



RIC 2007
Environmental Reviews:
The Role of the SHPO
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What is a SHPO?

*The SHPO is the State Historic
Preservation Officer*

The official appointed or designated pursuant to the National Historic Preservation Act to administer the State historic preservation program

The SHPO's representative.

The state agency that administers the state preservation program

The Legal Framework: Federal Preservation Responsibilities

- The National Historic Preservation Act of 1966 sets forth national policy, a broad philosophy, and a framework for decision making
- Section 106 requires that all federal agencies consider historic properties as part of their decision-making and calls for an advisory review of all federal undertakings

The State Historic Preservation Officer – the Federal Role

- Consults with federal agencies and guides through process
- Provides preservation expertise, and context for decisions
- Ensure appropriate consideration of historical significance and public attachment to resources
- Charged as well with identifying, evaluating, and registering historic properties and administering other federal and state mandates

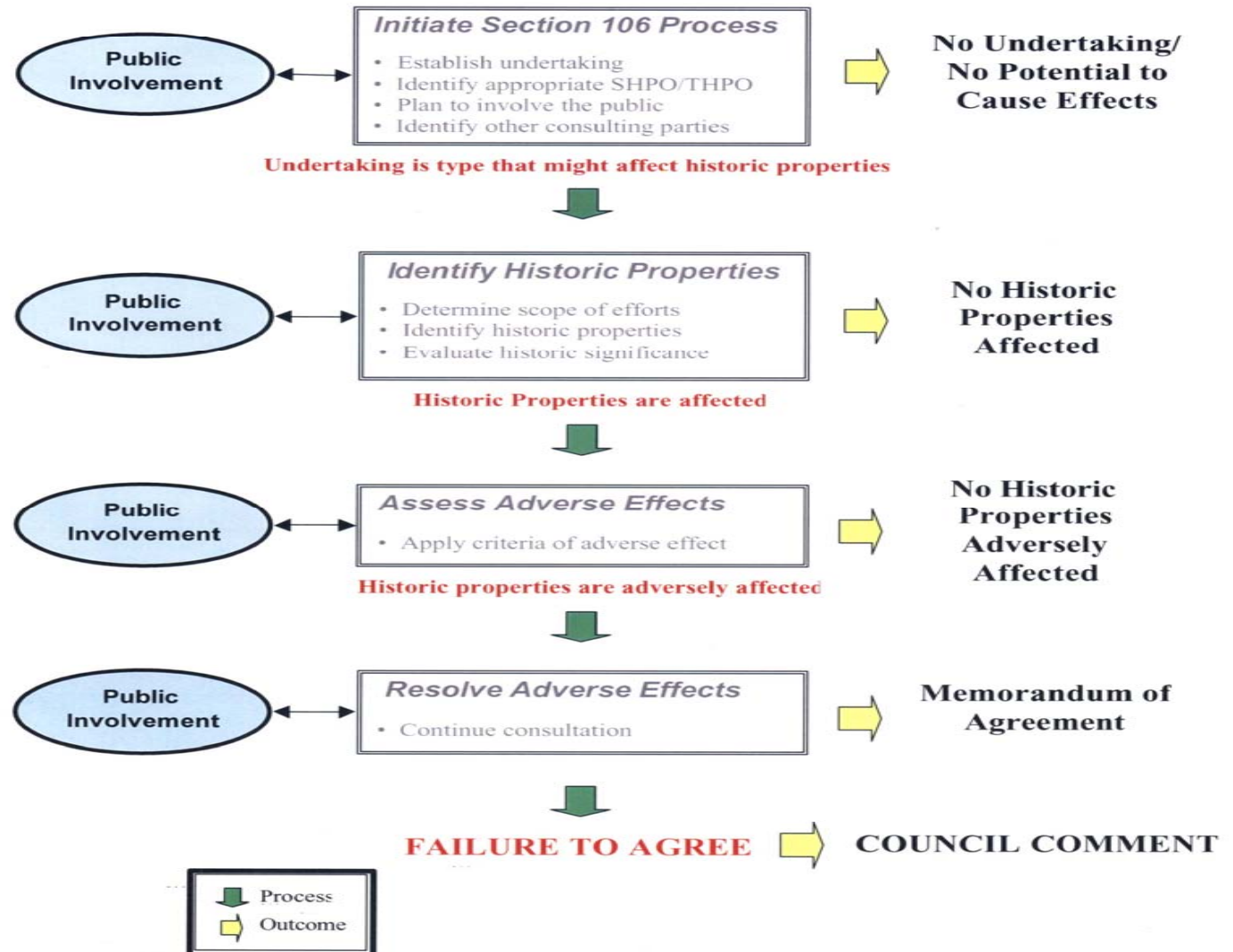
The State Historic Preservation Officer – The State Role

