



Everything you Wanted to Know About Federal Regulations But Were Afraid to Ask

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Hierarchy of Federal Rules

- **Laws (Statutes, Acts, etc.):**
 - EAct 2005, EISA 2007, NEPA, ARRA, BIL
- **Regulations (Code of Federal Regulations or CFR):**
 - 2 CFR 200, 2 CFR 910, 10 CFR 600, 10 CFR 420 (SEP)
- **Policy**
 - DOE, EERE, GFO (i.e. Award Terms & Conditions)

Where Do I Find the Regulations for My Award?

Electronic Code of Federal Regulations or e-CFR

<http://www.eCFR.gov>

- Structure of CFR: Title → Chapter → Subchapter → Part → Subpart → Subsection (§)
- Note: When searching e-CFR, keep clicking on the subheadings of the section in question until all text appears in chronological sequence in a blue 8 point font.
- Then, hit the “F3” key and perform a word search for the particular section of interest (e.g. prior approval, audit, payment, state matching contribution, etc.)

Award Terms & Conditions

SPECIAL TERMS AND CONDITIONS

The Grantee (“Recipient”), which is identified in Block 5 of the Cover Page (Assistance Agreement Form), and the Office of Energy Efficiency and Renewable Energy (“EERE”), an office within the United States Department of Energy (“DOE”), enter into this Award, referenced above, to achieve the program objectives of the State Annual File stated in Attachment 1 to this Award.

This Award consists of the following documents, including all terms and conditions therein:

Cover Page	Assistance Agreement Form
Body	Special Terms and Conditions
Attachment 1	Annual File
Attachment 2	Federal Assistance Reporting Checklist and Instructions
Attachment 3	Budget Information SF-424A
Attachment 4	Intellectual Property Provisions
Attachment 5	Master File
Appendix A	Appendix A

The following are incorporated into this Award by reference:

- a. Applicable program regulations, including 10 CFR Part 420 – State Energy Program at <http://ecfr.gpoaccess.gov>.
- b. DOE Assistance Regulations, 10 CFR Part 600 at <http://ecfr.gpoaccess.gov>.
- c. The Recipient’s application/proposal as approved by DOE.
- d. National Policy Assurances in effect on date of award at <http://energy.gov/management/office-management/operational-management/financial-assistance/financial-assistance-forms>.

Award Terms & Conditions

- **General Provisions**
 - Flow Down Requirement
 - Electronic Authorization of Award Documents (FedConnect)
 - Reporting Requirements (Federal Assistance Reporting Checklist)
 - Audits (Single Audit)
- **Financial Provisions**
 - Cost Matching
 - Payment Procedures (ASAP; ASAP Approval Required)
 - Rebudgeting in excess of 10 Percent
- **Miscellaneous Provisions**
 - System for Award Management (SAM) and Universal Entity Identifier Requirements (UEI) [name / location changes]

SAM & UEI

Term 36.

SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

For purposes of this award term:

- 1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.sam.gov>).**
- 2. Universal Entity Identifier (UEI) means a “number or other identifier used to identify a specific commercial, nonprofit, or Government entity.” Any entity that wants to do business with the government must first be validated by an identifier. Both prime and subrecipients to federal financial assistance awards must have a valid UEI.**

Unique Entity Identifier (UEI)

- On **April 4, 2022**, the unique entity identifier used across the federal government changed from the DUNS Number to the Unique Entity ID (generated by SAM.gov).
- The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
- As part of this transition, the DUNS Number has been removed from SAM.gov.
- Entity registration, searching, and data entry in SAM.gov now require use of the new Unique Entity ID.
- Existing registered entities can find their Unique Entity ID by following the steps [here](#).
- New entities can get their Unique Entity ID at SAM.gov and, if required, complete an entity registration.
- The Integrated Award Environment (IAE) manages several systems including SAM.gov, FPDS, eSRS, FSRS, CPARS and FAPIIS. All SAM.gov registrants have been assigned their Unique Entity IDs and can view them in SAM.gov.

FedConnect

Term 3.

ELECTRONIC AUTHORIZATION OF AWARD DOCUMENTS

Acknowledgement of award documents by the Recipient's authorized representative through electronic systems used by DOE, specifically FedConnect, constitutes the Recipient's acceptance of the terms and conditions of this Award. Acknowledgement via FedConnect by the Recipient's authorized representative constitutes the Recipient's electronic signature. Further, pursuant to 2 CFR §910.127(b) or 10 CFR §600.16 Legal authority and effect, should the Recipient request to draw down Federal funds prior to acknowledging the award documents, the request to draw down funds constitutes the Recipient's acceptance of the terms and conditions of this Award.

Register in FedConnect at <https://www.fedconnect.net>. To create an organization account, your organization's SAM MPIN is required. For more information about the SAM MPIN or other registration requirements, review the FedConnect Ready, Set, Go! Guide at http://www.fedconnect.net/FedConnect/Marketing/Documents/FedConnect_Ready_Set_Go.pdf.

Federal Assistance Reporting Checklist (FARC)

U.S. DEPARTMENT OF ENERGY Energy Efficiency & Renewable Energy		Federal Assistance Reporting Checklist (FARC)	
Attachment 2			
1. Award Number: DE-EE0000000000		2. Program/Project Title: SEP Formula - State of XXXX	
3. Recipient: State of XXXX			
4. Reporting Requirements (see also the EERE Special Instructions) <i>Detailed instructions included after the Table of Contents</i>		Frequency	Addresses
I. PROJECT MANAGEMENT REPORTING <input checked="" type="checkbox"/> A. SEP Progress Report <input checked="" type="checkbox"/> B. Financial Report (SF-425) <input checked="" type="checkbox"/> C. Scientific and Technical Reporting <ul style="list-style-type: none"> <input type="checkbox"/> 1. Accepted Manuscript of Journal Article(s) <input type="checkbox"/> 2. Conference Product(s) <input type="checkbox"/> 3. Technical Report(s) <input type="checkbox"/> 4. Software & Manual(s) <input type="checkbox"/> 5. Dataset(s) <input type="checkbox"/> 6. Other STI (Dissertation / Thesis, etc.) <input type="checkbox"/> D. Intellectual Property Reporting <ul style="list-style-type: none"> <input type="checkbox"/> 1. Intellectual Property Reporting <input type="checkbox"/> 2. Invention Utilization Report <input type="checkbox"/> E. Project Management Plan (PMP) <input checked="" type="checkbox"/> F. Special Status Report <input checked="" type="checkbox"/> G. Continuation Application <input type="checkbox"/> H. Other (see Special Instructions)		Q F, Q	A. https://www.page.energy.gov B. https://www.page.energy.gov C.1. OSTI E-Link C.2. OSTI E-Link C.3. OSTI E-Link C.4. DOE CODE C.5. OSTI E-Link Datasets C.6. OSTI E-Link D.1. E-Links D.2. E-Links E. EERE PMC F. Submit to DOE Project Officer G. https://www.page.energy.gov H. See Special Instructions
II. AWARD MANAGEMENT REPORTING <input type="checkbox"/> A. Participants and Collaborating Organizations <input type="checkbox"/> B. Current and Pending Support <input checked="" type="checkbox"/> C. Demographic Reporting <input type="checkbox"/> D. Tangible Personal Property Report - Annual Property Report (SF-428 & SF-428A) <input checked="" type="checkbox"/> E. Tangible Personal Property Report - Disposition Request/Report (SF-428 & SF-428C) <input checked="" type="checkbox"/> F. Uniform Commercial Code (UCC) Financing Statements <input checked="" type="checkbox"/> G. Federal Subaward Reporting System (FSRS) <input checked="" type="checkbox"/> H. Annual Incurred Cost Proposal <input type="checkbox"/> I. DOE For-Profit Compliance Audit <input checked="" type="checkbox"/> J. Single Audit: States, Locals, Tribal Governments, and Non-Profits <input checked="" type="checkbox"/> K. Other (see Special Instructions) <ul style="list-style-type: none"> K.1 Annual Historic Preservation Report K.2 Annual Summary K.3 Financial Programs Report (Applicable to Grantee continuing financing programs initiated with SEP Recovery Act Funds) K.4 National Environmental Policy Act (NEPA) Logs 		A5 A5 Y180 A5 A5 O A5 A5 Q Q	A. EERE PMC B. EERE PMC C. https://www.page.energy.gov D. EERE PMC E. Submit to DOE Project Officer F. See section II. F. for instructions and due dates G. FSRS H. See section II. H. for instructions and due dates I. See section II. I. for instructions and due dates J. See section II. J. for instructions and due dates K. See Special Instructions K.1 https://www.page.energy.gov K.2 Submit to DOE Project Officer K.3 https://www.page.energy.gov K.4 Email to GONEPA@ee.doe.gov
III. CLOSEOUT REPORTING <input type="checkbox"/> A. Final Scientific/Technical Report <input type="checkbox"/> B. Invention Certification (DOE F 2050.11) <input checked="" type="checkbox"/> C. Tangible Personal Property Report - Final Report (SF-428 & SF-428B) <input type="checkbox"/> D. Verification of Receipt of Accepted Manuscripts <input type="checkbox"/> E. Other (see Special Instructions)		F	A. OSTI E-Link B. EERE PMC C. Submit to DOE Project Officer D. See section III. D. for instructions and due dates E. See Special Instructions

IV. POST-PROJECT REPORTING

- ☐ A. Scientific and Technical Reporting
☐ B. Intellectual Property Reporting

A. [OSTI E-Link](#)B. [iEdison](#)

FREQUENCY CODES AND DUE DATES:

AS – As Specified or within five (5) calendar days after the event.

F – Final; within 120 calendar days after expiration or termination of the award.

O – Other: See instructions for further details.

P – Post-project (after the period of performance); within five (5) calendar days after the event, or as specified.

Q – Quarterly; within 30 calendar days after the end of the federal fiscal year quarter.

S – Semiannually; within 30 days after end of the reporting period.

Y – Yearly; within 90 calendar days after the end of the federal fiscal year.

Y180 – Yearly; within 180 calendar days after the close of the recipient's fiscal year.

FULL URLS:

OSTI E-Link: <http://www.osti.gov/elink-2413>OSTI E-Link Datasets: <https://www.osti.gov/elink/2416-submission.jsp>DOE CODE: <https://www.osti.gov/oaecode/>~~iEdison~~: <http://www.iEdison.gov>EERE PMC: <https://www.eere-pmc.energy.gov/SubmitReports.aspx>FSRS: <https://www.fsrs.gov>PAGE: <https://www.page.energy.gov>

Common Recipient Questions

Q: What is the difference between a subrecipient and a vendor?

A: Vendors provide supplies and services to the non-federal entity. A subrecipient receives a subaward to support part of a federal program. Vendors are allowed fee and profit, subrecipients are not.

[James: Do they care about the outcome of the project? Yes => Subrecipient; No => Vendor]

Q: What is the difference between a grant and a cooperative agreement?

A: Substantial Federal involvement:

- EERE shares responsibility with the Recipient for the management, control, direction, and performance of the Project.
- EERE may intervene in the conduct or performance of work under this Award for programmatic reasons. Intervention includes the interruption or modification of the conduct or performance of project activities.
- EERE may redirect or discontinue funding the Project based on the outcome of EERE's evaluation of the Project at the Go/No Go decision point.
- EERE participates in major project decision-making processes.

Equipment

Definition:

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

Equipment (continued)

Disposition: 2 CFR §200.313 Equipment (e):

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- (2) Items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

Equipment (continued)

Uniform Commercial Code (UCC) Financing Statements:

- Applies to For-Profit subrecipients only

Per 2 CFR §910.360 Real property and equipment(b)(4):

Properly record, and consent to the Department's ability to properly record if the recipient fails to do so, UCC financing statement(s) for all equipment purchased with Federal funds; such a filing is required when the Federal share of the financial assistance agreement is more than \$1,000,000. These financing statement(s) must be approved in writing by the contracting officer prior to the recording, and they shall provide notice that the recipient's title to all equipment (not real property) purchased with Federal funds under the financial assistance agreement is conditional pursuant to the terms of this section, and that the **Government retains an undivided reversionary interest in the equipment**. The UCC financing statement(s) must be filed before the contracting officer may reimburse the recipient for the Federal share of the equipment. The recipient shall further make any amendments to the financing statements or additional recordings, including appropriate continuation statements, as necessary or as the contracting officer may direct.

Audits

§200.501 Audit requirements:

(a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

Audits (continued)

(d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

(f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards.

Prior Approval

§200.407 Prior written approval (prior approval).

Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following sections of this part:

Prior Approval (continued)

- (a) §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b)(5);
- (b) §200.306 Cost sharing or matching;
- (c) §200.307 Program income;
- (d) §200.308 Revision of budget and program plans;
- (e) §200.311 Real property;
- (f) §200.313 Equipment;
- (g) §200.332 Fixed amount subawards;
- (h) §200.413 Direct costs, paragraph (c);
- (i) §200.430 Compensation—personal services, paragraph (h);
- (j) §200.431 Compensation—fringe benefits;
- (k) §200.438 Entertainment costs;
- (l) §200.439 Equipment and other capital expenditures;
- (m) §200.440 Exchange rates;
- (n) §200.441 Fines, penalties, damages and other settlements;

Prior Approval (continued)

- (o) §200.442 Fund raising and investment management costs;
- (p) §200.445 Goods or services for personal use;
- (q) §200.447 Insurance and indemnification;
- (r) §200.454 Memberships, subscriptions, and professional activity costs, paragraph (c);
- (s) §200.455 Organization costs;
- (t) §200.456 Participant support costs;
- (u) §200.458 Pre-award costs;
- (v) §200.462 Rearrangement and reconversion costs;
- (w) §200.467 Selling and marketing costs;
- (x) §200.470 Taxes (including Value Added Tax); and
- (y) §200.474 Travel costs.

That's All Folks

Thank you for your time.

Please do not hesitate to contact your DOE Project Officer, Grants Management Specialist, Contracting Officer, (or even me) if you have any questions.

