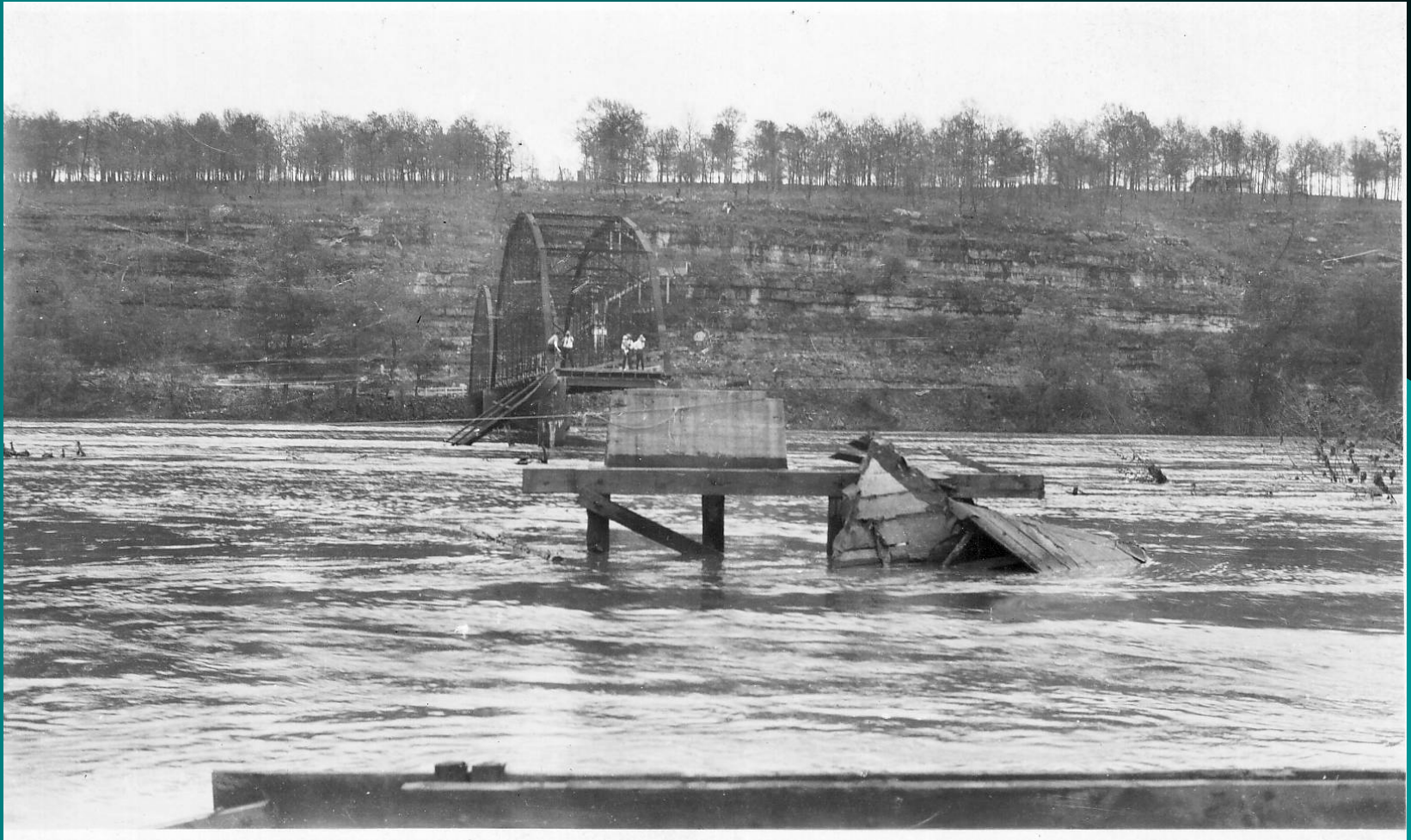


Section 106 Compliance for Local Public Agency Projects



Mike Meinkoth – Historic Preservation Manager
Missouri Department of Transportation

Section 106 of the National Historic Preservation Act

Compliance with Section 106 requires:

