



National Historic Preservation Act

What is Section 106 of the National Historic Preservation Act (NHPA)?

It is a law that requires Federal agencies to consider effects of their undertakings on historic properties and give the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on the agency's findings.

BOEM is proposing a Programmatic Agreement (PA) under the NHPA to allow phasing of Section 106 for the New York Bight lease areas. PAs allow agencies to establish an alternate procedure to fulfill requirements under Section 106 in a way that mutually benefits the agency and its partners.

What is a Programmatic Agreement?

Federal agencies can negotiate a PA among the agency, federally recognized Native American tribes, appropriate State Historic Preservation Officers (SHPOs), consulting parties, and the ACHP if it chooses to participate. A federal agency can elect to use a PA for multiple undertakings when effects to historic properties cannot be fully determined in advance or when circumstances warrant a departure from the standard Section 106 process to better fit in with agency management or decision making. For the New York Bight Programmatic Environmental Impact Statement, BOEM is developing a PA through consultation with federally recognized Native American tribes, New Jersey and New York SHPOs, the ACHP, and consulting parties. The PA aims to identify programmatic resolution measures for potential adverse effects, if any are identified, and establishes the consultation process for future Section 106 consultations required for the Construction and Operation Plan (COP) of each lease area.

Consultation for the PA includes the following:

- Identification of consulting parties.
- Multiple Section 106 consultation meetings.
- Potential identification of historic properties, including delineation of an Area of Potential Effects, based on available information at this stage of analysis.
- Potential identification of avoidance, minimization, mitigation, and monitoring measures to resolve potential adverse effects.
- Identification and clear outline of future consultation that will occur later for each COP.

Additional information can be found at <https://www.achp.gov/>.

Why complete a Programmatic Agreement?

- Initiate the Section 106 process early, including consultation with consulting parties and the public.
- Identify historic properties to be avoided and adverse effects including potential cumulative effects.
- Identify potential avoidance, minimization, mitigation, and monitoring measures to resolve potential adverse effects early in project planning.
- Establish an expedited and consistent consultation process for the COP at each lease area.
- Clarify the phased Section 106 consultation to occur later for each COP.