U.S. DEPARTMENT OF
ENERGY

Office of
ENERGY EFFICIENCY &
RENEWABLE ENERGY

State Energy Program

National Environmental Policy Act (NEPA) and
National Historic Preservation Act (NHPA)



National Environmental Policy Act (NEPA)

Diana Heyder
NEPA Specialist – State Energy Program

GONEPA@ee.doe.gov

Agenda

NEPA

- Changes in 2022 Formula award NEPA determination
 - Category Updates
 - NEPA logs - quarterly submission requirement and updates
- New Funding Streams - New NEPA determinations

Historic Preservation

- Historic Preservation and Historic Preservation Programmatic Agreements (PAs)
- Historic Preservation Annual Report

NEPA and Historic Preservation Training Website for Weatherization and Intergovernmental Program's Office

- Historic Preservation Presentation - new training website
- Website can be found at: www.energy.gov/node/4816816

2022 Formula award NEPA determination – category updates

Uniform application of NEPA determinations and adapting to changing focus on technologies is the goal with revisions!

- Modified language: Electric vehicle charging stations
 - The new language states: *Installation of electric vehicle charging stations **attached to a structure**) and/or permanent or temporary testing measures to assess the safety and functionality of electric vehicle charging stations.* The previous language stated - *Installation of electric vehicle charging stations installed on existing facilities.*
- New addition to NEPA determination: Battery storage
 - New language: *Battery storage, if applicable, would be attached to a structure (e.g., inside a garage), or within the boundaries of a facility. Either location would not be visible from the public right of way.*

NEPA logs - Quarterly submission requirement and updates

What are the changes for the requirements of NEPA logs?

- Quarterly submission of NEPA logs
 - Grantees funding any activities under the 2022 Formula Award NEPA determination (and any future NEPA determination requiring a NEPA log) must submit a NEPA log for all activities listed in the annual file including administrative and reporting activities and salaries.
- Updated Sample NEPA logs
 - Revisions reflect necessary information for quarterly submission
 - New excel format!
 - New mailbox included on NEPA logs: NEPALogs@ee.doe.gov for submission
 - Logs available on NEPA and Historic Preservation training website: www.energy.gov/node/4816816.

Updated Sample NEPA logs

NEPA log for Bounded Categories - Recipients with a DOE executed Historic Preservation Programmatic Agreement

(Including 10 CFR Part 1021 definitions on 2nd tab)

State Energy Program (SEP) Complete the green fields, as applicable, in addition to the project information below.

☐ Check if there are no new projects since previous quarter and only complete the green fields, as applicable.

Enter date of quarterly submission to: NEPALogs@ee.doe.gov

Enter reporting period (ex. 3rd Qtr. 2022)

Enter NEPA determination title and date for this log (ex. SEP PY 2022 Formula Awards ALRD dated 3/31/2022)

*Submit the NEPA log each quarter for projects approved by the recipient during the reporting period listed above. The NEPA log must be completed prior to Initiating work on a project.

Enter name of State and Grantee below:

Enter name of Subgrantee below, if entire form is completed by a Subgrantee. Grantee must review Subgrantee information (Not applicable to all States):

*Projects with activities in these categories require a DOE NEPA review as outlined in applicable NEPA Determination

Name of Subgrantee	Project Title	DOE Award Number (Denote different awards with same award number with "-00X." Add "Update" before award number to highlight project revisions as needed)	Project Description, (include address as applicable)	Bounded Category (1-10), as applicable The NEPA determination in your award documents contains the Bounded Categories.	Historic Preservation- Review DOE Programmatic Agreement for restrictions and list of activities exempt from State Historic Preservation Office (SHPO) review. Activities not exempt, require consultation with SHPO https://www.energy.gov/eere/wipo/historic-preservation-executed-programmatic-agreements	Extraordinary Circumstances* (A)	Cumulative Impacts* (B)	Connected Actions* (C)	"Integral elements" applicable to Appendix B classes of Action* (D)	Flood map of the project site* https://msc.fema.gov/portal	Wetland map of the project site* https://www.fws.gov/wetlands/data/Mapper.html	Optional: Anticipated Start Date
			AK NW									

Updated NEPA log for Recipients without NEPA log for Recipients withOUT a PA

NEPA log for Bounded Categories - Recipients without a DOE executed Historic Preservation Programmatic Agreement

(Including 10 CFR Part 1021 definitions on 2nd tab)

State Energy Program (SEP)

Complete the green fields, as applicable, in addition to the project information below.

☐ Check if there are no new projects since previous quarter and complete the green fields below, as applicable.

Enter date of quarterly submission to: NEPALogs@ee.doe.gov

Enter reporting period (ex. 3rd Qtr. 2022)

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Name of Subgrantee	Project Title	DOE Award Number (Denote different awards with same award number with "-00X." Add "Update" before award number to highlight project revisions as applicable)	Project Description, (include address as applicable)	Bounded Category (1-10), as applicable The NEPA determination in your award documents contains the Bounded Categories.	Age of Structure Must be less than 45 years old	Extraordinary Circumstances* (A)	Cumulative Impacts* (B)	Connected Actions* (C)	"Integral elements" applicable to Appendix B classes of Action* (D)	Flood map of the project site* https://msc.fema.gov/portal	Wetland map of the project site* https://www.fws.gov/wetlands/data/Mapper.html	Optional: Anticipated Start Date
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Changes in 2022 Formula award NEPA determination

All NEPA Determinations, including the 2022 Formula award require recipients to review the NEPA and Historic Preservation training website (www.energy.gov/node/4816816) and to contact us at GONEPA@ee.doe.gov with any questions.

New Funding Streams New NEPA determinations

New Funding Streams

New NEPA determinations

Same Historic Preservation Programmatic Agreement, as applicable

New questions

Training website for NEPA and Historic Preservation:

www.energy.gov/node/4816816

Historic Preservation and Historic Preservation PAs

DOE has 55 Historic Preservation Programmatic Agreements; Guam is the only SEP recipient without a PA.

Common questions regarding Historic Preservations and PAs:

- Historic Preservation is only an issue for buildings 50 years and older, right?
No. Historic resources can be below ground. Ground disturbance is restricted in PAs
- Do I have to maintain a record documenting my review of projects that I determined were exempt from SHPO review according to my PA?
Yes! Records must be maintained on undertakings.

Note-Many PAs have tailored language that was requested by individual State Historic Preservation Office's. The above answers are from the template PA. Review your PA specific to your state or territory!

Historic Preservation Annual Report

The Annual Historic Preservation Report is due September 15th

- This report covers the reporting period from September 1st to August 31st.
- Guidance to complete the Annual Historic Preservation Report is available in the library in PAGE.

The NEPA and Historic Preservation training website includes links to the Weatherization and Intergovernmental Programs Office (WIPO) and the National Historic Preservation Act (NHPA) website: www.energy.gov/node/4816816



NEPA and Historic Preservation Training Website

www.energy.gov/node/4816816



NEPA and Historic Preservation Training Website

Presentations

-  [National Environmental Policy Act \(NEPA\) Overview](#)
-  [NEPA Review Process \(download this file to see notes at the bottom of some slides\)](#)
-  [Historic Preservation for WIPO Recipients \(download this file to see notes at the bottom of some pages\)](#)

ADDITIONAL INFORMATION

-  [Clarification of Applicability of Historic Preservation Programmatic Agreements for WIPO Recipients](#)

DOE WEBSITES

DOE Historic Preservation Programmatic Agreements can be found at [Historic Preservation – Executed Programmatic Agreements | Department of Energy](#).

For additional historic preservation information, including resources for recipients without a historic preservation programmatic agreement and annual historic preservation report guidance for recipients with a historic preservation programmatic agreement please see the [Weatherization and Intergovernmental Programs Office \(WIPO\) and the National Historic Preservation Act \(NHPA\) website](#).





SAMPLE TEMPLATE DOCUMENTS

The sample documents found below are intended to be tools to assist recipients with their reporting responsibilities. Recipients may utilize their own documents if the same type of information is collected and reported on as outlined in the templates.

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The sample documents found below are intended to be tools to assist recipients with their reporting responsibilities. Recipients may utilize their own documents if the same type of information is collected and reported on as outlined in the templates.

DOCUMENTS APPLICABLE TO WAP, SEP, AND EECBG FOR PROJECTS REQUIRING A DOE NEPA REVIEW WITH THE SUBMISSION OF AN ENVIRONMENTAL QUESTIONNAIRE-1.

-  [Sample Scope of Work](#)
-  [Sample Layout of Project](#)
-  [EQ1_Sample](#)
-  [EQ1 Submission Guide](#)

WEATHERIZATION ASSISTANCE PROGRAM

-  [WAP Recipients with a Historic Preservation Programmatic Agreement NEPA log](#)
-  [WAP Recipients withOUT a Historic Preservation Programmatic Agreement NEPA log](#)
-  [WAP Historic Preservation Review Form for Recipients withOUT a Historic Preservation Agreement](#)

STATE ENERGY PROGRAM

-  [SEP Recipients with a Historic Preservation Programmatic Agreement NEPA lo](#)
-  [SEP Recipients withOUT a Historic Preservation Programmatic Agreement NEPA log](#)

ENERGY EFFICIENCY COMMUNITY BLOCK GRANT

TBD

Training website is applicable to all Weatherization and Intergovernmental Programs –but look for SEP specific information also!



NEPA and Historic Preservation Training Website



Presentations

- 📄 National Environmental Policy Act (NEPA) Overview
- 📄 NEPA Review Process (download this file to see notes at the bottom of some slides)
- 📄 Historic Preservation for WIPO Recipients (download this file to see notes at the bottom of some pages)

U.S. DEPARTMENT OF
ENERGY

The National Environmental Policy Act (NEPA)
Overview
and
**The Weatherization and Intergovernmental
Programs Office (WIP)**

Energy Efficiency and Conservation Block Grant (EECBG)
State Energy Program (SEP) and
Weatherization Assistance Program (WA)



 

1 www.energy.gov

U.S. DEPARTMENT OF
ENERGY

The National Environmental Policy Act (NEPA)
Review Process
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1 www.energy.gov

U.S. DEPARTMENT OF
ENERGY

The National Historic Preservation Act (NHPA)
and
**The Weatherization and Intergovernmental
Programs Office (WIP)**

Energy Efficiency and Conservation Block Grant (EECBG)
State Energy Program (SEP) and
Weatherization Assistance Program (WA)

1 www.energy.gov

NEPA and Historic Preservation Training Website

Still have questions after reviewing the
NEPA and Historic Preservation training website?

Send your questions to GONEPA@ee.doe.gov with a cc: to your Project Officer.

The National Historic Preservation Act (NHPA) and **The Weatherization and Intergovernmental Programs Office (WIPO)**

**Energy Efficiency and Conservation Block Grant (EECBG)
State Energy Program (SEP) and
Weatherization Assistance Program (WAP)**





Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country.



Award

- The written documentation executed by a Contracting Officer which contains the negotiated terms and conditions for providing Financial Assistance

Recipient

- A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program

Subrecipient

- A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program

NEPA

- National Environmental Policy Act

NEPA determination

- The DOE form that documents DOE's NEPA review of a project or activities

SHPO

- State Historic Preservation Office or State Historic Preservation Officer

Terminology Continued

NHPA

- National Historic Preservation Act

Historic Preservation Programmatic Agreement

- Historic Preservation Programmatic Agreements (PAs) offer a streamlined process for grantees to satisfy their historic preservation requirements with minimum or no consultation with the State Historic Preservation Officer based on the type of activity that is being undertaken

Undertaking

- Any project, activity, or program with federal agency involvement, such as those carried out by federal agencies, assisted by federal agencies, or that require a federal permit, license, or approval.

Ground disturbance

- Any activity that compacts or disturbs the ground within a project area

In 2010, DOE, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers developed a first-of-its-kind Programmatic Agreement (PA) for National Historic Preservation Act Section 106 reviews. The PA provides a [streamlined Section 106 process](#) for projects funded under DOE's [Weatherization Assistance Program](#), [State Energy Program](#), and [Energy Efficiency Conservation Block Grant](#) program.



NHPA and Programmatic Agreements



DOE's Weatherization Assistance Program, State Energy Program, and Energy Efficiency Conservation Block Grant program provide funding for tens of thousands of Historic Preservation-related activities each year.



The PAs make it possible for DOE recipients to execute a large number of undertakings, in compliance with Section 106, by expediting reviews for those that do not have the potential to adversely impact historic properties and establishing the review process for those projects that require individual consideration.



NHPA and Programmatic Agreements

A total of 55 state and territory PAs have been executed with DOE as of August 2022.

DOE, in cooperation with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers, developed an Amendment to extend the expiration date of the PAs. Nearly all agreements were extended through 2030, although 3 states opted to extend their PAs through 2025.