1. *Initiate the Process*
2. *Identify Historic Properties*
3. *Assess Adverse Effects*
4. *Resolve Adverse Effects (i.e., avoidance, minimization, and/or mitigation of any adverse effect on historic properties)*

The Section 106 Process

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1. INITIATE the process

- Determine undertaking
- Notify SHPO/THPO

- Identify Tribes and Other Consulting Parties
- Plan to involve the public

*No undertaking/
potential to cause
effects?*

2. IDENTIFY historic properties

- Determine APE
- Identify historic properties

- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*No historic properties
present/affected?*

3. ASSESS adverse effects

- Apply criteria of adverse effect

- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*No historic properties
adversely affected?*

4. RESOLVE adverse effects

- Avoid, minimize, or mitigate adverse effects
- Notify ACHP

- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*Agreement
(MOA/PA)
or
Council Comment*



The “Public” Aspect of Section 106

§ 800.2 Participants in the Section 106 process

- (a) Agency official
- (b) Council
- (c) Consulting parties
 - (1) State historic preservation officer
 - (2) Indian tribes and Native Hawaiian organizations
 - (3) Representatives of local governments
 - (4) Applicants for Federal assistance, permits, licenses and other approvals
 - (5) Additional consulting parties – certain individuals and organizations with a demonstrated interest in the undertaking ... or their concern with the undertaking's effects on historic properties
- (d) The public



Early Start in the Section 106 Process

The most effective way to avoid or minimize harm to historic properties is to offer alternatives that still meet the need of the project.

Early in the project development process is when the broadest range of alternatives are available.



MoDOT Engineering Policy Guide:

Category:136 Local Public Agency (LPA) Policy

Category:136 Local Public Agency (LPA) Policy

Google Search Engine just for LPA Policy

Use the "Google for LPA" when looking for LPA information. It is located to the left, just above the "Google", and will only yield results from the EPG 136 articles.



Video: Finding Info in the EPG

This video helps the EPG user to find info in the EPG.

Local Public Agency



The Local Public Agency (LPA) Policy, produced by the Missouri Department of Transportation (MoDOT) is intended to be used as a guide for cities and counties that sponsor projects utilizing federal transportation funds provided under the current transportation bill, the Moving Ahead for Progress in the 21st Century (MAP-21) (P.L. 111-323). The local agency may reference MoDOT's Standard Specifications for Highway Construction (SSHC) for issues not addressed in the LPA Policy. The LPA Policy addresses four local programs that are funded under the current transportation act:

- Highway Bridge program (HBP)
- Off-System Bridge Replacement and Rehabilitation Program (BRO)
- On-System Bridge Replacement and Rehabilitation Program (BRM)
- Surface Transportation Program (STP) - Urban
- STP Urban Attributable
- STP Urban Non-Attributable
- Surface Transportation Program (STP) - Enhancement
- Congestion Mitigation and Air Quality (CMAQ)

Title 23 (R), as amended by MAP-21 requires MoDOT to administer all funds apportioned and allocated to the state under this transportation act. MAP-21 directs that certain percentages of funding categories within the state's apportionment must be sub-allocated towards the Off-System Bridge Replacement and Rehabilitation Program (BRO), the STP Urban Attributable Program, the STP - Transportation Alternatives Program and the Congestion Mitigation and Air Quality Program.

For projects administered by local officials, the state will furnish information concerning the necessary federal requirements and will act as coordinator. The necessary design, acquisition, environmental, historical and archaeological clearances and approvals, construction and maintenance of improvements will be the responsibility of the local agency. A MoDOT district representative will be the primary contact, furnish the necessary guidelines and coordinate the necessary reviews and approvals. MoDOT personnel will advise and assist the local agency in meeting the requirements of the program. Additional information regarding federal requirements is available through the MoDOT district representative.

Specific detailed procedures concerning the acquisition of land for road and bridge improvement projects administered by a local public agency are contained in EPG 136.8 Local Public Agency Land Acquisition.

Articles in "136 Local Public Agency (LPA) Policy"

The following 13 pages are in this category, out of 13 total.

