



Revisions to the Programmatic Agreement for Compliance with Section 106 of the National Historic Preservation Act: Questions and Answers

1. What is Section 106 of the National Historic Preservation Act?

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. More detailed information about the Section 106 regulations and process can be found on [ACHP's website](#)¹. Historic properties include any prehistoric or historic district, site, building, structure, or object that meets the criteria for inclusion in the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties, as well as properties of traditional religious and cultural importance to an Indian tribe or other cultural group and that also meet the National Register criteria.

The California High Speed Rail Authority receives grant funding from the Federal Railroad Administration (FRA) to support the California High Speed Rail Program. The FRA is the lead federal agency responsible for compliance with Section 106 of the NHPA for the California high-speed rail program. FRA has delegated much of the responsibility for implementation of the Section 106 regulations to the California High-Speed Rail Authority (Authority); however, FRA maintains responsibilities for government to government consultation with federally recognized tribes and maintains a prominent role in the Section 106 review process. FRA is ultimately responsible for compliance with Section 106.

2. What is the Programmatic Agreement?

The Section 106 regulations allow federal agencies to develop and implement *alternate procedures* to meet their Section 106 compliance obligations, and thereby tailor the Section 106 process to a particular agency program or complex project. Once approved by the ACHP and adopted by the agency, alternate procedures substitute in whole or in part for the ACHP's Section 106 regulations under Subpart B. Programmatic Agreements are the most commonly used method for developing and finalizing these alternate procedures.

Due to the complexity of the California High Speed Rail Program, it was determined that a programmatic agreement would be the best approach to establish a streamlined process for implementing the Section 106 regulations. The Programmatic Agreement (PA) developed for the California High-Speed Rail Program was executed in July 2011. The signatories to the PA include the FRA, the ACHP, the California State Historic Preservation Officer (SHPO), and the Authority. The PA is available for the public to view on the [Authority's website](#)². The signatories are now considering revisions to the PA.

¹ <http://www.achp.gov/106summary.html>

² http://www.hsr.ca.gov/Programs/Tribal_Relations/programmatic_agreement.html

3. Why is the current Programmatic Agreement being revised?

Since the PA was executed in 2011, the California high-speed rail program has evolved in response to various challenges that have arisen due to the complexity of the program. Revising the PA will help ensure that it conforms more closely to the implementation of the overall high-speed rail program. The result will be greater efficiencies and ease of use by the various parties involved in the implementation of the Section 106 review process.

4. How can potential interested parties and tribes contribute to the PA revision process?

The participation of interested parties and tribes is a key element of the Section 106 process. The Authority and FRA welcome and encourage input from those parties who have been or are likely to be involved in the Section 106 review process for any of the high-speed rail [project sections](#)³, including: (1) Indian tribes whose traditional tribal territories coincide with one or more of the high-speed rail project sections; (2) local, state, or federal agencies with jurisdiction over cultural resources that may be affected by the project; and (3) historic preservation interest groups, historical societies, and/or museums with knowledge of and/or concerns for resources that may exist within any of the high-speed rail project sections. The California High-Speed Rail Program is an historic undertaking, and the Authority and FRA look forward to working with those who have an interest in collaborating to address the potential effects of each Project Section on historic and cultural resources.

Over the next several months, the Authority and FRA will be conducting outreach efforts and seeking input toward the development of a revised PA for the California High Speed Rail Program. If you wish to receive email alerts and updates regarding the PA revisions, or if you have comments or questions, please let us know by using the FRA and/or Authority contact information provided below.

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³ <http://www.hsr.ca.gov/Newsroom/Multimedia/maps.html>