



**MONTANA**  
HISTORICAL SOCIETY  
State Historic  
Preservation Office

# APPENDICES to Montana SHPO Consultation Guide

A HANDBOOK FOR CULTURAL RESOURCE REVIEW AND  
COMPLIANCE IN MONTANA

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36 CFR 800

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Administrative Rules of Montana 10.121.9

<https://rules.mt.gov/gateway/Subchapterhome.asp?scn=10.121.9>

Advisory Council on Historic Preservation

<https://www.achp.gov/>

Montana Archaeological Society

<https://mtarchaeologicalsociety.org/>

Montana Code Annotated Title 22-3-4

[https://leg.mt.gov/bills/mca/title\\_0220/chapter\\_030/part\\_0040/sections\\_index.html](https://leg.mt.gov/bills/mca/title_0220/chapter_030/part_0040/sections_index.html)

National Association of Tribal Historic Preservation Officer

<https://www.nathpo.org/>

National Conference of State Historic Preservation Officers

<https://ncshpo.org/>

National Park Service, publications of the National Register of Historic Places

<https://www.nps.gov/subjects/nationalregister/publications.htm>

National Trust for Historic Preservation

<https://savingplaces.org/>

Preserve Montana

<https://preservemontana.org/>



# Glossary

## TERMINOLOGY, ACRONYMS, AND ABBREVIATIONS FREQUENTLY USED BY THE MONTANA SHPO

### Glossary of Terms

**Action:** Any undertaking, including a project or action considered under the Montana Environmental Policy Act, which has the potential to alter or affect the heritage values of heritage properties or paleontological remains.

**Adverse effect:** the effect wrought on a historic property by a project that results in the loss or diminution of the very characteristics that made the property eligible for listing in the National Register of Historic Places in the first place. The criteria of adverse effect as well as examples of adverse effects are defined in regulation at 36 CFR §800.5. Examples include physical destruction or damage to all or part of the property; alteration of the property that is inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties; removal of a property from its historic location; change in the use of a historic property; change to the physical features within the property's setting that contribute to its significance; introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's character-defining attributes; neglect that leads to deterioration in

instances other than those where neglect and deterioration are recognized qualities of a property of religious or cultural significance to an Indian tribe or Native Hawaiian organization; transfer, lease, and/or the sale of a property out of federal ownership or control without sufficient enforceable measures in place to ensure the long-term preservation of the property's significance.

**Advisory Council on Historic Preservation (ACHP):** an independent federal agency that serves as the chief policy advisor to the U.S. President and Congress on historic preservation matters. There is permanent ACHP staff as well as a presidentially appointed member Council comprised of the heads of federal agencies, select cabinet members, and subject-area experts.

**Agreement documents:** agreement documents are documents that serve to streamline and customize the Section 106 compliance process. These are legally binding documents that assign particular roles and responsibilities to the organizations and/or agencies who negotiate and sign them. Agreement documents can be project-specific (e.g., a Memorandum of Agreement to mitigate the adverse effects of the demolition of a particular historic property as

part of an undertaking), can speak to an entire class of undertakings within a particular APE whose effects on historic properties are not known at the outset (e.g., a Programmatic Agreement for grazing allotment permit renewals on a lands managed by a specific federal agency is a defined location), can be multi-party, multi-agency, and even multi-state. Some documents, such as Nationwide Programmatic Agreements, are written by federal agencies to guide cultural resource management practices across the country. Others, such as Program Comments, are created by bodies such as the Advisory Council on Historic Preservation after seeking input from other agencies, SHPOs, and organizations or may be crafted by a particular agency to address resources distinct to their installations, their mission, and their agency history. The ACHP website maintains a list of Nationwide Programmatic Agreements, Department of Defense Program Comments, and a host of other useful resources. All executed MOAs are forwarded by the lead federal agency to the ACHP for filing.

**Anticipatory Demolition:** The willful destruction of heritage properties or paleontological remains prior to an action or the

**Area of potential effect (APE)**--this is defined in regulation as 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 are present within the area. 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 an undertaking. The APE is not an arbitrary buffer or search area, instead, it is influenced by the scale and nature of the undertaking and should consider site-specific variables such as topography, height of components of the undertaking, and similar project-specific details. There is no "one size, fits all" APE for projects of a specific type, and the APE may not be a uniform shape.

**Artifact:** portable evidence of human activity. For example: projectile point, metal can, broken ceramic sherds.

**Building:** A property that was created principally to shelter any form of human activity.

**Certified Local Government (CLG):** A local government whose local historic preservation program has been certified by SHPO and National Park Service. It is the local government, and not the Commission, that is certified. 36 CFR 61.

**Character-defining attribute:** a trait or feature of a historic property that contributes to its physical character and significance (e.g., interior finishes, decorative detail or ornament, distinct material or building fabric).

**Compliance:** this refers broadly to conforming to the requirements of cultural resource law and regulation. The term is commonly used in reference to Section 106 compliance but can be used to refer any of a host of different cultural resources laws (e.g., ARPA, NAGPRA, NEPA, NHPA, etc.) with which agencies and cultural resources professionals must comply.

**Consultation**--this is the process of seeking, discussing, and considering the views of other participants and, where feasible, seeking agreement or compromise with them regarding matters arising in the section 106 process. The NHPA contains provisions for both public and tribal consultation on the proposed undertaking as the consultation process may well assist the federal agency in its identification efforts as well as in avoiding, minimizing, or mitigating adverse effects.

**Criteria considerations**--despite the fact that certain types of properties are not typically considered for listing in the National Register of Historic Places (e.g., religious properties, properties that have been moved, birthplaces or gravesites of famous individuals, reconstructed properties, commemorative properties, and properties of less than 50 years of age), there are seven criteria considerations (a - g,



inclusive) outline circumstances under which those seven "typically not considered" properties might well be deemed eligible for listing in the National Register.

**Cultural resource management (CRM)**--broadly speaking, this is the management of cultural resources as well as the potential effects they may experience as the result of day-to-day human activity, development, and change.

**Cultural resources:** a cultural resource refers to any historical, archaeological, or traditional cultural place or object whether it is listed or determined eligible for listing in the National Register. these are things made and/or assigned value to by humans (e.g., historic places, buildings, documents, roads, artifacts, battlefields and other landscapes, hunting camps, mines, sites, or places that are tightly bundled up with a community's ongoing identity, etc.). Cultural resources can be both tangible things as well as cultural practices (e.g., both pine needle baskets as well as the practice of annually harvesting the pine needles by basket makers in a particular basket-making tradition).

**Cumulative effects:** this is a term that is used under the National Environmental Policy Act (NEPA) and, while not defined in the Section 106 regulations, can be understood to denote the incremental impacts or effects of an action when added to other past, present, and reasonably foreseeable future actions. It is important to remember that individually minor impacts can collectively result in substantial long-term impacts or effects.

**Demolition by neglect:** the process of allowing a building or structure to deteriorate to the extent that it comes to represent a public health and safety risk and must be demolished.

**Determination of effect:** the decision resulting from consideration of all project components and potential for direct and indirect effects, the duration of those effects (if any), the presence/absence of historic properties in the area of potential effect, that ultimately results in

a decision regarding whether a proposed undertaking will result in no potential to effect historic properties, no historic properties affected, no adverse effect, or adverse effect.

**Determination of eligibility:** the process by which the significance of a resource is determined in relation to its eligibility for listing in the National Register of Historic Places.

**Direct APE:** after considering all project components (e.g., staging areas, access to the site, lay down areas, etc.), this is the resulting bounded geographic area within which direct physical effects (e.g., ground-disturbance, demolition, relocation of historic materials) will be experienced.

**District:** A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

**Documentation:** the act of recording historic and/or cultural resources, frequently through such means as measured drawings, photographs, sketches, etc.

**Effect:** Alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register

**Evaluation**--refers to the process of determining whether a cultural resource (or group of resources comprising a district) is or is not eligible for listing in the National Register of Historic Places based on meeting particular Significance Criteria or criteria considerations and retention of some or all of the seven aspects of integrity.

**Feature:** non-portable evidence of human activity. For example: hearth, cabin, adit, midden, or culturally modified tree.

**Foreclosure:** An action taken by an agency official that effectively precludes the ACHP from providing comments which the agency



official can meaningfully consider prior to the approval of an undertaking.

**Ground disturbance:** any activity that compacts, disturbs, or displaces the soil within a project area. Ground disturbance can also be caused by the use of hand tools (shovels, pickaxe, posthole digger, etc.), heavy equipment (excavators, backhoes, bulldozers, trenching and earthmoving equipment, etc.), and heavy trucks (large four-wheel drive trucks, dump trucks and tractor trailers, etc.).

**Head of the Agency:** 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.

**Heritage Property:** is a term specific to the Montana Antiquity Act and includes all historic properties and significant paleontological sites

**Heritage Values:** The economic, educational, scientific, social, recreational, cultural, or historic qualities possessed by buildings, districts, sites, structures or objects possessing sufficient significance to warrant consideration under these rules as heritage properties or paleontological remains.

**Historic preservation:** Includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding these activities or any combination.

**Historic Property:** 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

American Indian tribe and that meet the National Register criteria.

**Indirect APE:** after considering all project elements and potential indirect effects (e.g., visual intrusions, noise, vibration, smell, dust, etc.), this is the resulting bounded geographic area within which those effects will be experienced.

**Indirect effect(s):** these are the visual, auditory, and/or atmospheric impacts that may result from a proposed undertaking. Indirect effects may be either permanent or temporary in nature and, in the context of a Section 106 review, it is useful to identify the anticipated duration of any indirect effects.

**Integrity:** the ability of a site or property to convey its historic significance as a result of its retention of sufficient aspects of its historic location, design, setting, workmanship, materials, feeling or association.

**Interested Parties:** Applicants, tribes or groups directly involved in the action or landowners, tribes, groups, agencies, or institutions with a clear and reasonable interest in the consideration of heritage properties or paleontological remains associated with an action.

**Inventory:** broadly speaking, an inventory is a list of the cultural resources, by type, age, and/or eligibility, within a given survey area or region. Different levels or classes of inventory are defined by federal agencies for particular types of investigation.

**Keeper of the Register--**in addition to being possibly the coolest job title ever, the title refers to the individual at the National Park Service to whom any disputed determinations of eligibility are forwarded for a final decision as to whether the resource(s) are eligible for listing in the National Register of Historic Places.

**Memorandum of Agreement (MOA):** A document that records the terms and conditions

agreed upon to resolve the adverse effects of an undertaking upon historic properties

**Mitigation:** is used to refer to specific process and strategies outlined in an agreement document (most commonly a MOA) in order to ameliorate, offset, compensate for, or ease the adverse effects of a proposed undertaking on a historic property or properties.

### **Montana State Antiquity Act:**

**National Historic Preservation Act (NHPA) of 1966, as amended:** this is a piece of federal legislation that, among other things establishes and defines the nation's historic preservation program, the National Historic Landmark and National Register of Historic Places programs as we know them today, authorized the creation of State Historic Preservation Offices and Tribal Historic Preservation Offices, created the National Center for Preservation Technology and Training, and includes Sections 106, 110, and 304 for taking into consideration the effects of federal undertakings on historic properties, requires that federal agencies engage in survey and inventory so as to know what resources lie within and on the lands they manage, and contains provisions for not making public certain information about cultural resources and practices.

**National Register of Historic Places (NRHP):** this is the nation's listing of districts, sites, buildings, structures, and objects of national, regional, state, and local significance in the areas of American history, architecture, archaeology, engineering, and culture. The NRHP is managed at the national level by the National Park Service and at the state level by a coordinator who is typically housed within the State Historic Preservation Office.

**Object:** A construction that is primarily artistic in nature or relatively small in scale and simply constructed. Although it may be, by nature or design, moveable, an object is associated with a specific setting or environment.