- Conducts state environmental reviews and supports environmental program management
- Fosters economic development and community revitalization through grants, tax credits, and other incentives
- State survey, register, historic highway markers
- Holds and manages preservation easements
- Archaeological collections
- Promotes heritage education and tourism

The Four Steps of Section 106 Review

- Step 1 – Initiate the process
- Step 2 – Identify Historic Properties
- Step 3 – Assess Adverse Effects
- Step 4 – Resolve Adverse Effects

THE SECTION 106 PROCESS



Roles in the Process

- Federal agency drives the process and retains decision making authority
- Advisory Council on Historic Preservation provides federal oversight
- State Historic Preservation Officer guides federal agency through the process, providing a context for understanding specific resources, and facilitates public participation

Roles in the Process

- Local governments with jurisdiction over the area where effects may occur
- Native Americans and other stake holders
- The public, as the recognized owners of federal lands, must be afforded participation in decisions about significant resources

Roles in the Process

Applicants

Federal agencies may use may use the services of applicants, consultants, or designees to prepare information, analyses and recommendations under Section 106.

The agency official remains legally responsible for all required findings and determinations.

Initiating the Process

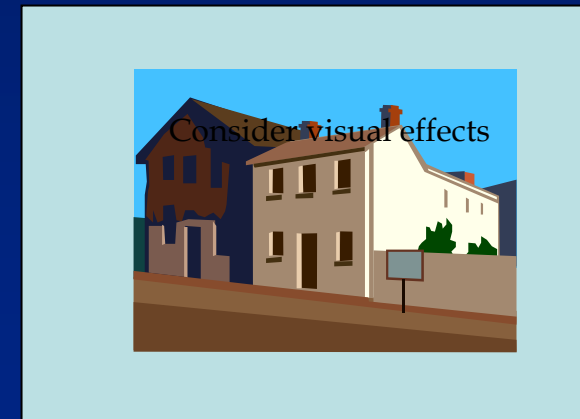
All parts of the project must be reviewed together – water lines, sewer lines, building rehabilitation, parking lots, access roads.

Including reasonably foreseeable secondary consequences.

Initiating the Process

Determine the Area of Potential Effect (APE).

The APEs for archaeological and architectural resources may be different:



Initiating the Process

**Develop a plan to involve the public
and identify other consulting parties
in consultation with SHPO**

Initiating the Process

Consultation with Indian Tribes:

Historic properties of religious and cultural significance to an Indian tribe may be located on ancestral, aboriginal, or ceded lands of that tribe.

What is required:

a reasonable and good faith effort to identify Indian tribes that attach such significance but may now live at great distances from the project.

Initiating the Process

Provide SHPO for review on Project Review Application Form, or in letter format:

- 1. Location of the undertaking, and definition of the APE clearly marked on U.S.G.S. quadrant map with topographic lines, or on a clear full-scale copy of map(s)**
- 2. Complete description of the undertaking**
- 3. Results of archives search**
- 4. Data from other sources**
- 5. Data from field investigations:**
- 6. Photos of resources and date of construction of architectural properties**
- 7. Data from field observations to reveal potential for archaeological resources; and,**

Identifying Historic Properties

Review existing information

SHPO archives

Interviews with knowledgeable people

Records of land use history

Native American consultation

Historic Properties:



- Places where Native Americans hunted bison and mammoth before there was a Chesapeake Bay
- Places that mark the birth of a new nation
- Monumental places like Mount Vernon, Monticello and Montpelier
- Decisive battlegrounds of the American Revolution and Civil War
- Frontiers of discovery and settlement



From the More Recent Past

Variable Density Wind Tunnel - 1923

National Historic Landmark

The physical principle underlying the VDT operation was to increase (by compressing) the density of the air in the vessel to 20 atmospheres (3000 psi), thereby offsetting the small size of the models tested (1/20 scale).

The test results more nearly correlated with a full-sized aircraft in flight – for the first time in the history of aeronautics research.



