



Section 110 Seminar Development

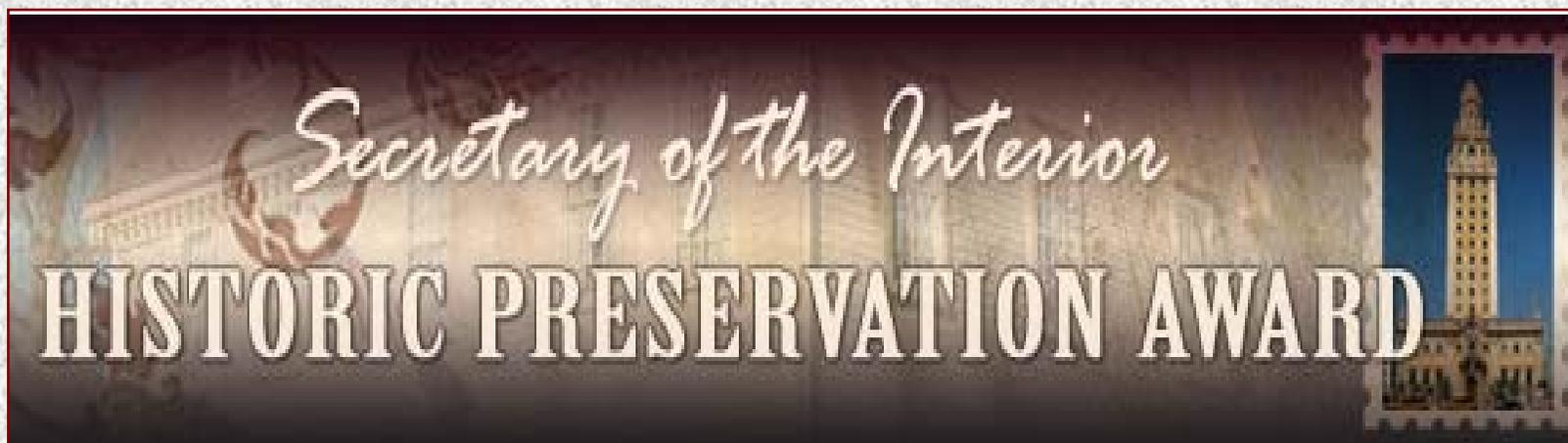
Approaches to Federal Preservation
Officer Training

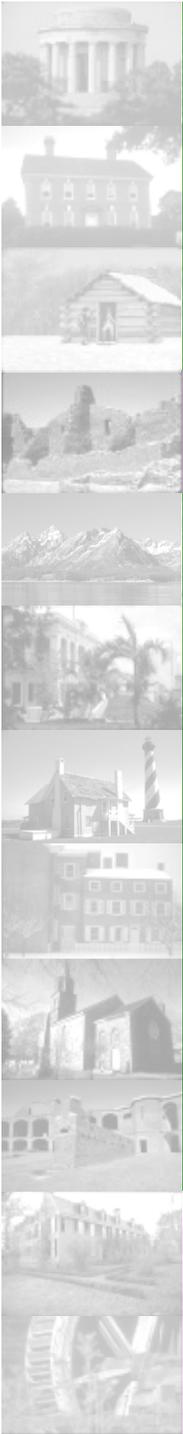
Federal Preservation Institute  *National Park Service*



Back to the Future, 2007

- ❖ Develop a high level national award program to honor and reward best practices by federal agencies, SHPOs, THPOs, and CLGs.





Secretary of the Interior
HISTORIC PRESERVATION AWARD

- ❖ THPO: Kelly Jackson
- ❖ FPO: Deborah Corbett
- ❖ CLG: William Morgan
- ❖ SHPO: Calder Loth

Call for 2009 Nominations Coming in March

Back to the Future, 2007

- ❖ Strengthen professionalism in federal agencies and across the historic preservation field by working with the Department of the Interior to update the Secretary of the Interior's Professional Qualification Standards.