1

- 136.1 Introduction
- 136.2 Certification and Training
- 136.3 Federal Aid Basics
- 136.4 Consultant Selection and Consultant Contract Management

1 cont.

- 136.5 Non-Infrastructure
- 136.6 Environmental and Cultural Requirements
- 136.7 Design
- 136.8 Local Public Agency Land Acquisition
- 136.9 Plans, Specs and Estimates (PSE)

1 cont.

- 136.10 Advertisement for Bid and Project Award
- 136.11 Local Public Agency Construction
- 136.12 Figures, Glossary and Other Useful Links
- 136.13 LPA Policy Changes

Recent Changes to LPA Policy

MoDOT District & Central Office Information



Chapter 136.6.4.1:

Section 106 (Cultural Resources) Compliance

- 136.6.4.1.1 Step 1, Determine Need for Cultural Resource Investigations
- 136.6.4.1.2 Step 2, Cultural Resource Investigations
- 136.6.4.1.3 Step 3, Preparation of the Memorandum of Agreement
- 136.6.4.1.4 Step 4, Mitigation of Adverse Effect

136.6.4.1.1 Step 1, Determine Need for Cultural Resource Investigations

If the project does not meet the criteria for a project with "No Potential to Cause an Adverse Effect" as defined by the Memorandum of Understanding between the Missouri Division of the Federal Highway Administration and MoDOT as described below, the LPA should solicit [State Historic Preservation Office's \(SHPO\)](#) opinion on the need for a cultural resource survey by submitting a Section 106 Project Information Form to SHPO.

The Missouri Division of the Federal Highway Administration and MoDOT in 2014 signed a Memorandum of Understanding (MOU) that define LPA jobs that have "No Potential to Cause Adverse Effects" and do not require a Section 106 Submittal to the State Historic Preservation Office (SHPO). The activities covered under this MOU are listed below. If there is a question regarding whether an activity is covered by the MOU or will require a Section 106 submittal to SHPO, please contact Matt Burcham (Matthew.Burcham@modot.mo.gov) or Aaron Anglen (Aaron.Anglen@modot.mo.gov). **If there is one project activity that does not meet these criteria, the entire project must go through the Section 106 process.**

Actions or activities that have "No Potential to Cause Adverse Effects" are:

1. Mowing, seeding/reseeding, planting of annual and perennial flowers, in-kind replacement of trees and shrubs, and other ground cover maintenance activities;
2. Installation or replacement/repair of fixed static signs, interconnection devices, surveillance cameras, closed circuit TV, co-location of antennae, and other minor incident and traffic management devices (not including variable message signs), accessible pedestrian signals, railroad warning devices, improved rail crossing surfaces, and underground cable;
3. In-kind replacement, reconstruction, or ordinary repair or modification of existing lighting, guardrails, modern fencing, traffic and pedestrian signals, curbs and gutters, sidewalks and ramps, variable message signs, and Americans with Disability Act (ADA) retrofits;
4. Activities that do not involve construction or ground disturbance, such as preliminary engineering, training, technical studies, non-invasive inspections, and educational programs;
5. Overlay, milling, grooving, repairing (concrete or asphalt patching or slurry seal), striping, or resurfacing of existing ramp, roadway and parking lot surfaces where there will be no expansion of wearing surfaces; or addition of rumble strips, pavement markings (normal and raised), bus pads, bumper stops, bike racks, and snow and ice detectors to the same;
6. Routine bridge, culvert and structure maintenance and repair actions, including and limited to: cleaning of the bridge, in-kind painting of the bridge, in-kind replacement of bridge decking and expansion joints and compression seals; deck overlay with the same or similar materials; overlay of existing approach roads for all bridges, where there will be no expansion of the wearing surface; cleaning scuppers or other drainage conveyances; modifications of expansion joints; deck patching with in-kind material, repair of guardrails which are already attached to parapets; in-kind replacement or repair of existing modern fencing; in-kind replacement or repair of steel beam plates and/or bridge bearings; placement of grout bags; repair of cracks in superstructure and substructure with trowel able mortar; in-kind replacement of rip rap, steel caps, protective jackets, and dolphins; and other similar routine actions;
7. Routine cleaning, maintenance and repair of existing drainage, stormwater management and water quality facilities and devices, not including projects that seek to expand or extend such facilities, and retrofitting or redesign of existing drainage facilities limited to installation of traversable grates and conversion of drop inlets to traversable designs;
8. Water quality activities limited to the removal of natural waterway obstructing debris or sediment; and
9. Removal of salt, contaminated soil and materials from median and shoulder.
10. Installation of new lighting, traffic barriers, guardrails, traffic signals, curbs, gutters, sidewalks, hazard identification beacons, and variable message signs where the installation requires existing or new right of way or easement and where the installation will impact previously disturbed areas.

