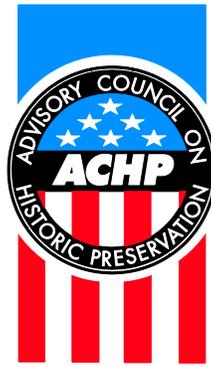


Milford Wayne Donaldson, FAIA
Chairman

Clement A. Price, Ph.D.
Vice Chairman

John M. Fowler
Executive Director



Preserving America's Heritage

Executive Order 13563 Status Report Advisory Council on Historic Preservation

May 17, 2012

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ineffective, insufficient, or excessively burdensome, and therefore should not be modified, streamlined, expanded, or repealed.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 government, 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 requested the 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 submitted to the ACHP in September of 2011. The ACHP has developed a plan for addressing opportunities for strengthening federal preservation programs in its third triennial report to the President "In a Spirit of Stewardship" (see <http://www.achp.gov/docs/2012Section3ReportFINALLowRes.pdf>). The ACHP will continue to 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 to incorporate webinars as a part of its new distance learning program. Six webinars have been offered in the last year, and five more are planned for next six months. These webinars have

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

significantly expanded the ACHP's reach in providing education and assistance to Section 106 users and targeting key issues in the implementation of the Section 106 regulations. The ACHP has also continued its commitment to regular onsite courses across the country which, combined with the distance learning program, have reached larger audiences than ever.

4. Provide Guidance: The ACHP is in the final stages of developing a joint handbook with the Council on Environmental Quality on National Environmental Policy Act (NEPA) coordination and substitution with the NHPA. The ACHP is also nearing completion on "guidance on Agreement Documents" and plans to issue both products in the summer of 2102. 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 website.
5. Coordination with Other Federal Agencies: The ACHP has consistently promoted the involvement of NPS and the ACHP in Section 106 reviews where a dispute regarding the 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 NPS and other federal agencies on Section 106 issues.
6. ACHP Involvement and Assistance: The ACHP has consistently utilized ACHPConnect 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 website. 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 website (see <http://www.achp.gov/usersguide.html>).
7. Communication: The ACHP has worked with the National Trust for Historic Preservation (NTHP) to improve outreach to preservation audiences and the public, in order to increase 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 the NTHP's "Forum" journal 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 also embarked on 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. These stories 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.