HISTORIC PRESERVATION
A RESPONSIBILITY OF EVERY FEDERAL AGENCY

Facts for Feds:

a briefing service of the
Federal Preservation Institute
National Park Service
March 2008

FEDERAL PRESERVATION OFFICER QUALIFICATIONS

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FPO Qualifications

- ❖ 110(c): Designate a qualified official
- ❖ Complete “an appropriate training program” found in 101(h)
- ❖ Secretary of the Interior’s Professional Qualification Standards (1983)
- ❖ Proposed revisions to Professional Qualification Standards (1997)





Section 110 Seminar Overview

❖ The Law

- Historic context and development
- Shall, May, and May Nots

❖ The Secretary's Standards and Guidelines

- Context and development

❖ Sections 110 and 106: the Regulatory Interaction

- ACHP & NPS

❖ Special Topics:

- Developing Performance Measurements for Federal Historic Preservation Programs
- **Documenting “A Higher Standard of Care” for National Historic Landmarks**





Documenting “a Higher Standard of Care”



Federal Stewardship of National Historic Landmarks

Federal Preservation Institute  *National Park Service*

www.fpi.historicpreservation.gov

202-354-6969



Let's Pretend...

- ❖ Describe how your agency's internal historic preservation program meets Secretary of the Interior's standards for federal historic preservation programs.
- ❖ Describe in detail how your agency's historic preservation program: gives historic properties **full consideration** when planning or considering approval of any action that might affect such properties.



What are National Historic Landmarks?

❖ *Nationally significant places with a high degree of integrity that illustrate the triumph and tragedy and the diversity and uniqueness of the American experience*



Variable Density Tunnel, VA; Knife Creek Village, ND; Lolo Trail ID; Canterbury Shaker Village, NH; Empire State Building, NY



National Historic Landmark Program



- ❖ 1935 Historic Sites Act
- ❖ Designated by Secretary of the Interior
 - ❖ Federal program
- ❖ National significance only
 - ❖ 6 criteria
- ❖ 2461 sites designated
- ❖ about 20 designations/year
 - ❖ NPS planning tool

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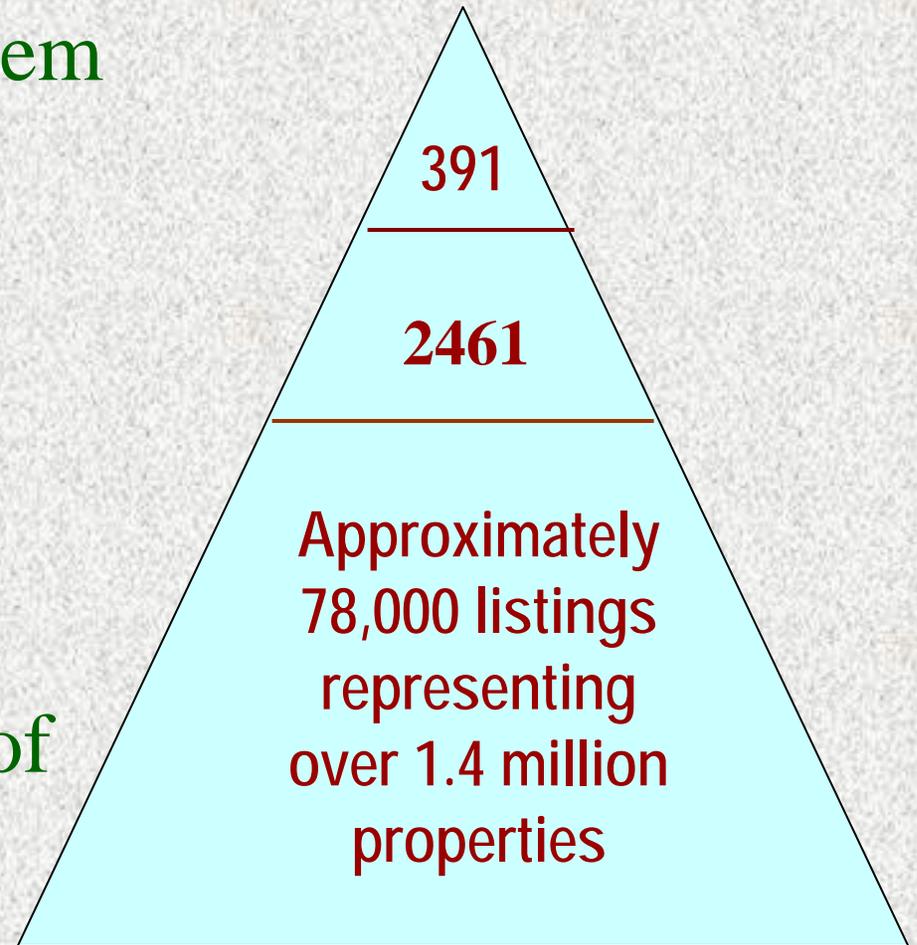
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Pyramid of Federal Recognition

