

HISTORIC PRESERVATION LAWS

1906 - Antiquities Act - Requires permits before archeological investigations on federal lands.

1933 - Historic American Building Survey is authorized by President F.D. Roosevelt

1935 - Historic Sites Act - Asserts federal government concerns to nationally significant historic sites, buildings, objects, and antiquities.

1945 - The River Basin Survey Program - An attempt to protect archeological materials from destruction by dam construction and flooding.

1956 - The Federal Aid Highway Act – Provides for the salvage of archeological materials within a construction area.

1960 - The Reservoir Salvage Act - Preserve historic and archeological materials that might otherwise be lost through dam construction.

1966 - The National Historic Preservation Act (NHPA) – A response to the concerns about the adverse impacts of federal development projects on archeological sites and historic structures.

OTHER FEDERAL LAWS

Federal agencies have responsibilities under a number of laws

ACHP's regulations encourages coordination of Section 106 responsibilities "with any reviews required under other authorities such as:

National Environmental Policy Act

Native American Graves Protection and Repatriation Act

American Indian Religious Freedom Act

Archeological Resources Protection Act

and agency-specific legislation.

Compliance with one or more of these other statutes does not, by the itself, substitute for compliance with ACHP's regulations.

NATIONAL HISTORIC PRESERVATION ACT OF 1966 (As Amended)

Section 106

- Requires federal agencies to afford the Advisory Council on Historic Preservation an opportunity to comment on the effect actions proposed by those agencies might have on properties that are on or eligible for the National Register of Historic Places.
- Applies to federal agencies

Advisory Council On Historic Preservation

- An independent federal agency that is advisory to the President. The Council has the authority to establish regulations governing how federal agencies will meet the requirements of Section 106.

- **36 C.F.R. Part 800**

- Regulations for complying with Section 106. These spell out the process federal agencies must go through in affording the Advisory Council its opportunity to comment.

NATIONAL REGISTER OF HISTORIC PLACES

- Districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that:
- Are at least **50 years old** Retain their **integrity**
- *AND*
- Are associated with **events** that have made a significant contribution to the broad patterns of our history
- Are associated with the **lives** of persons significant in our past
- Represent distinctive **characteristics** of a type, period, or method of construction, are the work of a master, or have high artistic value
- Have yielded, or may be likely to yield, **information** important in prehistory or history or
- Are places of **traditional cultural importance**

SECTION 106 (36CFR 800) PROCESS

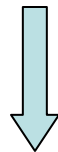
- INITIATE PROCESS
- IDENTIFY HISTORIC PROPERTIES
- ASSESS ADVERSE EFFECTS
- RESOLVE ADVERSE EFFECTS

Initiate Section 106 Process

- Establish undertaking
- Identify other consulting parties



Undertaking might affect historic properties

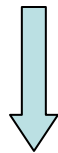


*No undertaking/
no potential to
cause effects*

**CONSULTATION
COMPLETE**

Identify Historic Properties

- Determine scope of efforts
- Identify properties
- Evaluate historic significance
- *Historic properties are affected*



*No historic
properties affected*

**CONSUTATION
COMPLETE**

IDENTIFYING CULTURAL RESOURCES

- CONTACT
 - SHPO and/or THPO
 - Tribal Government
- POSSIBLE RESPONSES
 - No historic properties and no potential
 - Complete list of historic properties
 - Incomplete list or no record of historic properties, area has potential

Survey

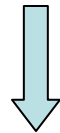
- Consider National Register Criteria
- Identify and consult appropriate expert
 - May include tribal elders
- Identify and consult other interested parties
- Secure necessary permits (ARPA, NAGPRA, Tribal)

EVALUATION

- Apply National Register criteria in consultation with SHPO/THPO, Tribe and identified interested parties (“public”)

