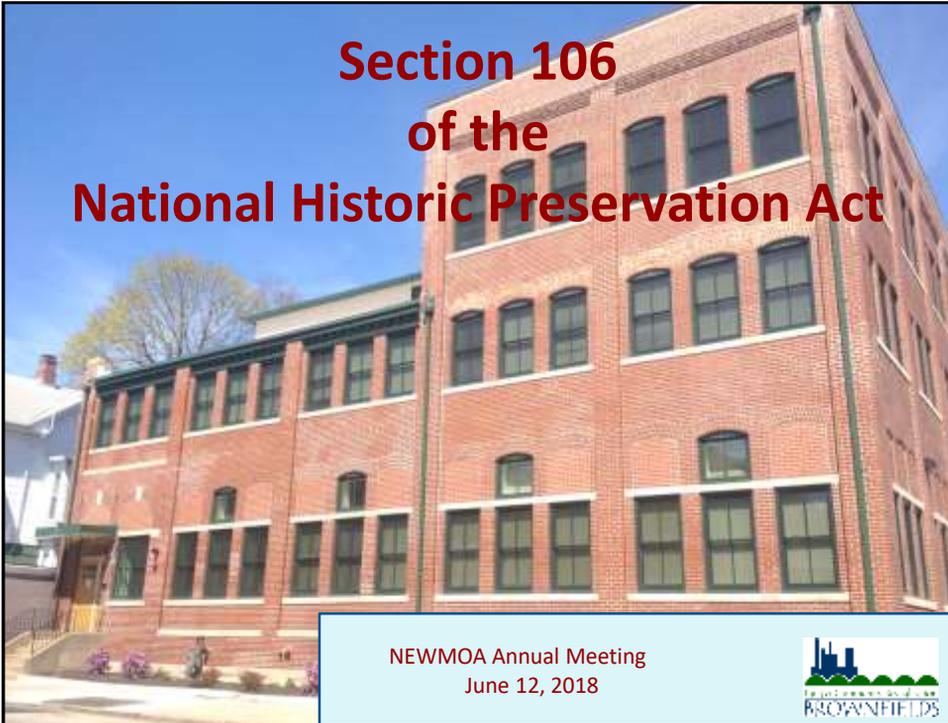


# Section 106 of the National Historic Preservation Act



NEWMOA Annual Meeting  
June 12, 2018



## Why We Care

- It's the law
- Rules and Regulations require it
- It makes good sense



## GRANT CLEANUP ENVIRONMENTAL REQUIREMENTS

### A. Authorized Cleanup Activities

2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with EPA regarding potential applicability of the National Historic Preservation Act and, if applicable, shall assist EPA in complying with any requirements of the Act and implementing regulations.

## Section 106 Process

Step 1: Initiate Review

Step 2: Determine if activities have potential to cause “effect”

Step 3: Determine if property is historically or culturally significant

Step 4: Mitigate, if necessary

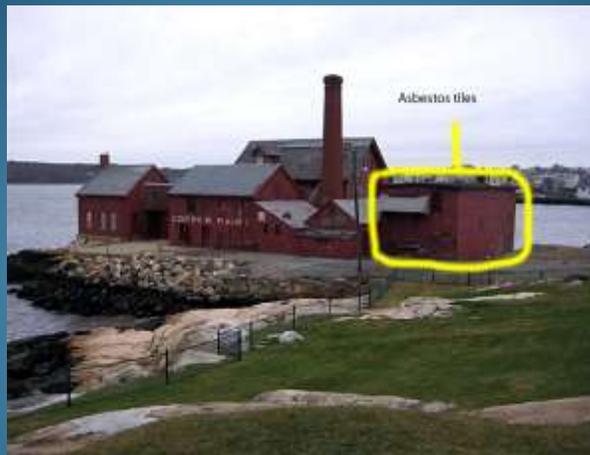
## Step 1: Initiate Review

Do you have an “undertaking”

“...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 with federal financial assistance...”

**BROWNFIELD ACTIVITY = UNDERTAKING**

Note: No BF federal dollars, no NHPA.



Step 2 Determine if activities have the potential to cause “Effect”.

## Activities that do not have potential to cause an “Effect”

- Phase I Site Assessments
- Surficial Soil Sampling
- Surface Water/ Sediment/ Soil Boring
- Monitoring Well Installation
- Excavation of previously disturbed land \*
- Concrete/ Wood Floor Sampling
- Sub-slab sampling
- Haz. Bldg Materials inventory
- Demolition of non historic buildings and structures (<50 yrs)\*

## If No Effect

If there is an undertaking but it is not the type of activity that has the potential to cause effects on historic properties, then **that concludes the Section 106 review.**