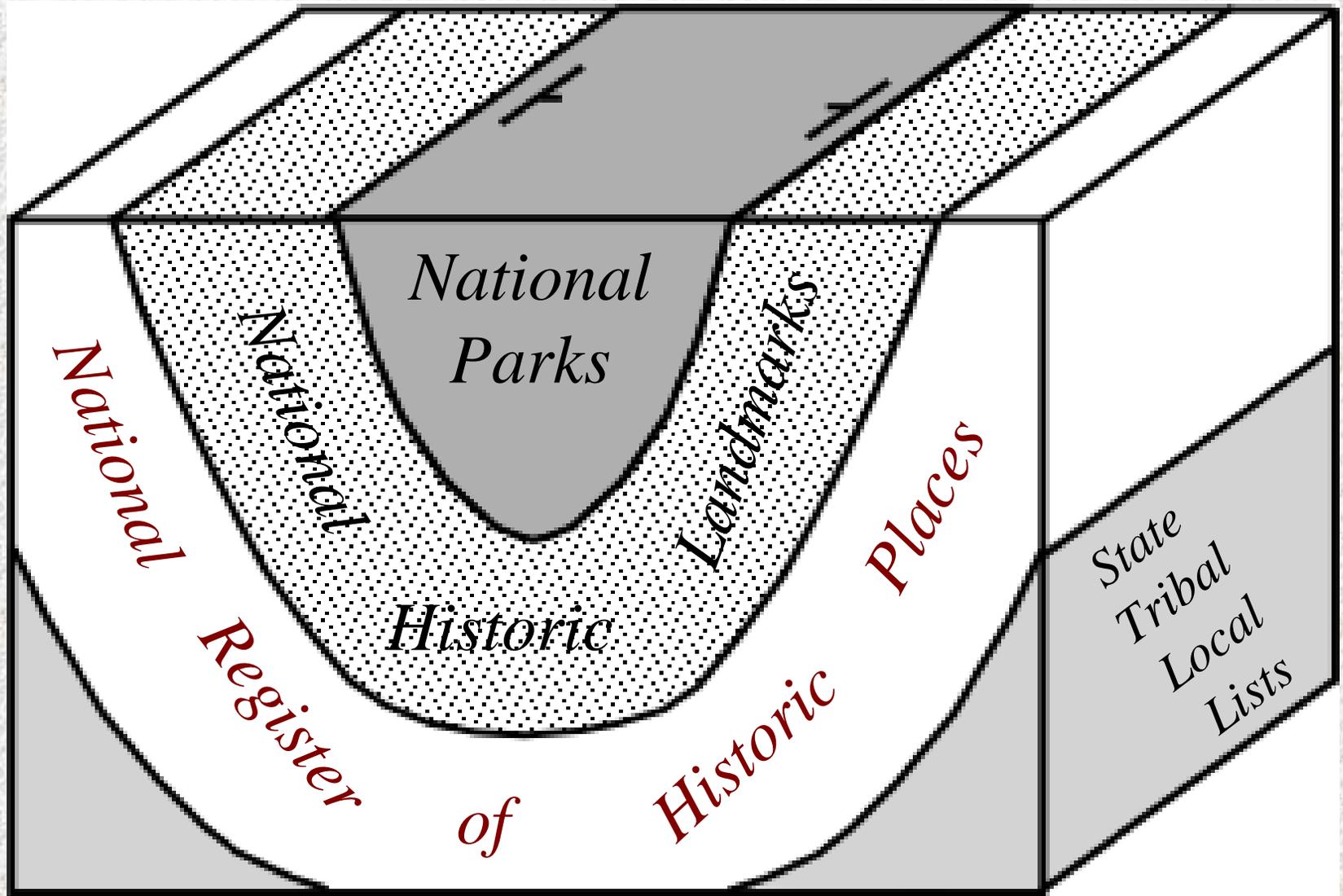
❖ National Park System
Units

❖ National Historic
Landmarks

❖ National Register of
Historic Places



Syncline of Federal Recognition



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Section 110 Components

- ❖ National Historic Landmarks have special provisions within Section 110
- ❖ The “higher standard of care” applies to all agencies
- ❖ National Historic Landmarks have easily quantified metrics that describe a successful historic preservation program



The Law

- ❖ *Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, **to the maximum extent possible**, undertake such planning and actions as may be necessary **to minimize harm** to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.*



The Regulations

- ❖ *When commenting on such undertakings, the Council shall use the process set forth in § 800.6 through 800.7 and **give special consideration to protecting National Historic Landmarks** as specified in this section.*
- ❖ *The agency official **shall notify the Secretary** of any consultation involving a National Historic Landmark and invite the Secretary to participate in the consultation where there may be an adverse effect.*