**Preservation treatments (preservation, restoration, rehabilitation, and reconstruction):** there are four commonly recognized interventions in the field of historic preservation. These are preservation (stabilizing or sustaining the existing form or condition), rehabilitation (finding a compatible use for a historic property through repair, alteration, and addition while retaining its character-defining attributes), restoration (returning a property to its appearance at a particular period in time via removal of all features from subsequent periods and possibly reconstructing any features missing from the target date or period), and reconstruction (creating anew via replication the form, features, or details of a non-surviving resource based on detailed historical research and other empirical evidence).

**Principle Investigator (PI)** a secretary of interior qualified individual primarily responsible for an inventory and report.

**Programmatic Agreement (PA):** 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 36 CFR Part 800.14(b).

**Project Area:** all areas where project activities will occur, including: the actual construction activities, permanent easements, temporary construction easements, staging areas for supplies and equipment, and borrow pits.

**Property:** See historic property

**Restore:** Conduct major repairs, reconstruction, structural or other improvements on a building, district, object, site, structure, or feature possessing heritage values with the intention of preserving or reconstructing physical features representing those values.

**Significance criteria:** these are the criteria of inclusion for listing in the National Register of Historic Places. There are four Significance criteria (A, B, C, and D), and each is defined and guidance for the evaluation of resources

against these criteria is provided in *National Register Bulletin 15*. In short, Significance Criterion A relates to important events in the patterns of our history, Criterion B refers to events or places associated with important people in the nation's past, Criterion C relates to distinct types, periods or methods of construction in architecture and engineering, and Criterion D relates to information important in history or prehistory.

**Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. Includes cultural resources, historic properties, and heritage properties.

**Site Form:** inclusive term for cultural site record forms, site updates, and historic property record forms.

**SOI professional qualification standard:** established by the National Park Service and appearing in the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, these are the qualifications that define the minimum educational and professional experience requirements necessary to perform identification, evaluation, registration, and treatment activities in a cultural resource management and or historic preservation context. To date, standards have been established for the fields of History, Archaeology, Architectural History, Architecture, and Historic Architecture.

**SOI Standards for Rehabilitation:** established by the National Park Service, and codified in federal regulation at 36 CFR 67, define the parameters for rehabilitation of historic buildings of all periods, styles, materials, and sizes. These standards are required for a host of preservation and compliance activities, spanning everything from the avoidance of adverse effect in a Section 106 context to

qualification for the federal Historic Preservation Tax Incentive program.

**SOI Standards for the Treatment of Historic Properties:** prepared by the National Park Service and codified in federal regulation at 36 CFR 68, these are the detailed instructions for "best practices" in each of the treatments or intervention strategies for historic properties (i.e., preservation, restoration, rehabilitation, and reconstruction).

**State historic preservation office (SHPO)/state historic preservation officer (SHPO):** this refers to both the office within each state and U.S. territory that administers the state historic preservation program (which is home to a Certified Local Government program, a state and National Register of Historic Places Program, a Historic Preservation Fund grant program, a data management program, review and compliance, and other programs. The latter term refers to the individual who directs that office and oversees management of each of its programs.

**Structure:** A functional construction made usually for purposes other than creating human shelter.

**Traditional cultural landscape (TCL)--**as defined by the Advisory Council on Historic Preservation, unlike an ethnographic landscape--which is a property type as treated by the National Register program--TCLs are viewed as a type of significance that may be associated with multiple property types (e.g., individual sites or districts). It is possible that the much-anticipated updated *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties* and associated FAQs that will accompany its distribution when finalized may provide additional guidance on the inclusion of TCLs in the nation's National Register inventory and associated cultural resources compliance efforts.

**Traditional cultural place/traditional cultural property (TCP):** these are historic properties or places that are eligible for listing in the

National Register of Historic Places because of their association with the cultural practices, belief systems, and ongoing identity of a cultural group or community.

#### **Tribal historic preservation office**

**(THPO)/tribal historic preservation officer (THPO):** as defined in the National Historic Preservation Act, a Tribal Historic Preservation Office is the equivalent of a State Historic Preservation Office for federally recognized Indian tribes. The Tribal Historic Preservation Officer is the director or administrator of that office. Not all federally recognized tribes have THPO programs. 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 NHPA.

**Tribal Lands:** All lands within the exterior boundaries of any American Indian reservation and all dependent Indian communities. ADD?

**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 by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval.

## **Montana Antiquities Database Eligibility Definitions**

The official eligibility determination of a site is made in agreement between the SHPO and the agency, or the Keeper of the National Register—and IS NOT made by a cultural resource professional or an agency alone. Please contact the SHPO if you have questions regarding an eligibility.

**Undetermined:** This is SHPO's null value. All sites that have never had an eligibility

determination in connection with formal consultation will have this finding.

**Unresolved:** The eligibility status of this site is unresolved between our office and an agency.

**Ineligible:** The site has been determined not eligible for the National Register.

**Eligible:** SHPO and the agency agree that the site is eligible by consensus or a determination has been made by the Keeper of the National Register.

**DOE: (Determination of Eligibility)** The agency/individual has gone straight to the National Park Service for a determination of eligibility, and the property was determined eligible.

**NR Listed:** Currently listed in the National Register of Historic Places.

**NHL:** Currently listed as a National Historic Landmark.

**Eligible BLM PA: (Non-Consensus Determination Bureau of Land Management Programmatic Agreement)** The BLM could unilaterally declare a site eligible without consensus from MT SHPO. This was part of a programmatic agreement with the BLM. This programmatic agreement is no longer valid, and this determination can no longer be implemented by BLM.

**Ineligible BLM PA: (Ineligible Bureau of Land Management Programmatic Agreement)** The BLM could unilaterally declare a site as Ineligible without consensus from MT SHPO. This was part of a programmatic agreement with the BLM. This programmatic agreement is no longer valid, and this determination can no longer be implemented by BLM.

## **Acronyms and Abbreviations**

**ACHP** Advisory Council on Historic Preservation

**AE-R** Architecture and Engineering Record

**ARM** Administrative Rules of the State of Montana

**ARPA** Archaeological Resource Protection Act

<b>APE</b> Area of Potential Effect	<b>TCP</b> Traditional Cultural Property/Place
<b>BIA</b> Bureau of Indian Affairs	<b>THPO</b> Tribal Historic Preservation Office
<b>BOR</b> Bureau of Reclamation	
<b>CD</b> Consensus Determination	
<b>CE</b> Categorical Exclusion	
<b>CEQ</b> Council on Environmental Quality	
<b>CFR</b> Code of Federal Regulations	
<b>CLG</b> Certified Local Government	
<b>CS-R</b> Cultural Site Record	
<b>CU-R</b> Cultural Site Update Record	
<b>DATA-F</b> Digital Data Request Form	
<b>DNRC</b> Montana Department of Natural Resources and Conservation	
<b>DOE</b> Determination of Eligibility	
<b>DUA</b> Data Use Agreement	
<b>EA</b> Environmental Assessment	
<b>EIS</b> Environmental Impact Statement	
<b>FILE-F</b> File Search Request Form	
<b>FONSI</b> Finding of No Significant Impact	
<b>FWP</b> Montana Fish, Wildlife, and Parks	
<b>IF</b> Isolated Find (IF-R, Isolated Find Record)	
<b>MCA</b> Montana Code Annotated	
<b>MEPA</b> Montana Environmental Protection Act	
<b>META-F</b> Report Metadata Submittal Form	
<b>MOA</b> Memorandum of Agreement	
<b>NR / NRHP</b> National Register National Register of Historic Places	
<b>NEPA</b> National Environmental Policy Act	
<b>NHL</b> National Historic Landmark	
<b>NHPA</b> National Historic Preservation Act	
<b>NPS</b> National Park Service	
<b>PA</b> Programmatic Agreement	
<b>PI</b> Principal Investigator	
<b>ROD</b> Record of Decision	
<b>SHPO</b> State Historic Preservation Office	



# Answers to Frequently Asked Questions

## WHEN CONSULTING WITH MONTANA SHPO

After reviewing the Montana SHPO Consultation Guide, you may still have questions regarding the Section 106 review process. The following answers address common questions posed to the Montana SHPO Compliance Team. We encourage you to reach out to the Compliance Team at any time throughout the consultation process.

### WHAT IS SECTION 106?

Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects of their undertakings on historic properties and afford the ACHP, SHPO, and the public reasonable opportunity to comment on such undertakings. The Section 106 review process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties (36 C.F.R. Part 800.1(a)).

Federal agencies must account for effects to Historic Properties. A Historic property is a cultural resource which is eligible for or listed in the National Register. Historic properties can range from historic battles fields and famous mansions to lesser known but equally important archaeological sites and traditional cultural places.

### WHAT IS A FEDERAL UNDERTAKING?

NHPA defines an undertaking as 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 the agency; those carried out with Federal financial assistance; those requiring a Federal permit, license, or approval. Types of Federal actions that are not considered undertakings include Federal social security payments, student loans, or grants to libraries for purchasing book.



## DO NEPA CATEGORICAL EXCLUSIONS NEED TO BE REVIEWED UNDER SECTION 106?

Yes. Section 106 is part of the National Historic Preservation Act (NHPA) and not part of the National Environmental Policy Act (NEPA). Therefore, a project that is considered a categorical exclusion under NEPA is not exempted from review under Section 106. However, projects or certain classes of undertakings can be specifically exempted from Section 106 Review through consultation and agreement with the SHPO and the Advisory Council on Historic Preservation.

## HOW DOES A PROGRAMMATIC AGREEMENT AFFECT THE SECTION 106 REVIEW PROCESS?

It is possible for a federal agency to customize or expedite the Section 106 review process by entering into a Programmatic Agreement (PA) with the ACHP and SHPO. Use of these agreements may alter the standard Section 106 review and consultation process outlined in 36 CFR Part 800. There are several types of PAs including: (1) PAs for general federal agency programs, (2) project-specific PAs for complex, long-term undertakings, and (3) property-specific PAs for cultural resources with which a federal agency consistently interacts. PAs are most useful for considering the effects of routine and repetitive undertakings in a broad temporal or spatial approach, or where administrative decisions which may affect historic properties will be made before all historic properties in an APE can be identified and evaluated, or before possible effects can be assessed.

Sometimes programmatic agreements are made at the nationwide level, and typically include the ACHP and the National Conference of State Historic Preservation Officers. However, most often PAs are made directly with SHPO. If an agency desires a new PA they must be prepared to present a strong case about why the regular 106 process is untenable. In 2021 Montana SHPO had approximately 125 PAs on record.

## HOW LONG DOES SECTION 106 REVIEW TAKE?

The SHPO has thirty calendar days to comment at each step of the review process. The clock starts when SHPO assigns the project to a reviewer. If SHPO responds, even with a request for additional information, that clock restarts and SHPO gets 30 more days from the date the requested information is received.

Therefore, required under the regulations and in the Federal agency's best interest to initiate Section 106 Review early in project planning and to be familiar with the information our office requires, as described in this guidebook.

See the ACHP's document *30-Day Review Timeframes: When are They Applicable in Section 106 Review?* <https://www.achp.gov/digital-library-section-106-landing/30-day-review-timeframes-when-are-they-applicable-section-106> ) for more information

## CAN THE SHPO RECOMMEND A CONTRACTOR OR CONSULTANT FOR MY PROJECT?

No, as it would be improper for a state agency to give the appearance of steering business to a particular firm or firms. However, we do maintain a list of contractors currently operating in the state. This list is not vetted in any way, and if you want to add your business to this list please contact [MTSHPO@mt.gov](mailto:MTSHPO@mt.gov).