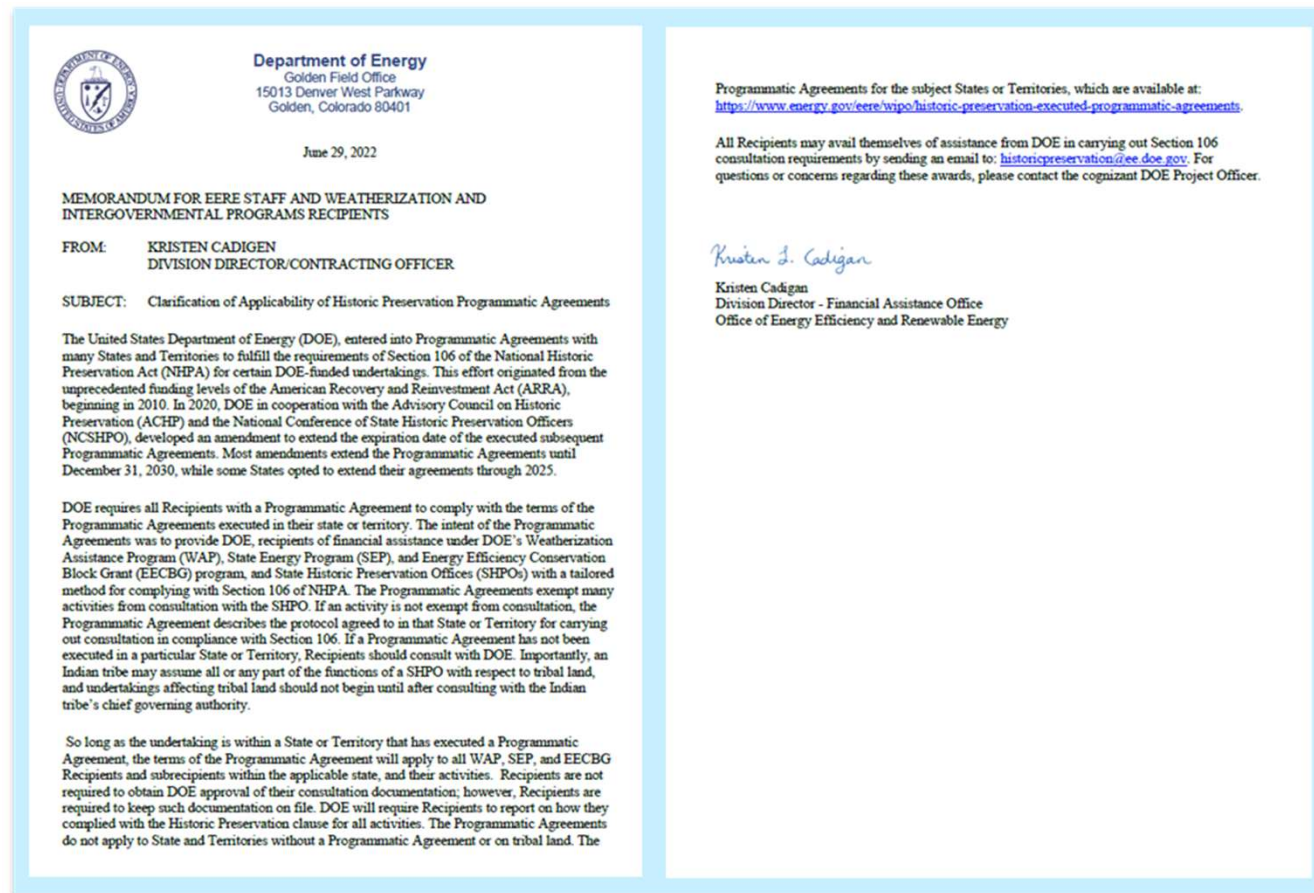
The PAs and their amendments can be found here:

<https://www.energy.gov/eere/wipo/historic-preservation-executed-programmatic-agreements>



NHPA and Programmatic Agreements

Per this June 29, 2022 DOE memo, “So long as the undertaking is within a State or Territory that has executed a Programmatic Agreement, the terms of the Programmatic Agreement will apply to all WAP, SEP, and EECBG Recipients and subrecipients within the applicable state, and their activities.”



The memo is posted at: www.energy.gov/node/4816816

NHPA and Programmatic Agreements

Not all states or territories have a PA. Additionally, DOE does not have programmatic agreements with any tribal governments.

WIPO states or territories without a PA have additional restrictions in their NEPA determination. The restrictions in the NEPA determination must be followed.

The remainder of this presentation is specific to recipients and subrecipients in a state or territory with a programmatic agreement.



NHPA and Programmatic Agreements

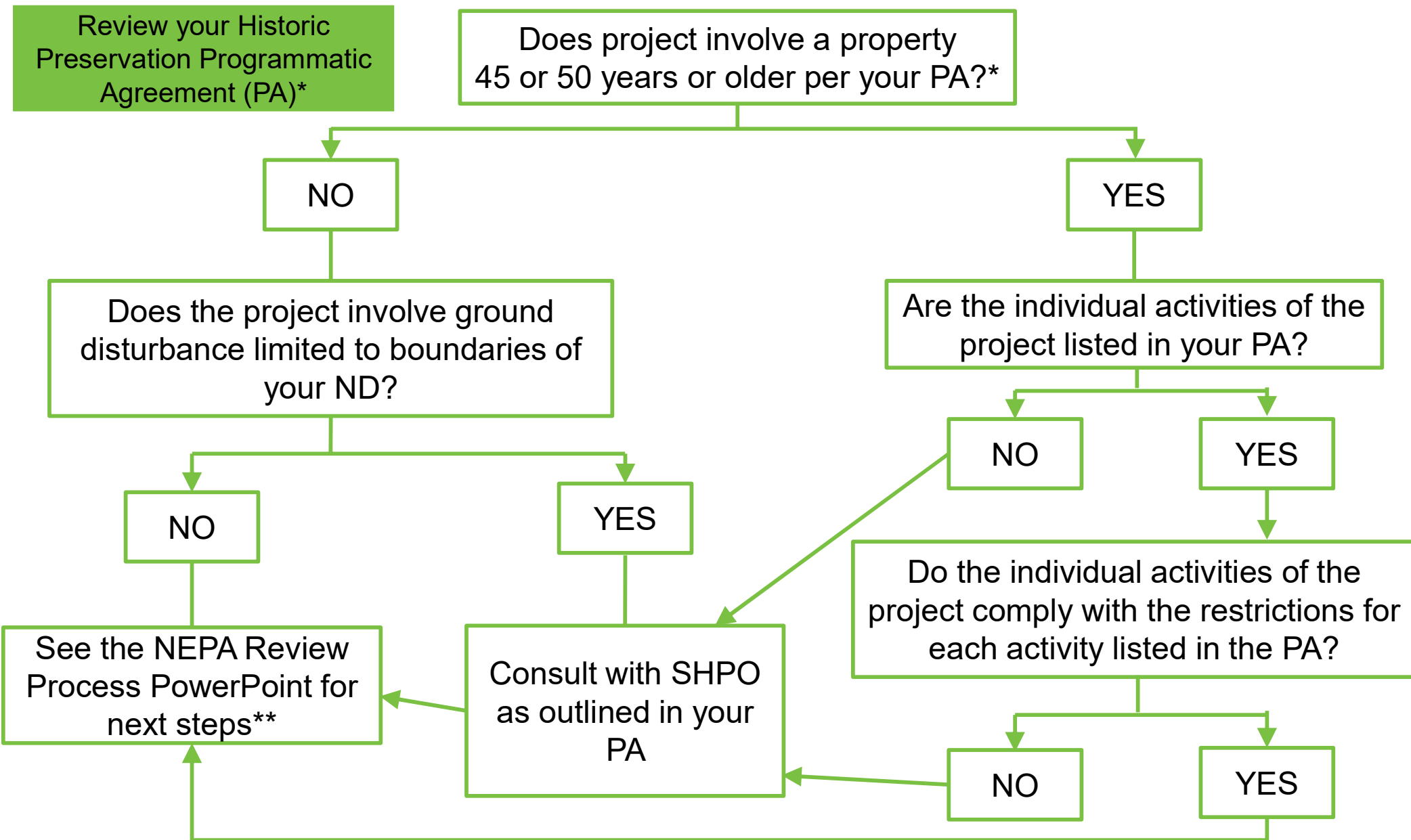


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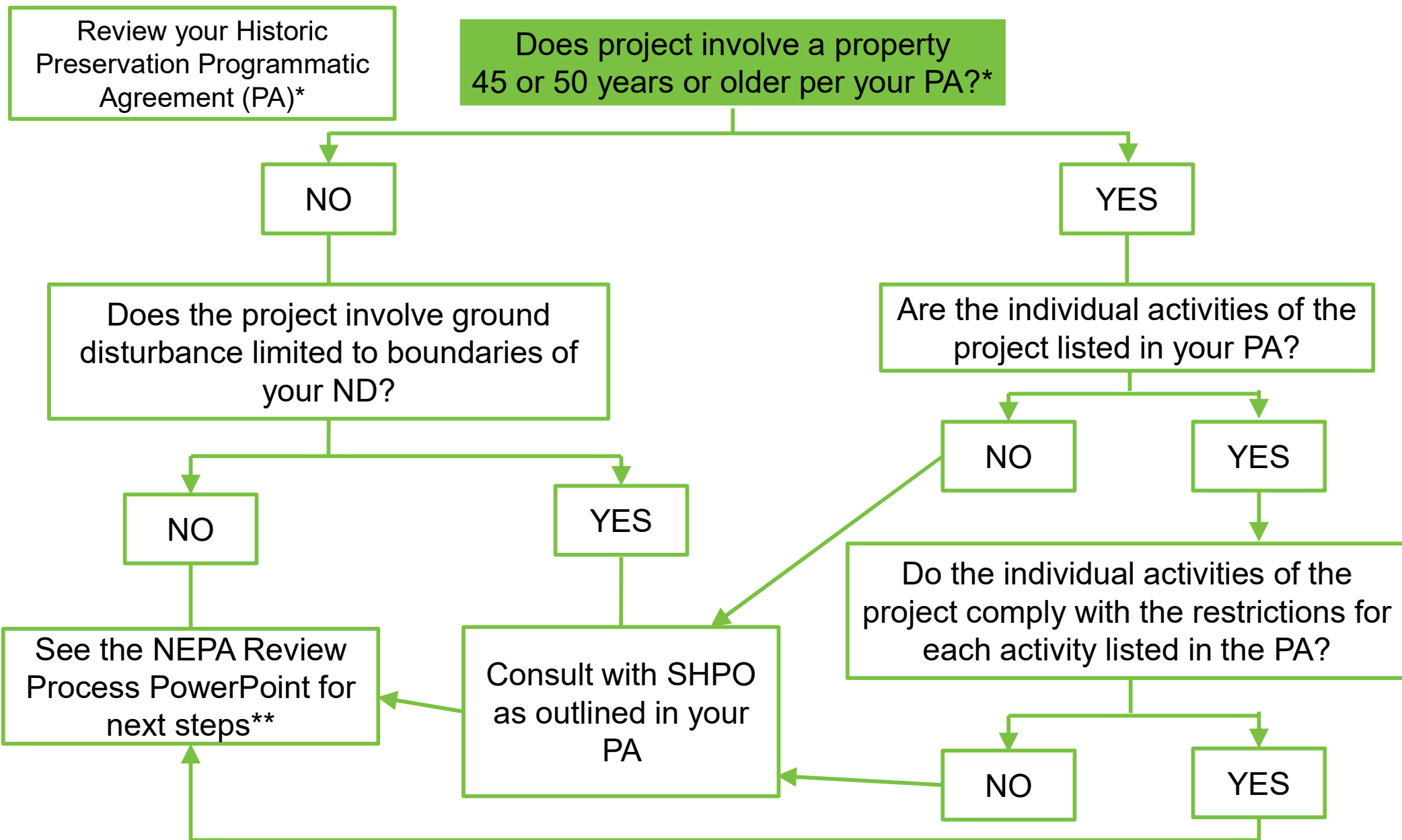
The next slides will outline the general process most recipients should follow for implementing their PA. However, many PAs are tailored with state or territory specific protocols or restrictions. This presentation is not intended to contradict any PA. Carefully review your PA to ensure you fully understand the restrictions and processes outlined by your SHPO, and follow your specific PA.



