

March 27, 2025

Megan Healy
Principal Deputy Director for NEPA
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503.

Dear Deputy Director Healy,

The National Association of Tribal Historic Preservation Officers (NATHPO) opposes the interim rule rescinding the Council on Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) implementing regulations. The replacement of these regulations with voluntary guidance and the shifting of NEPA rulemaking from CEQ to individual agencies, will reduce or eliminate federally required consultation with Tribal Nations and increase the likelihood that their cultural resources and sacred places will be damaged or destroyed.

NATHPO is the only national organization devoted to supporting Tribal historic preservation programs. Founded in 1998, NATHPO is a 501(c)(3) non-profit membership association of Tribal government officials who implement federal and Tribal preservation laws. NATHPO empowers Tribal preservation leaders protecting culturally important places that perpetuate Native identity, resilience, and cultural endurance. Connections to cultural heritage sustain the health and vitality of Native peoples.

Consultation with Tribes in the NEPA review process is a critical method by which the federal government meets its trust responsibilities to them, and the rescinding of the NEPA regulations is a fundamental affront to Tribal sovereignty and abrogation of this responsibility. CEQ is obligated to conduct government-to-government consultation with Tribal Nations in promulgating this interim rule.

While this change will have a broad impact on Tribal Nations, it poses a specific threat to cultural resources and sacred places. Tribal Historic Preservation Officers (THPOs) use NEPA regulations to protect places that are important to their Nations. Replacing these regulations with voluntary guidance and shifting NEPA rulemaking to federal agencies will result in confusion and, in many cases, the destruction of Tribal Nations' cultural resources. The rules for protecting cultural resources should be consistent throughout the federal government, rather than varying by agency. Furthermore, these changes raise questions about what actions are significant enough to be reviewed and when, or if, interagency and public reviews will occur.

To be clear, NATHPO's objection to rescinding CEQ's NEPA implementing regulations should not be construed as endorsement of the current project review process. In fact, it has never satisfactorily incorporated Tribal voices and understandings, nor provided adequate protection of Tribal Nations' cultural resources and sacred places. However, the best way to address these problems is not by eliminating the regulations, but rather by a thoughtful review of the regulations and underlying consultation requirements and an increase in federal support for THPOs.

PROTECTING NATIVE PLACES

In Fiscal Year 2025, THPOs are receiving on average \$104,000 from the Historic Preservation Fund (HPF). NATHPO strongly supports a reauthorization of the HPF that would require that:

- THPOs receive a minimum of 20 percent of the HPF each year, and;
- direct the National Park Service to review if THPO funding is keeping pace and adjust the funding to reflect the annual increase in the number of THPOs.

We also urge the Administration to propose budgets and Congress to pass appropriations bills that reflect the legally mandated and critical role THPOs play in protecting the places important to Tribal Nations.

Consistency and certainty are important for both THPOs and the companies whose projects are essential for all Americans, including members of Tribal Nations. We are confident that with thoughtful changes and proper funding for THPOs, the project permitting process can be efficient, while at the same time guaranteeing that Tribal Nations' cultural resources are protected.

NATHPO is disappointed that although the rulemaking notice provides for a 30-day comment period, it also states that while CEQ will consider and address public views, "such comments could not alter the President's decision." This is contrary to the spirit and intent of considering public views as well as the nation-to-nation consultation obligations of the federal government. Federal agency staff and leadership are the subject matter experts charged with implementing federal policy and practice in a way that safeguards public interests in our nation's shared resources and heritage, which should not be subject to political forces. We urge that comments be considered for all alternatives, including maintaining the CEQ's NEPA implementing regulations.

Thank you for considering our comments. Please do not hesitate to contact me if you would like to discuss this matter or if I can be helpful in any way.

Sincerely,

A handwritten signature in black ink that reads "Valerie J. Grussing". The signature is written in a cursive, flowing style.

Valerie J. Grussing, PhD
Executive Director