## **DOES MY CULTURAL RESOURCE CONSULTING FIRM NEED A MONTANA SHPO PERMIT OR LICENSE TO OPERATE?**

The Montana State Antiquities Act applies to projects on state lands only. The Act provides, in part, for the review of agency proposed projects and mitigation plans by the SHPO and the issuance of Antiquities Permits (required only for the excavation, removal, or restoration of any Heritage Property on state lands). If you are working on state lands e.g. Fish, Wildlife and Parks, the Universities or the Dept. of Natural Resources and Conservation, etc., you must consult directly with that agency. If a need for an Antiquities Permit develops, the agency will consult directly with the State Archaeologist. Inventory and testing work generally does not require a state Permit. If you work on federal lands you will likely need an ARPA permit from the land managing agency but no Montana state permit is necessary.

Some agencies, for example the Bureau of Land Management, will have individual permitting requirements for individuals working on their land.

## **WHEN ARE FEDERAL AGENCIES REQUIRED TO CONSULT WITH INDIAN TRIBES?**

The NHPA requires federal agencies, in carrying out the Section 106 review process, to consult with Indian tribes when a federal undertaking may affect historic properties of traditional religious and cultural significance to them. An “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; or those requiring a federal permit, license or approval. This requirement applies to all undertakings regardless of project location.

## **WHICH INDIAN TRIBES MUST BE CONSULTED?**

Federally recognized Indian tribes that attach religious and cultural significance to historic properties that may be affected by undertakings must be consulted. Federal agencies must make “a reasonable and good faith” effort to identify each and every such Indian tribe and invite them to be consulting parties. This includes Indian tribes that no longer reside in their ancestral territory but may still have ancestral ties to the area that includes the proposed project. Many Indian tribes were removed from their homelands, while others traditionally moved from place to place. Consequently, an Indian tribe may very well attach significance to historic properties located in an area where they may not have physically resided for many years. If an Indian tribe that attaches significance to a historic property has not been invited to consult by the federal agency, the tribe may request in writing to be a consulting party. The NHPA and the Section 106 regulations require that the agency grant consulting party status to such an Indian tribe.

## **WHAT IS THE ROLE OF THE KEEPER OF THE NATIONAL REGISTER?**

The Secretary of the Interior and National Park Service delegate the responsibility of listing properties and determining the eligibility of properties for listing in the National Register to the Keeper. The Keeper is seldom directly involved in the Section 106 review process because the responsibility to conduct eligibility reviews is delegated to the SHPO. However, should the SHPO and federal agency disagree and not be able to find resolution regarding the eligibility of a cultural resource, the Keeper may be requested to make a final determination for the purposes of Section 106.

## **I WANT TO DO WORK ON MY NATIONAL REGISTER LISTED PROPERTY, DO I NEED TO CONSULT WITH SHPO?**

Owners of National Register listed properties may do what they wish with their private property and private funding. If property owners use federal dollars, federal incentive programs, or do work that requires a federal permit, the federal agency must consult with SHPO under Section 106 of the National Historic Preservation Act. State agencies that own historic properties must consult with SHPO under the Montana State Antiquities Act. Local governments might also have design guidelines that property owners are required to follow.



# WHAT TO SUBMIT

## QUICK REFERENCES FOR REQUESTING AND SUBMITTING DATA

As described in the Montana SHPO Consultation Guide, the consultation process requires timely and effective communication and information exchange between consulting parties and the Montana SHPO. Equipped with the context and understanding provided by the Guide, consulting parties can turn to the following quick references outlining the steps involved in the consultation process, tips for successfully completing forms and formatting documentation, and steps for submitting and requestion information to and from Montana SHPO.

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### QUICK REFERENCES (QR):


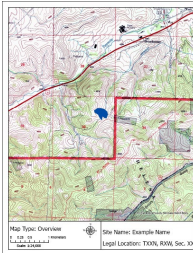
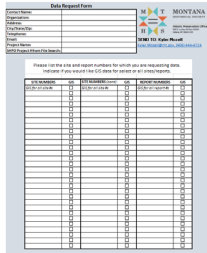
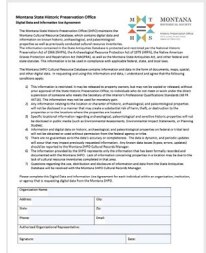

- 
1. Requesting File Search and Cultural Resource Data – QR1
  2. Requesting Smithsonian Numbers for Site Records – QR2
  3. Requesting e-Consultation and Compliance Review – QR3
  4. Requesting National Register Nomination Review – QR4 (Coming Soon)
  5. Requesting Historic Preservation Tax Credit Application Review – QR5 (Coming Soon)
-

# Requesting File Search and Cultural Resource Data

All forms and documents referenced herein are available at: <https://mhs.mt.gov/Shpo/Forms>

Requesting a file search is often the first step of the consultation process and identifying historic properties within your project area. This checklist summarizes steps and provides tips for successfully requesting a file search or additional cultural resource data from Montana SHPO. Before proceeding with this checklist, ensure that you understand the context, criteria, and expectations for requesting a file search and cultural data provided in Section 1.7 of the Montana SHPO Consultation Guide.

**Remember:** You and others who are accessing the requested data should be familiar with and understand the parameters of the Data Use Agreement (DUA). Site records, inventory reports, and GIS files will not be released without a signed DUA from each individual within an organization that will have access to the data.

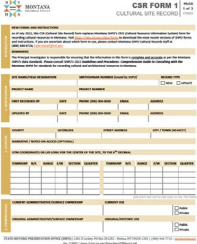

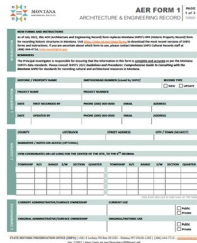
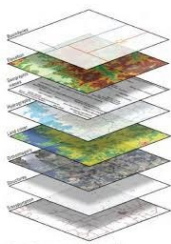

	FILE SEARCH REQUEST	DIGITAL DATA REQUEST
Submittal Type	Request a database query to determine presence or absence of documented sites and cultural resource inventory in an area.	Request additional cultural resource data <u>after a file search</u> . Requester must meet professional standards and sign a Data Use Agreement*.
STEP 1 Prepare Required Documentation	<p><b>File Search Request Form FILE-F.xls</b></p>  <p><b>Project Map PDF</b></p> 	<p><b>Data Request Form DATA-F.xls</b></p>  <p><b>Data Use Agreement DUA</b></p> 
STEP 2 Submit Request	<p>Upload request forms and supporting documentation by visiting the Montana Cultural Resource Database portal <a href="https://svc.mt.gov/adsams/">https://svc.mt.gov/adsams/</a> and clicking “Submit Data to SHPO.”</p> <p>When prompted, <b>select “File Search” or “Data Request” as the submittal type.</b></p> 	
STEP 3 Pay Your Invoice	<p>Check your email for confirmation that your upload was successful and the submittal tracking number.</p> <p>File Searches and Digital Data Requests generally require 15 days for processing.</p> <p>SHPO will send an invoice for the file search with response and results, which may include recommendation for investigations beyond a File Search to adequately identify historic properties within your project area.</p> <p>The File Search flat fee of \$35 per section includes site records, inventory reports, and GIS data—but these items must be specifically requested at the time of the File Search. A la carte fees apply for Digital Data requests when these items are requested without a File Search: site records (\$5/record), inventory reports (\$1/MB), GIS shapefiles (\$5/polygon).</p>	

# Requesting Smithsonian Numbers for Site Records

All forms and documents referenced herein are available at: <https://mhs.mt.gov/Shpo/Forms>

This checklist summarizes steps and provides tips for successfully submitting cultural site records and requesting Smithsonian numbers from Montana SHPO. Before proceeding with this checklist, ensure that you understand the context, criteria, and expectations for requesting Smithsonian numbers provided in Section 2.3.2 of the Montana SHPO Consultation Guide.

**Remember:** Smithsonian number assignments **require** a complete site record and GIS shapefiles that accurately delineate the site boundary. As described in the guide, complete site records include: the appropriate site form, photographs of the site and features, a site location map (1:24,000 scale), and a sketch map for sites with three or more features. **If you have any questions, would like any clarification, or more detailed guidance, please contact the Cultural Records Assistant.**





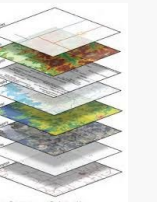

SMITHSONIAN NUMBER REQUEST				
Submittal Type	Request this required number assignment <u>before</u> submitting site records for Eligibility or Effect determinations.			
<b>STEP 1</b>  <b>Prepare Required Site Record Documentation</b>	<b>Cultural Site</b>   One PDF/site includes: CSR Form, photos, maps	<b>Cultural Site Update</b>   One PDF/site includes: CUR Form, photos, maps	<b>Architecture/Engineering</b>   One PDF/site includes: AER Form, photos, maps	<b>GIS Shapefiles</b>   One ZIP folder that includes a GIS shapefile of accurate site boundaries for site(s)*
	<p>*Rather than exporting an individual GIS shapefile for each site, please submit <u>one GIS shapefile that contains all site polygons/lines</u> clearly labeled with the temporary Field Designation or Site Name.</p> <p>*Polygon data is preferred; linear data is accepted for linear sites; <u>point data is not accepted</u>.</p> <p>*All GIS site boundary data must be accurate and match the boundary delineated on site form map.</p>			
<b>STEP 2</b>  <b>Submit Digital Request</b>	Upload request forms and supporting documentation by visiting the Montana Cultural Resource Database portal <a href="https://svc.mt.gov/adsams/">https://svc.mt.gov/adsams/</a> and clicking "Submit Data to SHPO."  When prompted, select <b>"Smithsonian Number Request"</b> as the submittal type.			
				
<b>STEP 3</b>  <b>Response?</b>	Check your email for confirmation that your upload was successful and the submittal tracking number.			



# Requesting e-Consultation and Compliance Review

All forms and documents referenced herein are available at: <https://mhs.mt.gov/Shpo/Forms>

This checklist summarizes steps and provides tips for successfully submitting cultural resource inventory reports and associated documentation to Montana SHPO for review. Before proceeding with this checklist, ensure that you understand the context, criteria, and expectations provided in the Montana SHPO Consultation Guide, especially Chapters 2 and 5, which discuss expectations for collecting and reporting information related to identifying historic properties. Please contact a member of our consultation team if you have any questions: <https://mhs.mt.gov/Shpo/index2>

Submittal Type		e-CONSULTATION				
		Initiate project review for Federal or State undertakings by submitting required documentation.				
STEP 1	Prepare Required Documentation	<u>Consultation Letter</u> PDF	<u>Submittal Form</u> META-F (PDF)	<u>Inventory Report</u> PDF	<u>Site Forms</u> ZIP	<u>GIS Shapefiles</u> ZIP
						
		PDF letter from the lead agency. See Montana SHPO Consultation Guide, section 5.4.1 for what to include in this letter.	PDF or Word doc. Captures key information for new database records.	One PDF file with all inventory report components—appendices, maps, photos, etc.	One PDF file per site that includes a complete site record PDF—form, photos, maps—and named with the site’s Smithsonian trinomial number. ZIP multiple site record PDFs into one file.	One ZIP file with all GIS shapefiles for inventoried area, cultural resource boundaries, and changes to site boundaries as shapefiles, kmz, or kml files.
STEP 2	Submit Digital Request	Upload request forms and supporting documentation by visiting the Montana Cultural Resource Database portal <a href="https://svc.mt.gov/adsams/">https://svc.mt.gov/adsams/</a> and clicking “Submit Data to SHPO.”				
		When prompted, select “e-Consultation” as the submittal type.				
						
STEP 3	Response	Check your email for confirmation that your upload was successful and the submittal tracking number.				
		Login with the email address used to submit documentation to track submission status.				



