

N. Nicole Konkol
105 Watson Court
Frankfort, Kentucky 40601

June 30, 2026

Vice-Chairman Travis Voyles
Advisory Council on Historic Preservation
400 F Street NW, Suite 308
Washington, DC 20001

Re: ACHP's Review of the Section 106 Regulations (36 CFR 800)

Dear Vice-Chairman,

I support the goal of making Section 106 implementing regulations the best that they can be and hope you will find this information and these recommendations helpful while considering updates to the process. Recent narratives use anomalous examples to depict State Historic Preservation Offices as delaying progress. Please note the timelines for State Historic Preservation Office (SHPO) responses for the Section 106 consultation process in my home state of Kentucky:

Table 1. Kentucky State Historic Preservation Office Statistics.

Year	Total Reviews	Adverse Effects	SHPO response time	Adverse Effects avoided due to SHPO consultation
2023	3,046	56	15 days	Hundreds
2024	2,788	60	11 days	Hundreds
2025	2,597	59	9 days	Hundreds

The **takeaway** from Table 1 is that SHPO staff excel at assisting federal agencies in moving projects forward thoughtfully and expeditiously while causing the least harm to our nation's significant cultural heritage. The **recommendation** for addressing this aspect of the Section 106 process is to consider the factual information overall regarding the role of the SHPO in the Section 106 process as you pursue any modifications to existing regulations.

To further consider the facts pertaining to the Section 106 consultation process, please note the conservative estimations of the costs and time involved in design and construction of two miles of highway in comparison with the costs and timelines of cultural resource survey and SHPO review indicated in Table 2. Not all consultations result in the need for cultural resource investigations, but we did include an example that incorporates heritage investigations for demonstration. The following example illustrates a framework for identification and assessment of cultural resources within a project footprint. This information is presented for context in comparison to the total cost and time involved for highway construction. While reviewing the information in Table 2, consider that every deliverable, once in the hands of SHPOs, will have responses within 30 days of receipt.

Table 2. Costs and Timelines for Completing Archaeological Investigations.

Action	Total Time	Total Cost
Paving 2 miles of highway	8 years	\$11,600,000.00
Phase I Archaeological Survey (finding 5 sites)	2 months	\$60,840.00
SHPO review	1 month	\$0.00

(Source: 2026, Kentucky Transportation Cabinet, KY 14 Corridor Study, Appendix F)

The **takeaway** from Table 2 is that the cost and time required to consider cultural resources for a small but moderately complex undertaking is minute in comparison to the time and costs of the overall undertaking. The **recommendation** here is that the Section 106 process should be initiated by the federal agency early in the Section 106 process. If federal agencies initiate consultation during the design phase and likewise had a 30-day, or even 90-day, timeline to initiate consultation and provide responses to the other actors within and throughout the Section 106 process, it would decrease the time required to comply with Section 106 exponentially. It is important to note that under current regulations, if lead federal agencies do not have responses from other players in the Section 106 process within 30 days, they can move forward with their project regardless.

Another example is provided to demonstrate a common issue that results in delays to the consultation process. Kentucky SHPO received a submission from a non-heritage professional for an undertaking to be funded by the Small Business Association in March of 2024. At every turn, both the SHPO and ACHP staff provided responses within 30 days. SHPO staff have reached out more than once to the agency to prompt the federal agency's submission of the document, which we are still waiting for today.

SHPO staff understand and take into consideration that sometimes construction of the road, placement of that cell tower, or building a bridge is a greater need than preservation of some cultural resources. **Adverse Effects** happen. SHPO staff often have appropriate

contributions readily available to recommend as **creative mitigation strategies** to share with lead federal agencies and consulting parties. Their local knowledge of historic properties in their state makes SHPO input crucial to successful and purposeful consultation. A great example of a successful mitigation deliverable is the webpage, [Discover Kentucky Archaeology](#), which was built as a creative mitigation deliverable to resolve adverse effects from a transportation project. Anyone in the United States, and the world, can visit this site and learn more about the archaeological resources in Kentucky.

At any given time, SHPO staff are operating under dozens of Programmatic Agreements (PAs) that define when and how much information is required for Section 106 consideration with specific federal agencies based on project type. We invite more federal agencies wishing to find a **solution** for streamlining Section 106 consultation **to develop Programmatic Agreements with the appropriate SHPO.**

We hope you find these comments helpful and concise. In summary, we urge you to consider the following:

- Collect accurate statistics that speak to the SHPO's role in consultation
- Begin the Section 106 process early
- Explore existing PAs between federal agencies and SHPOs and the many benefits they provide.

Thank you for your time, and please do reach out if you have any questions or would like to discuss further.

Sincerely,

N. Nicole Konkol

e-cc: Reid Nelson; Jamie Loichinger