



State Historic Preservation Office

NEPA and the NHPA

Coordinating NEPA and Section 106 of the NHPA

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National Historic Preservation Act 1966 (NHPA)

- Established Federal Policy to:
 - Foster productive harmony between modern society and historic resources
 - Provide preservation leadership
 - Administer historic resources in spirit of stewardship
 - Assist preservation efforts of state and local governments, Tribes, and the public
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Federal Agency Responsibilities Under NHPA

■ Section 110

- Requires Creation of comprehensive Federal agency historic preservation program
- Mandates consideration of historic properties and affirmative Federal stewardship

■ Section 106

- Creates agency accountability for effects of Federal undertakings on historic properties.
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Section 106

The head of any 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 any expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the the effect of the undertaking on any district, site, building, structure, or object 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 established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

Four Steps of Section 106 Review

- Step 1: Initiation of the process
 - Step 2: Identification of historic properties
 - Step 3: Assessment of adverse effects
 - Step 4: Resolution of adverse effects
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Participants

- Federal agencies
 - Council
 - Consulting Parties
 - Public
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NEPA & 106 Similarities

- Authorize development of agency-specific alternative procedures.
 - Require gathering information on the potential effects of an action/undertaking and considering alternatives to avoid or minimize adverse effects.
 - Vary depending on the scope of the proposed action.
 - Emphasize initiating early in project planning.
 - Emphasize public notification and consultation.
 - Require the process to be completed prior to a Federal decision.
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NEPA & 106 Similarities

NEPA

Study Area

- Varies depending on the extent of the potential impacts associated with the alternative courses of action.

Section 106

Area of Potential Effect

- Is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Differences between NEPA & Section 106

NEPA

- Federal Action-Projects, plans, policies, and programs financed, assisted, conducted, regulated, or approved by Federal agencies.

Section 106

- Federal Undertaking-a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency; including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance, and those requiring a Federal permit, license or approval.

Differences between NEPA & Section 106

NEPA

Significant Impact

- Based on complex and intensity.
- Analyzed in several contexts (society, affected regions and interests, and locality)
- Intensity refers to severity of effect (magnitude, geographic extent, duration, frequency)

Section 106

Adverse Effect

- Found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the properties integrity. Includes reasonably foreseeable effects (later in time, further in distance, or be cumulative).

Differences between NEPA & Section 106

NEPA

Mitigation

- Includes avoiding, minimizing, reducing, as well as compensating for the impact to the human environment

Section 106

Mitigation

- “Distinct from the terms “avoid” and “minimize” and means to compensate for the adverse effects to historic properties.” (ACHP, 2013)

Public involvement



Initiate Section 106 Process

Establish undertaking
Identify appropriate SHPO/THPO
Plan to involve the public
Identify other consulting parties



NO UNDERTAKING/
NO POTENTIAL TO
CAUSE EFFECTS

UNDERTAKING MIGHT AFFECT HISTORIC PROPERTIES



Public involvement



Identify Historic Properties

Determine scope of efforts
Identify historic properties
Evaluate historic significance



