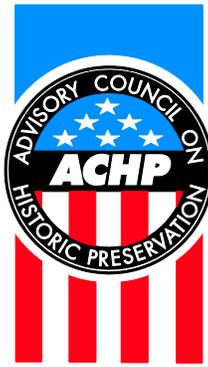


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## **Executive Order 13563 Status Report Advisory Council on Historic Preservation**

March 14, 2014

The Advisory Council on Historic Preservation (ACHP) conducted a retrospective analysis of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA) in 2011, consistent with the requirements of Executive Order 13563. As a result of this analysis, the ACHP determined that Section 106 regulations are not outmoded, ineffective, insufficient, or excessively burdensome, and therefore should not be modified, streamlined, expanded, or repealed.

The ACHP also committed to pursuing improvements to the process for implementing the Section 106 regulations in order to assist federal agencies, the ACHP, states, Indian tribes and Native Hawaiian organizations, local governments, applicants, the public, and other stakeholders in achieving the goals of NHPA as they pertain to the protection of historic properties.

Since the adoption of the ACHP's August 2011 plan for making such improvements, the ACHP has made progress in all seven key areas identified in its August 2011 plan. That progress is detailed below.

1. **Periodic Regulatory Review**: Executive Order 13563 calls not for a single exercise but for "periodic review of existing significant regulations." It explicitly states that "retrospective analyses, including supporting data, should be released online wherever possible." Consistent with the commitment to periodic review and to public participation, the ACHP will continue to assess its existing significant regulations in accordance with the requirements of the EO. The ACHP welcomes public suggestions about appropriate reforms at any time and plans to conduct its next formal analysis of the regulations in 2016.
2. **Federal Agency Programs and Performance**: The ACHP will soon request that federal agencies subject to the requirements of Executive Order 13287 report on the adequacy and effectiveness of their preservation programs in carrying out the requirements of Section 106 as part of their triennial progress reports which must be submitted to the ACHP in September 2014. The ACHP will then convey its recommendations on strengthening federal preservation programs in its fourth triennial report due to the President in February 2015. The ACHP will pursue improvements in this area consistent with this report and the ACHP's Strategic Plan.
3. **Training and Education**: The ACHP has significantly expanded its Section 106 training program by incorporating webinars as a part of its distance learning program. Eight webinars are planned for the next four months, and 15 general audience programs were offered in 2013. Webinars broaden the ACHP's reach in providing education and assistance to Section 106 users and make it easier to address current issues in the implementation of the Section 106 regulations. A contractor is completing work on creation of an online training portal that will allow the ACHP to expand further into e-learning, or online, on-demand courses, by mid-2014. This format will be used to

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provide educational products ranging from a short explanation of what Section 106 requires, targeted to the general public, to detailed practitioner training on integrating Section 106 and National Environmental Policy Act (NEPA) reviews. Another course orienting applicants for federal assistance to their NHPA responsibilities is largely complete. Finally, the ACHP has continued its commitment to regular, onsite courses across the country which, combined with the distance learning program, continue to reach large audiences.

4. Provide Guidance: In March 2013 the ACHP and Council on Environmental Quality (CEQ) jointly issued a handbook on NEPA coordination and substitution with the NHPA. This handbook provides critical tools to assist agencies in better coordinating environmental reviews and, when appropriate, using NEPA to satisfy NHPA requirements. The ACHP also issued in October 2013 an Applicant Toolkit to assist applicants for federal assistance, licenses, or permits in participating effectively in the Section 106 process. This Toolkit stands to improve the efficiency of Section 106 reviews by improving the ability of applicants to engage more effectively in Section 106 reviews and support preservation outcomes.

The ACHP is also nearing completion on “Guidance on Agreement Documents” that will provide instruction on developing and implementing critical agreement documents to demonstrate compliance with Section 106 of the NHPA. Numerous other guidance documents have been completed, including but not limited to guidance on the “Reasonable and Good Faith Effort” standard within the Section 106 regulations, the application of Section 106 to disaster recovery efforts, and the development of Prototype Programmatic Agreements. The ACHP has distributed these documents widely and posted them on its Web site.

5. Coordination with Other Federal Agencies: The Administration has put in place several initiatives to advance high priority infrastructure and energy development projects and improve federal environmental review and permitting processes. These initiatives include Executive Order 13604 “*Improving Performance of Federal Permitting and Review of Infrastructure Projects*,” Executive Order 13616 “*Accelerating Broadband Infrastructure Deployment*,” various Rapid Response Teams, and two new Presidential Memoranda on Permitting and Transmission. The ACHP serves on steering committees and workgroups for each of these initiatives. A principal goal of these steering committees and workgroups is to improve coordination among federal agencies and improve environmental reviews, including the Section 106 review process. In addition to aforementioned work on developing Guidance on Agreement Documents and an Applicant Toolkit, the ACHP is also developing information for stakeholders on using electronic communication and media to improve the efficiency and effectiveness of Section 106 reviews.

The ACHP is also a member of a Steering Group established by the Sandy Recovery Improvement Act to establish a Unified Federal Review (UFR) for disaster recovery projects. In collaboration with the Department of Homeland Security, the Federal Emergency Management Agency, and CEQ, the ACHP is coordinating through an interagency strategy to establish efficiencies and improvements in environmental and historic preservation reviews. The deliverables and outcomes developed by the Steering Committee will avoid duplication of reviews, avoid project delays, and promote improved coordination among federal, state, and local agencies. The UFR is required to complete a report for the President by July 29, 2014.

The ACHP has also consistently promoted the involvement of the National Park Service (NPS) and the ACHP in Section 106 reviews where a dispute regarding the National Register eligibility of a property has occurred and where a National Historic Landmark may be affected by an undertaking. The ACHP will continue to coordinate with the NPS and other federal agencies on

Section 106 issues, including updates to the Secretary of the Interior's Professional Qualification Standards for certain professionals carrying out, among other things, activities to support Section 106 reviews.

6. ACHP Involvement and Assistance: The ACHP has consistently utilized ACHPConnect, a content management system, to prepare summary reports that assess and measure the results of ACHP involvement in individual cases, including outcomes and time frames of reviews. These have been regularly provided to the Office of Management and Budget and posted on the ACHP's Web site. The ACHP has also focused its involvement in individual cases where potential outcomes warrant the investment of resources as specified in Appendix A of the regulations. All ACHP opinions, policy letters, and other forms of instruction have been consistently filed in the ACHP's repository for such documents on its Web site (see <http://www.achp.gov/usersguide.html>).
7. Communication: The ACHP has worked diligently to communicate with preservation audiences and the public in order to increase awareness and understanding of Section 106 as a preservation tool and to publicize successful Section 106 outcomes. Recent efforts include the publication of an article by the ACHP on the Section 106 process in an issue of the National Trust for Historic Preservation's (NTHP) "Forum" journal which was dedicated solely to the Section 106 process, as well as the issuance of a joint award between the ACHP and NTHP for achievements in historic preservation. The ACHP has continued with the selection and dissemination of 106 Section 106 Success Stories that highlight the important role the Section 106 process has played in the protection of historic properties since the passage of NHPA in 1966. Twenty-four of these stories have been completed and publically disseminated, and others will be issued periodically over the next several years leading up to the 50th anniversary of the NHPA in 2016.

The ACHP will continue to pursue these and other improvements in these areas consistent with the agency's Strategic Plan and the availability of funding and resources.