

## **Section 106 Definitions**

*as defined in 36 CFR § 800.16*

**(a) Act** means the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470-470w-6.

**(b) Agency** means agency as defined in 5 U.S.C. 551.

**(c) Approval of the expenditure of funds** means any final agency decision authorizing or permitting the expenditure of Federal funds or financial assistance on an undertaking, including any agency decision that may be subject to an administrative appeal.

**(d) Area of potential effects** means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

**(e) Comment** means the findings and recommendations of the Council formally provided in writing to the head of a Federal agency under section 106.

**(f) Consultation** means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

**(g) Council** means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

**(h) Day** or *days* means calendar days.

**(i) Effect** means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

**(j) Foreclosure** means an action taken by an agency official that effectively precludes the Council from providing comments which the agency official can meaningfully consider prior to the approval of the undertaking.

**(k) Head of the agency** means the chief official of the Federal agency responsible for all aspects of the agency's actions. If a State, local, or tribal government has assumed or has been delegated responsibility for section 106 compliance, the head of that unit of government shall be considered the head of the agency.

**(l)**

**(1) *Historic property*** means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

**(2)** The term ***eligible for inclusion in the National Register*** includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

**(m) *Indian tribe*** means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**(n) *Local government*** means a city, county, parish, township, municipality, borough, or other general purpose political subdivision of a State.

**(o) *Memorandum of agreement*** means the document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

**(p) *National Historic Landmark*** means a historic property that the Secretary of the Interior has designated a National Historic Landmark.

**(q) *National Register*** means the National Register of Historic Places maintained by the Secretary of the Interior.

**(r) *National Register criteria*** means the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR part 60).

**(s)**

**(1) *Native Hawaiian organization*** means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.

**(2) *Native Hawaiian*** means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

**(t) *Programmatic agreement*** means a document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex undertaking or other situations in accordance with § 800.14(b).

**(u) *Secretary*** means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

**(v) State Historic Preservation Officer (SHPO)** means the official appointed or designated pursuant to section 101(b)(1) of the act to administer the State historic preservation program or a representative designated to act for the State historic preservation officer.

**(w) Tribal Historic Preservation Officer (THPO)** means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

**(x) Tribal lands** means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

**(y) Undertaking** means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

**(z) Senior policy official** means the senior policy level official designated by the head of the agency pursuant to section 3(e) of Executive Order 13287.

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