Assess Adverse Effects

Apply criteria of
adverse effect



*Historic properties are
adversely affected*



*No historic properties
adversely affected*

*Seek Concurrence to
complete consultation*

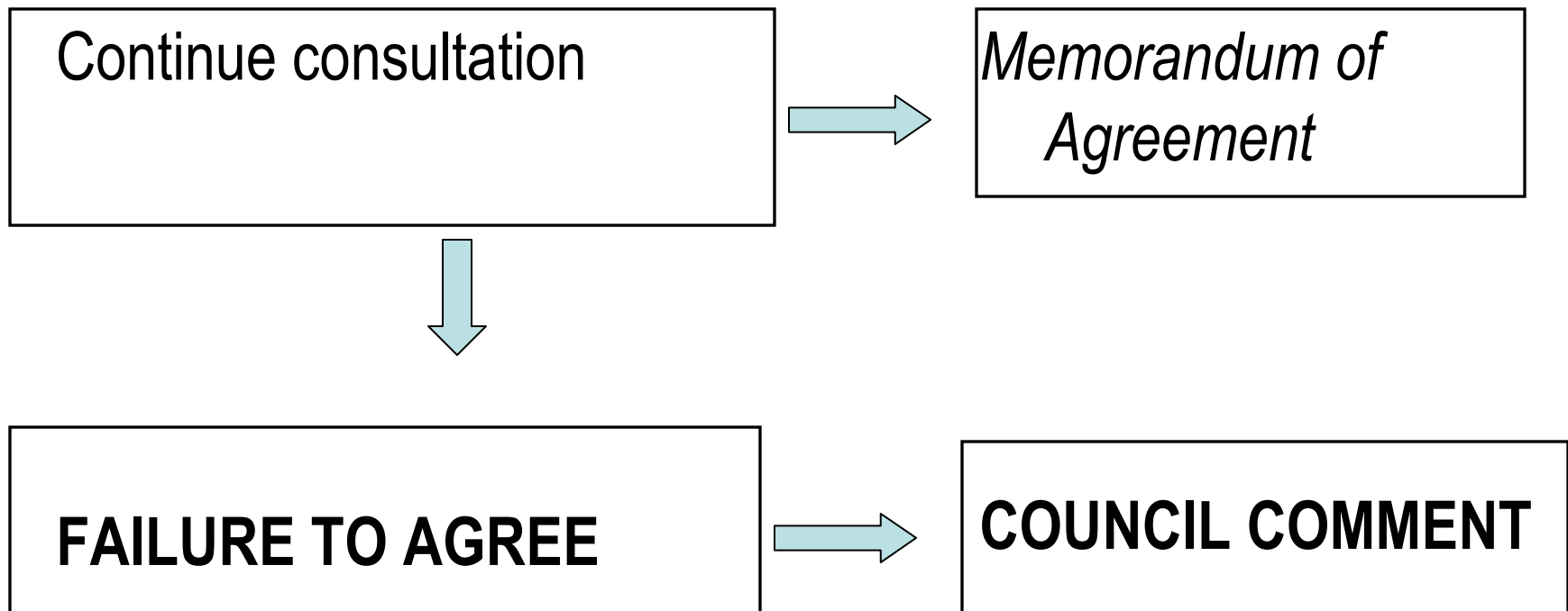
CRITERIA OF ADVERSE EFFECT

- Alteration, direct or indirect, of any of the characteristics that qualify a property for the National Register, in a way that would diminish the **integrity** of its
- **Location**
- **Design**
- **Setting**
- **Materials**
- **Feeling**
- **Association**
- Include reasonably foreseeable effects

EXAMPLES OF ADVERSE EFFECT

- **Physical destruction or damage**
- **Alteration**
- **Removal** of a property from its historic location
- **Change** of the **character** of the property's use that affect features of its historic significance
- **Introduction of elements**, visual, atmospheric or audible
- **Neglect**
- **Transfer, lease or sale out of federal control** without adequate and legally enforceable conditions

Resolve Adverse Effects



Section 106 Publications* and Information

ADVISORY COUNCIL ON HISTORIC PRESERVATION

WEB Site: WWW.ACHP.GOV

PHONE for Publications: (202) 606-8512

CONTACT: Paulette Washington

*See handout in training manual