

905 Cramer Avenue
Lexington, Kentucky 40502
July 21, 2026

The Honorable Governor Andy Beshear
501 High Street, 2nd Floor
Frankfort, Kentucky 40601

Dear Governor Beshear:

My name is Mason Niquette, and I am an archaeologist based in Lexington, Kentucky. I am the CEO of Cultural Resource Analysts, Inc. (CRA), a cultural resource management firm that has been in business for the last 43 years. In our work, we operate under the National Historic Preservation Act (NHPA), and in particular the Section 106 regulations as promulgated by the Advisory Council on Historic Preservation (ACHP). Since the 1960s, the Section 106 process has been a collaborative effort between federal agencies, Native American Tribes, local governments, and citizens to allow local stakeholders to define what historic places are significant to them. It has historically been a flexible program to allow meaningful collaboration to successful outcomes for local communities and gives significant weight to local voices before historically significant places are lost forever to federally funded developments.

Early in the current administration, the members of the ACHP were unceremoniously fired and replaced with new appointees whose mission has been changing the regulations. On Friday, the ACHP announced that it was moving forward with a vote on changes to the 800 regulations that implement Section 106. The current proposed changes fundamentally change the process. After reviewing the changes in detail, the most significant changes I have identified are that:

- Consultation with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), applicants for federal permits, and local governments would become optional at the discretion of the federal agency rather than a required part of every review.
- The definition of "consultation" would be rewritten so that agencies need only "seek and consider" the views of others, rather than engage in meaningful dialogue or attempt to resolve concerns.
- Applicants for federal permits, licenses, or financial assistance could initiate and conduct portions of the consultation process on behalf of the federal agency, including consultation with Tribes.
- Public participation would become entirely discretionary, with the agency having exclusive authority to determine whether public involvement is useful or warranted.

These proposed changes remove the requirement to consult with local stakeholders and leave the determination of what matters to Kentuckians to a federal agent in another state. These individuals will have no knowledge of what matters to local communities and can unilaterally make determinations about what will be preserved and what will be destroyed in the interest of any given administration.

One of the stated objectives of revising the Section 106 regulations is to provide greater certainty and efficiency for project proponents. In fact, just the opposite appears to be the case. If implemented, the ACHP's proposed regulations for addressing Section 106 of the NHPA will significantly increase business risk for developers, infrastructure companies, lenders, and permitting agencies. How is it even conceivable that this objective will be achieved if the revised regulations reduce or defer the early identification of historic properties or meaningful consultation with Tribes, SHPOs, local governments, and other interested parties?

The current process is designed to identify significant archaeological sites, cemeteries, historic buildings, and properties of religious and cultural importance before major project commitments are made. While that process requires time and effort, it also allows potential conflicts to be identified and resolved when alternatives remain available and the cost of project modifications is relatively low.

If those issues instead emerge after permits have been issued or construction has begun, the result may be greater uncertainty rather than less. Late discoveries can lead to construction delays, project redesign, increased mitigation costs, litigation, public opposition, and negative publicity. These outcomes create substantial financial and reputational risks for project proponents and may ultimately delay projects far more than meaningful consultation conducted early in the planning process.

The proposed regulatory changes seek to remove Kentuckians' voices about the places that matter to them and introduce massive uncertainty into projects across the country. While I understand this is a federal matter, I wanted to make you aware of the threat to our historic places and the places that matter to Kentuckians. I am happy to meet with anyone on your staff to discuss the Section 106 process, and how it has contributed to the preservation of Kentucky's history.

Respectfully,

R. Mason Niquette, PhD, CEO
Cultural Resource Analysts, Inc.