ENVIRONMENTAL REQUIREMENTS FOR FEDERALLY FUNDED PROJECTS: SECTION 106 AND SECTION 4(F)
National Historic Preservation Act of 1966 (NHPA)

- Legislation intended to preserve historical and archeological sites in the U.S.
  - Signed as policy on October 15, 1966
- Section 106 of NHPA
  - System of “procedural” steps that encourage protection of certain cultural resources
  - Three basic concepts:
    - Consultation
    - Identification of “historic properties”
      - Historic property - any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP)
    - Take into account the effects that projects have on these properties
      - Avoid, Minimize, Mitigate adverse effects
Consultation

- ...the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.

- On behalf of FHWA, consultation with
  - SHPO
  - State Archaeologist
  - Native American Tribes (38)
  - Other interested parties
Properties on Transportation Projects

- Bridges and culverts
  - Truss and arch, Depression-era (WPA), Post-war
- 19th and 20th century archeological sites
- Prehistoric archeological sites
- 19th and 20th Century Buildings
- Historic Districts
  - towns, bridges, and archeological districts
- Places of Religious and Cultural Significance
Effects to Historic Properties: Avoid

SH-19 improvements project
Archeological site 34GD81

Gradiometer results of 20 m grid
Effects to Historic Properties: Minimize

Through truss over Muddy Boggy Creek in Choctaw County
Constructed in 1919

New bridge on new alignment
- Minimized the adverse effect
Effects to Historic Properties: Minimize 2

Mixed truss bridge constructed as a rail bridge in 1910
Has a wagon shelf to allow pedestrians, horses, and horse-drawn vehicles
Converted to vehicular traffic in 1960s
Effects to Historic Properties: Mitigate
Anomalies consistent with burned rock features.
Mitigate - Archaeological Excavations
Law and Regulatory Requirements: Section 4(f)

USDOT Act of 1966 (Section 4f) – substantive regulation

- USDOT Agencies (FHWA, FTA, FRA, FAA, etc.)
  - (a) (1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:
    - (i) There is no feasible and prudent alternative to the use of land from the property; and
    - (ii) The action includes all possible planning to minimize harm to the property resulting from such use.

- In Cultural Resources, Section 4(f) occurs mainly with bridges
  - Three alternatives must be reviewed through a detailed analysis:
    - Do nothing.
    - Build a new structure at a different location without affecting the historic integrity of the old bridge, as determined by procedures implementing the NHPA.
    - Rehabilitate the historic bridge without affecting the historic integrity of the structure, as determined by procedures implementing the NHPA.
Section 4(f) and Historic Bridges

- Summary of bridge studies to-date
  - Trusses/arches (1993, 2007)
  - Route 66 (2002)
  - Post-WWII (2012)
  - New Deal (2015)
Section 4(f) and Historic Bridges

http://www.odotculturalresources.info
Section 4(f) and Historic Bridges

- The Section 4(f) Policy Paper
  - Not considered a “use” when bridges are left in place
    - historic integrity and value will be maintained
      - FHWA should ensure that a mechanism is in place for continued maintenance of the bridge that would avoid harm to the bridge due to neglect
  - If the existing bridge is made available for donation, there is no “use” — Bridge marketing
Anticipatory Demolition

- Section 110(k) of the National Historic Preservation Act
  - Federal agencies shall ensure that they will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant that has intentionally significantly adversely affected a historic property to which the grant would relate, in order to avoid the Section 106 process.
State Archeologist
• Review of prehistoric cultural resources

Consult

SHPO Office

Deputy SHPO

Historic Archeologist

Architectural Historian

Historic Preservation Architect
Streamlining and Project Delivery

- **Methods for streamlining**
  - “Screened Exemptions”
    - Projects that do “not have the potential to cause effects to historic properties”
      - 36 CFR 800.3(a)(1)
  - Within existing pavement lines
  - Most on-system projects within existing R/W
  - “Bridge rehab”
  - “Some” bridge replacements
  - Previous CR studies and consultation
Post-review Discoveries
Expensive!
Complicated!
Takes on a life of its own!
But you can’t escape from
CRM