



TRIBAL BRIEFING: PROGRAM COMMENT FOR ARMY WARFIGHTING READINESS ACTIVITIES AND ASSOCIATED BUILDINGS, STRUCTURES, AND LANDSCAPES

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Purpose:

- To inform tribal stakeholders regarding special tribal provisions within the proposed *Program Comment for Army Warfighting, Readiness Activities, and Associated Buildings Structures and Landscapes*.

Program Comment Website: <https://www.denix.osd.mil/army-pcwr/>

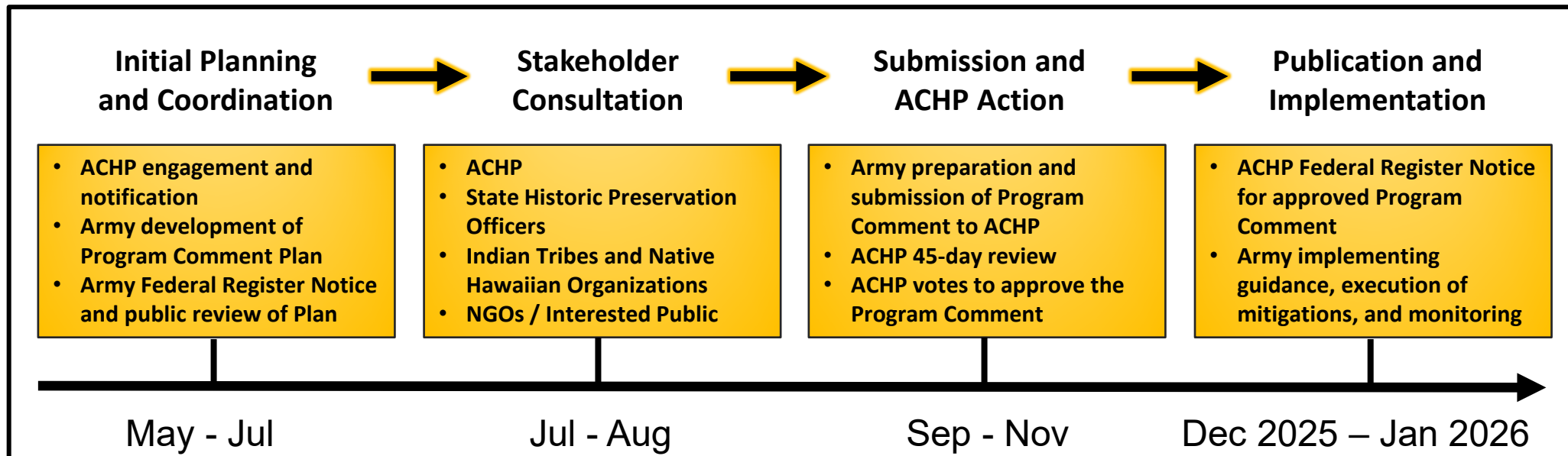
Consultation Conference Agenda:

- I. Introduction
- II. Schedule
- III. Goal and Undertakings
- IV. Program Comment Overview
- V. Government to Government Consultation
- VI. Adverse Effects to Properties of Traditional Religious and Cultural Importance
- VII. Inadvertent Discoveries
- VIII. What the Program Comment Does Not Do
- IX. Q&A and Discussion

Introduction

- As the largest military department within the Department of Defense (DoD), encompassing the active Army, U.S. Army Reserves, and the Army National Guard, the Army bears a broad national defense mission to provide combat-ready forces for the United States.
- The Army's holdings include:
 - 13 million acres of land across 134 installations, including 9 million acres dedicated to military training and testing and 84,000+ archeological sites
 - Over 350,000 buildings and structures, of which 122,000 support the Army's readiness mission and are currently subject to Section 106 of the National Historic Preservation Act (NHPA)
 - 20 National Historic Landmarks
- The Army boasts a robust and well-established historic preservation program with a strong, 40-year track record of continuous improvement in NHPA compliance. Demonstrated by:
 - NHPA and Tribal Affairs integration into Army Regulation 200-1
 - Only Military Department with Native American Policy signed by the Secretary (of the Army)
 - Up to date NHPA policy memoranda and implementing guidance
 - Six Army Program Comments and program alternatives

