

and contact local law enforcement immediately. Do not disturb or remove the bones, as unmarked burials are protected by state law on all public and private lands. Information regarding unmarked burial statutes in Kansas may be found at <http://www.kshs.org/resource/ubshome.htm>.

Is the project over when the fieldwork is complete?

Fieldwork is only part of the archaeological process. Artifacts need to be cleaned and cataloged prior to analysis and report writing. Descriptions of several phases may be combined into one report. The agency or person responsible for the project sends the report to the SHPO for review.

What happens to the artifacts that are recovered from a site?

Before artifacts are recovered from a site, the archaeological consultant should have an agreement with a repository to house the artifacts when analysis is complete. In most cases, the consultant prepares the artifacts for long-term storage (referred to as curation), though some repositories prefer to do this task in-house. Most repositories charge a fee for curation. After processing, some artifacts may be used for display at local museums or other institutions. Other archaeologists may borrow the artifacts as part of their research.

After scraping off the plowzone, archaeologists begin to excavate an archaeological site in Cowley County.



The Union Pacific Depot Visitors Center at Lawrence, Kansas features a display of artifacts recovered during a Section 106 compliance project and a brochure created for the exhibit.

Copies of reports on work completed at a project are provided to the SHPO, the responsible federal agency, its designee, or its grant recipient and are available to professional archaeologists for research purposes. (far left)



How does the process benefit me?

The information collected from an archaeological project often generates public interest and positive publicity. Many people are interested in archaeology; therefore, it can generate goodwill with local communities or relationships with other agencies when permits are required. It also avoids potential conflicts with community descendants if significant resources are encountered during construction.

What is the "bottom line" in the Section 106 process?

Everyone who is working with federally funded or permitted projects must follow the law, which requires that archaeological sites be considered during project planning and provides a series of steps for all to follow. Benefits include smooth preparation for projects, along with preservation of our shared cultural heritage.



Artifacts are cleaned, sorted, and cataloged prior to analysis.

To contact the SHPO:

Kansas State Historical Society
Cultural Resources Division Director
6425 S. W. 6th Ave.
Topeka, Kansas 66615-1099
(785) 272-8681 x217

Additional resources:

- Kansas SHPO website:** <http://www.kshs.org/resource/section106home.htm>
- Consultant's list:** www.kshs.org/resource/SHPO%27sS_Guide.pdf
- User's Guide to Section 106:** <http://www.achp.gov/usersguide.html>
- Section 106 regulations:** www.achp.gov/work106.html
- National Register of Historic Places (NRHP):** <http://www.cr.nps.nr/>
- National Register of Historic Places (NRHP) criteria:** <http://www.cr.nps.nr/listing.htm>
- Text of 36 CFR Part 800 (Section 106):** <http://www.achp.gov/regs-rev04.pdf>
- Section 106 and Native American consultation:** <http://www.achp.gov/egs-tribes.htm>
- The Kansas Antiquities Commission act:** <http://www.kshs.org/resource/antiqlaw.htm>
- National Environmental Policy Act of 1969 (NEPA):** <http://www.nepa.gov/nepa/regs/nepa/nepaeqia.htm>
- NEPA implementation:** <http://www.environment.fhwa.dot.gov/projdev/pdimplement.asp>
- Section 4(f) from the DOT Act of 1966:** <http://www.environment.fhwa.dot.gov/projdev/pd5sec4f.asp>
- The Archaeological Resources Protection Act:** http://www.cr.nps.gov/local-law/FHPL_ArchRsresProt.pdf
- Unmarked Burial Sites in Kansas:** <http://www.kshs.org/resource/ubshome.htm>
- The Native American Graves Protection and Repatriation Act (NAGPRA):** <http://www.cr.nps.gov/nagpra/>
- Secretary of Interior's Standards for Archaeology & Historic Preservation:** http://www.cr.nps.gov/local-law/arch_stnds_0.htm
- The Advisory Council for Historic Preservation:** <http://www.achp.gov/>
- Professional Archaeologists of Kansas:** <http://www.ksarchaeo.info/>
- To Learn More About Archaeology:** <http://webs.wichita.edu/kansasbest/dig/ksartifacts.htm>

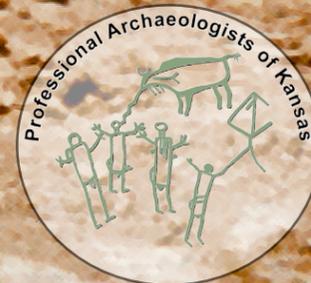
For more copies of this brochure contact:

Professional Archaeologists of Kansas
Dr. Donna C. Roper
1924 Bluehills Rd.
Manhattan, KS 66502-4503

Kansas State Historical Society
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Getting the Archaeological Green Light for Your Projects

A Basic Guide to Complying with Laws Regarding Archaeological Sites





A Basic Guide to Complying with Laws Regarding Archaeological Sites

What is the law regarding archaeological sites?