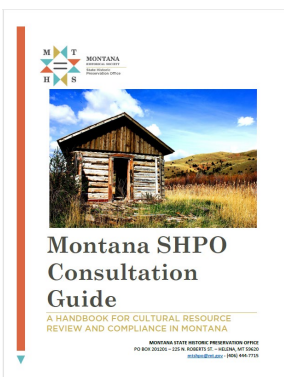
**MONTANA**  
HISTORICAL SOCIETY  
State Historic  
Preservation Office

## MONTANA SHPO CONSULTATION GUIDE APPENDIX E

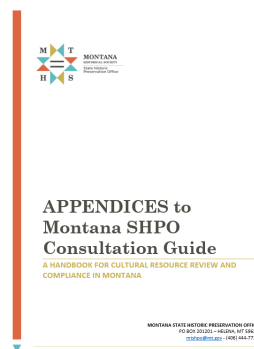
# Forms & Documents

ENSURE THAT YOU ARE USING THE MOST RECENT VERSION OF  
FORMS. DOWNLOAD AT [HTTPS://MHS.MT.GOV/SHPO/FORMS](https://mhs.mt.gov/shpo/forms)

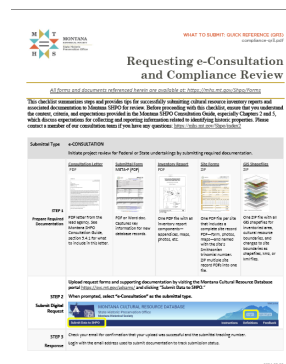
## CONSULTING WITH MONTANA SHPO



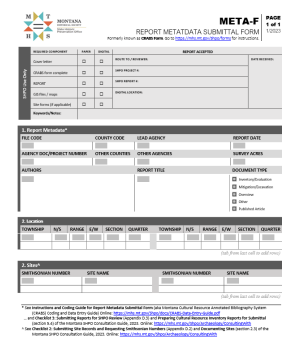
Consultation Guide



Appendices

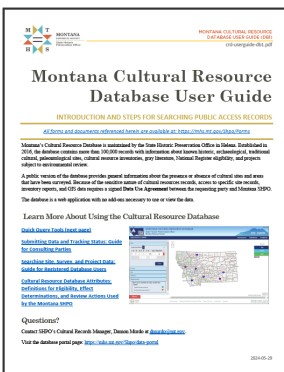


What to Submit:  
Consultation (QR3)

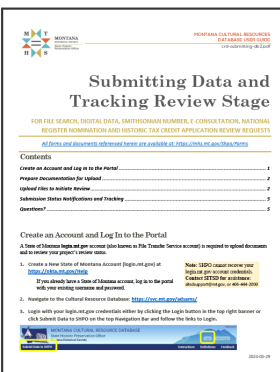


Inventory Report  
Submittal Form (META)

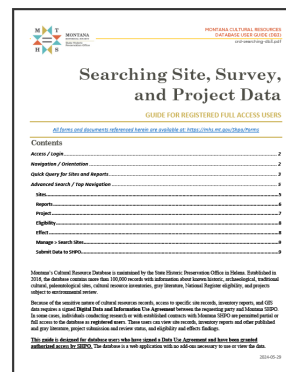
## MONTANA CULTURAL RESOURCES USER GUIDE



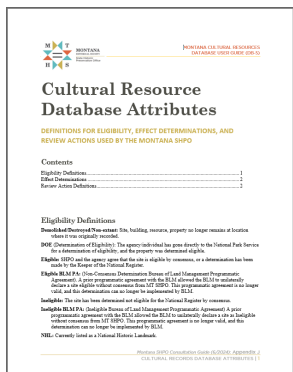
Introduction



Submitting Data



Searching Data



Definitions

# FILE SEARCH / CULTURAL DATA REQUESTS

What to Submit (QR1)

File Request Form

Data Request Form

Data Use Agreement

# SMITHSONIAN NUMBERS / SITE DOCUMENTATION

What to Submit (QR2)

How to Create a Record

Cultural Site Form

Architecture/Engineering Form

Site Record Update Form

Isolate Find Form

Stone Circle Form

Paleontological Form



# Researching Your Historic Montana Property

## FOR NOMINATION TO THE NATIONAL REGISTER OF HISTORIC PLACES

This research guide is designed to help you compile the information necessary to nominate a property to the National Register of Historic Places. As you conduct your research, you will find yourself visiting a variety of offices at the county courthouse, spending a few hours at the local library, contacting or visiting the Montana Historical Society Library in Helena, and interviewing some longtime residents of your area. After you've filled out the Montana Historic Property Record, return it to us at the State Historic Preservation Office. Once we establish that the property is eligible for listing, we will review, edit, and help with any revisions needed for finalizing your work into a National Register nomination form. Good luck!

If you have any questions, please contact the National Register Coordinator, State Historic Preservation Office, PO Box 201201, Helena, MT 59620-1201, Phone: (406) 444-3647. Email: [JBoughton@mt.gov](mailto:JBoughton@mt.gov)

## COURTHOUSE RESEARCH

The county courthouse is a great place to begin your historical detective work. Records housed in the County Clerk and Recorder and Tax Appraiser's Offices can be invaluable in your quest to learn about your property.

**Title Search:** If you have access to an "Abstract of Title"--a compilation of deed records for the property prepared by a title insurance company--someone has already done this work for you! In most cases, however, "Abstracts of Title" have been lost over the years or kept by a previous owner.

If you don't have an "Abstract of Title," you must go to the county courthouse and delve into the Clerk and Recorder's deed books yourself. The staff there will show you how to use these records. Every county identifies property by legal description--lots-and-block in towns and by section-township-range in rural areas.

Please trace the changes in ownership of the nominated property, noting dates when the property changed hands, and the purchase price recorded on the old deeds. The purchase price can be an important clue as to when a house or other building may have been built on the property. Complete the title search by listing the present owner of the property and working your way back to the first owner.

**Probate Records and Wills:** As you read the deeds, you may see reference to wills or other legal instruments filed with the probate court. These records sometimes included property inventories. Property inventories often list the major household furnishings and personal property of a deceased person, which can indicate how a house was decorated, the income level of the past owners, and other historical information. Note the date of a person's death if it is given, it will help locate obituaries in the local newspapers.

**Tax Records:** The Tax Appraiser's records will list the current owners, the legal description of the property, a description of the building materials, the number of rooms, sometimes an estimated construction date, and often descriptions and dates of major alterations.

## CITY RECORDS

**Building Permits:** The City Building Inspector or County Engineer may have a collection of building permits dating back to the early 20th century or even the late 19th century. Few counties and cities have preserved these records, so if you find a permit for the building you are researching, congratulations! Building permits will often give the date of construction, and the names of the architect, builder and original owner of the building. Make note of all information provided on the building permit.

**Water and Sewer Records:** these record the initial connection of water and sewer lines to buildings within towns and cities. Generally, hook-ups occurred the time of construction or shortly thereafter. Sometimes the building contractor or architect is listed. Ask for these at the city or county Engineering Department.

## GENERAL LAND OFFICE RECORDS

**Bureau of Land Management (BLM) State Office:** The Bureau of Land Management State Office holds the serial register books, historical indices, and tract book information for each township in Montana. These documents are arranged by township, range and section, and are the original, hand-written entries of applicants for homestead and cash purchases of property from the United States government. The information includes the type of homestead/purchase, the patentee's name, the legal location of the property, the date of application, date of patent/cancellation, and patent number.

Also available are the original GLO survey maps that date to the late 1880s through the 1920s, some with updates and resurveys. These maps were drawn for each township prior to its being released for entry. Together with the survey notes, they offer wonderful historic views and descriptions of the landscape, including existing buildings, transportation routes, and topography.

Much of the above information can be found at: <http://www.glorerecords.blm.gov/default.aspx>. This website is managed by the BLM to aid in searches for homestead and patent information. A handy interactive database and easy-to-use search engine allow you to locate the dates, legal location, and patent numbers for homestead claims filed with the General Land Office.

The BLM State Offices are located at 5001 Southgate Drive, P.O. Box 36800, Billings, MT 59107-6800. They can be reached by phone at (406) 896-5000. Their general website is found at: <http://www.blm.gov/mt/st/en.html>.

**Homestead Records:** The National Archives maintains the Case Reports for homesteads. These files contain information homestead applicants filed with the local land office during the patenting process. They include descriptions of buildings and improvements and their dates of construction; the number of acres broken each year and the crops planted; a list of family members and their places of birth; and for foreign-born applicants, the port and date of entry into the United States. More detailed descriptions of life on the homestead are sometimes given, especially if the final patent application was challenged. Case Reports can be obtained through the BLM State Office or by writing: Old Military and Civil Records (NWCTB-Land), Textual Archives Services Division, National Archives and Records Administration, 700 Pennsylvania Avenue NW, Washington, D.C. 20408-0001. Send the National Archives an e-mail at [inquire@nara.gov](mailto:inquire@nara.gov) or call (301) 713-6800 to request order forms (NATF Form 84) for copies of land entry files. To locate the report, the Archives need the name of the patentee, the state in which the land was located, the land office location, approximate date of entry, the type of entry (cash, homestead, mineral, etc.), legal location and, if possible, the patent number. This information is available on the BLM website. Be prepared to wait several weeks for the information to be returned to you.

## HISTORICAL SOCIETIES AND LIBRARIES

Every property nominated to the National Register represents or reflects larger trends or patterns of local settlement and history. To understand how a place fits into our history, it is important to describe what was going on in the area during the historic period. Public libraries and historical societies hold a wealth of information on historic properties in books, articles and records. Information on local historical events and patterns, and important people will help to define the history and significance of your historic property.

**Local History:** Almost every county in Montana has had its history compiled by local researchers. Many of these county histories were written during the mid-1970s to celebrate the nation's bicentennial. Examine these county histories for information on the specific property that you research. Look also for clues about the historical development of the community or region at the time buildings were constructed, and the prominence of the historical building owners. Please list the local histories, pamphlets, etc. that you found useful, and provide author, title, publisher, date of publication, and page numbers. Many county histories are found online through the Montana Historical Society website: <http://mtmemory.org/cdm/search/collection/p15018coll43/>.



**City Directories:** Most libraries have a collection of city directories published by the J.R. Polk Company dating from the 19th Century. Look up the names of property owners gathered from your title search to see if they lived or worked in the building being nominated. Scan through all of the directories that you can to see how long a person or business occupied the building. Early directories also sometimes encompassed an entire county rather than a just a townsite.

**Montana Historical Society:** A trip to the Montana Historical Society Research Center should also occur. Research facilities are open Tuesday - Friday, 9:00 - 5:00, Saturday, 9:00 – 1:00 and are closed on holidays. If distance from the Historical Society precludes a visit, a reference historian can help. Listed below are some of the records housed at the Society. A fee for research and photocopies is charged. You can request information by phone at (406) 444-2681 or via e-mail by writing to: mhslibrary@mt.gov. Send correspondence to: Reference Historian, Montana Historical Society Library, P.O. Box 201201, Helena, MT 59620-1201.

**Sanborn Fire Insurance Company Maps:** If the property you research is located within a platted townsite, it may appear on one or more of the Sanborn Fire Insurance Company's maps. The Sanborn Company prepared thousands of very accurate maps for over 200 towns in Montana from the late 19th through the mid- 20th centuries. These maps show the "foot print" of every building and structure within a townsite and indicate whether they were built of wood, log, stone, or concrete; the number of stories; and the location of porches, chimneys and windows. Since these maps were redrawn every 4-15 years, you can also see how the buildings were added to and altered over time. (To request photocopies of the Sanborn maps for your property from the MHS Library, write or e-mail the reference librarian, and include detailed information regarding your property's location.) Maps can also be found online at: <http://sanborn.umi.com/>. Use username "bitterroot" and password "welcome1&".

**Vertical Files:** Miscellaneous historical information has been collected in many libraries under subject headings. These files include letters, short monographs, newspaper articles, notes, and short pamphlets. Describe your research project to the librarian and something may turn up for you in the vertical files.