Program Comment Development Process and Schedule



Goal and Undertakings

Goal: To support rapid transformation and modernization efforts, the Army must obtain programmatic compliance with NHPA Section 106 for the Army's warfighting readiness activities and associated buildings, structures and landscapes by means of the Program Comment alternate procedure under 36 CFR 800.14(e). Undertakings include:

- **Training activities** may include maneuvers and exercises involving ground disturbing activities that could affect historic properties. These may occur on or off Army installations.
 - Combines arms maneuver, live fire exercises, air assault operations training, and combat lifesaver training.
- **Weapons testing** ranges are dynamic and complex environments where a wide variety of activities occur, all aimed at evaluating the performance, safety and reliability of weapons systems and related equipment.
 - Live fire testing, trajectory analysis, target acquisition and analysis, and extreme temperature testing.
- **Industrial activities** that occur at Army research labs, depots, arsenals, terminals and ammunition plants.
 - Research and development, manufacturing, storing, deployment and distribution, and maintaining Army weapons systems and material.
- **Management activities** include maintenance, repair, rehabilitation, renovations, additions, new construction, abatement of hazardous materials, mothballing, cessation of maintenance, demolition, lease, transfer, and conveyance of buildings and structures associated with Army readiness.

Program Comment Overview

- **Nationwide Consistency:** Establishes uniform Section 106 compliance for all Army warfighting readiness activities and associated infrastructure across the entirety of the Army.
- **Efficient Compliance:** The identification, evaluation, determination of effect, monitoring, and mitigation of historic properties will be done by Army in-lieu of conducting individual project-by-project, step by step reviews with SHPO and stakeholders to accelerate readiness actions while meeting substantive requirements of Section 106.
- **Government to Government Consultation:** Maintains government-to-government relationships with Tribes, ensures the consideration of the significance ascribed to historic properties of traditional religious and cultural importance is incorporated into treatment plans.
- **National Historic Landmarks (NHLs):** Minimizes harm to NHLs per NHPA Section 306107.
- **Standardized Mitigations:** Outlines standard mitigation strategies for adverse effects to historic properties with specialized provisions for indigenous knowledge and properties of traditional, religious and cultural importance.
- **Secretary of Interior's Standards for Rehabilitation:** Implements Secretary of the Interior's Standards for built historic properties and allows reversible substitute materials when necessary and applies ACHP-approved processes for pre-1941 historic housing to pre-1941 readiness infrastructure.

Government to Government Consultation

- **Existing Legal Obligations Unchanged:** Program comment does not alter Army responsibilities under Treaties, NAGPRA, the American Indian Religious Freedom Act, or EO 13007: Indian Sacred Sites.
- **Government-to-Government Relationship Continues:** Army will maintain Trust relationships and address tribes on government-to-government basis in recognition of Tribal sovereignty.
- **Ongoing Consultation:** While the Army will no longer coordinate with SHPO and other non-tribal stakeholders under 36 CFR 800.3 – 800.7, Army installations will continue to consult with Federally-recognized tribes regarding properties of traditional religious and cultural importance.
- **Properties of Traditional Religious and Cultural Importance:** Installations will take into consideration the significance that Federally-recognized Tribes ascribe to historic properties of traditional religious and cultural importance.
- **Indigenous Knowledge:** The Army recognizes indigenous knowledge as a distinct form of expertise and will incorporate it into historic preservation planning for historic properties.
- **Proactive Engagement:** For the purposes of avoidance of adverse effects, installation CRMs will proactively engage with Federally-recognized tribes to identify historic properties and assess how undertakings may affect such properties, considering the unique cultural values and beliefs associated with those properties.
- **Confidentiality Protection:** The Army is committed to protecting confidentiality of sensitive site information.