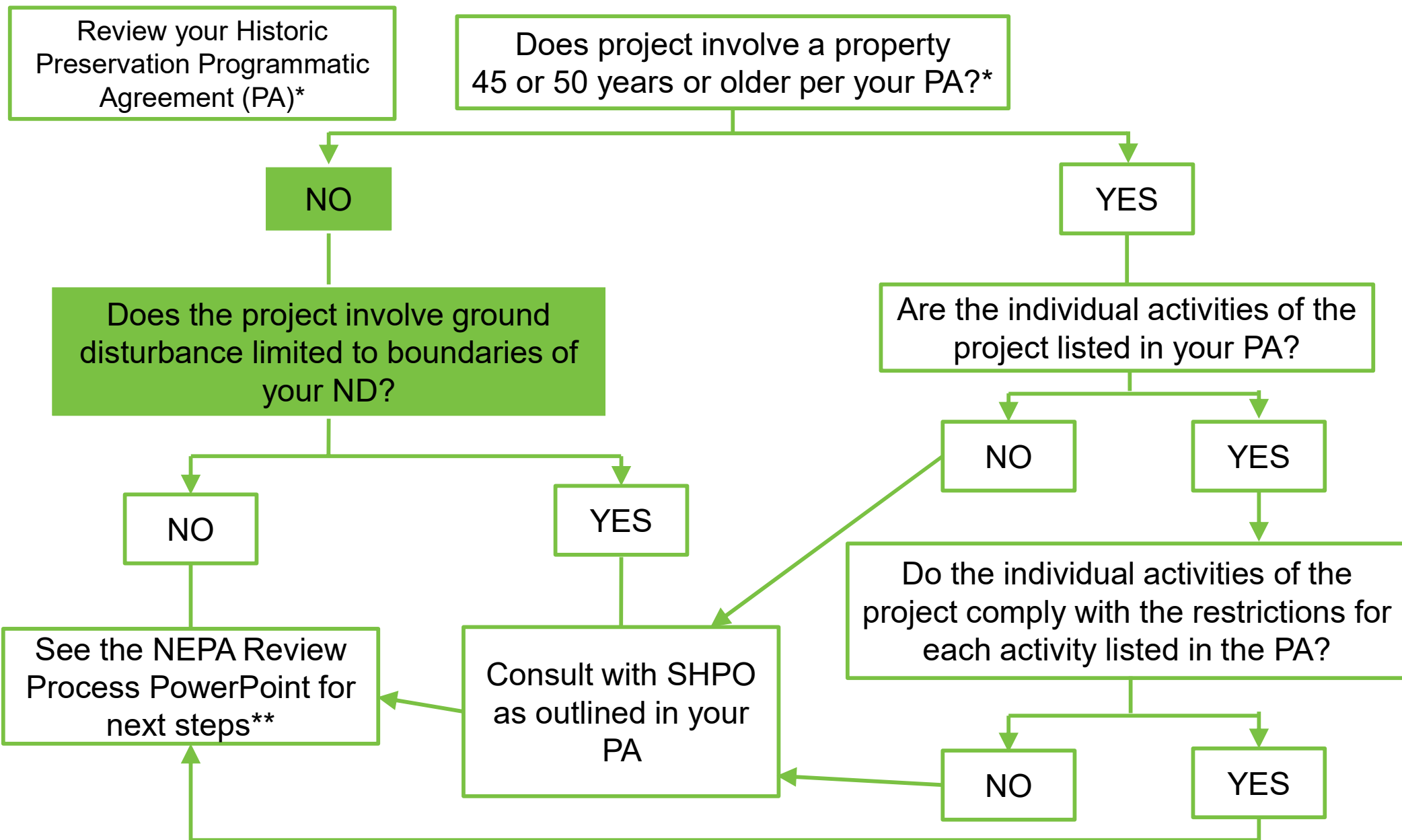
NHPA and Programmatic Agreements



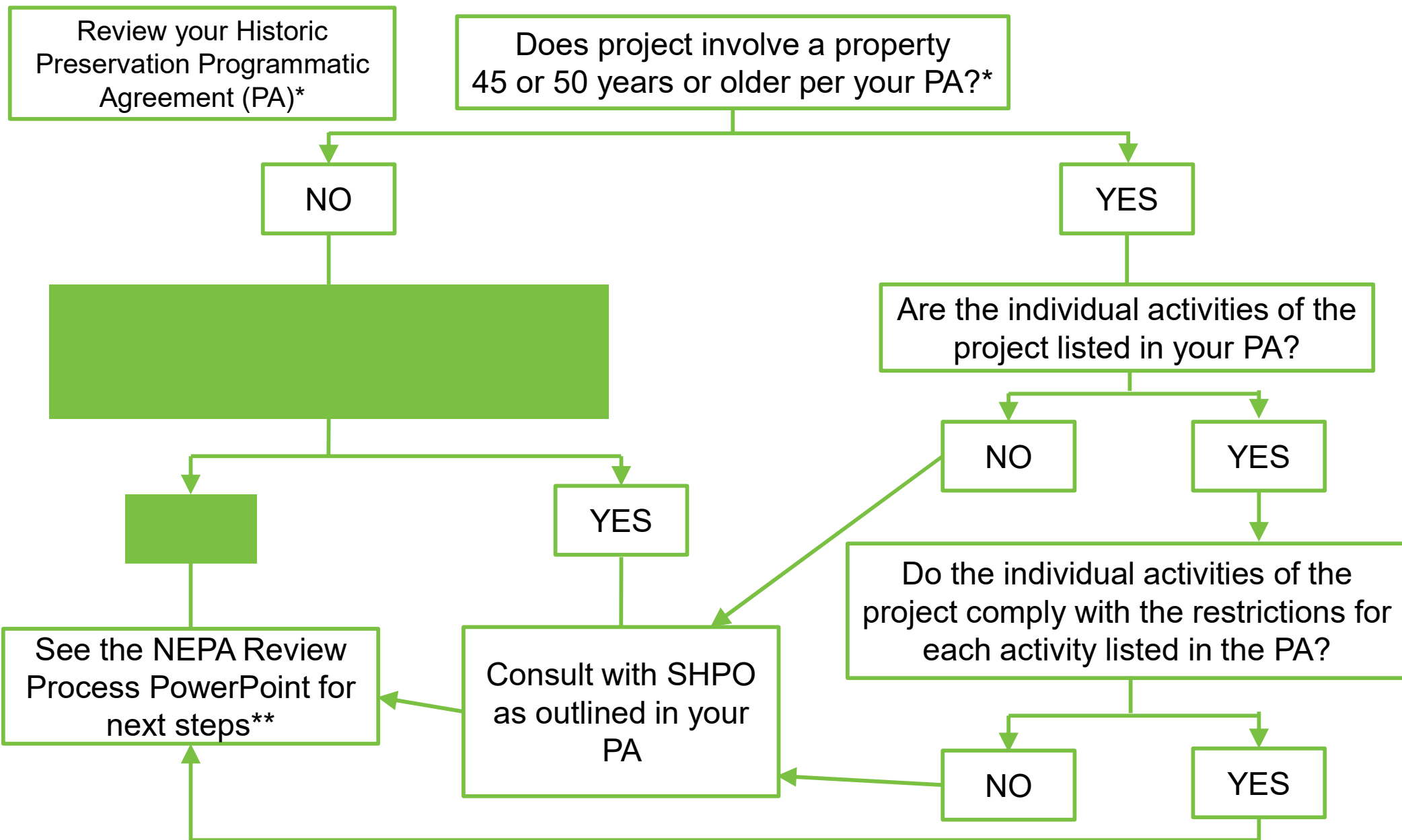
NHPA and Programmatic Agreements



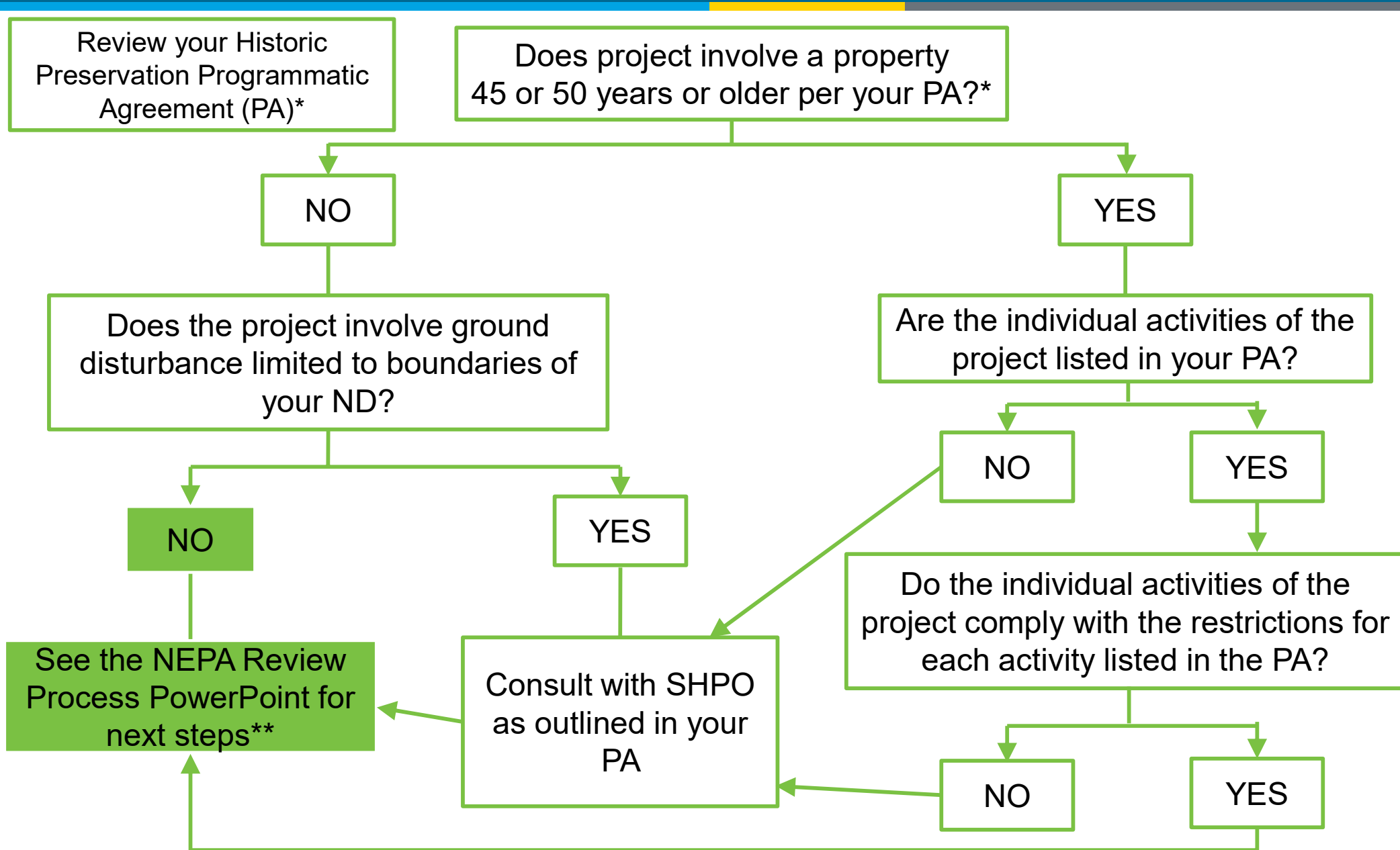
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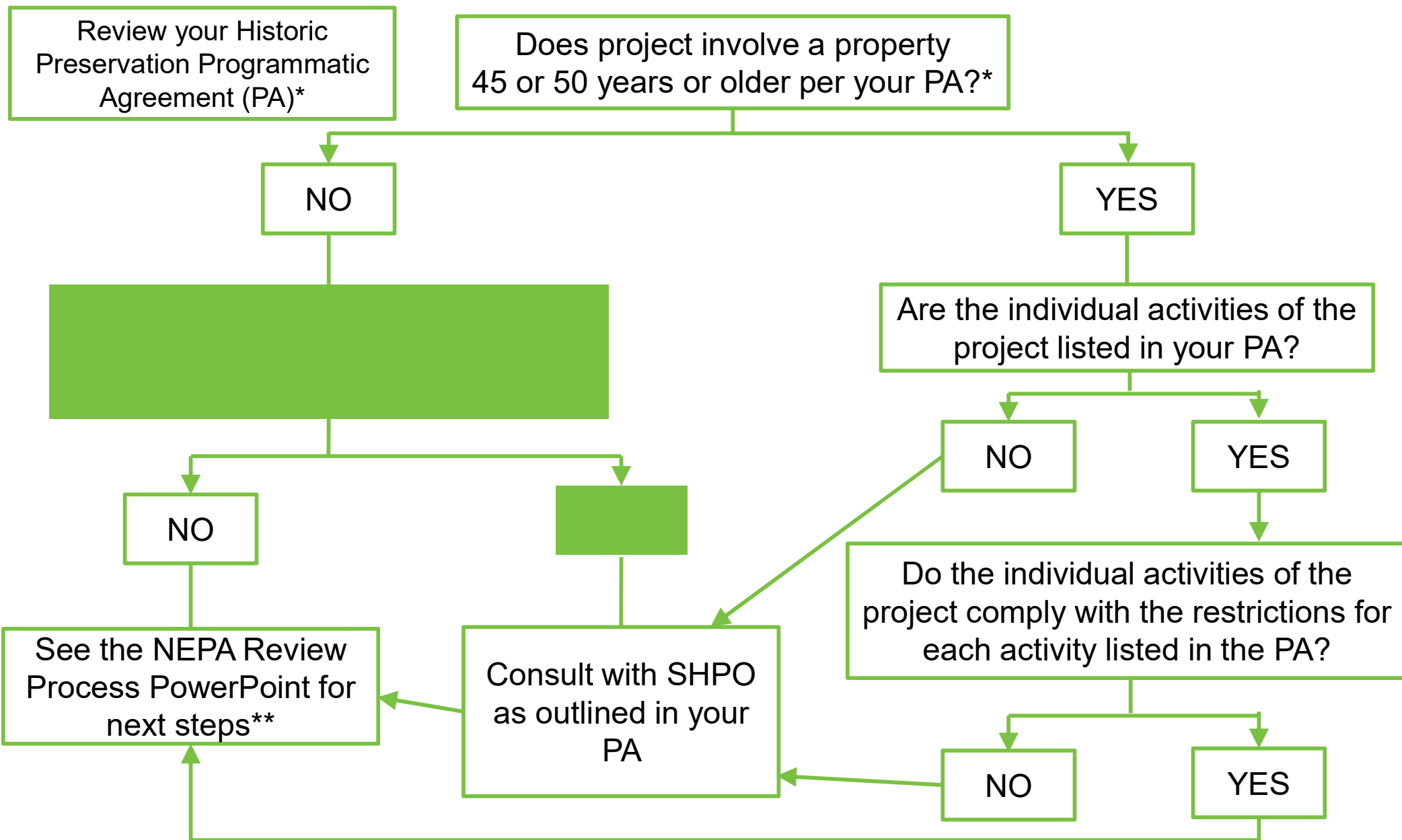
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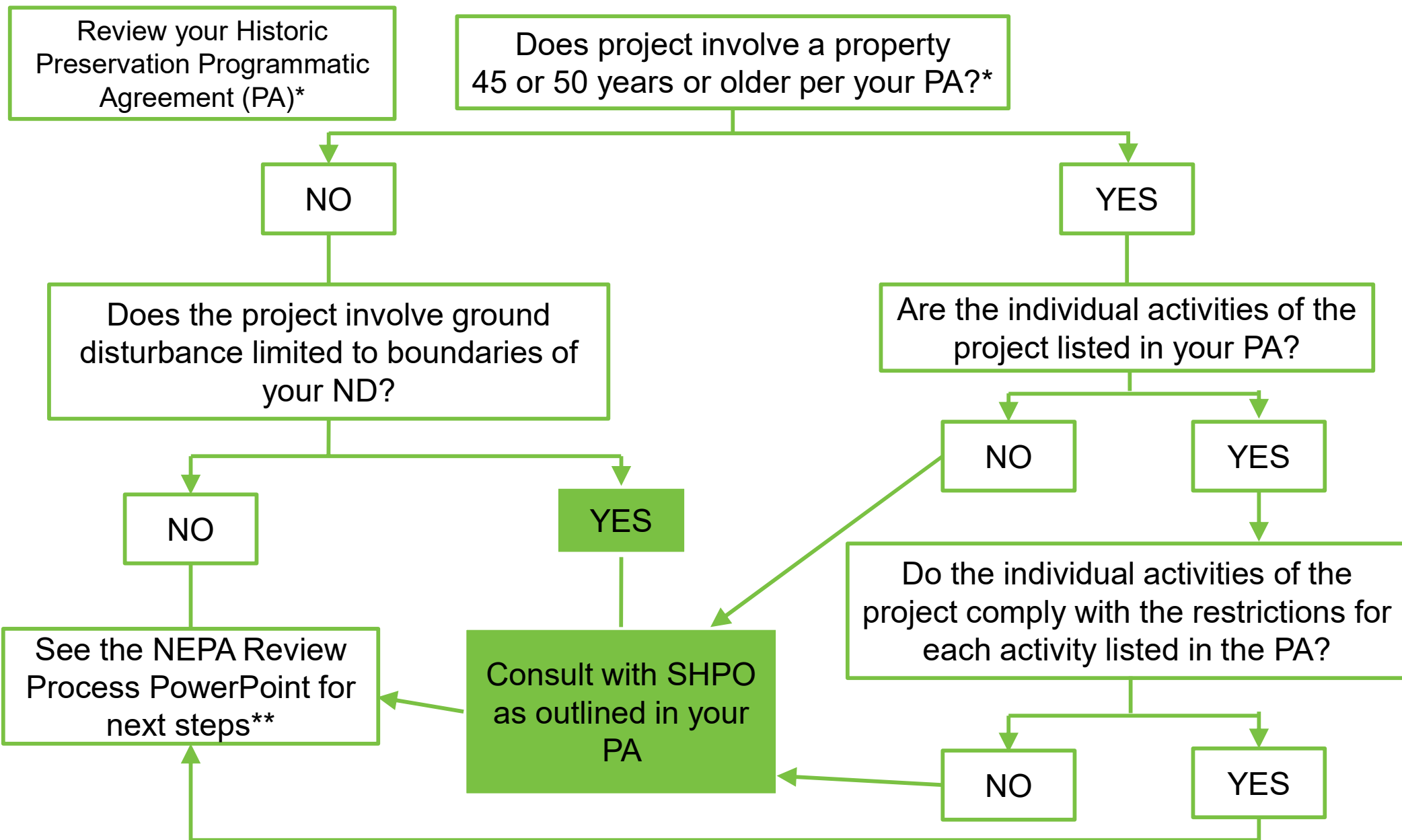
