



TO: Tribal Leaders and THPOs
FROM: Ira L. Matt, NATHPO Executive Director, Indigenous Diplomacy and Federal Relations
RE: ACHP Business Meeting Follow Up - Section 106 Review

Following the February 12, 2026, Advisory Council on Historic Preservation (ACHP) business meeting, I want to provide a focused summary of the Council's action to initiate a review of the Section 106 regulations (36 CFR Part 800).

As NATHPO's designee for this business meeting, I coordinated closely on this and other issues with the National Trust for Historic Preservation and the National Conference of State Historic Preservation Officers, both of which remain important partners for Indian Country.

Section 106 Regulations Review (36 CFR Part 800)

Consistent with the Administration's policy to review existing environmental review regulations, Vice Chair Voyles is directing a Council-led review of the Section 106 regulations, with an eye toward potential revisions. The Vice Chair announced this effort to Council Members on January 26, 2026. Council Members were asked to provide input on (1) a strategy for engagement with Members and external stakeholders, (2) a process for moving potential revisions forward, and (3) a proposed timeline for rulemaking action.

As part of framing the review, the Vice Chair noted concerns raised by the Administration and members of the Senate Energy and Natural Resources Committee about how the current regulations are functioning, including: lengthy and protracted reviews; confusion related to indirect and cumulative effects; burdensome requirements for long, linear projects; difficulty reaching agreement on routine effects; and delays to critical projects.

To inform the Council's discussion, Council Members were asked to consider the following questions:

- Could Section 106 regulations, or any portion thereof, be modified, clarified, or streamlined to more effectively achieve the NHPA's statutory objectives and requirements?
- Are any portions difficult to interpret, or have become unnecessary, ineffective, or ill-advised? If so, which portions?
- Have any portions become outdated? If so, how should they be modernized?
- Can new technologies be leveraged to modify or streamline the regulations? If so, which?
- What additional information should ACHP collect regarding the Section 106 process, and should such collection be directed in the regulations?
- Are any portions inconsistent with Executive Orders or Presidential directives? If so, what modifications would ensure consistency with applicable orders and law?

NATHPO Remarks

In my remarks to the Council, I emphasized the following critical points:

- The regulations are procedural, sequential, and compounding. Small improvements at each step can materially strengthen outcomes.
- Significant opportunity exists to improve the involvement of Indian Tribes, particularly around "special expertise." Tribal special expertise and Indigenous Knowledge must be recognized and integrated at each step in the Section 106 process, not handled inconsistently or addressed late in a way that fails to carry through into findings and outcomes.
- Documentation standards should be strengthened to serve as practical checkpoints for federal agencies at each step, including clearer documentation of when and how Tribes were engaged, the concerns raised,



how concerns were addressed, and how Tribal knowledge informed outcomes, consistent with confidentiality protections.

- Revisiting the regulations is not inherently negative for Indian Tribes. The NHPA and early regulatory framework were developed during the height of the termination era and did not meaningfully address Indian Tribes. Subsequent amendments also predate modern Tribal self-governance and the maturation of Tribal historic preservation infrastructure. After roughly 30 years of rapid THPO program development, Tribes and THPOs are well positioned to inform improvements based on hindsight and direct operational experience.
- Any revisions will have direct impacts on Tribal lands and Tribal governance. Tribal leadership will need to assess implications for staffing needs, land management, and Tribal administrative considerations. As such, robust, informed government-to-government consultation pursuant to Executive Order 13175 will be essential.

Next Steps And Near-Term Timelines

ACHP advised Members that next steps include:

- A formal rulemaking under the Administrative Procedure Act
- A Federal Register notice that could come as early as the week of February 23, 2026
- Formation of an ACHP workgroup of Council Members to focus on the review and keep the broader membership informed between business meetings
- Council Members must send written expressions of interest in participating in the workgroup by February 20, 2026
- Council Member written feedback to inform this effort is requested by February 27, 2026

NATHPO intends to participate in the Council Member workgroup and will remain engaged as this develops.

Tribal Nation And THPO Input

NATHPO is proactively developing a set of recommended revisions and implementation considerations for 36 CFR Part 800. Input from Tribal leaders and Tribal historic preservation staff will directly inform these recommendations for both near-term Council Member feedback and the formal rulemaking process.

To inform this effort, we will hold two virtual forums to provide an opportunity for Tribes to share comments, concerns, and recommendations:

- [Monday, February 23, 2026](#), 2:00 to 3:00 p.m. ET
- [Tuesday, February 24, 2026](#), 1:00 to 2:00 p.m. ET

NATHPO will provide brief opening remarks and a short framing of the current timeline and the Council Member-only feedback opportunity. The intent of these forums is to be driven by participants and focused on identifying priority areas of concern, developing actionable recommendations, and discussing longer-term strategy.

Tribes are welcome to submit comments to NATHPO at any time. If you would like your input to inform the comments NATHPO proposes to submit to the Council ahead of the February 27 deadline, please email them to Ira@NATHPO.org with the subject line "ACHP Section 106."

Please note that the February 27 deadline is not the only opportunity for Tribal input. The February 27 submissions from Council Members are intended to help inform the initial framing of the Council's work, and the Council's review and any rulemaking process will be ongoing. NATHPO will remain engaged throughout and welcomes comments, questions, and recommendations on a rolling basis as this effort develops.