ACHP Record Keeping

- ❖ *Report of Outcome.* When the Council participates in consultation under this section, it **shall report** the outcome of the section 106 process, providing its written comments of any memoranda of agreement to which it is a signatory, to the Secretary and the head of the agency responsible for the undertaking.



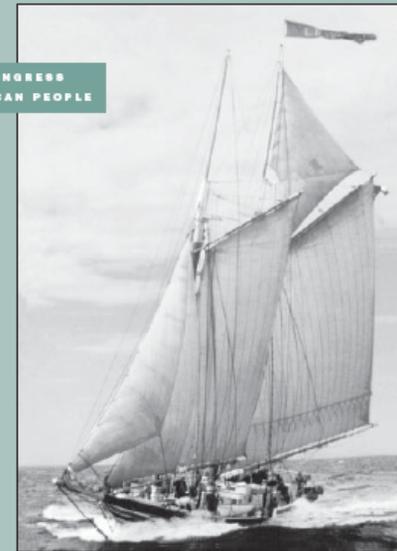
NPS Monitors NHL Condition

- ❖ 36 CFR Part 65.7
- ❖ NPS maintains a continuing relationship with NHL owners.
- ❖ NPS determines whether landmarks retain their integrity, advises owners concerning accepted preservation standards and techniques and updates administrative records on the properties.
- ❖ NPS collects data on condition every 2 years
- ❖ Congressional reporting requirement suspended

NATIONAL HISTORIC LANDMARKS AT THE MILLENNIUM

A REPORT TO CONGRESS
AND THE AMERICAN PEOPLE

2000-2001



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The Secretary's Standards

- ❖ Standard 4. An agency gives historic properties full consideration when planning or considering approval of any action that might affect such properties.

