

Our History Is at Risk:

*A Briefing on the Proposed National Historic
Preservation Act Section 106 Revisions*



The Association for Washington Archaeology

washingtonarchaeology.org

Proposed Changes to Section 106

A Message from the Association for Washington Archaeology

Today, July 24, 2026, the [Advisory Council on Historic Preservation \(ACHP\)](#) plans to vote on its proposed severe revisions of the Section 106 process of the National Historic Preservation Act. While Section 106 does have room to be improved, the ACHP's draft regulations upend the system relied on for decades for ensuring significant public history is considered before federal projects proceed.

The rule changes stunningly reduce the accountability of federal agencies, which would no longer be required to communicate their actions publicly, to engage in government-to-government consultation with States or Tribes, or gather and respond to public comment from individuals, communities, and other concerned stakeholders. All these become optional and at the discretion of the federal agency.

The [National Historic Preservation Act of 1966 \(NHPA\)](#) came to be because of the dedicated efforts of communities tired of having the unique character of their neighborhoods, their cultural places, or their heritage destroyed so the next interstate or urban "renewal" project could proceed. The ACHP's duties, as intended by federal law, is distinct among federal agencies and meant to advance historic preservation and public engagement across the nation, not sideline these in favor of quick, short-sighted development projects and short-term financial gain.

The grassroots power of communities that led to the NHPA in the 1960s has led to the professional networks, private and public sector relationships, interfaith and intercultural connections, and tapestry of historic preservation that we know today. Together our voices can be strong.

Impacts on Historic Preservation

The following provisions would endanger historic preservation protections in several critical ways.

Making Public Comment Optional

Lack of transparency on the part of Federal agencies due to removing public comment § 800.2(d).

Making Consultation Optional

Undermining Tribal sovereignty and treaty rights by changing government to government consultation to being at the discretion of the agency § 800.2(c)(2).

Removing Mitigation Sequencing

Bypassing common sense mitigation sequencing of avoidance, minimization, and mitigation as options, and allowing determinations where "other considerations outweigh" common sense preservation will result in litigation and cost taxpayers more by not allowing for more cost-effective alternatives § 800.4(b)(2)(i), § 800.4(b)(2)(ii).

Making Short-Term Economic Gain The Focus

Historic properties are non-renewable. What may appear to be not economically viable in the short term may be important heritage for the community and will negatively affect small businesses that rely on heritage tourism § 800.1(c)(2)(i), § 800.4(a)(4), § 800.16(s).

Removing Indirect Effects And Landscapes

Forcing historic properties to be "geographically compact" and removing the consideration of indirect effects will destroy irreplaceable heritage and prevents the preservation of historic neighborhoods, communities, and lands that the Act was intended for § 800.4(b)(2), § 800.16(k).

Destroying Collaboration Between Federal, State, and Tribal Governments

Undermining of programmatic agreements will destroy decades of collaborative regulatory streamlining developed by federal agencies, state, and local governments § 800.3(b)(2), § 800.14.

While we recognize common sense revisions are needed, the approach the advisory council and think tanks supporting this version of revisions are not based on factual issues with the Section 106 process that have been noted by SHPOs and Tribes.

Revisions to the regulations to provide consistency and adherence to timelines need to be developed with heritage professionals to avoid uninformed regulations that will result in conflicts with settled law and further costly delays for projects.

This Is Your Call to Action

A 30-day public comment period must be held for these proposed rule changes. This is our *only* opportunity to put into the public record what Section 106 means to you, why these proposed revisions may undermine the intent of the process, and what a better path forward could look like. Submit your comments through [regulations.gov](https://www.regulations.gov) using the appropriate docket or RIN number before the end of the 30-day comment period.



Write Your Representatives

Contacting your elected representatives is another way to make your voice heard. Members of Congress can advocate for transparency, meaningful consultation, and public engagement in the Section 106 process by raising awareness of these proposed changes and their potential impacts. Let them know why Section 106 matters, how these proposed revisions could affect historic preservation, Tribal consultation, public participation, and the ability of communities to have a voice in decisions affecting their shared heritage.

Keep in mind that these proposed rules are against the spirit and intent of the law established by Congress. When writing to your representatives and senators, be clear about how these rule changes threaten historic preservation, diminish government accountability by removing transparency, and could result in costly lawsuits and delays for important projects by conflicting with settled law and decades of practice.

Draft Your Letter

Start drafting your public comment letter now. Follow the guidance provided by [Cultural Heritage Partners](#) to help develop an effective response.

Identify Who You Are

Your perspective matters. Feedback from Tribes, State Historic Preservation Officers (SHPOs), local governments, cultural resource management firms, and other preservation professionals is especially valuable.

Answer Questions No. 1-13

Reference the specific question number from the Notice of Proposed Rulemaking (NPRM) that you are addressing.

Use Evidence

Support your comments with examples from real projects, data, and documented costs. Focus on firsthand experience and evidence rather than speculation.

Cite Specific Sections

Identify the specific sections of the proposed revisions that raise concerns (e.g., § 800.2(a)(4)).

Propose Alternatives

Offer recommendations or alternative language that would strengthen the proposed rule.

Maria Cantwell

Washington State Senator

<https://www.cantwell.senate.gov/contact/email>

Ron Wyden

Oregon State Senator

<https://www.wyden.senate.gov/contact/email-ron>

Find Your Representative/s

Senate Offices

<https://www.senate.gov/senators/senators-contact.htm>

House of Representatives

<https://www.house.gov/representatives/find-your-representative>

Additional Resources

Public Comment

A public comment period for the proposed changes is expected and required by law but has not yet opened. Once it does, comments can be submitted through this website using the appropriate docket or RIN number.

<https://www.regulations.gov>

Save Section 106

This tool can help users with composing emails and letters to send to their representatives.

<https://section106.org>

War Room for Threats to Section 106

This resource page from the Cultural Heritage Partners provides updates, analysis, and advocacy information regarding proposed changes to Section 106 regulations. It includes summaries of concerns about potential impacts to consultation, Tribal and public participation, and the federal historic preservation review process, along with related resources and action alerts.

<https://culturalheritagepartners.com/war-room-for-threats-to-section-106>

Section 106 Is Under Threat: What You Need to Know

This article from the National Trust for Historic Preservation explains the proposed changes to Section 106 regulations, highlights key provisions that would significantly weaken protections for historic and cultural resources, and provides updates on advocacy efforts and ways to stay informed.

<https://savingplaces.org/stories/section-106-under-threat>

The End of Section 106 as We Know It?

This article from the National Conference of State Historic Preservation Officers summarizes the proposed revisions to Section 106 regulations and argues that they would fundamentally shift the process from collaborative consultation to agency-led decision-making, reducing the role of SHPOs, THPOs, Tribes, local governments, and the public. It also outlines several of the proposal's major changes and their potential implications...

<https://ncshpo.org/2026/07/20/the-end-of-section-106-as-we-know-it>

The Bottom Line

As we enter the scoping comment period, do not lose sight of the importance of the work we do. Continue collaborating with your colleagues, Tribes, and communities, and continue sharing your knowledge and expertise as you have always done. Remember that the preservation of our shared heritage has always depended on those willing to advocate for it. Together, we will meet these challenges head-on and continue moving forward.