**Census Records:** The 1870, 1880, 1900, 1910, 1920, 1930 and 1940 U.S. census records, (the 1890 census burned up!) are available online. The most popular way to access this information is through [www.Ancestry.com](http://www.Ancestry.com). They list the persons residing in each house in a town as well as the age, occupation, place of birth, whether owner or renter, and length of time in the country. They document the growth of settlements, towns and counties and statistics on such things as agriculture, industry and education.

**Historical Newspapers:** Newspapers are often the best source of information on the construction of commercial and public buildings. Newspapers contain a treasure trove of information on local historical development and the activities of historical people that you'll find nowhere else. Copies of historic newspapers may be obtained at the local library, historical museum, or perhaps the local newspaper office. Many newspapers for Montana dating from 1864-1922 can be found online at the Chronicling America website: <http://chroniclingamerica.loc.gov/> and at [www.Ancestry.com](http://www.Ancestry.com).

If you've learned dates of construction for the property you're working on, scan through the newspapers for an article announcing the plan to build (often in the spring and usually six months to a year before construction is completed) and also look for an article heralding the building's dedication or its grand opening. Also check around the New Year, when newspapers often listed every new building completed within the previous year in the community.

When you lack a construction date for a building, review the newspapers for the years beginning just before and ending just after the likely construction date. If this fails, scanning through a number of years of newspapers looking for some reference to the building may be the only hope. This hit-and-miss tactic does occasionally pay off. You will definitely find all sorts of interesting articles that have absolutely nothing to do with your research, but we promise you will be well entertained!

**Obituaries:** The MHS Library and many local historical societies have indexed the collected biographies and newspaper obituaries for Montana persons. While using the historic newspapers, you'll want to look up the obituaries of the persons associated with the property you are researching. Often the papers prepared brief biographies of the deceased, which summarize their achievements. Be sure to look for obituaries for the women and children, as well. Obituaries can also be found using Ancestry.com.

**Cemetery Indices:** Many counties in Montana maintain indices of the internment records for local cemeteries. These lists can be used to identify where a person lived, when he/she died, the date of death, date of internment, and in some cases, the cause of death. Several of these indices are available online at: <http://www.interment.net/> and <http://www.findagrave.com/>.

**Statewide Death Index:** The Montana Historical Society Library holds this index for the years 1910 to 1966 for all counties in Montana. It lists the person's name and date of death, and after 1919, and includes the county where the person died. This website can be accessed at: <http://www.deathindexes.com/montana/>.

**Marriage Records:** These records are available for all Montana, though the period of history covered varies from county to county. The Montana Historical Society holds a set of these records, and specific county information may be available at local libraries. Many records can also be found online, such as through Ancestry.com, though in some cases, a fee may apply.

**Biographies:** Many prominent Montanans paid to have their life story printed in state histories. "Subscription" biographies were often written in the most complimentary fashion, but still provide substantial information on a person's contributions to local history. Check for biographical files and these references at the MHS Library, many local libraries, and online:

Progressive Men of Montana, Chicago: A.W. Bowens & Co., 1902.  
History of Montana: 1735-1885, H.A. Leeson, Chicago: Warner, Bear & Co., 1885.  
History of Montana, Joaquin Miller, Chicago: Lewis Publishing Co., 1894.  
History of Montana, Robert George Raymer, Chicago: Lewis Publishing Co., 3 vol., 1930.  
A History of Montana, Helen F. Sanders, Chicago: Lewis Publishing Co., 1913.  
Montana: Its Story and Biography, Tom Stout, Chicago: American Historical Society, 1921.  
A History of Montana, Merrill G. Burlingame and K. Ross Toole, New York: Lewis Publishing Co., 1957.

**Manuscripts, Journals, Oral History:** First person accounts of the history of an area, a family or a building are one of the richest sources of information about the people and events that make a property important. Personal accounts breathe life into history, with wonderful stories and details of everyday life that don't get recorded elsewhere. Personal reminiscences from the historical time period of a property's use, or talking with long-time residents will quickly take you to the heart of who lived in or used your building, what events took place at the property and how the architecture changed over the years. Every attempt should be made to verify oral information in the written record, as required by the National Register.

A number of local historical societies, as well as the Montana Historical Society Research Center, hold oral history collections recordings. These collections, and many others, are available for use at the MHS Library and at local repositories such as county historical societies and tribal cultural programs. A guide to the MHS oral history collection and transcripts or brief summaries of these interviews are available. All oral history materials can be obtained through inter-library loan.

**Archives:** Depending on your research interests, there may be treasures in manuscript collections awaiting your discovery. The MHS collections are indexed in the MHS Library, and because this collection is so extensive, you should plan to personally peruse these holdings. There are also archives at the University of Montana, Montana State University, the Butte-Silver Bow Archives, and sometimes at local historical societies and public libraries. Both the University of Montana – Missoula and Montana State University – Bozeman have extensive archival collections that include architectural drawings from many Montana architects, as well as collections pertaining to families, businesses, and topics donated from across the state.

**Photographic Archives:** Over 500,000 historical photographs of Montana people and places are available at the Photographic Archives at the Montana Historical Society. For building researchers, a historical photograph can be the most important single source of information. Most of the photographs at the MHS are catalogued by town name and subject; you will probably need to look through the photographs for yourself to see if your building shows up! This office is open to the public only in the afternoons, Monday - Friday from 1:00 - 5:00.

Many local libraries, historical societies, and museums have collections of historic photographs available to researchers. Also ask your neighbors and former owners to see if they might have some family photos that show the exterior or interior the buildings.

## TRIBAL CONSULTATION

What is now the state of Montana has been inhabited for thousands of years by numerous Native American nations. It is important to understand that the significance of a place may be different things to different cultural groups. To fully appreciate your property, contact the culture committees of the area tribes, and ask them how the area was used by their people, and what historical, cultural, or spiritual associations they have there. If you don't know who to call, contact our office at (406) 444-7715, and we can put you in touch with tribal preservation offices, cultural committee members and tribal historians. A list of tribal contacts is found at: <http://mhs.mt.gov/Shpo/PreservationHelp#Tribal>

## WEB SITES

The Internet has open innumerable archival collections and other information to researchers. Many fun and interesting web sites exist that can aid you in your search for both specific and broader contextual information. Here are just a few to start with, but play around with your favorite search engines and see what comes up! Remember – information found on the Internet must be documented in your bibliography and footnotes so keep track of the webpage addresses and the date it was accessed!

**The Library of Congress American Memory Homepage:** The Library of Congress digital library maintains a huge collection of documents and photographs available online. From historic landscape

photos to biographical information, the site offers downloadable images and text that can be used in researching a historic property. It's fun and easy to use, and is found at <https://www.loc.gov/collections/>.

**The National Archives and Records Administration:** Connect to <http://www.archives.gov/> for access to research guides and findings aids for the National Archives Collections.

**The University of Montana and Montana State University Websites:** Both UM and MSU offer access to online library catalogs and finding aids for manuscript collections. [UM: <http://www.umt.edu/> ; MSU: <http://www.lib.montana.edu/> ] In many cases, you can request materials from the University system through your local library's interlibrary loan program.

## THE FINALE

The National Register of Historic Places requires that nominations be accompanied by maps and recent photographs of the property:

- **USGS map:** A USGS 7.5' topographic map must accompany each nomination to the National Register. With technological advances, these maps no longer need to be submitted as a hard copy, but instead can be submitted digitally as a page of a nomination. The SHPO can help with this portion of the nomination if assistance is required.
- **Other maps:** If you are nominating a complex of buildings, draw a sketch map to show how the buildings are situated on the property.
- **Floor Plans:** Floor plans should be measured if possible (to show the dimensions of the rooms), but they need not be drawn to scale. When many additions have been made to a building over the years, floor plans can help us sort out the changes. Please write the dates of each addition on the floor plan. Sometimes floor plans or blueprints can be found during one's research.
- **Photocopies of Research Materials:** As you conduct your research, please collect photocopies of pertinent historical newspaper articles, biographical sketches, advertisements, etc. Note the dates and in which paper the article appeared.
- **Current Photographs:** Digital photographs have replaced hardcopy photographs. Be sure to include photographs of every side of the building. If you are nominating a complex of buildings (such as a farmstead, mine site or ranger station) provide at least one shot of each structure. Photographs of significant architectural details and interiors are optional. National Register guidelines for digital images can be found at:  
[https://www.nps.gov/subjects/nationalregister/upload/Photo\\_Policy\\_update\\_2013\\_05\\_15\\_508.pdf](https://www.nps.gov/subjects/nationalregister/upload/Photo_Policy_update_2013_05_15_508.pdf).
- **Historic Photographs:** If at all possible, send along copies or images of historical photographs of the nominated building(s). Although the National Register does not require historical photographs, they are an important resource when describing the historic appearance and construction history of a property allowing readily discernable changes to a property from its original time of construction to the present.

The National Register has specific requirements for labeling photographs. One of the last sheets of the National Register form provides an outline of what information should be provided for each photograph. The information includes:

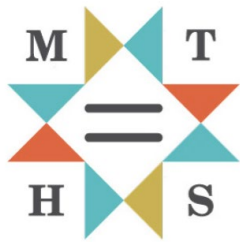
- Name of Property
- Property Address

- Name of County
- Name of State
- Name of Photographer
- Description/direction of View
- Date of Photograph

The Historic Preservation Office will review the information that you provide and then contact you to discuss completing an official nomination to the National Register of Historic Places.

Once the nomination is in final form, we will schedule the property for consideration by the State Historic Preservation Review Board at its next quarterly meeting. This board has been appointed by the governor to review all nominations to the National Register of Historic Places. If they approve the property for nomination, the forms will be submitted to the Keeper of the Register in Washington, D.C. for final approval. The Keeper generally takes 45 days from the time they receive the nomination to complete the review and formally list a property in National Register.

Thank you for your effort and your interest. We hope you have enjoyed the time spent on your research project, and that you unearthed many interesting pieces of information and entertaining stories along the way.



**MONTANA**  
HISTORICAL SOCIETY  
State Historic  
Preservation Office

MONTANA SHPO  
CONSULTATION GUIDE  
APPENDIX G.1

# Preservation Laws and Regulations in Montana

## AN OVERVIEW

Several federal laws, state laws, implementing regulations, executive orders, policies, and guidelines have been enacted to regulate and manage cultural resources. This document appends the Montana SHPO Consultation Guide and provides an overview of laws and regulations relevant to preservation of cultural and historic resources in Montana. For a deeper understanding, please refer to the list of resources at the end of this document.

## NATIONAL HISTORIC PRESERVATION ACT (NHPA) OF 1966

In 1966, Congress enacted the National Historic Preservation Act (NHPA), which declared that the preservation of our Nation's irreplaceable heritage was in the public's interest. The NHPA called upon federal agencies to expand and accelerate preservation activities in a spirit of stewardship and partnership with American Indian tribes, the public, state and local governments, and other interested parties. The NHPA also established several institutions: the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPOs), the National Register of Historic Places (National Register), and the Section 106 review process.

When congress passed the NHPA they recognized that many federal actions were

contributing to the loss of historic places. NHPA requires that Federal agencies consider the effects of their undertakings on historic properties and mandate early consultation to try and avoid or mitigate all adverse effects.

## SECTION 106 OF THE NHPA

Crucial to the preservation of the historical and cultural foundations of the nation, Section 106 of the NHPA and its implementing regulations, [36 C.F.R. Part 800](#) (PDF) (revised August 5, 2004) require Federal agencies to consider the effects of projects they carry out, approve, or fund on historic properties.

A Federal project that requires review under Section 106 is defined as an "undertaking." An 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.

