Integrating Cultural Resources and NEPA

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MN/DOT CULTURAL RESOURCES UNIT
Section 106 of the National Historic Preservation Act (1966)
National Environmental Policy Act (NEPA) (1971)
Section 4(f) of the Department of Transportation Act (1966)
Section 106 of the National Historic Preservation Act 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.

Section 106 includes archaeological sites, historic buildings, bridges, railroads, cultural landscapes, historic roads, traditional cultural properties.
Mn/DOT Cultural Resource Unit (CRU)

- FHWA has delegated its Section 106 review authority to professionally qualified staff in Mn/DOT’s Cultural Resource Unit
- CRU makes all Section 106 determinations on behalf of FHWA
- CRU seeks concurrence from the State Historic Preservation Office (SHPO)
How Does Section 106 Interact with NEPA?

NEPA requires the completion of environmental review documents for projects receiving environmental funding.

Section 106 is one of the many reviews required for environmental documents.
How Do I Get Started with NEPA and Section 106?

- NEPA—Consult OES for Trunk Highway projects, or State Aid
- Develop a Purpose and Need for your project
- Submit an Early Notification Memo (ENM) to Mn/DOT Cultural Resource Unit (CRU)
INSIDER ADVICE on 106

Start Early—Don’t wait until a week before the letting date

- Cultural resources surveys can be lengthy and often require tribal consultation and consultation with the SHPO

- Work load is high—CRU completed over 1,000 reviews in 2010

- Priority to projects that are in the State Transportation Improvement Program (STIP)
If historic or archaeological properties may be present, CRU will hire a consultant to identify properties and make National Register eligibility recommendations.

Historic bridges require rehabilitation studies before determining a course of action.
Where’s My Environmental Document?

- Proceed to develop document
- Seek public input
- Incorporate cultural resources findings before identifying a Preferred Alternative
- Avoid, minimize and mitigate impacts on historic properties
Where Does Section 4(f) fit?

Section 4(f) of the Department of Transportation Act of 1966 is a federal law intended to prevent conversion of certain parks, wildlife and waterfowl refuges, recreation areas or historic properties to transportation use.

If Section 4(f) applies to a project, FHWA cannot approve the project unless:

- There is *no feasible and prudent alternative*, and
- All possible planning has been done to minimize harm to the Section 4(f) property.
How Does Section 4(f) affect cultural resources?

- Properties listed on or eligible for the National Register of Historic Places (NRHP) are 4(f) resources if they are used by the project.
- Historic properties may be publicly or privately owned.
What if I have an historic 4(f) Property?

- Consider avoidance alternatives
- Consult Office of Environmental Stewardship (OES) on whether a full evaluation or a programmatic 4(f) evaluation is needed
- Consult the Highway Project Development Process (HPDP) for further guidance
- http://www.dot.state.mn.us/planning/hpdp/scoping.html
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<tr>
<th>NEPA</th>
<th>Section 106</th>
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<tbody>
<tr>
<td>- Develop P &amp; N</td>
<td>- Submit Early Notification to CRU (as early as you know your project area)</td>
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<td>- Cont. Environmental Doc</td>
<td>- CRU identifies and evaluates properties for eligibility</td>
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<td>- Include cultural resources in public involvement</td>
<td>- Identify stakeholders and seek public input</td>
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<td>- Do not identify Preferred Alternative until completion of cultural resources evaluation</td>
<td>- CRU consults with SHPO</td>
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<td>NEPA—Cont.</td>
<td>Section 106—Cont.</td>
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<tr>
<td>Determine whether 4(f) use and seek avoidance</td>
<td>If Adverse Effect, develop Memorandum of Agreement to mitigate effects</td>
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<td>Complete appropriate 4(f) evaluation</td>
<td>MOA must be signed before environmental document can be finalized</td>
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<tr>
<td>4(f) must be completed before environmental document can be finalized</td>
<td>Complete mitigation requirements</td>
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<td>Complete environmental document</td>
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