Adverse Effects to Properties of Traditional Religious and Cultural Importance

- **Prioritization of Avoidance:** The Army will coordinate early with tribal partners and will prioritize avoiding adverse effects to properties of traditional religious and cultural importance to the maximum extent possible.
- **Treatment Plans:** If adverse effects to properties cannot be avoided, installations will develop treatment plans focused on mitigation utilizing the standardized mitigations laid out in the Program Comment Plan. The treatment plans for properties of traditional religious and cultural importance will be developed in coordination with Tribes.
- **Standardized mitigations:**
 - Documentation to HABS, HAER, HALS, or equivalent state standards for the built or landscape environment, as appropriate.
 - Ethnographic studies (“Traditional Cultural Properties” studies) may be prepared for landscapes of traditional religious or cultural importance in coordination with tribes.
 - Avoidance, protective measures (e.g., capping, signage), archaeological monitoring, data recovery or other indigenous knowledge informed measures for archeological sites.
 - Creative and compensatory mitigation actions may be implemented on properties when standard measures are not feasible.

Inadvertent Discoveries

- **Native American Graves Protection and Repatriation Act Cultural Items or Human Remains:**
 - If an inadvertent discovery of Native American human remains or cultural items occurs, the installation will follow NAGPRA or any NAGPRA Comprehensive Agreements that are in place.
- **Non-NAGPRA Historic Properties of Religious and Cultural Significance:**
 - If an inadvertent discovery of a property of religious and cultural significance occurs that is not NAGPRA, the installations will notify the affiliated tribes within 72 hours.
 - Notification will include details on the property, its significance, proposed mitigation measures and a request for comments.
 - Installations will consider tribal recommendations before implementing mitigation.
 - If no response is received, the installation will proceed with the proposed mitigation and inform tribes.
- **Non-Tribal Historic Properties:**
 - If an inadvertent discovery of a non-tribal historic property occurs, installations will notify their command within 72 hours of discovery.
 - Installations will determine and implement a technically and financially feasible mitigation measure.
 - The installation will incorporate any command recommendations into the mitigation.

What The Program Comment Does Not Do

- The Program Comment shall not be construed to alter, amend, real, interpret or modify tribal sovereignty, any treaty rights, or other rights of any Federally-recognized Tribes, or to preempt, modify or limit the exercise of any such right.
- The Program Comment does not have any effects on Federal Laws and their implementation regulations, any presidential memoranda and Executive Orders, including but not limited to:
 - Alaska Native Claims Settle Act
 - American Indiana Religious Freedom Act
 - Archaeological Resources Protection Act
 - Endangered Species Act
 - Native American Graves Protection and Repatriation Act
 - National Environmental Policy Act
 - Safeguard Tribal Objects of Patrimony Act
 - E.O. 13007: Indian Sacred Sites
 - E.O. 13175: Consultation and Coordination with Tribal Governments

Q&A and Discussion

Army Historic Preservation Program Outreach

The Army has developed the following public websites and social media issuances to facilitate outreach:

- ARMY HISTORIC PRESERVATION AND CULTURAL RESOURCES MANAGEMENT
www.denix.osd.mil/army-cr/home/ The public web page for Department of the Army Historic Preservation and Cultural Resources Management.
- PROGRAM COMMENT FOR PRE-1919 HISTORIC ARMY HOUSING <https://denix.osd.mil/army-pre1919-pchh/>. The public webpage for the Army Pre-1919 Historic Housing Program Comment.
- PROGRAM COMMENT FOR ARMY INTER-WAR ERA HISTORIC HOUSING www.denix.osd.mil/army-pchh/
The public webpage for the Army Inter-War Era Historic Housing Program Comment.
- PROGRAM COMMENT FOR ARMY VIETNAM WAR ERA HISTORIC HOUSING
<https://www.denix.osd.mil/army-vwehh-pc/> The public webpage for the Army Vietnam War Era Historic Housing Program Comment.
- X (aka TWITTER): <https://twitter.com/DENIXnews> The Army secretariat releases monthly Army historic preservation-related Tweets.