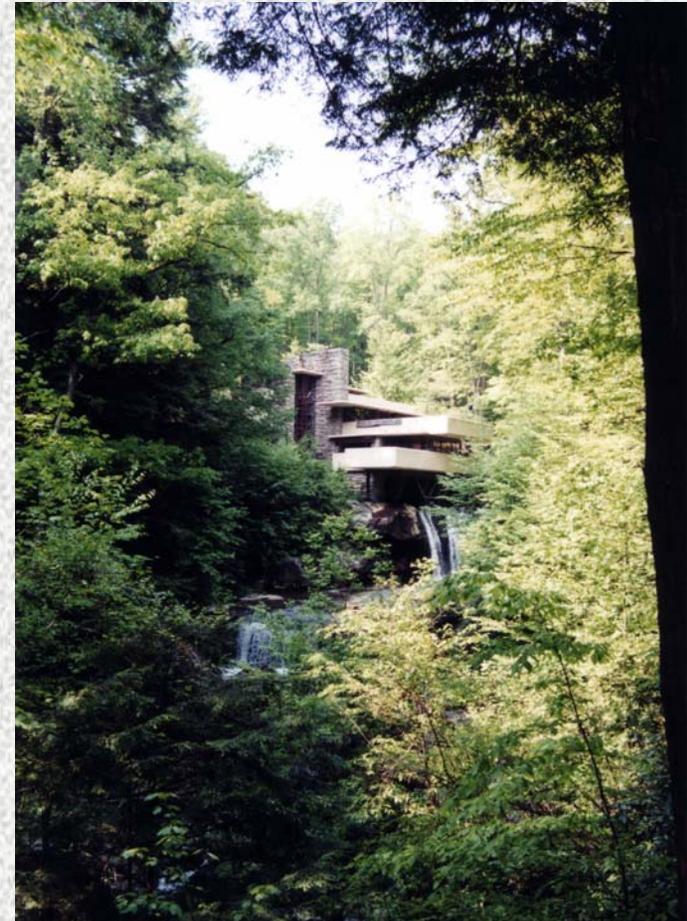


The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act



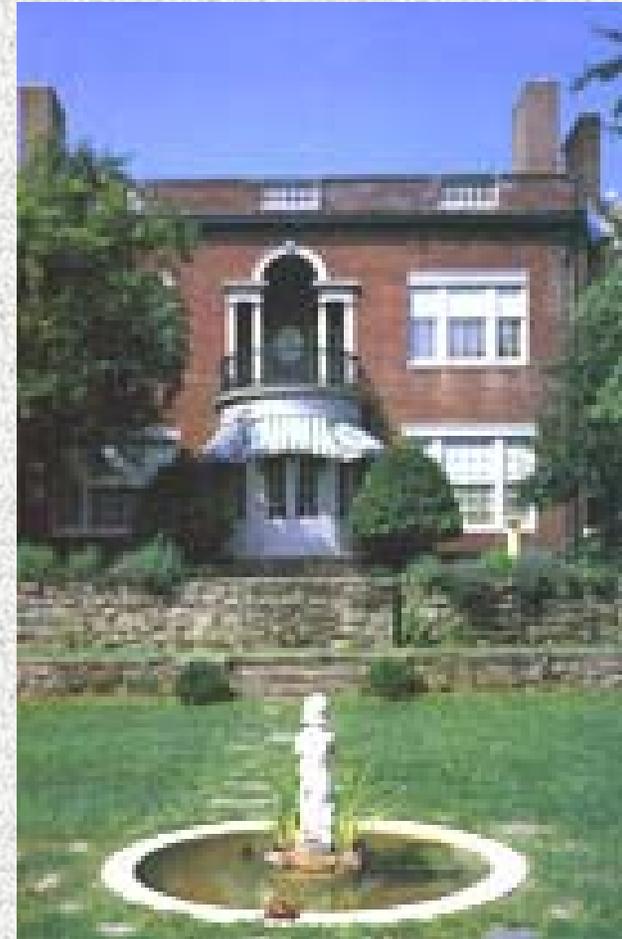
The Secretary's Standards

- ❖ Section 110(f) of the NHPA requires that Federal agencies **exercise a higher standard of care** when considering undertakings that may directly and adversely affect NHLs
- ❖ the agency should **consider all prudent and feasible alternatives** to avoid an adverse effect on the NHL.



The (NPS) Manual

- ❖ The Director, NPS, will serve as the agent of the Secretary of the Interior in accomplishing the Secretary's responsibilities under the NHPA and providing advice and assistance to Federal agencies in meeting their responsibilities under Section 110 of the NHPA





What does it all mean?



