Section 106 in Kentucky

Working with Kentucky Emergency Management and the Kentucky Heritage Council to Meet Federal Grant Requirements

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Kentucky Heritage Council

- Public Law 89-665, 16 USC 470 et seq. (National Historic Preservation Act)
- KRS 171.3801-171.395
- State Historic Preservation Office (SHPO)
How we get involved in local projects...

Section 106
National Historic Preservation Act

Federally funded, permitted or approved undertakings
How we get involved in local projects...

- Federal agencies sometimes delegate or encourage parts of consultation to be started by applicants...
How the Section 106 process happens in Kentucky...

APPLICANT FOR FEDERAL FUNDS

KENTUCKY EMERGENCY MANAGEMENT

STATE HISTORIC PRESERVATION OFFICE (SHPO)

KENTUCKY EMERGENCY MANAGEMENT

APPLICANT  SHPO  FEMA
How the Section 106 process happens in Kentucky...

- Efforts in recent years to streamline Clearinghouse
  - Conditional language
  - Better information

- Programmatic Agreement between FEMA, Kentucky Emergency Management and SHPO
How the Section 106 process happens in Kentucky...

- Submissions made through State e-Clearinghouse
- Hard copy submissions of project information
- Constituent information
How the Section 106 process happens in Kentucky...

- 36 CFR Part 800
  - Identification of historic properties
  - Assessment of effects
  - Resolution of adverse effects
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How the Section 106 process happens in Kentucky...

1. **Initiate Section 106 Process**
   - Establish undertaking
   - Identify appropriate SHPO/THPO
   - Plan to involve the public
   - Identify other consulting parties

2. **Identify Historic Properties**
   - Determine scope of efforts
   - Identify historic properties
   - Evaluate historic significance

3. **Assess Adverse Effects**
   - Apply criteria of adverse effect

4. **Resolve Adverse Effects**
   - Continue consultation

- **Public Involvement**
- **UNDEARTAKING MIGHT AFFECT HISTORIC PROPERTIES**
- **HISTORIC PROPERTIES ARE AFFECTED**
- **HISTORIC PROPERTIES ARE ADVERSELY AFFECTED**
- **MEMORANDUM OF AGREEMENT**
- **COUNCIL COMMENT**
- **FAILURE TO AGREE**
- **NO HISTORIC PROPERTIES AFFECTED**
- **NO HISTORIC PROPERTIES ADVERSELY AFFECTED**
- **NO HISTORIC PROPERTIES AFFECTED**
- **NO UNDEARTAKING/NO POTENTIAL TO CAUSE EFFECTS**
Review Case Studies
Review Case Studies

- The generator will be placed in an inconspicuous location at the site (not on the primary façade).

- If the building is 50 years of age or older, no significant removal of original building material is required.

- Ground disturbance will be limited to areas that have already been disturbed by previous construction activity, OR no new gas lines/ground disturbance is required.
Review Case Studies
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The neighborhood was first unveiled to the public when a Cape Cod-style model home at 580 Woodbine opened for inspection on August 11-12, 1940. The eight-room residence featured superimposed concrete block masonry walls and partitions and concrete slab floor. The house had a recreation room and garage in the basement, a living room, dining room, study, sewing room, bathroom, and kitchen on the first floor, and three attic bedrooms (The Lexington Herald-Leader, August 12, 1940, Figures 3 and 12).

The dwelling, with basic conveniences, was designed for an expenditure of $12,000 to $14,000. The overall cost of material, including plumbing, electrical, and architectural work, was estimated at $9,000 to $10,000. It was a two-story brick house with a large front door, large windows, and a covered front porch. The interior features included a living room with a fireplace, a dining room, a kitchen, a bathroom, and three bedrooms on the second floor. The garage was located on the basement level, and the recreation room was equipped with a pool table and other recreational facilities.

The model home was designed to appeal to young professionals and families, offering a modern design with ample space and functional living areas. The exterior was constructed with concrete block, which was both durable and affordable, while the interior featured a combination of concrete and brick materials. The spacious layout and practical design made it an attractive option for potential buyers seeking a comfortable and affordable living arrangement. The model home proved to be a success, attracting interest from both prospective buyers and industry professionals alike.

A model concrete house on Woodbine drive which will be open for public inspection today and Monday in the Woodbine Gate subdivision. The subdivision, located on the outskirts of the city, was designed to appeal to young professionals and families. The model home featured a modern design with ample space and functional living areas. The exterior was constructed with concrete block, which was both durable and affordable, while the interior featured a combination of concrete and brick materials. The spacious layout and practical design made it an attractive option for potential buyers seeking a comfortable and affordable living arrangement. The model home proved to be a success, attracting interest from both prospective buyers and industry professionals alike.

Figure 11. Article in The Lexington Sunday Herald-Leader, August 11, 1940

Figure 10. Lafayette Subdivision, Plan 1940

Figure 9. Lafayette Parkway Hospital District Zoning Plan 1940

Figure 8. Growth of Lafayette Park Area House Hixson District (Barlow) Plan 1940

The residence utilize three stories and are made of brick, Bedford brick, and a local limestone. They are typically one or two stories tall, three to four bays wide, with solid garages. Most windows are

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Relevant Non-FEMA Archaeology Case Studies and Other State Laws
Archaeology – Case Study 1

Downtown Scholar House

• Northern section of Old Louisville

• Mid-19th to Mid-20th Century archaeological site

• Remnants of structures, cellars, cisterns, privies and other deposits

• Historic German/German-Jewish immigrant lifeways

• Social, economic issues

Two images from AMEC Earth & Environmental draft mitigation report (Andrews and Schatz 2011)
Archaeology – Case Study 2

Estill-Irvine Wastewater Plant

- Wastewater Treatment Facility
- Late Prehistoric Village (~500-1000 years ago)
- Native American occupation
- Remnants of structures, trash pits, and hearths and a variety of artifacts
- Economy, social organization, diet, technology, ritual activities

Images from University of Kentucky-Program for Archaeological Research
Other Relevant State Laws

- **Kentucky State Antiquities Act (KRS 164.705-164.735)**
  - Archaeological sites or objects of antiquity on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth

- **Cave Protection Act (KRS 433.871-433.885)**
  - Applies to caves on public and private land.

- **Burial Protection Laws (KRS 525.105, .110, .115, .120; KRS 72.020; 901 KAR 5:090)**
Tips for navigating the Section 106 process

- Early Coordination
  - Preliminary discussions about potential effects
  - Potential studies that may be needed
  - Preliminary discussions about alternatives
Tips for navigating the Section 106 process
Tips for navigating the Section 106 process

Request Information on Previous Records

Request for Information on Previously Recorded Archaeological Sites and Survey Areas

There are two types of requests for information on previously recorded archaeological sites and projects. a Preliminary Records Review and a Project Registration and Request for Archaeological Site and Survey Area Information. Please see the descriptions below and choose the appropriate request. If you have any questions or are unsure about which type of request you need, please call (859)257-6207 or e-mail ky-osai@uky.edu.

Preliminary Records Review

This preliminary records review is intended for those who do not need archaeological site location data but do need to know whether there are previously recorded archaeological sites within their project area and the
How we participate in the Section 106 process

- Guidance on the regulations and other applicable cultural resource laws
Tips for navigating the Section 106 process

- Provide thorough information
  - National Register tools/site checks
  - Known resources

- Respond in a timely manner
  - Read Clearinghouse comments
  - Get requests for more info to the right person
  - Conditional language
http://heritage.ky.gov/siteprotect/

502-564-7005

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