

NEPA / NHPA INTEGRATION GUIDANCE

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-documents>