...to the maximum extent possible...

...give special consideration...

...exercise a higher standard of care...

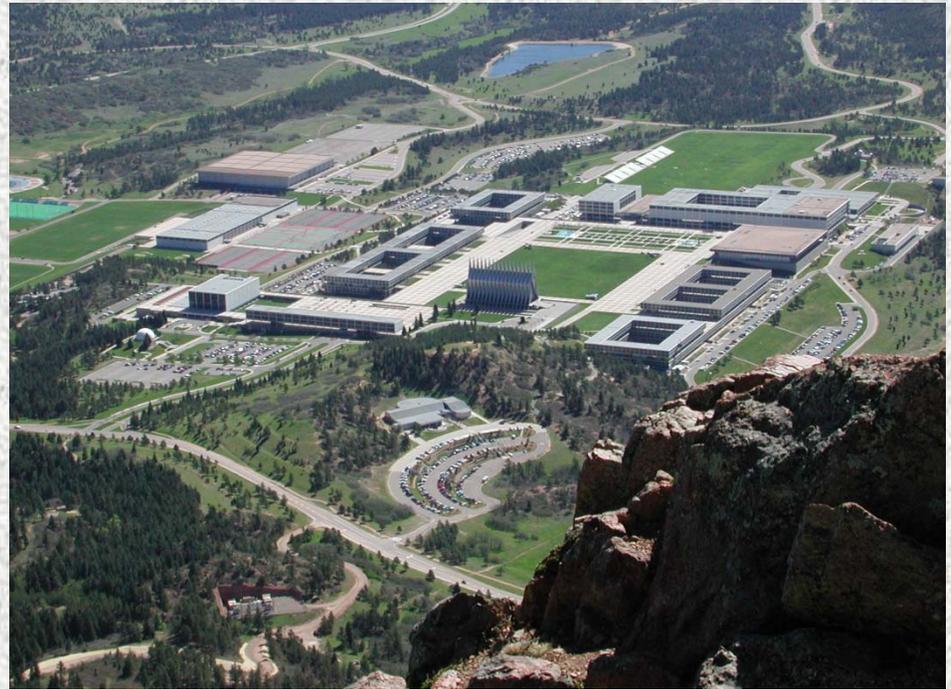
...consider all prudent and feasible alternatives...

...shall notify the Secretary...



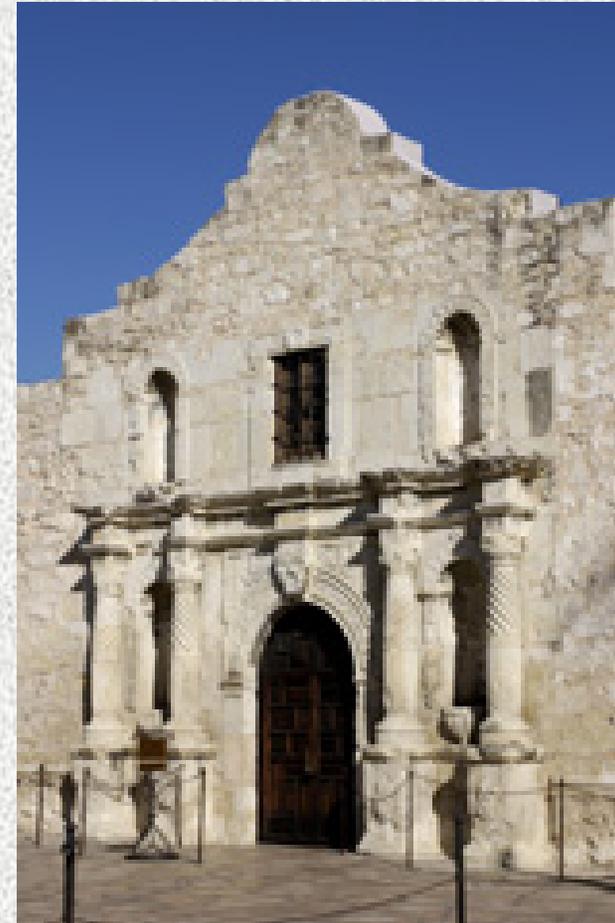
NHL Stewardship Portfolio

- ❖ Compliance
- ❖ Prioritization
- ❖ Significance
- ❖ Stewardship
- ❖ Planning
- ❖ Education
- ❖ Single Point of Contact