Engineers peered through one who occurred there, so that a tabulated, analyzed and trac



- African American schools and churches from the era of segregation and places associated with the civil rights movement
- Milestones along our nation's epic journey into space
- Places associated with World Wars I & II, the Cold War and the tragic events of September 11

Identifying Historic Properties

What makes a property *historic*?

For the purposes of Section 106, historic properties are defined as any prehistoric or historic site, district, building, structure or object *listed* on or *eligible* for listing on the National Register of Historic Places.

Identifying Historic Properties

Determine Eligibility

The Federal Agency applies the National Register criteria for all properties within APE and invites the SHPO to concur.

Identifying Historic Properties

Survey may be a key part of the Identification process and may involve Phase I or Phase II work.

Identification (Phase I) surveys locate previously unknown resources.

Evaluation (Phase II) surveys evaluate the eligibility of a recorded resource for inclusion on the National Register.

How does the Federal Agency decide if a survey is needed?

Topography of the Area of Potential Effect (APE)

Prehistoric/historic background of the project area and surrounding environs

Previously identified sites in and around the project area

Past use/disturbance of APE

Identifying Historic Properties



Identifying Historic Properties

What is required?

A reasonable and good faith effort

Identifying Historic Properties

- The identification process ends when the Federal Agency and SHPO agree that:
 - ✓ No historic properties exist within the APE;
 - ✓ The project will not affect any such properties.
- The Agency makes a determination of No Historic Properties affected

Assess Adverse Effects

If the SHPO concurs that historic properties will be affected by the project, the Federal Agency shall apply the criteria of adverse effect and provide to the SHPO an effect determination.

Possible findings of effect include:

- ✓ No Adverse Effect
- ✓ Adverse Effect
- ✓ Effect cannot be determined at this time.

Assess Adverse Effects

- No Adverse Effect

Historic properties are present, but the undertaking will not affect the qualities of those properties that make them historic.

SHPO's concurrence with this finding concludes the Section 106 process

Assess Adverse Effects

No Adverse Effect

Examples

- Demolition of a non-contributing building in an historic district.
- A rehabilitation project that meets the Secretary of the Interior's *Standards for the Treatment of Historic Properties*.
- Measures to avoid an archaeological site

Assess Adverse Effects

Adverse Effect

Examples:

Demolition

Rehab that does not meet the *Standards*

Destruction of all or part of an eligible
archaeological site

Data recovery of an archaeological site
(all archaeology is destructive)

Assess Adverse Effects

Adverse Effects (indirect):

Examples:

Changes to the setting of an historic
property

Visual impacts

Assess Adverse Effects

Adverse Effects:

Historic properties are present and the undertaking will affect (alter, damage, or destroy) those characteristics that render the properties historic.

SHPO's concurrence with this finding requires additional consultation to resolve the adverse effect.

Resolve Adverse Effects

Section 36 CFR 800.6 states that “The agency official shall consult with the SHPO and other consulting parties to develop and evaluate alternatives or modifications to the undertaking that could avoid minimize or mitigate adverse effects on historic properties.”

Resolve Adverse Effects

The agency official will explore other alternatives and examine their feasibility in consultation with SHPO.

Resolve Adverse Effects

The Federal Agency must:

- Contact the Advisory Council on Historic Preservation and afford it an opportunity to consult.
- Continue to consult with SHPO and other consulting parties.
- Make documentation available to the public

Resolve Adverse Effects

Consultation should result in an MOA

An Memorandum of Agreement (MOA) is a legal document signed by all parties that explains under what circumstances the adverse effect has occurred and lays out the means by which the federal agency plans to mitigate that adverse effect.

Resolve Adverse Effects

Appropriate mitigation depends on
the degree of the adverse effect
the significance of the historic
resource

Determined by consultation between
the agency, the SHPO, and other
consulting parties.

How long will review take?

- The SHPO is expected to respond within 30 days of receipt of a finding or determination.
- According to the regulations, *each step* of the Section 106 process has a 30-day review period.
- If a project will affect historic properties, the process will take longer than 30 days.
- ORC responded to 92% of review requests within 30 days during the last quarter.

Strategies to Avoid Delays



- **Plan carefully for section 106 consultation**
- **Begin consultation with SHPO as early as possible**
- **Budget time for each step in the 106 process**
- **Provide complete information at each step of the process**

Environmental Review

ACHP website: www.achp.gov

Section 106 regulations

Native American Program Guidance

Working with Section 106