If the Federal agency determines the undertaking has the potential to adversely affect historic properties, the agency must make a reasonable and good faith effort to consult with interested Federal and state agencies, American Indian Tribes, the public, as well as the State Historic Preservation Office and/or the associated Tribal Historic Preservation Office to identify possible historic properties located in the Area of Potential Effects (APE). This identification effort often includes a new survey or inventory to locate and identify previously unrecorded prehistoric or historic properties. All properties identified in the survey or inventory effort are then evaluated by the agency to determine whether they are eligible for listing in the [National Register of Historic Places \(NRHP\)](#) (PDF) by using the National Register of Historic Places Criteria for Evaluation. All eligibility findings are determined in consultation with the State Historic Preservation Office/Tribal Historic Preservation Office and any American Indian Tribe or interested party that attaches cultural or religious significance to the impacted properties.

If the agency determines that the undertaking will have an unavoidable adverse effect on one or more NRHP-eligible historic properties, the agency consults further with the required and appropriate parties to establish necessary mitigation strategies. The agency may then enter into a Memorandum of Agreement (MOA) with consulting parties to formalize the agreed-upon mitigation measures.

#### **Four Steps of the Section 106 Review Process**

The four-step process originates in the implementing regulations (24 CFR 800) of the NHPA. Section 106 is the process federal agencies take when considering the effects to historic properties caused by their actions.

It is federal agencies, rather than project proponents, that must comply with cultural resource laws and regulations, and that SHPO is but one consulting entity in the process. The Section 106 review process (often referred to as "compliance") can be understood as a set of four

(4) sequential steps of identification, assessment, and evaluation carried out by agencies in consultation with the SHPO and others:

1. **Determine Undertaking**  
Includes: Identify all involved parties, initiate consultation process, define the undertaking and area of potential effect
2. **Identify Historic Properties**  
Includes: Background research, search for cultural resources that may be impacted, evaluate cultural resources
3. **Assess Adverse Effects**
4. **Resolve Adverse Effects**

Although 36 CFR Part 800 differentiates between the steps, steps may overlap in practical application. For example, some agencies combine the identification and effect assessment steps (Steps 2 & 3). This is often done by conducting cultural resource surveys (the physical search for and recording of cultural resources) and submitting an inventory report (a compilation of information resulting from field survey, records or archival research, oral interviews, and other information about cultural resources in the area of concern) to the SHPO along with the federal agency's determinations about the significance of identified sites and possible impacts of the undertaking.

Each step must be completed for all historic properties before formally moving to the next step. (Programmatic Agreement may allow exceptions). For example, the SHPO is unable to concur with an effect finding (the overall or comprehensive effect of an action or decision) until the resolution of the Eligibility of all cultural resources and the impact on all eligible properties that are not avoided. Impacts to each historic property are considered in a comprehensive effect assessment, which takes into account the total effect of the undertaking on all historic properties in the subject area. As the regulations highlight at 36 CFR 800.3(g), these sequential steps are also intended to provide consulting parties and the public adequate time to review and comment at specified and known points in the Section 106 review process.

The National Historic Preservation Act section 106 requires federal agencies to follow the four steps in consideration of historic Properties. People therefore often call the process – “section 106.” *Section 106* applies whenever there is federal agency involvement: It takes place on federal land, uses federal money (including grants), or requires federal permits.

## SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

Federal agencies are directed under Section 110 of the NHPA to identify, evaluate and utilize historic properties under their management and planning. Section 110 also requires that federal agencies consult with the SHPO, pursuant to their responsibilities under Section 106. Section 110 calls on all federal agencies to establish their own historic preservation programs to head this effort.

Added to the NHPA in 1992, Section 110 requires Federal agencies to emphasize the preservation and enhancement of cultural resources. Section 110 directs agencies to initiate measures necessary to direct their policies, plans, and programs in such a way that federally-owned sites, structures, and objects of historical architectural or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the public. The agencies are also encouraged to institute (in consultation with the ACHP) procedures to assure Federal plans and programs contribute to the preservation and enhancement of non-Federally owned sites, structures, and objects of historical, architectural, and archaeological significance.

## NATIONAL REGISTER OF HISTORIC PLACES

The National Register of Historic Places (National Register) is the nation's official list of cultural resources deemed worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register includes districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture. Although the National Register is a program of the National Park Service, it is administered at the

state level by each respective state. In addition to the recognition that listing provides, registered properties are afforded a measure of protection from projects that are funded, licensed, or executed by the federal government. Criteria for eligibility to the National Register are listed in the evaluation section of Chapter 4. The National Register criteria are directly relevant to the Section 106 review process Properties listed on or eligible for the National Register are Historic Properties or Heritage Properties under NHPA and the MTAA. Some grants, tax credits, and funding opportunities will require a property be listed on the National Register to qualify.

## MONTANA ANTIQUITIES ACT (MTAA)

The Montana State Antiquities Act (Montana Code Annotated 22-3-421 through 22-3-442) requires state, federal, and other agencies to consider the effects of their actions on *heritage properties* and *paleontological remains* on state-owned lands. Each state agency is responsible for establishing rules and procedures regarding the preservation of historic resources under their jurisdiction. The SHPO assists agencies in preserving heritage properties and paleontological remains and encourages the avoidance, whenever feasible, of heritage properties or paleontological remains on state-owned lands. The Montana State Antiquities Act review process closely corresponds with the Section 106 review process, although there is no Advisory Council oversight.

The Montana SHPO has adapted the four-step process of the section 106 process to the Montana Antiquity Act. In Montana, the State Antiquities Act applies: “when a project occurs on state owned lands and may have the potential to effect state owned *Heritage Properties*.”

In 2011, the 62nd Legislature of Montana passed Senate Bill 3, amending Sections 22-3-422, 22-3-423, 22-3-424 of the Montana State Antiquities Act. The revised sections require state agencies and the Montana university system to submit a [biennial report](#) to the Preservation Review Board on their stewardship, as well as the status and maintenance needs of the agencies’ heritage properties.

## **NATIONAL ENVIRONMENTAL POLICY ACT OF 1964**

The National Environmental Policy Act requires agencies to consider project impacts on all types of resources: cultural, natural, and economic. The impacts associated with various project alternatives are discussed in an environmental assessment (EA) or an environmental impact statement (EIS). These NEPA documents typically summarize the Section 106 NHPA process.

## **COORDINATION BETWEEN NATIONAL HISTORIC PRESERVATION ACT AND THE NATIONAL ENVIRONMENTAL POLICY ACT**

Compliance with the National Environmental Policy Act (NEPA) does not guarantee compliance under Section 106 of the NHPA. While certain federal agency responsibilities are related in purpose under both laws, there are differences in scope and procedure. For example, many actions that qualify as Categorical Exclusions (CEs) under NEPA require further review under Section 106. Moreover, an adverse effect under the NHPA may not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under NEPA.

The goal of the Section 106 review process is for federal agencies to identify historic properties potentially affected by a proposed undertaking, assess the effects of the undertaking, and seek ways to avoid, minimize, or mitigate any adverse effects. The initiation of the Section 106 review process should occur early in project planning and in advance of a federal agency making binding decisions regarding the location, design, and siting of a project. By statute, the Section 106 requirements must be met prior to a federal agency approving the expenditure of funds on an undertaking (other than funds for non-destructive planning) or prior to issuance of a license, permit, or approval needed by the undertaking. Further, an agency must complete the NEPA and Section 106 review before signing a decision document. The NEPA review may conclude with a CE, a FONSI, or a ROD. Under the Council on Environmental

Quality's (CEQ) regulations, CEs, EAs, FONSI, and EISs are not decision documents. Agencies should avoid issuing NEPA documents that present a final agency decision before they have completed the Section 106 review process, because the Section 106 process may result in a finding that requires the NEPA document to be revised or supplemented (NEPA and NHPA: A Handbook for Integrating NEPA and Section 106).

If a federal agency is unable to complete eligibility and effect determinations for the entire APE prior to the release of a FONSI or ROD, the ACHP regulations recognize a phased application of the Section 106 review process as an alternative option (36 CFR Part 800.4(b)(2) and 800.5(a)(3)). A project-specific PA detailing the agreed-upon measures for phased identification, evaluation, and effect findings must be completed prior to the signing and release of a decision document.

While NEPA and Section 106 of the NHPA are separate laws, federal agencies are encouraged to coordinate the processes. The ACHP's regulations concerning NHPA-NEPA coordination, integration, and substitution requirements are found at 36 CFR Part 800.8 and 800.14. If a federal agency wishes to substitute the NEPA process for the purposes of Section 106, the federal agency must notify the ACHP and SHPO in advance and follow the standards set out in 36 CFR 800.8(c). Coordination of Section 106 and NEPA may also raise concerns regarding public disclosure or release of sensitive information. Please see the confidentiality subsection for more information on this critical concern. Further information is available in the NHPA and NEPA: A Handbook for Integrating NEPA and Section 106 published by the CEQ and the ACHP.

## **ANTIQUITIES ACT OF 1906**

The Antiquities Act is the United States' oldest law protecting historic, prehistoric, and scientific features on public lands. It gives the president the authority to create new National Monuments. It also prohibited the excavation or removal of antiquities from some federal lands; however, this portion of the law is largely superseded by ARPA. The legacy of the Antiquities Act is that it asserted

the government's interest and control over archaeological resources on federal lands.

### **HISTORIC SITES ACT OF 1935**

While the Historic Sites Act of 1935 has generally been superseded by later laws, it is politically and administratively important because it established the National Park Service as the government's primary historic preservation expert. The National Park service publishes bulletins that are the industry standard with guidelines on identifying and evaluating all types of historic properties.

### **EXECUTIVE ORDER 11593 OF 1972**

President Nixon issued Executive Order 11593, it directs agencies to treat any historic property that has been determined eligible for the National Register as if it were listed on the National Register.

### **ARCHAEOLOGICAL RESOURCES PROTECTION ACT (ARPA) OF 1979**

The Archaeological Resources Protection Act prohibits unauthorized excavation, removal, or damage to archaeological resources on federal land that are at least 100 years old. This law has established penalties for damaging these resources including fines, confiscation or property, and prison terms. ARPA recognizes that archaeological resources are an irreplaceable part of the United States' heritage and that damage to those resources is a crime.

### **AMERICAN INDIAN RELIGIOUS FREEDOM ACT (AIRFA) OF 1979**

The American Indian Religious Freedom Act requires the federal government to consider impacts to the free exercise of traditional religion by American Indians. The religious practices, as well as the locations and objects used in those practices are covered by this legislation. While NHPA typically only applies to cultural resources that are less than 50 years old, AIRFA addresses impacts to modern and recent locations.

### **NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA) OF 1990**

The Native American Graves and Repatriation Act protects Native American Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA requires federal agencies and museums to inventory human skeletal remains and offer to repatriate human remains and cultural items to culturally affiliated tribes.

### **EXECUTIVE ORDER 13007 OF 1996**

President Clinton issued Executive Order 13007 to encourage agencies to avoid damage to sacred native American sites and to avoid limiting access to them by tribal practitioners. A sacred site need not be a historic property to merit consideration.

### **MONTANA HUMAN SKELETAL REMAINS AND BURIAL SITE PROTECTION ACT OF 1999**

This is a state law that protects graves on non-federal lands. When human remains are found on private or state-owned land the county coroner should be immediately notified, followed by the State Burial Board.



# NEPA/NHPA Integration

The National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA) are two separate Federal regulations. Montana's State Historic Preservation Office (SHPO) serves a specific role in the NHPA process but does not have a corresponding role in NEPA. Our office does not routinely review NEPA documents. However, we will occasionally review or comment on NEPA documents when concerns are brought to our attention. Questions regarding a specific project or the integration of NEPA and NHPA can be directed individually to Montana SHPO staff.

**TIMING** - The work required under Section 106 of the NHPA must be completed before the NEPA document is signed and finalized. This remains true regardless of the type of NEPA document involved (CE, EA/FONSI, EIS/ROD).