Compliance (106)

- ❖ Early warning system for projects that potentially involve NHLs
- ❖ Agency compliance procedures must include different standards for NHLs
- ❖ At a minimum, agencies should administratively de-delegate compliance responsibilities



Prioritization (fiscal)

- ❖ Budget prioritization
 - Long and short term Maintenance
 - Building life projections
- ❖ Property Use/Reuse prioritization
- ❖ Education prioritization



Significance

- ❖ 80% of federal NHL documentation is 20 years old
 - 1/3 of federal NHLs were designated prior to 1966!
- ❖ Ensure that you have adequate information about your NHLs
 - Why is it important?
 - What are the character-defining features?
 - Document the existing conditions
 - Is your documentation current?



Stewardship



- ❖ Condition assessment
- ❖ Building preservation plan
- ❖ Maintenance plan
- ❖ Design guidelines



Planning

- ❖ Disaster management plan
- ❖ Hazard Risk Assessment
- ❖ Security Assessment
- ❖ Historic preservation plan
- ❖ Compliance agreement documents
- ❖ NEPA Documents



Education

- ❖ Interpretation plan
- ❖ TwHP or other lesson plan
- ❖ Visitor use plan

Teaching with Historic Places Lesson Plans

The United States Air Force Academy: Founding a Proud Tradition

The Air Force Academy is built upon a proud foundation and so it should be. For the Academy is a bridge to the future, gleaming with promise of peace in a stable, sane world....Our airpower has kept the peace...it is keeping the peace, God willing, it will keep on doing so. This Academy, we are founding today, will carry forward that great effort. --Air Force Secretary Harold E. Talbott, July 11, 1955



(USAFA)

Set in the foothills of the Rocky Mountains near Colorado Springs, Colorado, the Air Force Academy's sleek modern architecture, monumental scale, and dramatic setting combine to create a stunning national monument. Its gleaming aluminum, steel, and glass buildings are not only a reflection of modern architecture but are a "living embodiment of the modernity of flying."¹



Single Point of Contact (SPOC)

- ❖ On site contact for individual NHLs
- ❖ Competent in addressing stewardship issues
- ❖ Responsible for keeping stewardship information up to date



Measuring Success

❖ How do you measure *a higher standard of care*?

- Maintaining stewardship portfolio
- Avoiding Adverse effects
- Improving condition assessments



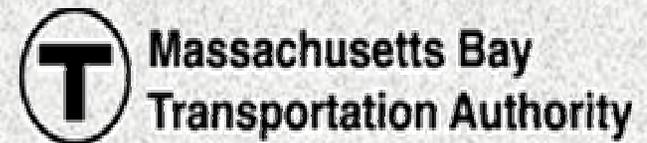
Copley Square ADA Access

❖ *Precision of expression is not the hallmark of either the historic preservation statutes involved here or the regulations promulgated to implement these statutes.*

