

FHWA, Caltrans, SHPO  
Section 106 Programmatic  
Agreement

# National Historic Preservation Act of 1966

- National Register of Historic Places
- Advisory Council on Historic Preservation
- Section 106
- 36 CFR 800

# What does Section 106 actually say?

The head of an federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking in any state and the head of any federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any federal funds on the undertaking or prior to the issuance of any license... **take into account the effect of the undertaking on any** district, site, building, structure, or object **[property] that is included in or eligible for inclusion in the National Register.** The head of any such federal agency shall afford the Advisory Council on Historic Preservation... a reasonable opportunity to comment with regard to such an undertaking (16 USC 470f).

# Title 36 Code of Federal Regulations

## Part 800

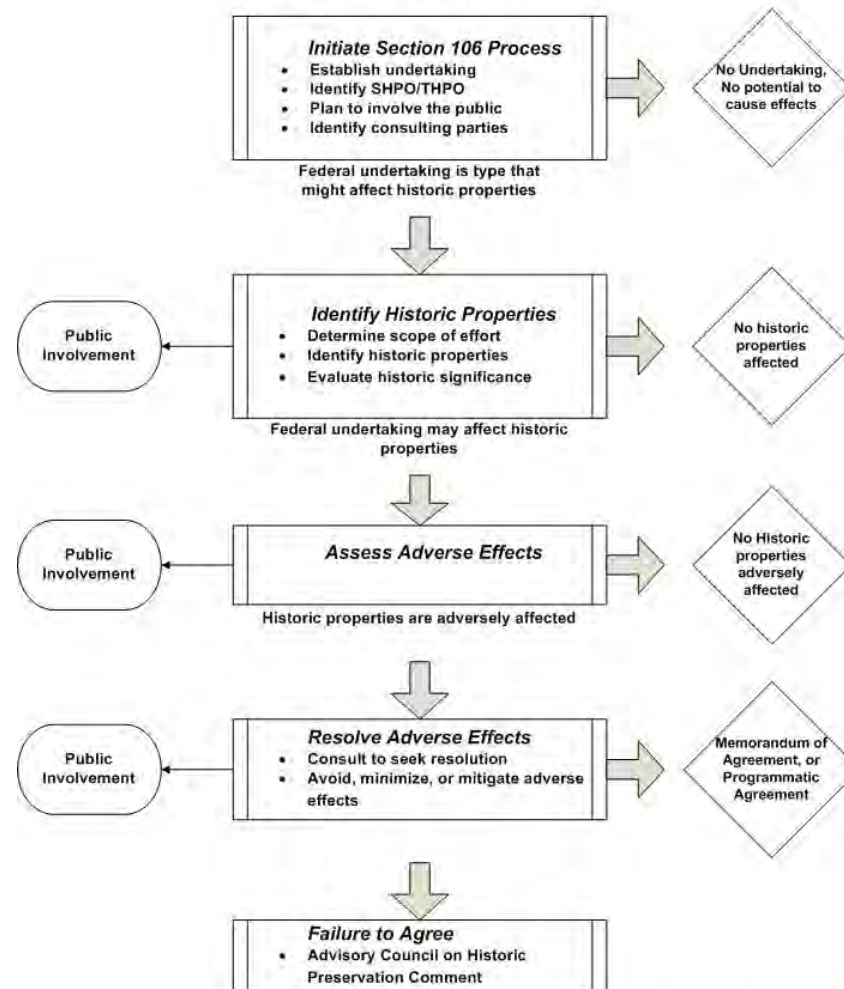
### (36 CFR Part 800)

- 800.14(b) Programmatic agreements. The Council and the agency official may negotiate a programmatic agreement to govern the implementation of a particular program . . .