NO HISTORIC
PROPERTIES
AFFECTED

HISTORIC PROPERTIES ARE AFFECTED



Public involvement



Assess Adverse Effects

Apply criteria of adverse effect



NO HISTORIC
PROPERTIES
ADVERSELY
AFFECTED

HISTORIC PROPERTIES ARE ADVERSELY AFFECTED



Public involvement



Resolve Adverse Effects

Continue consultation



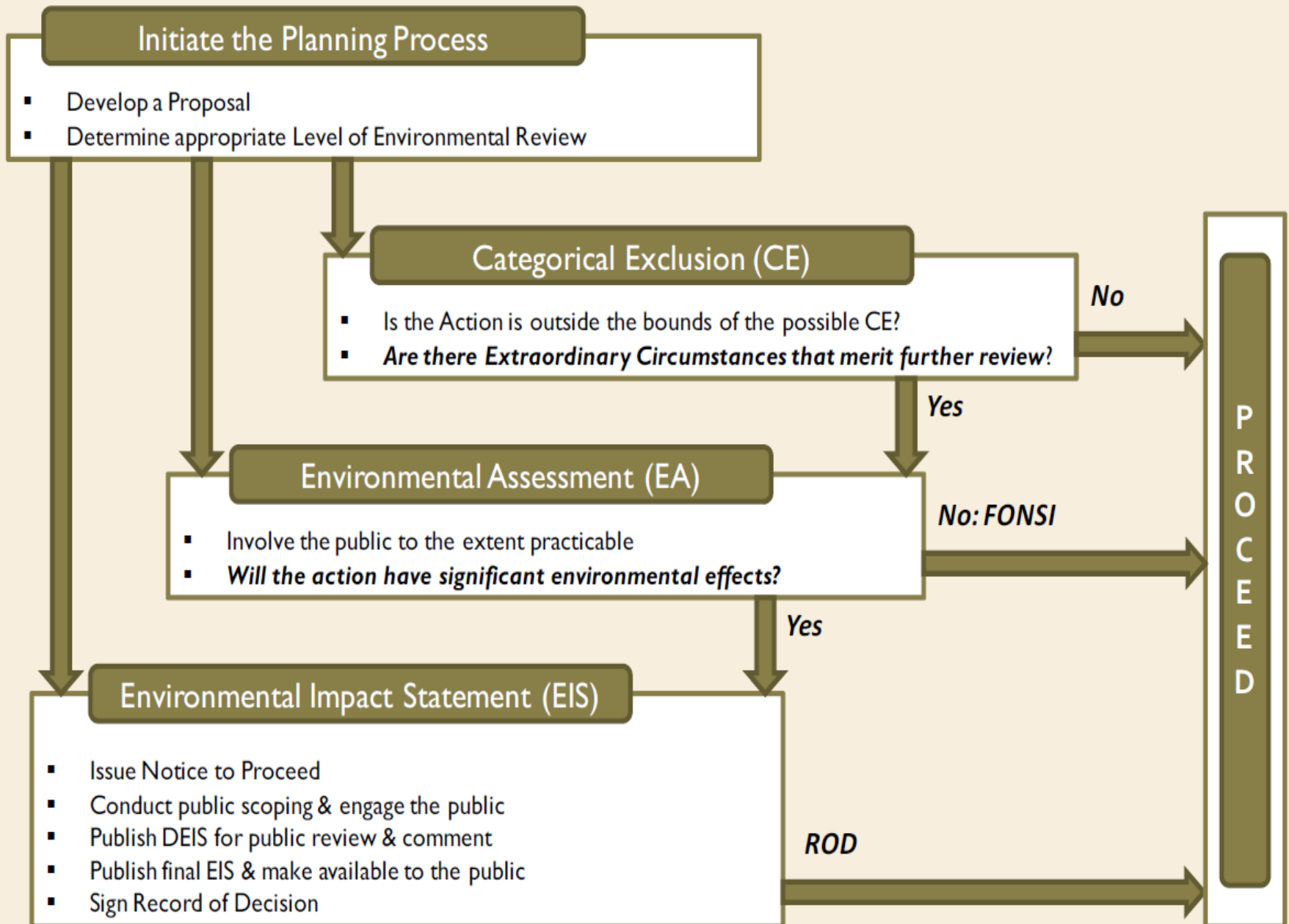
MEMORANDUM
OF AGREEMENT

FAILURE TO AGREE



COUNCIL COMMENT

THE NEPA PROCESS



Coordination for CE's

TIMING AND COMMUNICATION SECTION 106 AND CE

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INITIATE the process



IDENTIFY historic properties



ASSESS adverse effects



RESOLVE adverse effects



*Agreement (MOA/PA)
or Council Comment*



Proposed Action is Described in Agency CE



Does the Proposal Have Extraordinary Circumstances?



Decision



Implementation with Monitoring as Provided in the Decision

Coordination for EA's

SECTION 106 AND EA

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INITIATE the process



IDENTIFY historic properties



ASSESS adverse effects



RESOLVE adverse effects



*Agreement (MOA/PA)
or Council Comment*



Significant Environmental Effects Uncertain or
No Agency CE



Develop EA with Public Involvement to the
Extent Practicable



Significant Environmental Effects?



FONSI



Implementation with Monitoring as Provided in
the Decision

Coordination for EIS's

TIMING AND COMMUNICATION SECTION 106 AND EIS

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INITIATE the process



IDENTIFY historic properties



ASSESS adverse effects



RESOLVE adverse effects



*Agreement (MOA/PA)
or Council Comment*



Significant Environmental Effects May
or Will Occur

Notice of Intent

Public Scoping and
Appropriate Public Involvement



DEIS



Public Review and Comment
and Appropriate Public Involvement

FEIS

Public Availability

ROD



Implementation with Monitoring as Provided in
the Decision

Programmatic Agreements

- PAs for complex or multiple projects
 - Developed like MOAs
 - Council must be invited to consult
 - Lack of agreement on PA for multiple undertakings triggers case-by-case review
 - PAs for regional or national programs
 - Consultation required (as appropriate) between Council, NCSHPO, SHPOs/THPOs, tribes and Native Hawaiian organizations, and the public
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Sources of Information

-<http://www.achp.gov/pubs.html>

-<http://www.cr.nps.gov/nr/publications/>

-<http://wyoshpo.state.wy.us/>



COUNCIL ON ENVIRONMENTAL QUALITY
EXECUTIVE OFFICE OF THE PRESIDENT
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION

NEPA and NHPA

*A Handbook for Integrating
NEPA and Section 106*



MARCH 2013