If these criteria are not met, the SHPO must be consulted on a federal-aid project as part of the Section 106 process. The Federal Highway Administration (FHWA) or Missouri Department of Transportation (MoDOT) may also be consulted on an as needed basis, but in almost all cases, the information for the SHPO can be prepared by LPA staff. The following data should be provided to the SHPO (be sure to include the BRO or STP project number, the County and Route in the project description)—make sure the project description accurately describes the entire project, not just bridge replacement, (consider using the project description from the National Environmental Policy Act (NEPA) document):

Forms

- [Section 106 Project Information Form](#)*
- [Section 106 Survey Form](#)*
- [Guide to the Completion of the Section 106 Survey Memo](#)

* These forms are available electronically, but cannot be electronically submitted to SHPO



Phase I Survey Timelines

Architectural survey

- Fieldwork is usually completed before or during the archaeological survey
- Require approximately 2-3 months to complete after access is granted (fieldwork & write-up)

Phase I archaeological survey

- Initial investigations intended to locate unrecorded archaeological sites
- Require approximately 2-3 months to complete after access is granted (fieldwork, analysis & write-up)



Phase II Testing Timelines

Phase II archaeological testing

- Evaluate site's significance and the project's effects upon it
- Requires approximately 1-2 weeks per site to complete



Mitigation Timelines

Phase III archaeological mitigation

- Needs signed Memorandum of Agreement among FHWA, LPA and SHPO regarding archaeological data recovery plan
 - Usually requires 3-6 months to draft the MOA, unless there are special issues
- Fieldwork requires approximately 1-3 months to complete after property is acquired
- Fieldwork needs to be completed before the project is let
- Report is completed and submitted to SHPO after construction



Mitigation Timelines

Bridge & Architectural mitigation

- Mitigation, usually consisting of documentation; photos and mapping will need to be taken before construction, the report can be completed afterwards



Bridge Marketing

- Advertisement for reuse of bridges should start 12 months before the Letting and run for 6 months

Bridge Marketing

MoDOT Home | Contact Us | Email/Text Updates


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888-ASK MoDOT (275-6636)

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About Us Travelers Business Bidding Plans & Projects Other Transportation News & Information Programs & Services Safety Careers

HOME >> FREEBRIDGES >> FREE BRIDGE

Free Historic Bridges



Free Bridges! From MoDOT and our partners

When Missouri bridge projects require the removal of historic bridges, the Missouri Department of Transportation or its local transportation partners must make them available for use by others. Federal law requires any state proposing demolition of a historic bridge involved in a bridge replacement project using federal funds to "first make the historic bridge available for donation to a State, locality, or responsible private entity" provided the recipient agrees to maintain the bridge and the features that give it historic significance and assume all future legal and financial responsibility for the bridge (see 23 USC 144 (g)).

Bridges advertised here are listed on or eligible for listing on the National Register of Historic Places and are available for reuse in place or relocation to a suitable location. The Missouri Department of Transportation and its local transportation partners are seeking proposals for their reuse. Because they are historic, preservation covenants to help preserve them and the features which make them historic, may apply. The *Bridge Marketing Plan* provides additional information on the overall process.


Up to 80% of the demolition costs (what would have been spent to demolish the bridges) is potentially available to reimburse recipients for reusing them. This funding is primarily available if the recipient is removing the bridge from its current location themselves. If the applicant needs the bridge removed and set aside for later pick-up, the funding is not available since the removal of the bridge is construed as a "demolition" activity. If these demolition funds are used by the recipient, Federal law prohibits using any other Title 23 Federal transportation funds for the bridge in the future.