Neighborhood
Association of the
Back Bay



Boston Preservation Alliance

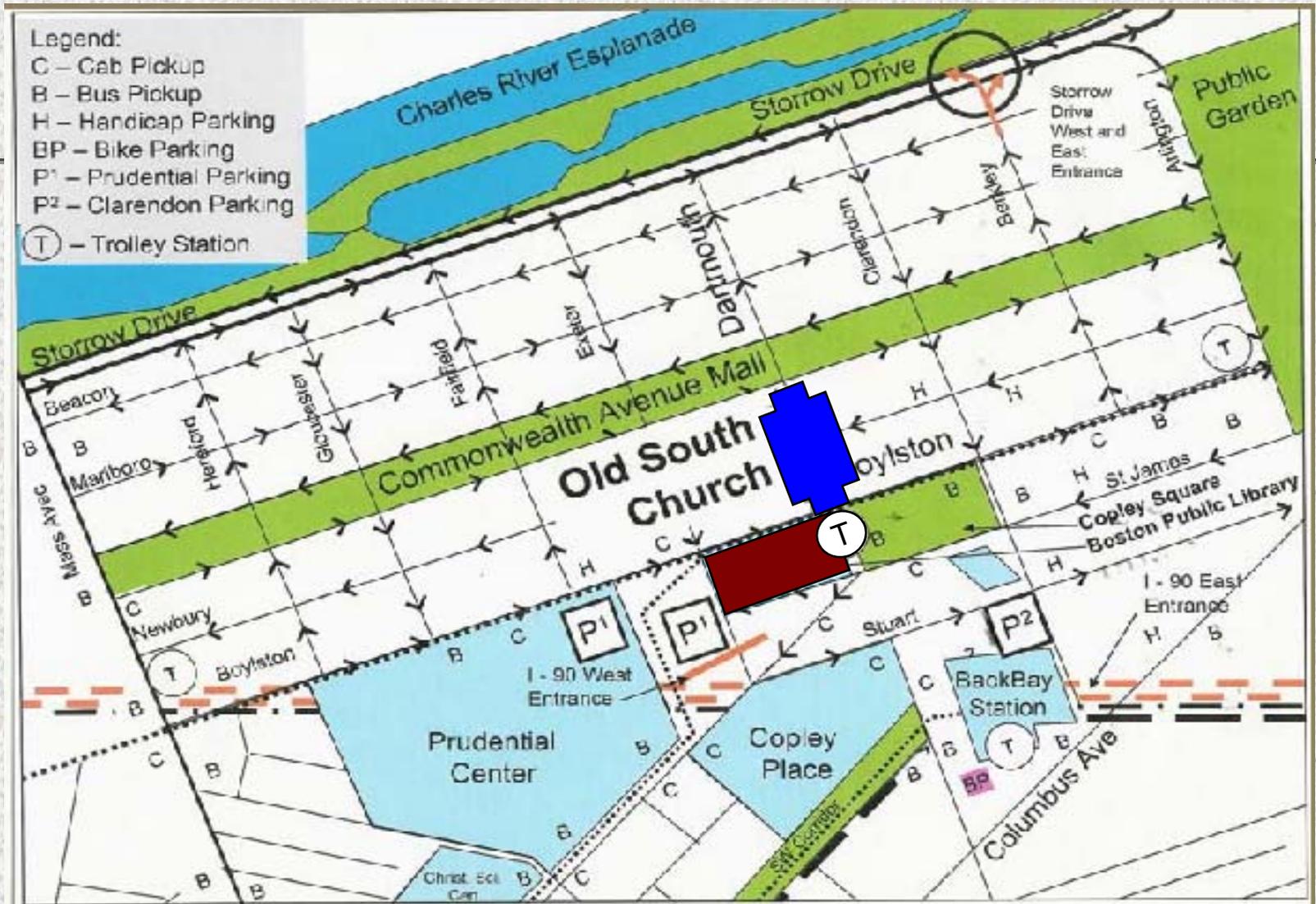


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The Project

Language of 110(f)

❖ *We think the language of section 110(f) is ambiguous and that this ambiguity is not resolved by the legislative history speaking of the “higher standards” for compliance with section 110.*



When is Section 110(f) Triggered?

❖ *The ACHP's regulations, to which we owe Chevron deference, require an adverse effect finding as a predicate to Section 110(f)'s application.*



Directly Addressing 110(f)

- ❖ *Unfortunately, in the course of the lengthy review process, the FTA did not directly address section 110(f).*
- ❖ *There successful appeal was based on the ACHP regulation that 110f is not triggered unless there is an adverse effect.*



Landmark Boston church cracked during work below, 12/5/2008