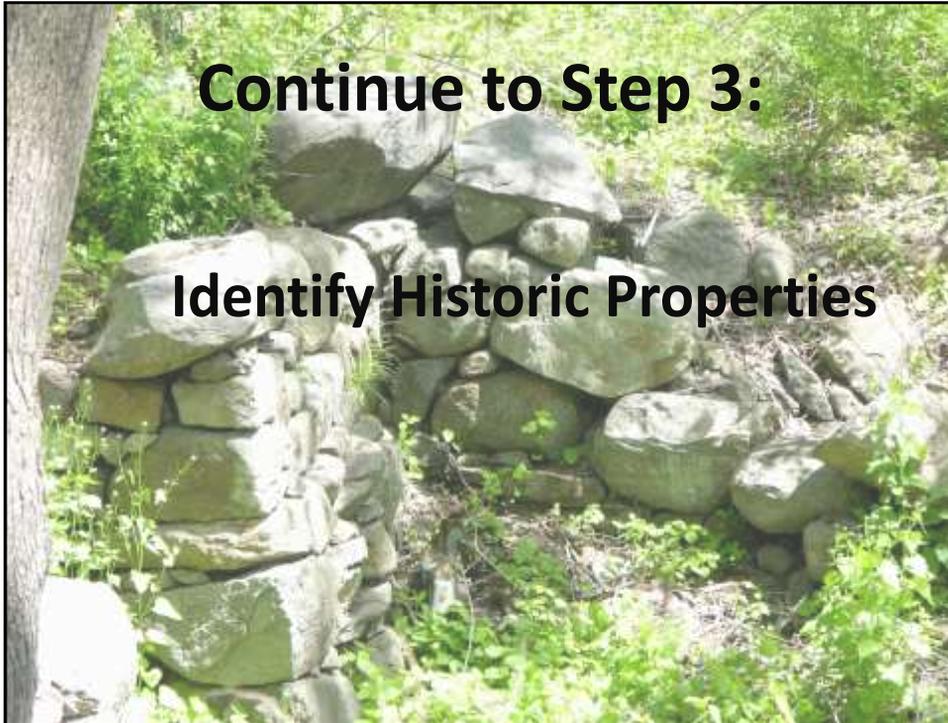
EPA Project Officer documents decision for file and communicates information per their Regional approach.

## Adverse Effect

- An adverse “effect” is found when an action alters, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that diminishes the integrity of the location, design, setting, materials, workmanship, feeling or association, now or in the future.

## Activities that have potential to cause an adverse “Effect”, for example

- Test Pitting
  - Exception: area already disturbed, such as tank grave
- Soil Excavation
- Capping or covering of contaminated soil
- Building Renovation – Examples:
  - Changes to interior floor plan
  - Installation of new windows
- Building Demolition



## Establish Area of Potential Effect

- Area of potential effects (APE) means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the historic properties, if such properties exist.
- The environmental professional can delineate the APE.

## Determine if property is historic? No Cost Methods

- Already listed on the National Register
- Already has been determined to be eligible for listing
- Other agencies have done the 106 work and you have access to their records

## \$ Method

- Hire a contractor to complete a historic resources assessment
- Hire a contractor to complete a Phase I and Phase II Archaeological Survey

## Funding Sources

- Assessment money
- Cleanup money
- 128(a) funding
- TBA
- Developers
- Local historical commission/society



## If no historic properties

- Grantee will provide documentation to EPA that cultural resources are not at risk from activities.
- EPA will document final determination that there are no historic properties affected and submit a concurrence letter to the SHPO.

## Step 3 – If Yes

- EPA PO makes a determination and asks for concurrence from the SHPO, regarding the historical status of the property and potential for adverse effects.
- EPA and grantee go on to Step 4.

## Step 4: Resolve Adverse Effects

Avoid  
Minimize  
Mitigate



## Consider alternatives to avoid or minimize effects....

- Shift in alignment
- Relocation to a different area
- Design or process modification

*....or you may need to mitigate.*

- Recordation
- Education and outreach (exhibits, pamphlets, reports, etc.)
- Data recovery (archaeological excavation)

## Memorandum of Agreement

- Activities that result in an adverse effect require that mitigation must be agreed upon in a MOA before work begins.
- MOA is usually between, EPA, SHPO and Grantee.
- ACHP may be consulted if there is a dispute, but ultimately, the decision is EPA's.
- ACHP is contacted to see if they want to be a consulting party.

# Knowles Mill, Richmond, RI

Before



After



## CASE STUDIES

## Successful Example

- Chepachet River Park, Glocester, RI
- Pre-contact Native American culture resources were found
- Middle Dye House foundations are present
- Cleanup grantee
- Site located in the Chepachet National Register Historical District.

## Mitigation A

- Location and appearance of the dyehouse foundation walls will be accurately documented and recorded prior to removal of the walls so that foundation stones may be correctly aligned and reset to represent the location of the dyehouse foundation on top of the soil cap.

## Mitigation A Picture



Mitigation A Picture

## Mitigation B

- Fencing and landscape plantings will be installed after construction is completed to restrict access to the site, to protect the public from contamination left in place, and to prevent the public from negatively impacting archaeological resources.



Mitigation B Picture

## Unsuccessful NHPA example

- Swanton Village, VT – grantee is NWRPC – have a RLF
- Site is on Canada Street in historic Swanton on the Canadian border.
- Developer wanted to convert a memorial hall into an ACE hardware store.
- The area is sensitive for pre-contact archaeology and an important Abenaki fishing village.
- Earliest European Settlement in Swanton
- Project area may be the location of barracks built during War of 1812 or earlier.

## VT SHPO

- Wanted extensive archaeology
- EPA had to determine if any of these important archaeological deposits remain before moving forward.
- Developer turned down the RLF loan because this additional work would have delayed their project.



## Project

- Developer – was going to demolish the smallest and least historically significant building
- Rehab memorial hall, reinstall the soldiers plaques
- Convert memorial hall into an ACE Hardware
- Reinstall old gym floor
- Open windows, recreate doorway.

## Contacts

- Your Project Officer
- EPA -AmyJean McKeown, 617-918-1248

### BF Historic Preservation Coordinator

- EPA -Dorrie Paar, 617-918-1432, Back-up
- State Historic Preservation Office
- Tribal Historic Preservation Office
- State Program Manager