency Projects Reviewed by SHPO</u>
<ul style="list-style-type: none">• 260 projects total*	<ul style="list-style-type: none">• 378 projects total
<ul style="list-style-type: none">• 38 no adverse effect determinations	<ul style="list-style-type: none">• 54 no adverse effect determinations
<ul style="list-style-type: none">• 1 adverse effect	<ul style="list-style-type: none">• 2 adverse effects
<ul style="list-style-type: none">• 3 archaeological investigations required	<ul style="list-style-type: none">• 3 archaeological investigations required
<ul style="list-style-type: none">• 8 formal letters	<ul style="list-style-type: none">• 393 formal letters

*260 projects reviewed for above-ground, 209 reviewed for archaeology

Federal Highway Administration (FHWA)



Michigan Division Office



- As the lead federal agency, FHWA is legally responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA)
- FHWA is responsible for ensuring the terms of a Section 106 Programmatic Agreement (PA) are carried out.
- FHWA is responsible for government-to-government consultation with federally recognized Native American Tribes. At its discretion, FHWA may ask MDOT to assist in consultation if the individual tribal nations agree to alternate procedures.
- FHWA is responsible for notifying the ACHP of an adverse effect determination and offering the ACHP the opportunity to participate in the consultation.
- FHWA is responsible for resolving any disputes and objections under a Section 106 PA.
- FHWA is responsible to ensure the steps in the Section 106 process are coordinated with other state and federal environmental policies and laws.

ACHP Role in Section 106

Michigan Division Office

Advisory Council on Historic Preservation (ACHP)

- ACHP is an independent federal agency that promotes the preservation, enhancement, and productive use of our nation's historic resources, and advises the President and Congress on national historic preservation policy.
- ACHP has published regulations (36CFR800) that guide federal agencies and other participants in the Section 106 process.
- Office of Federal Agency Programs (OFAP) within the ACHP administers the National Historic Preservation Act Section 106 review process and works with federal agencies to improve how they incorporate historic preservation values into their programs.



Mandy Ranslow,
ACHP

ACHP Role in Section 106

Michigan Division Office

- OFAP provides technical assistance, training, and guidance for Section 106 users to improve the efficiency and effectiveness of the review process.
- Within OFAP is the FHWA Liaison who assists FHWA divisions in completing Section 106 review and with the development of legislation, regulations, and implementing guidance for programs with the potential to affect historic properties.
- The FHWA Liaison at the ACHP is actively involved in the execution of over 40 statewide Programmatic Agreements (PAs) for streamlining Section 106 review.





SHPO Role in Section 106

Michigan Division Office

Lumberman's Monument

WHAT'S CHANGING?



Identification Efforts

Appropriate Federally
Qualified Individuals
Secretary's Standards and
Guidelines for Identification
Adequacy of
Documentation



Who can submit?



Section 106 Application Changes





SHPO Role in Section 106



Lumberman's Monument

Michigan Division Office

WHY NOW?

- Aligns with regulations and best practices
- Shorten review times
- Reduce requests for more information
- Better data in, better data out



Your Role in the PA

Michigan Division Office

- Required Signatories: FHWA, ACHP, SHPO
- Invited Signatories: Usually the DOT, but FHWA may invite others to sign
- Concurring Signatories: FHWA invites Tribal Nations or other agencies
- Tribal Nations





Section 106 NHPA PA Kick-off Meeting



Lumberman's Monument

Michigan Division Office

HOW TO PARTICIPATE?

- Later this month, FHWA will send:
 - A request on your willingness to participate in the PA development meetings
 - Provide information explaining your potential role in the PA (invited signatory or concurring party)

- Working Group Meeting will be held in January and February 2021

- Compiled Draft PA by March 2021; then FHWA will:
 - Send a Request to your agency or Tribal Nation for comment and any required legal review
 - Answer any questions or concerns
 - Invite your agency or Tribal Nation to be either an invited signatory or concurring party to the Final PA





Section 106 NHPA PA Kick-off Meeting



Lumberman's Monument

Michigan Division Office

Next Steps: Anticipated Milestones and Schedule

November/December 2020

- FHWA receives confirmation if your agency or Tribal Nation wants to participate in the development of the new PA
- MDOT/FHWA establish Working Group meeting schedule and sends meeting appointments

January - February 2021

- Working Group meetings underway working thru the stipulations of the Draft PA

March 2021

- Draft PA completed
- Legal Review and comment of Draft PA request sent to agencies and Tribal Nations
- FHWA sends invitation to sign either as an invited signatory or concurring party on the final PA

April 2021 Issue Public Notice Draft PA for 30 days

May 2021 Resolve any public comments

June 2021 Submit Final Draft PA to FHWA HQ and ACHP for review

July 2021 Submit Final PA for signatures

August 2021 Distribute signed/authorized PA





Section 106 NHPA PA Kick-off Meeting

Michigan Division Office



Questions?

Three Options

- Type your question, or
- Use “raise hand” icon to speak
- Call-in attendees will have an opportunity to unmute and speak