Programmatic Agreement  
Among the Federal Highway Administration, the  
Advisory Council on Historic Preservation, the  
California State Historic Preservation Officer, and the  
California Department of Transportation  
Regarding Compliance With Section 106 of the  
National Historic Preservation Act,  
As It Pertains to the Administration of the Federal-  
Aid Highway Program  
in California

# “regular” 106

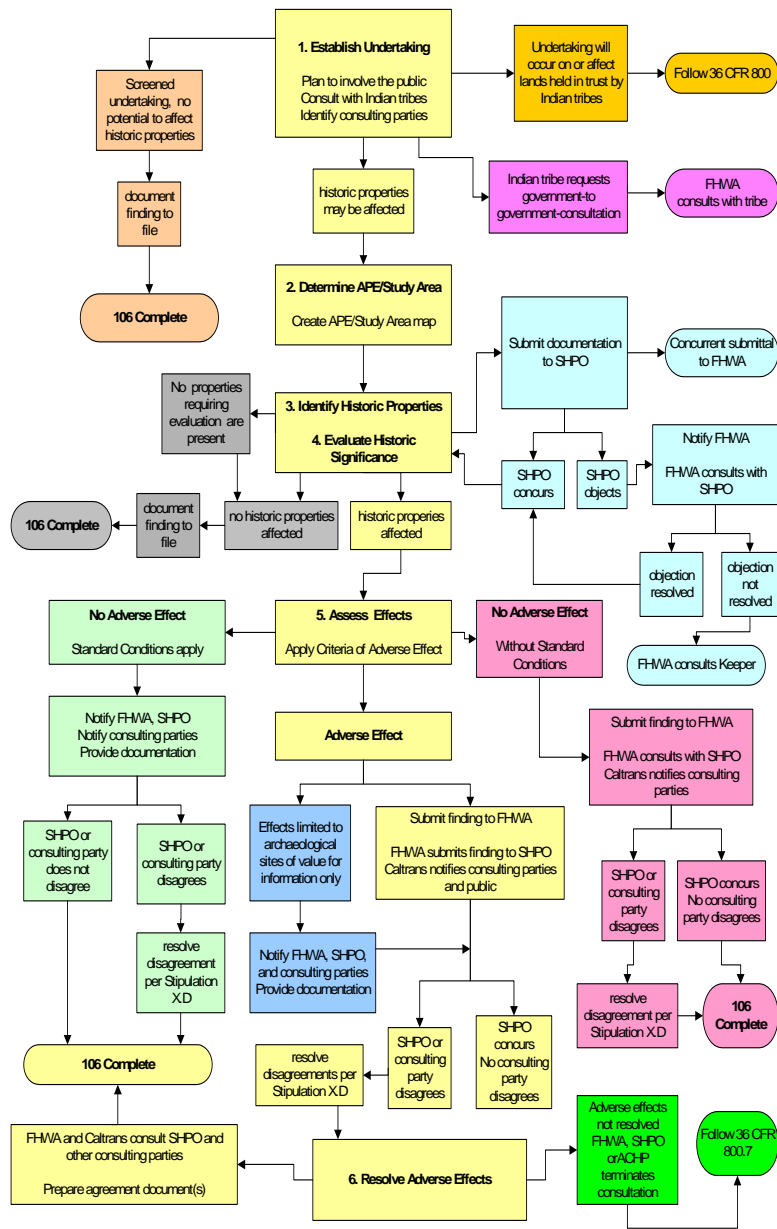
## The Section 106 Process



Preservation Pennsylvania modeled The Section 106 Process flowchart after a similar publication by the Advisory Council on Historic Preservation, 2009.