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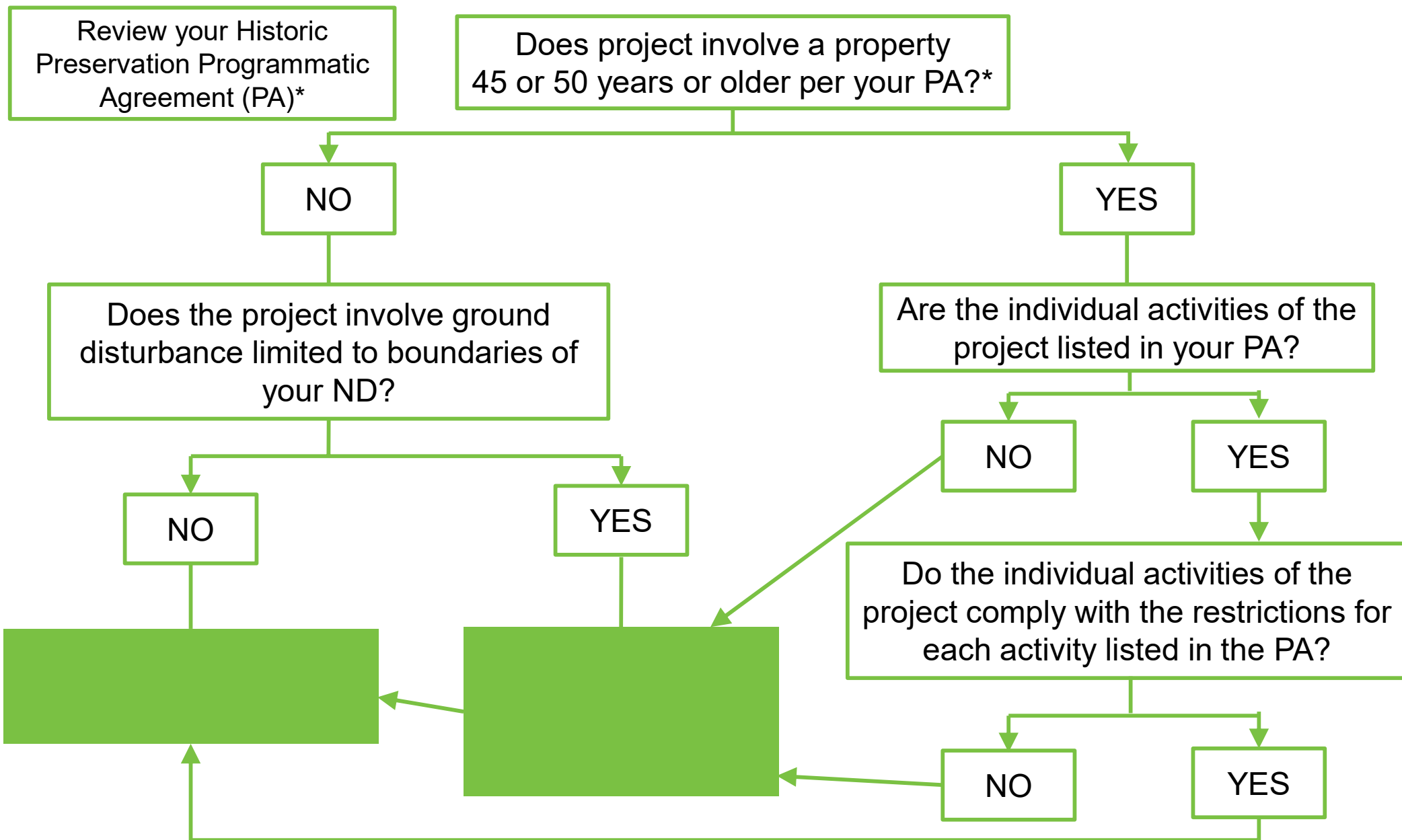
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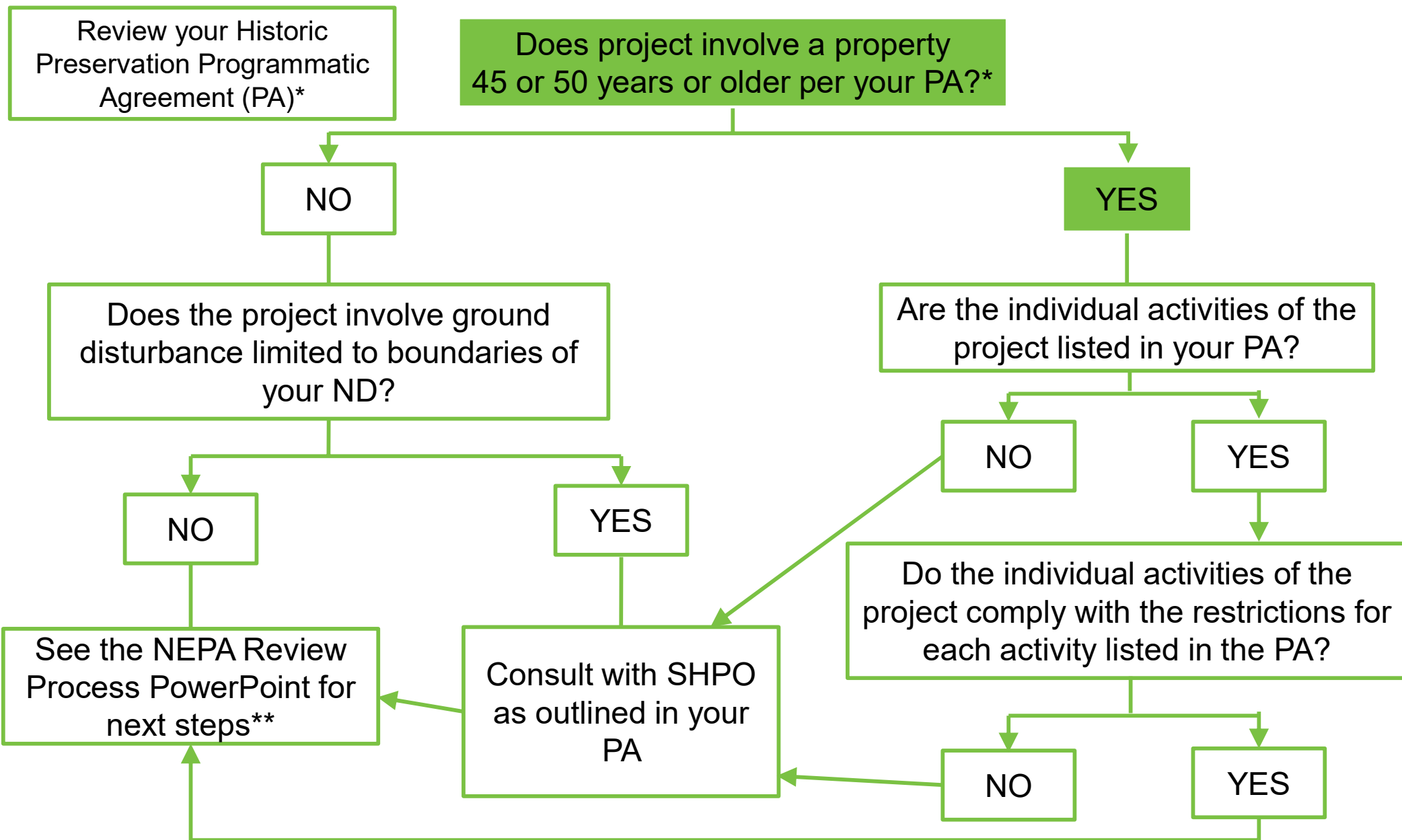
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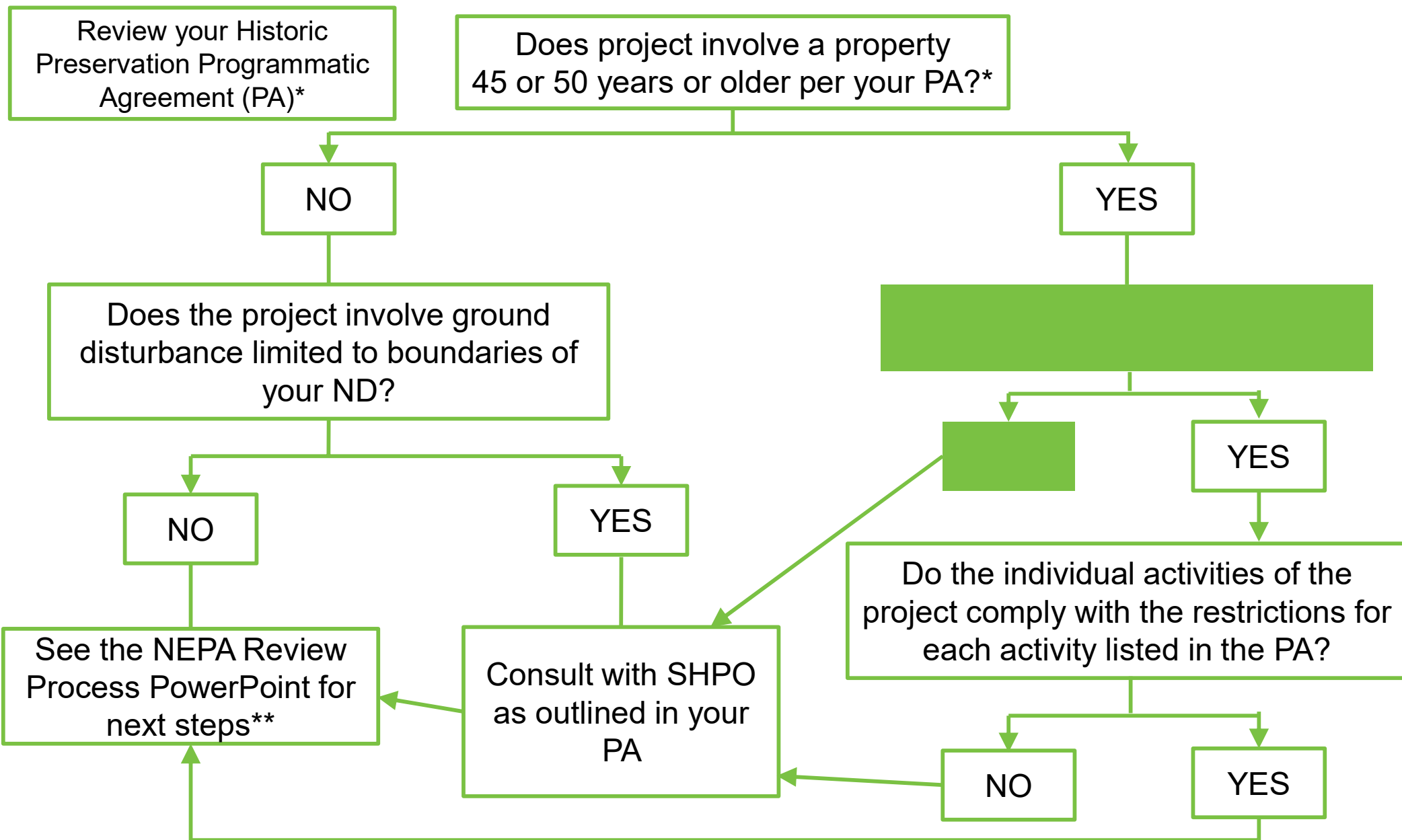
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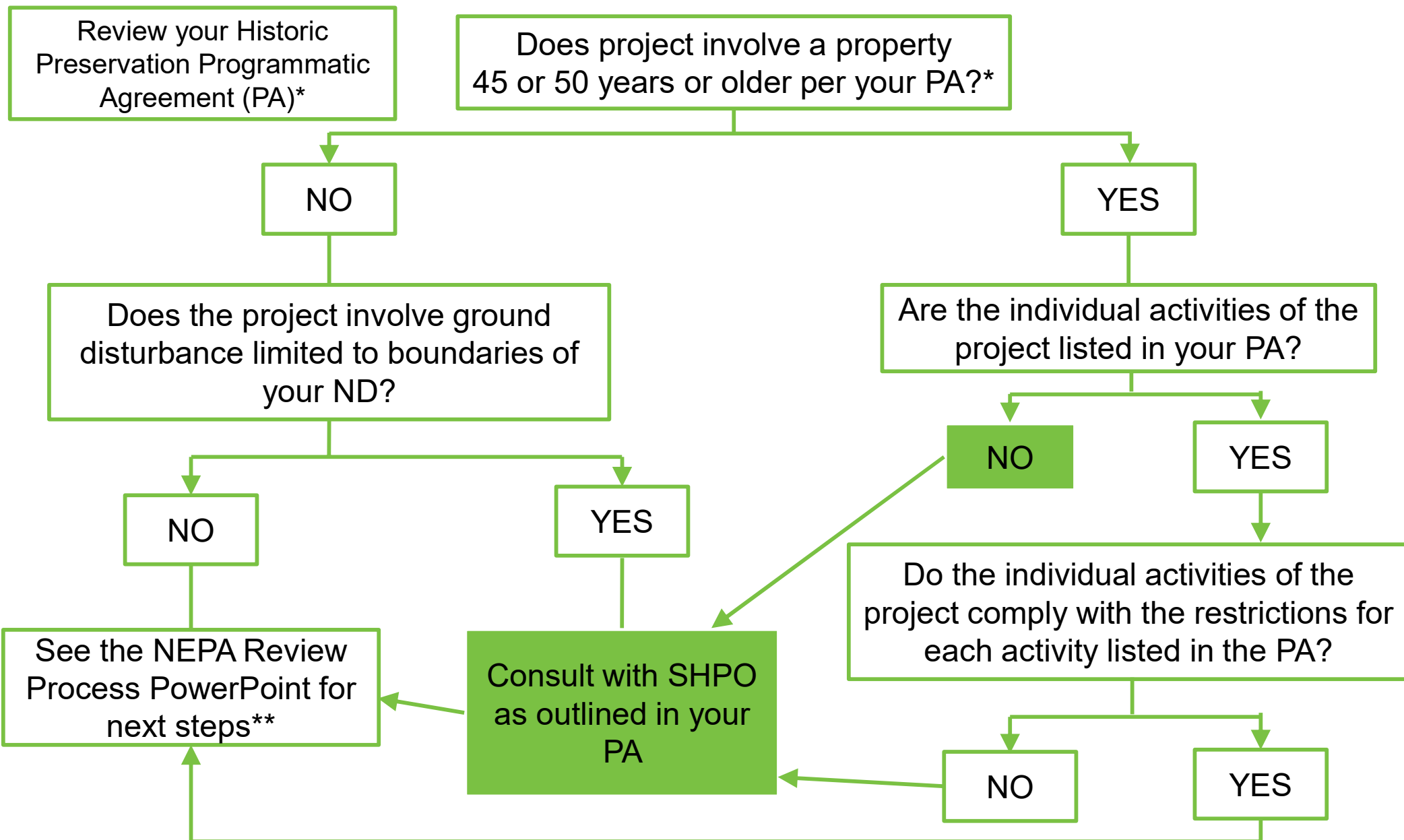
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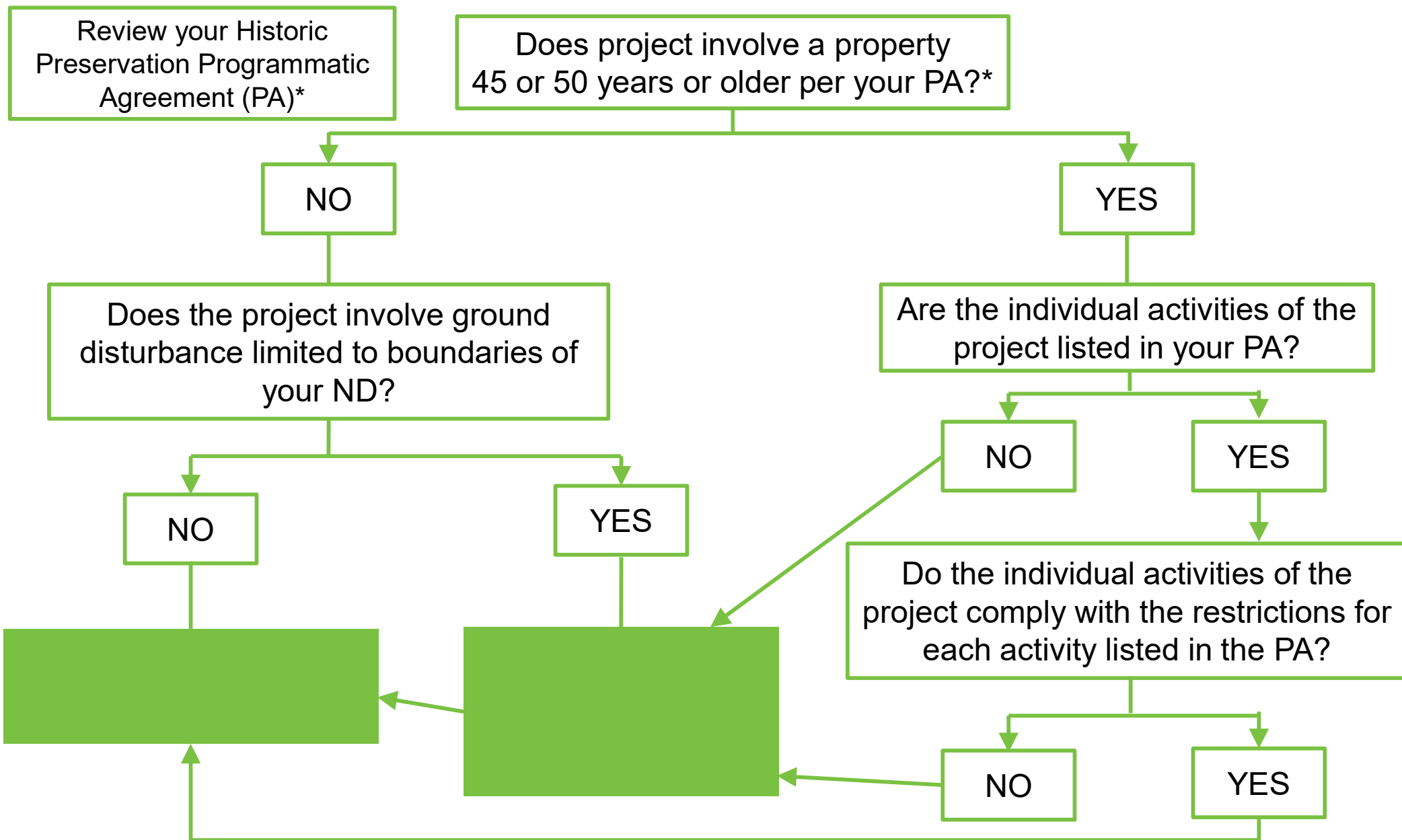
