

Critics warn Trump plan would narrow public role in historic reviews

 [washingtonpost.com/politics/2026/07/20/critics-warn-trump-plan-would-narrow-public-role-historic-reviews](https://www.washingtonpost.com/politics/2026/07/20/critics-warn-trump-plan-would-narrow-public-role-historic-reviews)

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July 20, 2026



The Trump administration is seeking to loosen federal rules intended to protect historic sites, alarming outside groups who say the changes would allow government agencies and developers to pursue major projects — such as President Donald Trump’s planned triumphal arch — without soliciting public input.

The Advisory Council on Historic Preservation, a low-profile federal agency that oversees preservation reviews and advises the president and Congress, on Friday proposed significant revisions to a [federally required process](#) that governs changes to landmarks such as the National Mall, sites that are significant to Indian tribes and other properties eligible for listing on the [National Register of Historic Places](#). The process currently applies to any construction projects that are on federal land or receive federal funding, as well as private projects that require any type of federal approval.

Under the current rules, federal agencies must undertake a multistep Section 106 review assessing the potential effects of construction projects and soliciting public input, among other requirements. The revised rules would let federal agencies build their own projects or grant approval for construction by private developers without public input, according to a [proposed rule](#) and [an accompanying document](#) obtained by The Washington Post.

Trump officials have previously said the 60-year-old rules can hamper development projects and needed renovations and had called for the regulations to be overhauled. But the timing of the administration's announcement and the breadth of the proposed changes caught many historic preservation groups off guard.

"What is going to happen regularly is communities are not going to know that major projects are happening in their backyard until the bulldozers show up," said Marion F. Werkheiser, a founding attorney at Cultural Heritage Partners, who has reviewed the proposed changes. Werkheiser's firm is involved in litigation against the Trump administration over plans to alter the Eisenhower Executive Office Building and the Kennedy Center.

Sara Bronin, who led the ACHP under the Biden administration, called the proposed rules a "sloppy, ill-conceived draft" and predicted they would be challenged in court.

Travis Voyles, a Trump appointee who serves as the council's vice chairman, asked council members to vote on the proposed changes to Section 106 by this coming Friday, according to an email obtained by The Post. If council members support the new regulations, they could advance to the White House for the next step in the formal rulemaking process, Voyles wrote.

ACHP did not immediately respond to questions about the planned changes and whether the White House had directed them. The White House declined to comment. The Atlantic [previously reported](#) the proposed changes.

Experts said the rules govern changes to 1.4 million properties across the country, ranging from several thousand national landmarks to local historic districts and sites in [many communities](#).

Several Trump administration projects, such as the president's planned triumphal arch near Arlington National Cemetery, have been bound up in the ACHP's historic-preservation reviews. Outside groups have said that the rules are essential to protecting key sites and public spaces and warned that the planned changes would undercut decades of precedent.

"This is not only a massive assault on laws that have benefited that nation for some 60 years, it almost completely eliminates the role of the public," Charles A. Birnbaum, the CEO of the Cultural Landscape Foundation, an education and advocacy organization, said in a statement.

“The proposal actually eliminates language that says: ‘The views of the public are essential to informed Federal decisionmaking in the section 106 process.’ How unAmerican is that?”

The proposal narrows what is considered a “historic property” that can be protected, tightens the scope on what is considered an “undertaking” affecting that property under the law, and makes the process of consulting states and the public optional. What qualifies as a historic property is now limited to places that are “geographically compact” and have been improved by humans at some point.

“For the avoidance of doubt, noncompact, unimproved natural features such as mountains, valleys, bodies of water, or landscapes, including ethnographic landscapes, do not qualify as property,” according to the proposal.

Outside groups said they had little chance of stopping this week’s vote. Twenty of the 24 seats on the ACHP are either directly appointed by the president or are reserved for the heads of federal agencies, such as the Interior Department, which are controlled by Trump.

The Trump administration has separately remade other federal panels, such as the Commission of Fine Arts and the National Capital Planning Commission. Those panels have swiftly advanced some of Trump’s pet projects, such as his planned White House ballroom.

Several Trump officials at an ACHP meeting last month [shared](#) their frustration about the existing Section 106 rules and said they supported reforms.

Michael Boren, an Agriculture Department official who oversees the Forest Service, said that some efforts to replace unsafe, decades-old infrastructure at ski areas that are on national land had been stymied by the regulations.

“When they’re over 50 years old, they’re historic structures and when we’re trying to replace them, we sometimes are delayed for years just by the historic piece,” Boren said.

Werkheiser said the change would exclude landscapes that tribes hold sacred that would have been previously considered under the existing rules, potentially opening them up to development and destruction by industry. That could also remove the law’s protections against projects such as one that would build power lines near Thomas Jefferson’s Monticello estate and spoil the view from the historic site, she said.

Bronin said that provision would allow the Trump administration to expedite some controversial projects, such as a planned copper mine in Arizona located on [a sacred Apache site known as Oak Flat](#). Democrats and historic preservationists have [said](#) that the planned mine will destroy the site.

“In the urban context, taken to the extreme, this phrase may be used to limit protected properties to just a building or a handful of buildings — making larger historic districts, like the French Quarter in New Orleans or historic Savannah vulnerable to needless destruction,” Bronin wrote in a message.

The proposal would also give federal agencies a new way to approve projects without reaching agreement with states, tribes or other parties involved in the review process. Historically, those decisions were memorialized through a “memorandum of agreement” negotiated with state or tribal authorities and other interested parties.

The new rules would create an alternative called a “memorandum of decision,” allowing an agency to move forward on its own, without consultation with the states or the public. States and tribes would no longer be able to try to block a project or invoke a dispute-resolution process if they object. Agencies would still have to consult affected tribes but would not have to incorporate their feedback.

Several experts also noted that the current Section 106 rules have required the Trump administration to take public feedback on some of Trump’s projects. Under the new regulations, the federal government could unilaterally decide that public input is not in the general interest, exclude the public from the process, and issue its decision unilaterally.

“The agency is going to decide if it’s in the public interest to inform the public about what they’re getting ready to do in that public’s local community. And that just seems so Orwellian to me,” Werkheiser said.