Federal law requires that the potential for harm to archaeological sites be considered prior to beginning construction on a wide variety of projects. The law applies to projects that use federal funds or require federal permits. The starting point is Section 106 of the National Historic Preservation Act of 1966. Other laws and regulations have been passed in the years since, producing a detailed set of procedures known as the "Section 106 Process." A summary of Section 106 regulations and how to use them may be found on the web site of the Advisory Council for Historic Preservation (ACHP) at www.achp.gov/work106.html.

Who must comply with these laws?

All of us. In Kansas, the law applies to anyone who is planning a project that requires a federal permit, uses federal funds, or is on federal land. This includes (but is not limited to) government agencies, project designers, engineers, planners, developers, and private companies.

What sorts of projects use federal funds?

- Major public works such as levees and highways.
- Smaller projects (such as water treatment systems) funded by federal grants.
- How about projects that use federal permits?
- Any project that involves bridges, stream crossings, or changes to stream channels and/or wetlands can require a Corps of Engineers permit.
- Cell towers require Federal Communications Commission permits.
- Natural gas pipelines need permits from the Federal Energy Regulatory Commission.

How does the Section 106 Process work in Kansas? (See Flow Chart)

1. As early as possible in the project development process, contact the State Historic Preservation Officer (SHPO) to see if archaeological work is needed. Provide the staff with a basic description of the project, along with a map or aerial photo showing its location and extent. More information may be found on the web site of the Kansas SHPO at <http://www.kshs.org/resource/>

The Union Pacific Depot Visitors Center at Lawrence, Kansas features a display of artifacts recovered during a Section 106 compliance project



section106home.htm .

2. Site files and background information are researched (Phase I investigation). This is done by the SHPO staff on small projects and by archaeological consultants on large projects. If the research shows that the project area has low potential for containing archaeological sites, a clearance letter is sent and the process is complete. If archaeological sites are known or are likely to be present in the project area, a field survey (Phase II investigation) is requested. While the law allows 30 days for this initial review, SHPO staff complete most in less than two weeks. Longer reviews are often required for major reports produced later in the process.
3. If no sites are found, a report is prepared, a clearance letter is sent, and the process is complete. If a site is found, test excavations (Phase III investigation) are requested. If the site is found to be not significant (not eligible for listing in the National Register of Historic Places), a report is prepared, a clearance letter is sent, and the process is complete.
4. If the site is determined to be significant, it is said to be an "eligible" property, meaning that it is eligible for listing in the National Register of Historic Places. If the project cannot be modified to avoid the site, it is referred to as an "Adverse Effect." Damage caused by construction must then be mitigated. This is usually accomplished through major salvage excavation investigations (Phase IV). Plans for excavation are coordinated through the SHPO and the funding/permitting federal agency through development of a Memorandum of Agreement (MOA) and a detailed excavation plan is prepared. Very few projects reach this step in the process.

Who does the work?



The SHPO has a list of professional archaeological consultants who have conducted work in Kansas and who have met the Kansas SHPO report standards. The list may be found at <http://www.kshs.org/resource/archeoresearchers.htm>.



How do I know that my project is in compliance with the law?

At each stage described above and in the flow chart, your archaeological consultant will produce reports meeting the SHPO standards that include recommendations for either clearance or further work. The SHPO will work closely with the consultant in order to agree or "concur" with all recommendations. In the unlikely event that agreement is not possible, the project will be passed to the Advisory Council for Historic Preservation (ACHP) in Washington, D.C. The Advisory council will then work as a mediator between the conflicting parties to reach an agreement.



Excavation must proceed carefully, as when working around this pottery sherd in a pit feature in a site in Rice County.

Who pays for the work?

In the case of federally funded projects, including those involving grants, the responsible federal agency pays for all investigations. Costs associated with federally permitted projects are the responsibility of the project developer.

How much is this going to cost me?

Costs vary widely, depending upon the size of the project and whether or not sites are found. In fairness to all, the SHPO cannot comment on funding. Cost estimates must be obtained from archaeological consultants.

What happens if I don't follow the process?

Ignoring the law could result in the loss of federal permits or federal funding, in addition to possible fines.

Is there a way to appeal SHPO decisions?

In the event of a dispute, the Advisory Council on Historic Preservation (ACHP) evaluates and acts upon appeals. The ACHP web site is www.achp.gov.

How long can the entire process take?

This can vary widely and is determined by the size and requirements of the project. The SHPO is aware of the realities of construction schedules and will work closely with you and your consultant in order to clear your project as quickly as possible while following the law.

What if I find human burials?

If you find human remains or bones that you think might be human, secure the area