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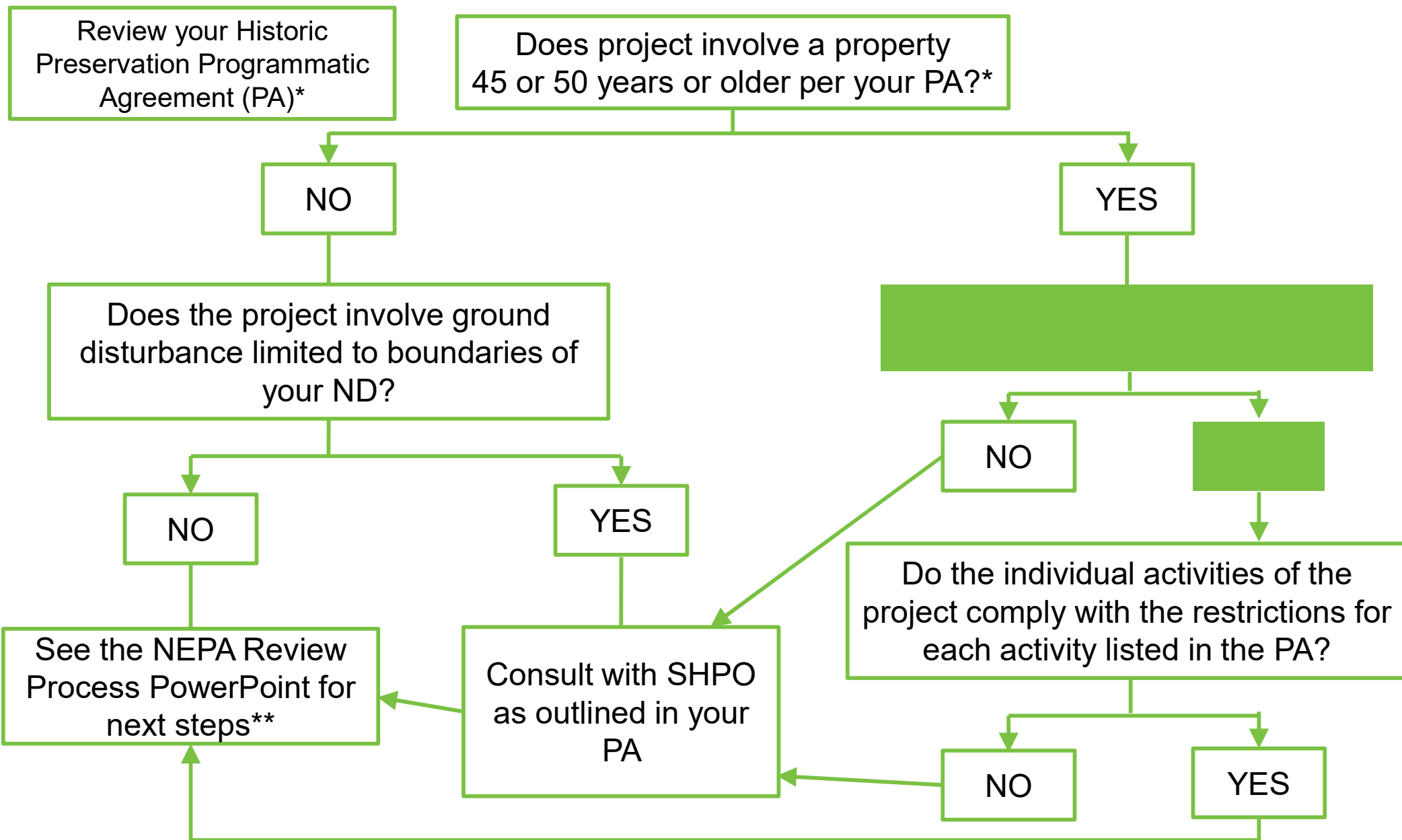
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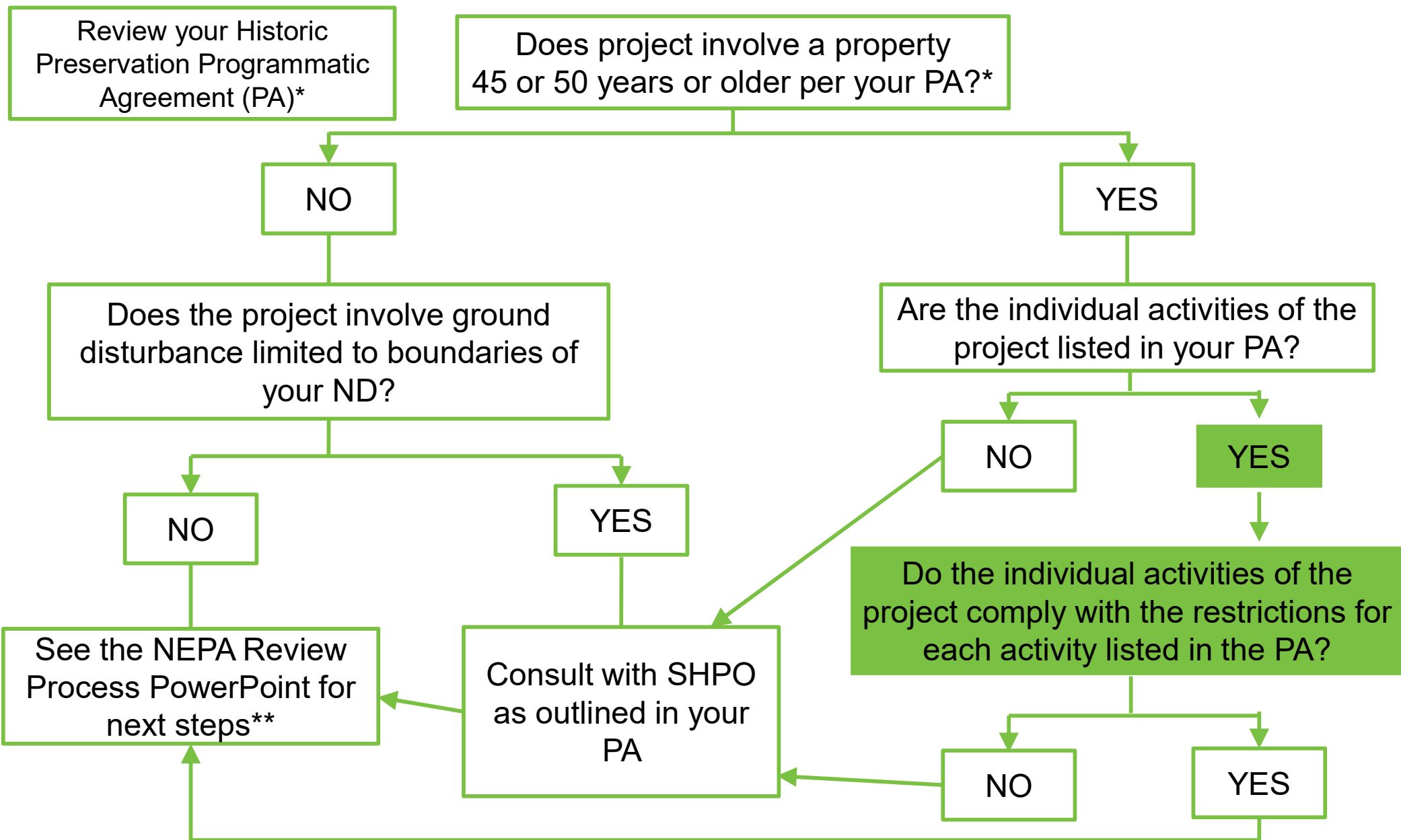
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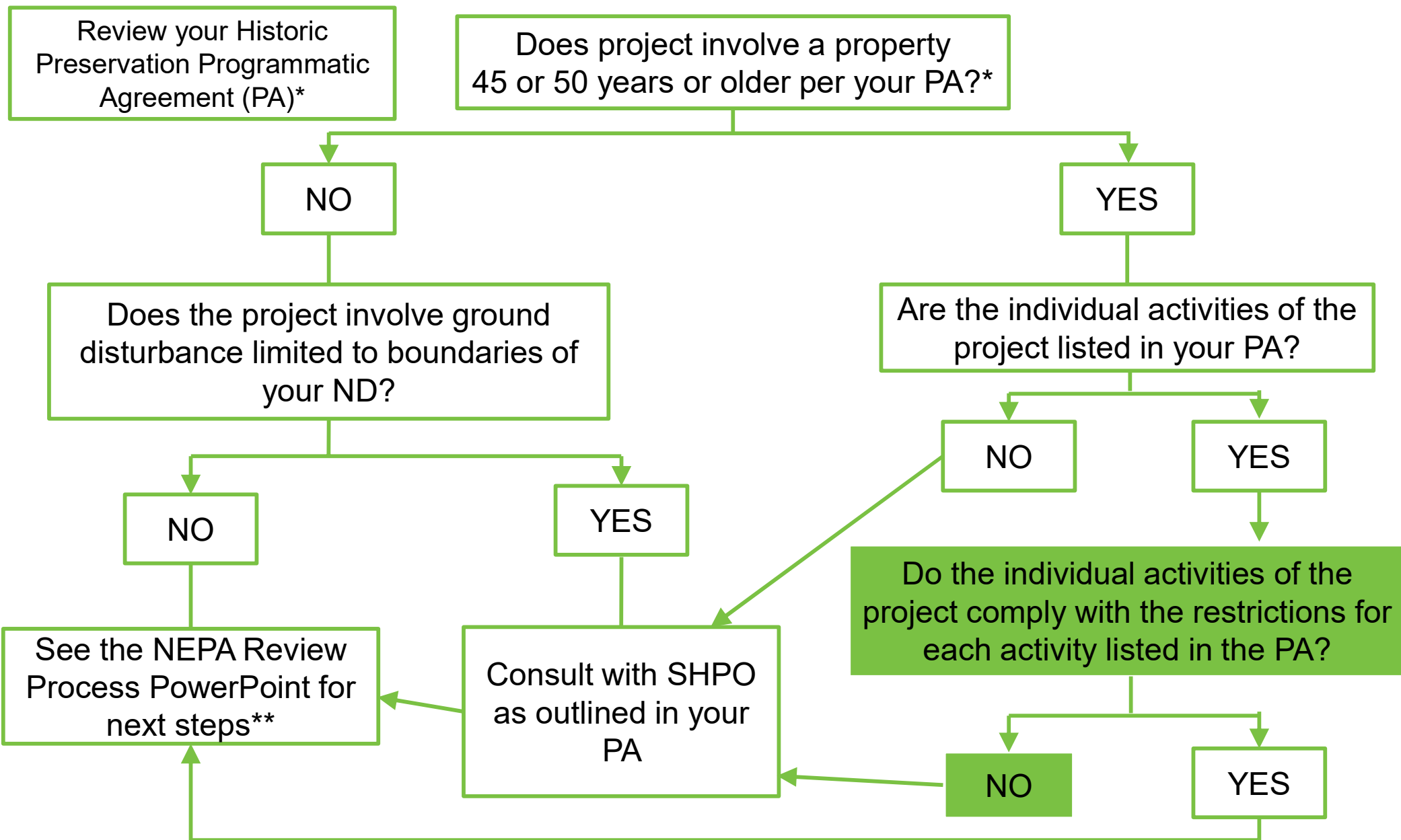
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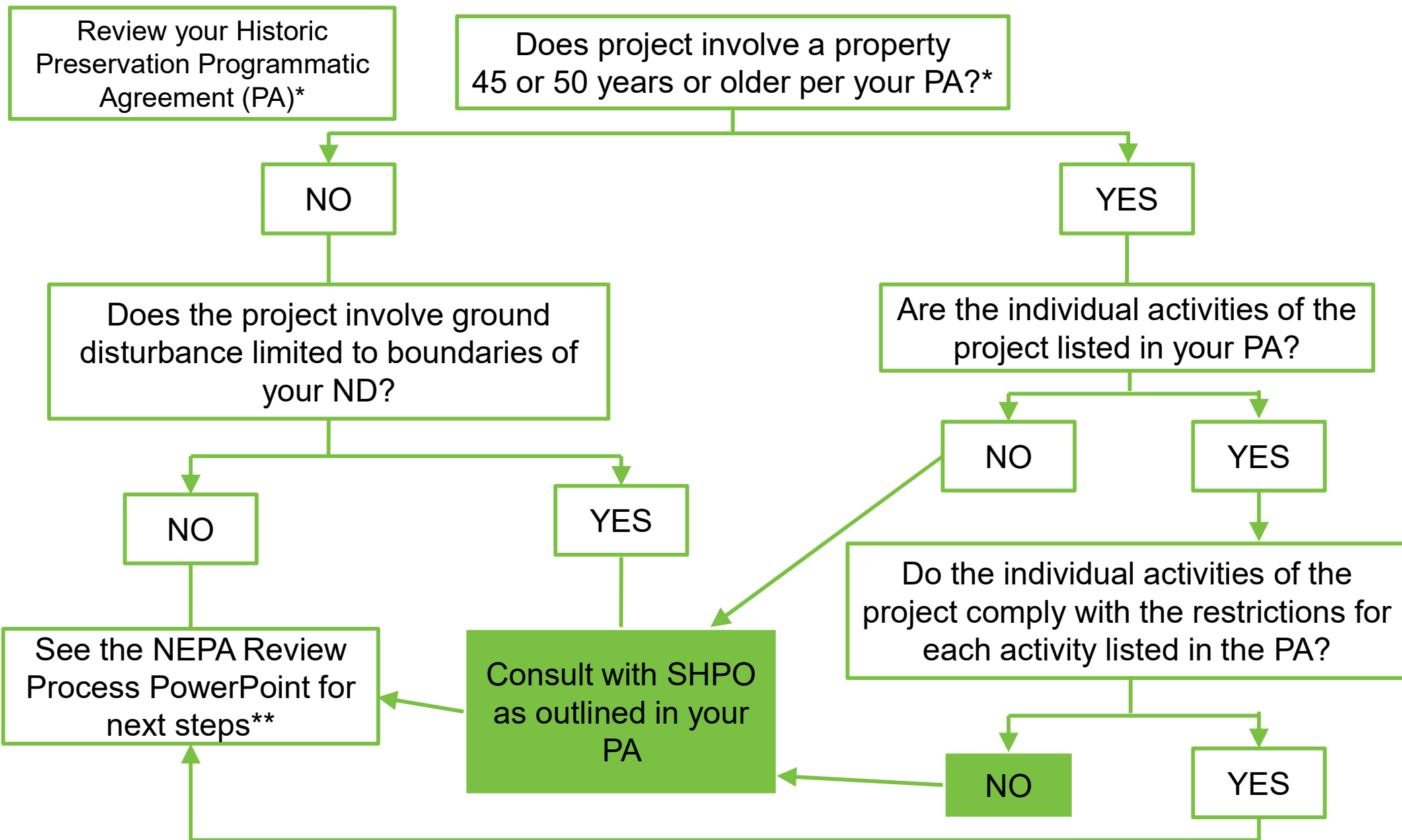