**CATEGORICAL EXCLUSIONS (CEs)** - Activities that are Categorically Excluded under NEPA still need to be reviewed for compliance under NHPA. Categorically Excluded activities may have the potential to cause effects to Historic Properties (36 CFR 800.8 (b)).

**PHASING** - Federal Agencies have the option to phase projects. However, agencies can only defer the identification and assessment of historic properties if they have an agreement document, such as a Programmatic Agreement (PA), in place with our office. In circumstances where it is not feasible to complete the Section 106 work prior to the finalization of the NEPA document we urge agencies to consider phasing PAs.

In project-specific phasing PAs, our office expects the agency to outline how the Area of Potential Effect is defined, what identification methodology will be used, and the timeline for consultation and completion. Site evaluations and assessment of effects should occur before implementation when phasing projects. See 36 CFR 800.4 (b)(2) and 36 CFR 800.14(b).

**SUBSTITUTION** - Agencies may choose to use the NEPA substitution approach, which is when agencies use the process and documentation required for the preparation of an EA/FONSI or an EIS/ROD to comply with Section 106 of the NHPA. If using the substitution approach, you must formally reach out to our office and the ACHP prior to NEPA public scoping, and follow the specific steps outlined in 36CFR 800.8 (c).

## **MORE INFORMATION -**

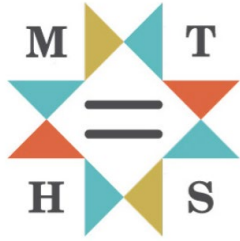
NEPA and NHPA: A Handbook for Integrating NEPA and Section 106. Published jointly by the Council on Environmental Quality and the Advisory Council on Historic Preservation in March 2012  
<https://www.achp.gov/digital-library-section-106-landing/nepa-and-nhpa-handbook-integrating-nepa-and-section-106>

36 CFR 800

<https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf>

Advisory Council on Historic Preservation guidance on Agreement Documents, like PAs  
<https://www.achp.gov/initiatives/guidance-agreement-documen>





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# Cellular Towers and Antenna Structures

## SPECIAL GUIDELINES FOR PREPARING DOCUMENTATION FOR SECTION 106 REVIEW

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### *In This Document:*

- I. Cell Tower Projects: Montana FCC Reporting Requirements*
  - II. New Cellular Tower and Antenna Structures*
  - III. Collocation of Wireless Antennas*
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# **I. Cell Tower Projects: Montana FCC Reporting Requirements**

With the recent increase of new cell tower construction and collocations in Montana, we are also seeing an increase in Section 106 submissions that do not meet our standards. This is an issue not only for our office as it takes a significant amount of time to review these undertakings, but is an issue for you, the consultants, and the companies that hired you. The message that eventually gets to the FCC in Washington D.C. is that Section 106 is delaying the progress of cell tower deployment, when in truth it is the submittal of incomplete work to our office that is causing the delay. To aid you with your FCC submittals, we have come up with a list of tips that address the most common errors. Please be aware that this is not a comprehensive document on how to consult with the MTSHP.

Information on the Section 106 consulting process in Montana can be found at <http://mhs.mt.gov/Shpo/Archaeology/ConsultingWith>. If you are new to Montana, we highly recommend reading it before starting any Section 106 work.

## **GENERAL**

Section 106 work **MUST** be completed by an individual who is Secretary of the Interior qualified. If you do not know what that means, you are not qualified.

If the tower or collocation is located on a reservation, the cultural report must be submitted to the appropriate THPO for concurrence.

We **DO NOT** provide concurrence after-the-fact. If the tower was already built or the collocation went up before 106 was completed, we will not provide you with a letter of concurrence.

**EDIT YOUR WORK!** Most of the problems that we see are from sloppy work.

If we have asked for additional information and you are submitting a revised cultural report, please do not resubmit the TCNS 620 or 621 forms.

## **RECORD SEARCH**

For all cell towers and collocations, record searches must be completed **BEFORE** completing fieldwork.

Cultural records staff have 15 days to respond to record search and site form requests, so plan accordingly. If possible, they will complete a rush order, but there are accompanying fees.

The information that you receive in your record search, and the date you received it, need to be included in the cultural report.

## **FIELDWORK**

Your fieldwork should include both the direct APE and visual APE.

The direct APE includes not just the tower location, but any staging areas and access roads.

Photos from eligible or listed cultural resources within the visual APE should be taken looking towards the tower. DO NOT TRESPASS. If you cannot access the property, please get as close as possible. While we do not require these photos, they go a long way in helping explain No Effect or No Adverse Effect determinations.

All field photos should have date stamps. Unfortunately, there have been instances where consultants are using photos provided by the cellular companies and not actually completing the fieldwork. If you are located some distance from Montana, and cannot make the journey to complete the fieldwork, there are local consultants that you can hire (<http://mhs.mt.gov/Portals/11/shpo/docs/Consultants.pdf>).

If you choose not to complete a Class III inventory for a cell project, be prepared to explain your reasoning in the cultural report. If it is questionable whether a survey is necessary or not, contact our office and discuss the project with us.

Just because you decided that a Class III inventory of the direct APE was not necessary, does not mean that you do not have to complete fieldwork for the visual APE.

Unless discussed with our office prior to submittal, using Google Earth images in lieu of actually visiting the site will not be accepted.

## CULTURAL REPORT

A report that contains relevant project information and a discussion of potential effects on cultural resources MUST be submitted in addition to the FCC 620/621 form.

- This is NOT an archaeological report that you only submit if you completed a survey or dug shovel probes, this is required for all new tower and collocation submittals to our office.

Guidance for cultural resource reports can be found on our website, within our Consulting with Montana SHPO document (see website above).

- For cell tower reports, we strongly recommend having a section for both an assessment of the Direct APE and Visual APE.

Visual Assessment – If your conclusion for the undertaking is No Adverse Effect to eligible cultural resources within the visual APE, DO NOT just write a sentence saying that. You must document your reasoning for this effect determination.

### Maps

- Must show the direct APE, visual APE and ALL cultural resources within both APEs regardless of eligibility.
- The direct APE must be clearly delineated and not just a dot on the map, or pointed to by an arrow.
- Try to keep the maps at a scale of 1:24,000. If they are zoomed out too far we will ask for replacements before we will complete our review.

Photo Sims – We love photo sims, especially if your tower will be in an area with a lot of eligible cultural resources. They are not required, but can go a long way in helping us to understand your effect determination.

## SUBMITTING MATERIALS

Review of your submittal will not be completed by our office until we have received the following items, so to avoid delays, we recommend submitting all required material the first time.

- Cover letter
- Report Submittal Form
- Digital copy of the cultural report
- GIS shapefiles

A digital copy of the report and the GIS shapefiles can be submitted with the hard copy of the report on CD or jump drive, or through the Montana file transfer service (<https://transfer.mt.gov/>) to [mtshpo@mt.gov](mailto:mtshpo@mt.gov). If you will be using the file transfer service, please make sure to put in your cover letter the date the digital information was submitted to our office.

Once all materials have been received by our office, we have 30 DAYS to complete our review. If possible, we will work with you to help you meet your deadlines, but do not expect an expedited review.

## FINAL TIP

READ the FCC Section 106 guidelines!!!

If you have any questions about the information provided in this document, you can call or email our compliance team ([link to web contact info](#))

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## II. New Cellular Tower and Antenna Structures

The Montana State Historic Preservation Office (Montana SHPO) developed the following guidance document to assist Federal Communications Commission (FCC) permit applicants and their consultants with the procedures outlined in the *Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission* (FCC PA for new towers and antenna). Please refer to the Montana State Historic Preservation Office: *Guidelines for Preparation of Section 106 Documentation for the Collocation of Wireless Antenna*, for more information and guidance on proposed collocation undertakings.

Additional general guidance can be found in Consulting with the Montana SHPO: *Guidelines and Procedures for Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act* (Montana SHPO Planning Bulletin No. 21) (see Additional Resources).

## RESPONSIBILITY

The FCC PA for new towers and antenna records the terms and conditions agreed upon to fulfill the FCC's responsibilities under Section 106 of the National Historic Preservation Act (NHPA) as codified by 36 C.F.R. § 800. Under 36 C.F.R. § 800, the Federal agency responsible for the funding, permitting, licensing or approval of a project, activity or program is obligated to fulfill the requirements of Section

106 of the NHPA prior to the execution of the project, activity or program. In the case of cellular tower construction and antenna permitting, the FCC is ultimately accountable for ensuring that the applicant fulfills his/her responsibilities under Section 106. In other words, the FCC may use the services of applicants, consultants, or designees to prepare information, analyses and recommendations, but remains legally responsible for all required eligibility findings and effect determinations. On a side note, the Montana SHPO encourages the coordination of the Section 106 process with any steps taken to meet the requirements of the National Environmental Policy Act (NEPA). It is important to mention, however, that the NEPA requirements are not intended to replace the Section 106 process. Please immediately notify the Montana SHPO, if it is discovered that the proposed cellular communication tower was partially or wholly constructed prior to the fulfillment of Section 106 requirements.

## AREA OF POTENTIAL EFFECT

Montana SHPO's review of all cellular tower and antenna projects includes an evaluation of the project's Area of Potential Effect (APE). Under 36 C.F.R. § 800, the APE is defined as:

*The geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist. The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.*

In addition to effects that result from direct physical alteration or destruction, the APE must also account for indirect effects caused by the introduction of visual, audible or atmospheric elements.

The FCC PA requires the following minimum APEs for new towers:

- (a) Within one-half (1 / 2) of a mile from the tower site if the proposed tower is 200 feet or less in height;
- (b) Within three-fourths (3 / 4) of a mile from the tower site if the proposed tower is more than 200 feet, but no more than 400 feet in overall height; or
- (c) Within one-and-one-half (1 1 / 2) miles from the proposed tower site if the proposed tower is more than 400 feet in overall height.

**However, the Montana SHPO requests that for all proposed towers the applicant or consultant request at least a one (1) mile radius Class I File Search to determine the existence of significant historic properties adjacent to the required minimum APE.**

## STEP 1: INITIATE FILE SEARCH

After determining and defining the appropriate direct and indirect APE, the applicant or consultant should request a File Search from the Montana SHPO for information regarding previously identified and recorded cultural resources (historic and archaeological sites) located within the APE. **It is extremely important for all file search requests to indicate the Township, Range, and Section for the entire APE.**

The File Search request should be submitted using the Montana File Search Request Form, which is available online at <http://mhs.mt.gov/Shpo/Forms.aspx>. Information returned will include: site numbers, locations (Township, Range, and Section), site types, periods, ownerships, and eligibility statuses.

**There is a minimal fee associated with processing a File Search. Search results are generally provided in one to three (1-3) calendar days.**

**Following the File Search, electronic copies of site forms and cultural resource inventories are available for an additional fee.**

**For more information on File Search requests, please contact Damon Murdo, the Montana SHPO Cultural Records Manager at [dmurdo@mt.gov](mailto:dmurdo@mt.gov) or (406) 444-7767.**

## **STEP 2: LOCAL/TRIBAL CONSULTATION**

The Montana SHPO places an emphasis on local and tribal consultation. Therefore, in addition to documentation of Tribal Involvement (through the Tower Construction Notification System (TCNS)), the applicant or consultant should include all relevant information necessary to convey fulfillment of local consultation requirements.

It is important for the applicant or consultant to make a concerted effort to seek out local individuals or organizations with a demonstrated interest in the history of the local area. If the area has a Certified Local Government (CLG) representative (i.e. Local Historic Preservation Officer), then he/she would be the preferred contact. A list of current Montana CLGs is available online at <http://mhs.mt.gov/Shpo/Communitypres.aspx>. If the area has no CLG, then the applicant or consultant should determine the closest local Historical Society or Museum using internet-based research or other means (see the Museum Association of Montana website at <http://montanamuseums.org/>). In addition to an individual or organization with an interest in local history, the Montana SHPO recommends the applicant or consultant contact a local government official or planning department.