# 106 under the PA

## SECTION 106 PA FLOWCHART



# Caltrans Professionally Qualified Staff (PQS)

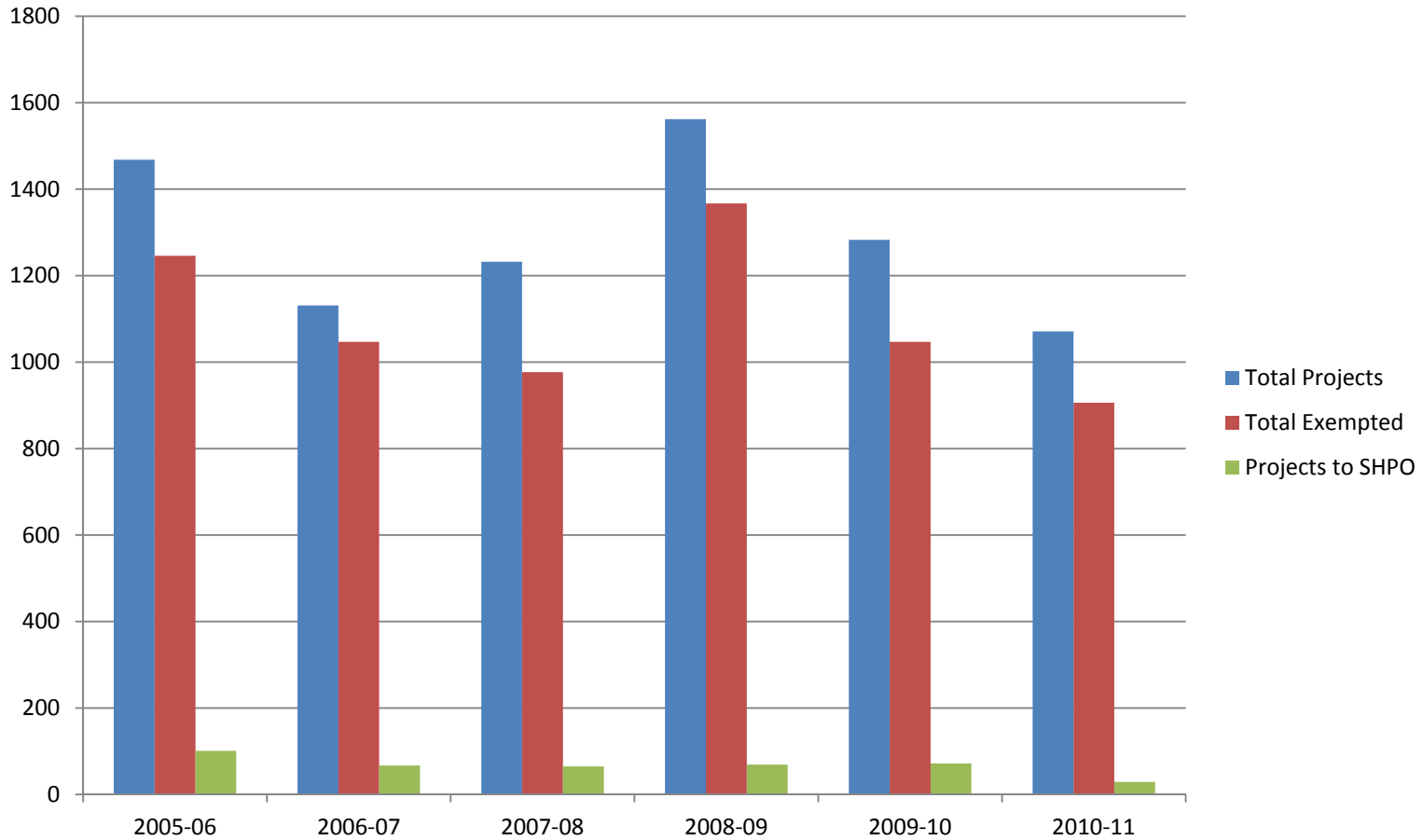
- Only Caltrans Staff can be PQS
- PQS must meet SOI Standards
- Certification/training process at HQ
- Must review/approve consultant-prepared work





# Screened Undertakings





# Screened Undertakings

# Properties Exempt from Evaluation



# Environmentally Sensitive Areas

- Stipulation VIII.C.3: Special Consideration for Certain Archaeological Properties:
- “If archaeological properties within an undertaking’s APE are protected from any potential effects by establishment and effective enforcement of an ESA...Caltrans may consider such properties to be NRHP eligible for the purposes of that undertaking without conducting subsurface testing or surface collection.”
- **Details matter!**

# Benefits of the PA

- FHWA delegates to Caltrans direct consultation with and transmittal to SHPO except for findings of adverse effect and no adverse effects without standard conditions
- Certain project types can be screened by PQS to be exempt from Section 106
- Certain properties are exempt from evaluation
- Archaeological test excavation may not be necessary when site can be protected by ESA
- *Adds up to time savings of one month to one year or more depending on project and commensurate cost savings*

## NEPA DELEGATION

The Safe, Accountable, Flexible, Efficient  
Transportation Equity Act: A Legacy for Users  
(SAFETEA-LU): 2007



What now?