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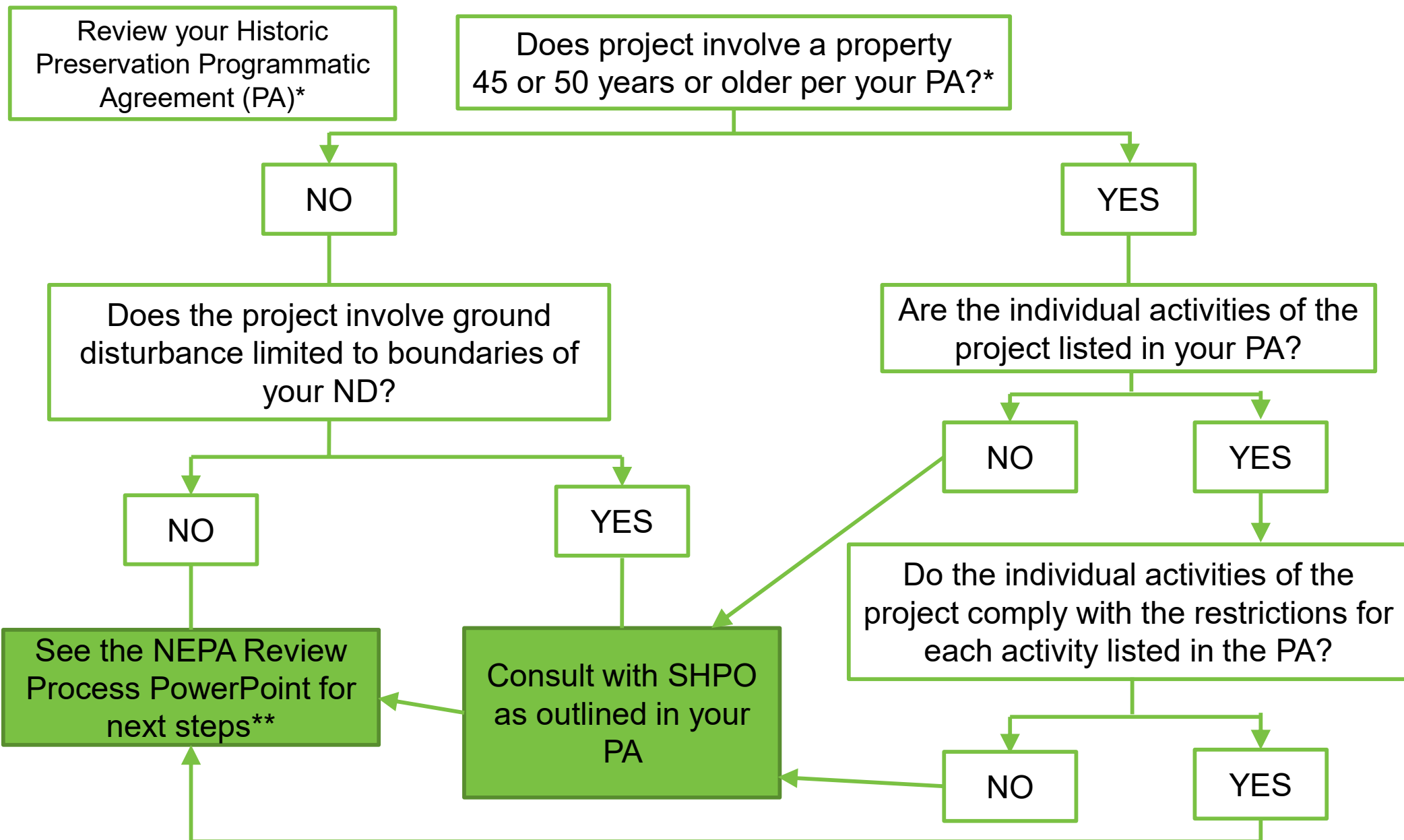
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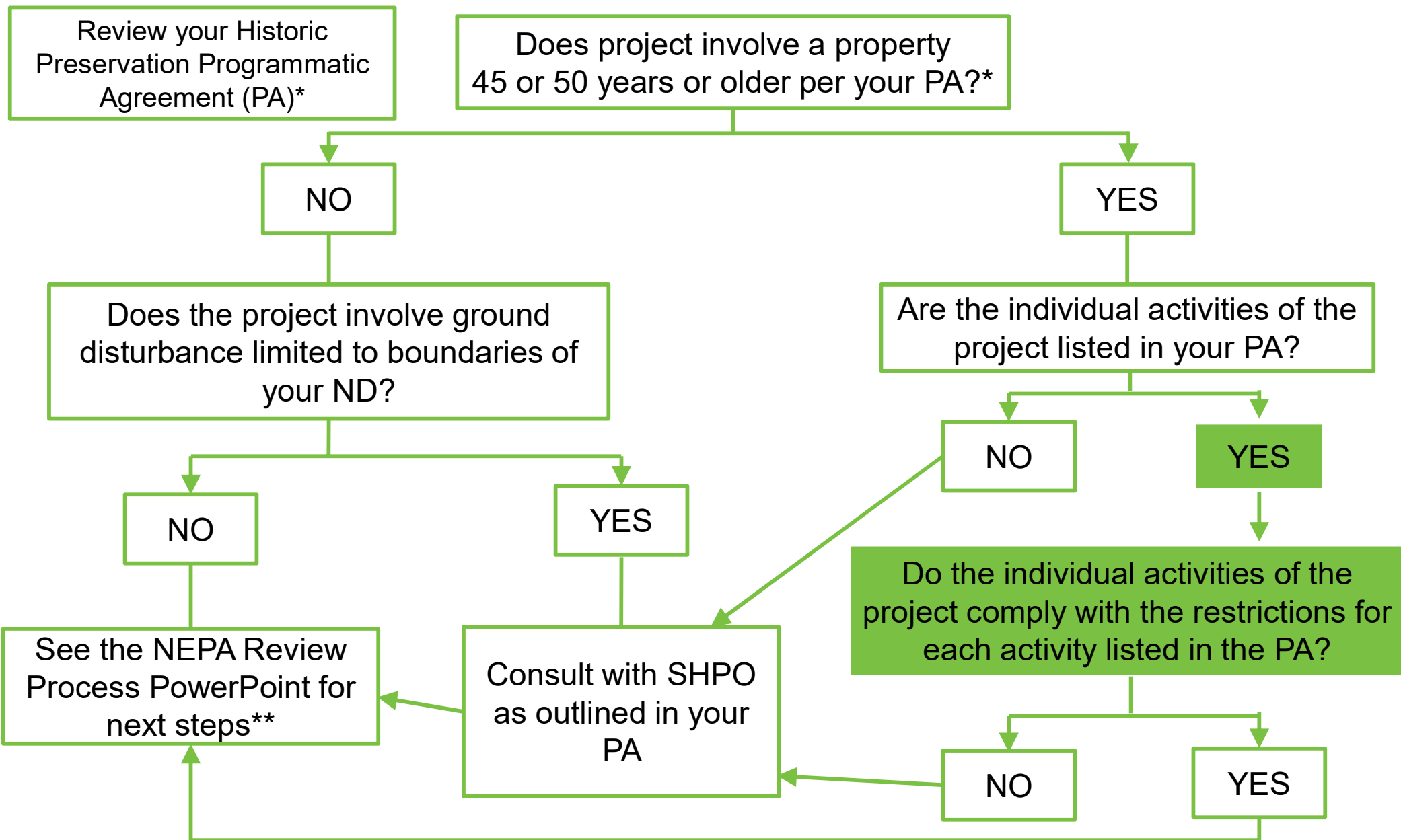
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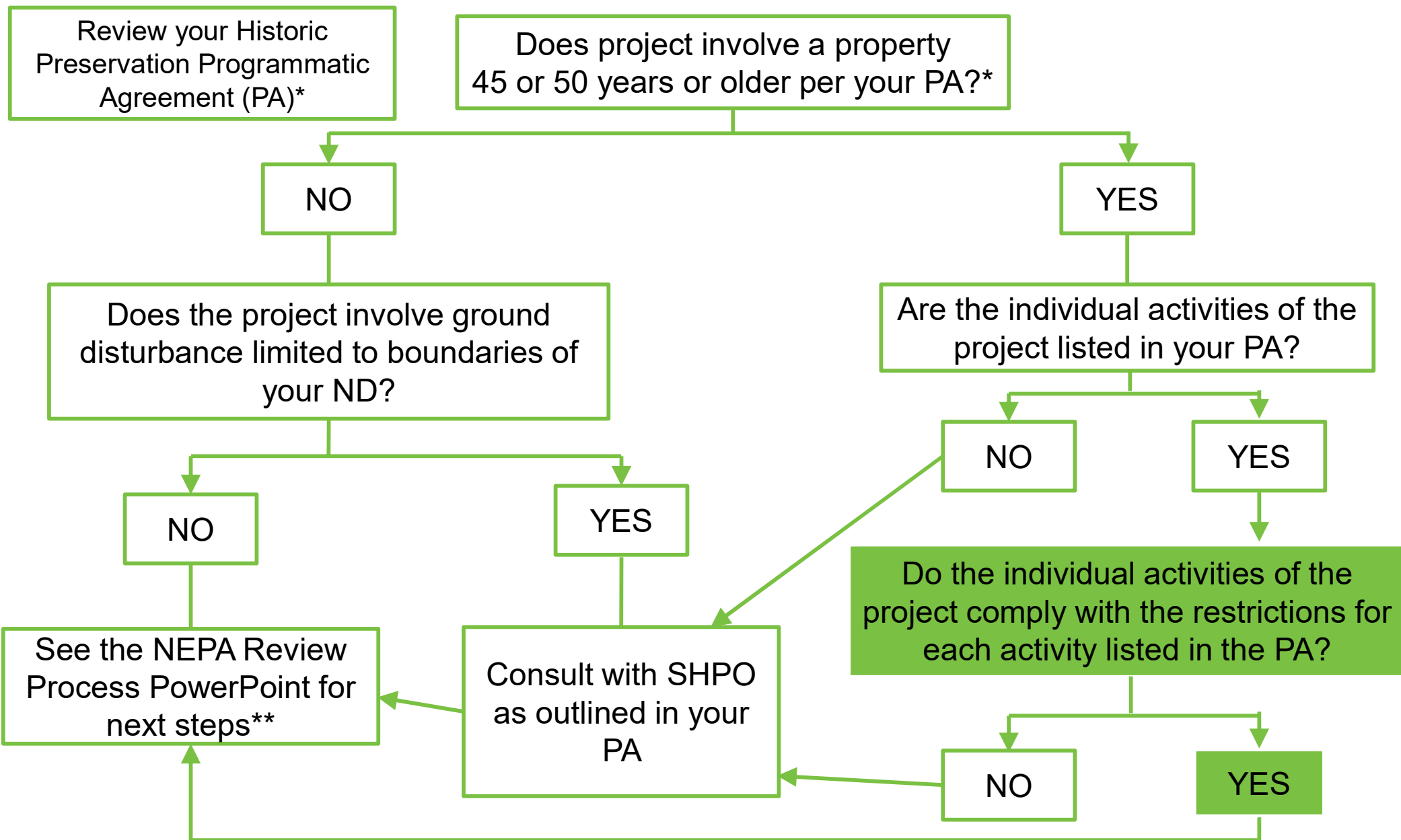
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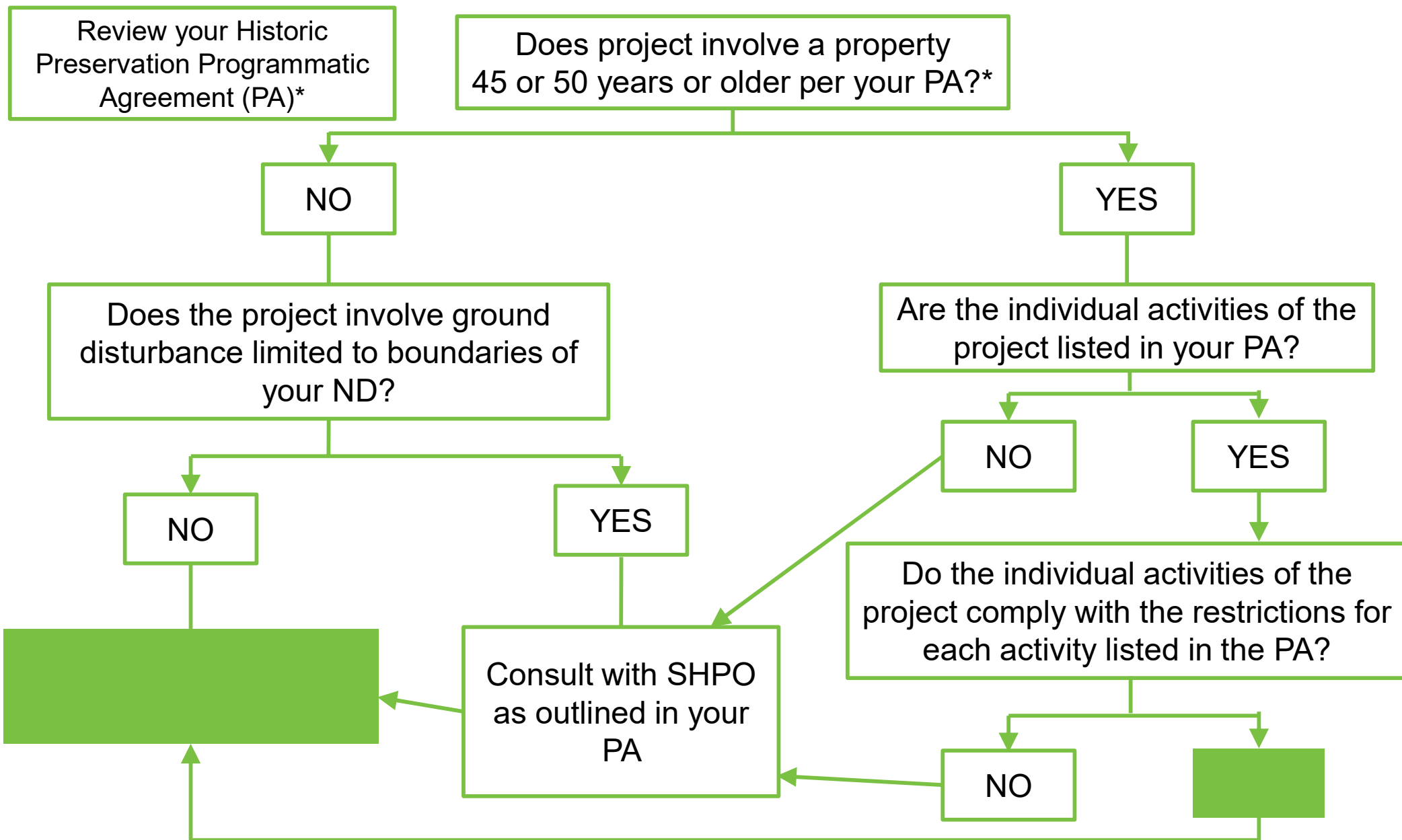
NHPA and Programmatic Agreements