Therefore, applicants should consider if other programs might be more beneficial for their project. The applicant may use other Federal funds [other than demolition funds] to relocate bridges, such as Transportation Alternatives Program (TAP) or Recreation Trails Program (RTP) funds, without incurring this limitation, see http://www.fhwa.dot.gov/bridge/144_2001.cfm.

Applicants should also be aware that "Buy America" provisions of Federal grants will apply, even for projects involving historic bridges. Waivers for the Buy America provisions can be obtained, but the process takes 6-12 months. This should be factored into projected schedules for grant timelines.

Bridge ownership will be transferred to the recipient and the new owner must assume all legal and financial responsibility for the structure.

The following bridges are available for reuse or relocation. Proposals for their reuse, or the reuse of individual spans of multi-span bridges, should be submitted to the contact listed on each individual bridge page by selecting a bridge below. Download the Proposal Checklist to assist in the preparation of your proposal.



“Creative/Alternative” Mitigation

What is the value of the site to others?

- Scientific
- Educational
- Sacred or Traditional Place
- Community Identity
- Heritage Tourism

National Register of Historic Places criteria for evaluation:

- A. ...associated with events that have made a significant contribution to the broad patterns of our history; or
- B. ... associated with the lives of persons significant in our past; or
- C. ...embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. ...have yielded, or may be likely to yield, information important in prehistory or history

Tips for Effective Consultation

All parties should:

- Keep an open mind
- State your interests clearly
- Acknowledge that others have legitimate interests, and seek to understand and accommodate them
- Consider a wide range of options.
- Identify shared goals and seek options that allow mutual gain
- Creative ideas about alternatives—not complaints—are the hallmarks of effective consultation



Old Appleton Bridge



Marthasville Depot



Washington Avenue Bridge



In Conclusion

A project that uses federal funding or requires a federal permit/license must comply with Section 106.

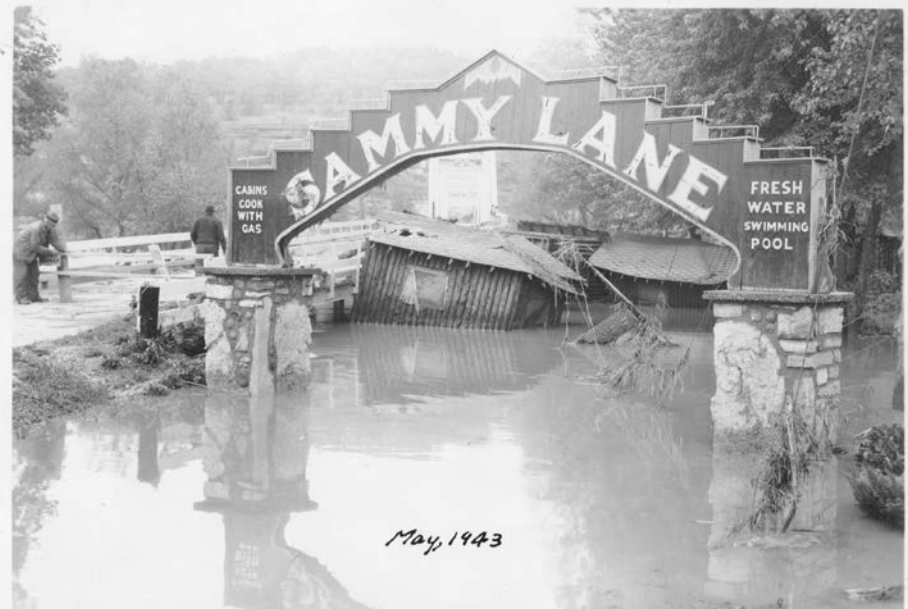
The Section 106 process should start very early in the project development.

MoDOT's Engineering Policy Guide provides step-by-step instructions on the Section 106 process.

If mitigation is required, "creative/alternative" mitigation methods should be explored.



White River Br. Rt 80 Fancy Co at Branson 5-43



White River Bridge Rt 80 Fancy Co at Branson

5-43