Once the applicant or consultant identifies the appropriate local contacts, he/she should solicit comment on the proposed cell tower in writing. If comment is not provided to the applicant or consultant, all contact information should be provided to the Montana SHPO. If the local representative has concerns about the tower, then these concerns should be addressed and resolved prior to the submittal of the packet to the Montana SHPO.

## **STEP 3: CULTURAL RESOURCE INVENTORY**

The Montana SHPO requests the completion of a stand-alone cultural resource inventory meeting the professional standards outlined in the Consulting with the Montana SHPO: Guidelines and Procedures For Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act. As required by the FCC PA for new towers and antenna, the applicant or consultant must complete a survey of the area of direct effects, as well as a visual impact analysis for any historic properties located within the boundaries of the designated APE.

(Map of project area with survey area, three-quarter mile visual area of potential effect and one mile File Search area.)



## STEP 4: CONSULTING WITH THE MONTANA SHPO

The applicant or consultant should provide all documentation of local consultation efforts (including copies of letters) to Montana SHPO in the submission packet. If efforts to communicate with local interested parties are unsuccessful after a reasonable amount of time, the provided contact information fulfills the local consultation requirements.

If the local consulting parties express valid concerns that cannot be resolved, then the applicant or consultant should contact the FCC. If the FCC agrees that the applicant has made a reasonable and good faith effort, the FCC should clearly state its position in a letter addressed to the Montana SHPO. This letter should be submitted with the completed packet to the Montana SHPO for review.

**Both a hard-copy and digital copy of the submittal packet should be mailed to the Montana SHPO.**

The digital copy can either be submitted as a CD or electronically through the State of Montana File Transfer Service (instructions are available at <https://transfer.mt.gov/>) to [mtshpo@mt.gov](mailto:mtshpo@mt.gov).

The submission packet must include the completed FCC Form 620, as well as a stand-alone Cultural Resource Inventory Report completed by the consultant. The Cultural Resource Inventory Report should be accompanied by a Cultural Resource Annotated Bibliography System (C.R.A.B.S.) Form (available at <http://mhs.mt.gov/Shpo/Forms.aspx>).

Upon receipt of the completed packet, the Montana SHPO will review the contents to ensure the applicant or consultant has made a reasonable and good faith effort to determine any potential adverse effects to historic properties located within the APE. After reviewing the provided documentation, the Montana SHPO will respond with a formal response letter within thirty (30) calendar days.

*Please include documentation of local and tribal consultation in the submission packet. The more information readily available to the Montana SHPO, the more efficient and effective the Section 106 review process.*

## ADDITIONAL RESOURCES

The Consulting with the Montana SHPO: Guidelines and Procedures For Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act (Montana State Historic Preservation Office Planning Bulletin No. 21) is available online at <http://mhs.mt.gov/Shpo/Archaeology/ConsultingWith.aspx>

The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (September 2004) is available online at <http://wireless.fcc.gov/siting/npa/FCC-04-222A3.pdf>

The Federal Communications Commission Information and Instructions: FCC Wireless Telecommunications Bureau New Tower Submission Packet is available with additional instruction online at [www.fcc.gov/Forms/Form620/620.pdf](http://www.fcc.gov/Forms/Form620/620.pdf)

The National Historic Preservation Act of 1966, As Amended in 2006 is available online at <http://www.achp.gov/docs/nhpa%202008-final.pdf>;

The Section 106 Federal Regulations (36 C.F.R. § 800 - Protection of Historic Properties) are available online at <http://www.achp.gov/regs-rev04.pdf>

- [FCC's NHPA guidance](#)

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### III. Collocation of Wireless Antennas

The Montana State Historic Preservation Office (Montana SHPO) developed the following guidance document to assist Federal Communications Commission (FCC) permit applicants and their consultants with the procedures outlined in the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (FCC Collocation PA). Please refer to the Montana State Historic Preservation Office: *Guidelines for Preparation of Section 106 Documentation for New Cellular Tower and Antenna Structures*, for more information and guidance on proposed new tower and antenna construction.

Additional general guidance can be found in Consulting with the Montana SHPO: *Guidelines and Procedures for Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act* (Montana SHPO Planning Bulletin No. 21).

#### RESPONSIBILITY

The FCC Collocation PA records the terms and conditions agreed upon to fulfill the FCC's responsibilities under Section 106 of the National Historic Preservation Act (NHPA) as codified by 36 C.F.R. § 800. It is intended to streamline the Section 106 review of collocation proposals to encourage a reduction in the need for new towers and, thereby, reduce unnecessary potential adverse effects on historic properties.

Under 36 C.F.R. § 800, the federal agency responsible for the funding, permitting, licensing or approval of a project, activity or program is obligated to fulfill the requirements of Section 106 of the NHPA prior to the execution of the project, activity or program. In the case of the collocation of wireless antennas, the FCC is ultimately accountable for ensuring that the applicant fulfills his/her responsibilities under Section 106. In other words, the FCC may use the services of applicants, consultants, or designees to prepare information, analyses and recommendations, but remains legally responsible for all required eligibility findings and effect determinations.

On a side note, the Montana SHPO encourages the coordination of the Section 106 process with any steps taken to meet the requirements of the National Environmental Policy Act (NEPA). It is important to mention, however, that the NEPA requirements are not intended to replace the Section 106 process.

#### COLLOCATION

In the FCC Collocation PA, "collocation" is defined as, "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."

## **SUBSTANTIAL INCREASE IN SIZE OF CELLULAR TOWER**

The FCC Collocation PA outlines the following instances as a substantial increase in the size of a pre-existing cellular tower:

1. The proposed antenna increases the existing height of the tower by more than ten percent (10%), or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (the proposed antenna may exceed the abovementioned size restrictions if necessary to avoid interference with existing antenna);
2. The proposed antenna involves the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed four (4), or more than one (1) new equipment shelter);
3. The proposed antenna involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (the proposed antenna may exceed the above-mentioned size restrictions if necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable);
4. The proposed antenna involves excavation outside the current tower site (defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site).

## **COLLOCATION: TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001**

The proposed antenna may be mounted on an existing tower (constructed on or before March 16, 2001) without undergoing Section 106 review, unless:

1. The new antenna will result in a substantial increase in the size of the tower;
2. The FCC has determined the tower to have an unresolved adverse effect on one or more historic properties;
3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106;
4. The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the Advisory Council on Historic Preservation (ACHP), or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).

## **COLLOCATION: TOWERS CONTRUCTED AFTER MARCH 16, 2001**

The proposed antenna may be mounted on an existing tower (constructed after March 16, 2001) without undergoing Section 106 review, unless:

1. The Section 106 review process for the tower and any associated environmental reviews required by the FCC have not been completed;
2. The new antenna will result in a substantial increase in the size of the tower;
3. The FCC has determined the tower to have an unresolved adverse effect on one or more historic properties;

4. The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the ACHP, or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).

## **COLLOCATION: BUILDINGS AND NON-TOWER STRUCTURES OUTSIDE OF HISTORIC DISTRICTS**

The proposed antenna may be mounted on a building or non-tower structure without undergoing Section 106 review, unless:

1. The building or non-tower structure is over forty-five (45) years old;
2. The building or non-tower structure is inside or within 250 feet of the boundary of a historic district;
3. The antenna is visible from the ground level of a historic district;
4. The building or non-tower is a designated National Historic Landmark, or is listed in or eligible for listing in the National Register of Historic Places based on the review of the licensee, tower company, or applicant for an antenna license;
5. The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the ACHP, or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).

For all proposed wireless antenna collocations not excluded from Section 106 review, the applicant or consultant should refer to the Montana State Historic Preservation Office Guidelines for Preparation of Section 106 Documentation for New Cellular Tower and Antenna Structures.

## **2015 ANTENNA AND COLLOCATION EXCLUSIONS**

Collocations on utility structures, including utility poles and electric transmission towers, may be mounted without undergoing Section 106 Review, unless:

1. Deployment exceeds size limitations when measured with other wireless deployments on the same structure.
2. There will be new ground disturbance.
3. The collocation will be placed on a structure :
  - a. within the boundary of , or within 250 feet of the boundary of, a historic district.
  - b. that is a designated National Historic Landmark or is listed/eligible for the National Register of Historic Places (NRHP).
  - c. the collocation is subject to a pending complaint of alleged adverse effect on historic properties.

Antenna may be mounted without undergoing Section 106 Review, unless:

- 1) They will be in place for more than 60 days.
- 2) They require notice of construction to the Federal Aviation Administration (FAA).
- 3) Marking or lighting under FAA regulations are required.
- 4) They will be more than 200 feet above the ground

5) More than minimal ground excavation is required.

Collocations on buildings and any other non-tower structure, may be mounted without undergoing Section 106 Review, unless:

1. There is not an existing antenna on the building or structure.
2. The collocation does not meet requirements related to visibility and proximity to an existing antenna.
3. There will be new ground disturbance.
4. The collocation will be placed on a structure :
  - a. within the boundary of, or within 250 feet of the boundary of, a historic district.
  - b. that is a designated National Historic Landmark or is listed/eligible for the NRHP.
  - c. the collocation is subject to a pending complaint of alleged adverse effect on historic properties.

Please visit <http://www.fcc.gov/document/wireless-infrastructure-report-and-order> to see the full document that references the above exclusions.



# Eligibility Criteria for Irrigation Ditches and Associated Water Control Features

## FOR THE NATIONAL REGISTER OF HISTORIC PLACES IN MONTANA

Project APEs (Areas of Potential Effect) often intersect with portions of linear features like irrigation systems. When seeking Montana SHPO's concurrence on eligibility determinations for the National Register of Historic Places, evaluators must first convey the *significance of the entire resource* (i.e., irrigation system) within its historic context, and then evaluate the *integrity of the segment* being recorded. Evaluation can be done through historical research and does not require field recordation of every feature.

Criteria to consider when assessing the eligibility of irrigation ditches/systems includes:

1. Does it have unique construction or features?
2. Does it retain its original features (headgates, overflow structures, siphons, etc.)?
3. Does it basically follow its original alignment?
4. Is it the first ditch or the largest ditch in the area?
5. Was it constructed by or for an important time period or event (Homesteading Act, Great Depression, Carey Act, etc.)?
6. Was it constructed by or for an important individual or group?
7. Is it directly associated with the interpretation of a single historic site?
8. How much water does it convey?
9. Did it serve an important purpose in the development of the local area?
10. How many different individuals/farmsteads does it serve?
11. Is it a primary ditch?
12. Does it have a name?
13. Does it continue to function in its original capacity?
14. Does it appear in the Montana Water Resources Survey?



(<http://dnrc.mt.gov/divisions/water/water-rights/records-unit/survey-books>)

Additional Resources:

[www.oregon.gov/oprd/OH/Documents/OR\\_Linear\\_Resources\\_Guidance.pdf](http://www.oregon.gov/oprd/OH/Documents/OR_Linear_Resources_Guidance.pdf)

<https://www.nps.gov/subjects/nationalregister/upload/NRB30-Complete.pdf>

<http://www.thc.texas.gov/public/upload/preserve/survey/survey/Irrigation.pdf> (Pages 229-269)

<https://www.fcgov.com/historicpreservation/pdf/holleran.pdf?1508793205> (Pages 82-88)



# Montana Cultural Resource Database User Guide

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### Learn More About Using the Cultural Resource Database

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[Submitting Data and Tracking Status: Guide for Consulting Parties \(DB-2\)](#)

[Searching Site, Survey, and Project Data: Guide for Registered Database Users \(DB-3\)](#)

[Cultural Resource Database Attributes: Definitions for Eligibility, Effect Determinations, and Review Actions Used by the Montana SHPO \(DB-4\)](#)