NHPA and Programmatic Agreements



NHPA and Programmatic Agreements



Annual Historic Preservation Report



The Annual Historic Preservation Report must be submitted to DOE by **September 15th**, per your Federal Assistance Reporting Checklist



Review the Historic Preservation Report Guidance:
<https://www.energy.gov/node/4504129>



Tips for Success

Reach out to your SHPO; introduce yourself

When required to consult with your SHPO, reference the PA to ensure SHPO's awareness of the PA and of federal funding

Undertakings requiring more than “minimal” ground disturbance require consultation with your SHPO

Note: SHPO can help to define “minimal” ground disturbance

Review your PA to ensure understanding of allowances, restrictions as well as documentation and reporting requirements





QUESTIONS?



CONTACT
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SEP Training Forum 2022

Buy America Build America, and the Davis Bacon Act

September 28, 2022

Adam DeDent



Buy America Build America (BABA)

General Principles:

- Requires that all iron, steel, manufactured goods, and construction materials used in a Federally-funded “infrastructure project” are manufactured domestically.
- An infrastructure “project” is anything that involves the construction, alteration, maintenance, and/or repair of infrastructure in the United States.
- Infrastructure includes: roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads, freight and intermodal facilities; airports; water systems; including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy, including EV charging.

Build America, Buy America (BABA)

General Principles (continued)

- The Buy America Preference (aka the domestic procurement preference) only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project.
 - Does not include tools, equipment, or supplies
 - Does not apply to other items that are not an “integral part” of the infrastructure, or which are not permanently affixed to the structure.
- **BABA applies to all Federal financial assistance**—it is not limited to projects funded via the Infrastructure, Investment, and Jobs Act. Moreover, there is no sunset date. It is a permanent new requirement.

Build America, Buy America (BABA)

Waivers

- Recipients can apply for project-specific waivers of the Buy America requirement, based on the following circumstances:
 - Nonavailability: the item(s) in question is not manufactured domestically in sufficient or reasonably available quantity or of a satisfactory quality
 - Unreasonable cost: the item(s) in question, if purchased from domestic sources, will increase the cost of the overall project by more than 25%
 - Public Interest: applying the Buy America preference is inconsistent with the public interest
- Information that must be included with a waiver request can be found in your Buy America award term.
- Current timeframe estimate from request to approval is 75-90 days. Plan accordingly!

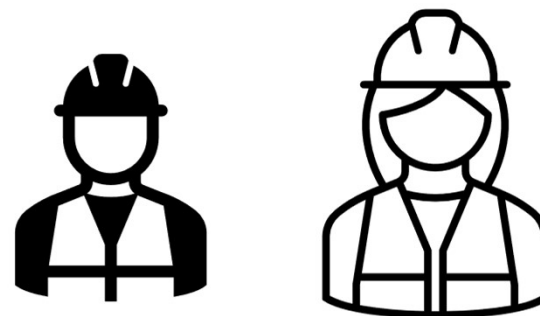
Build America, Buy America (BABA)

Additional Information

- Currently, the best source of BABA implementation information is OMB Memorandum M-22-11 “Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.”
 - Can be found easily by searching “OMB M-22-11” on the web.
- DOE will issue more guidance as it develops, and we can work with you on any implementation questions you might have.
- Please send specific BABA questions to your Project Officer or Contracting Officer who can relay it to the DOE BABA Team; this will help us craft more comprehensive and exacting guidance.

Davis Bacon Act Requirements

- Per section 41101 of BIL, all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part under this ALD shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of labor in accordance with the "Davis-Bacon Act" (DBA). Including but not limited to:
 1. Ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards.
 2. Ensuring that if wage determination(s) and appropriate Davis-Bacon clauses and requirements are improperly omitted from contracts and subrecipient awards, the applicable wage determination(s) and clauses are retroactively incorporated to the start of performance.
 3. Being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards.



Davis Bacon Act Requirements (cont.)

4. Receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues.
5. Maintaining original certified weekly payrolls for 3 years after the completion of the project.
6. Conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the DOE.
7. Cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation.

Davis Bacon Act Requirements (cont.)

8. Posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
9. Notifying the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations; disputes concerning labor standards; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract, a subcontract, or subrecipient award.
10. Preparing and submitting Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year.

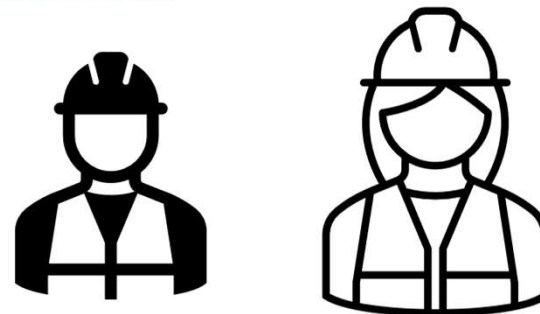
Davis Bacon Act Requirements (cont.)

States will also be required to undergo Davis-Bacon Act compliance training and to maintain competency in Davis-Bacon Act compliance. We will notify you of any DOE sponsored Davis-Bacon Act compliance trainings. The U.S. Department of Labor (“DOL”) offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

For additional guidance on how to comply with the Davis-Bacon provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protectations-for-workers-in-construction>.

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Questions

