



Tribal Nations and OIRA Review of the Proposed Section 106 Regulations

August 17, 2026

The Advisory Council on Historic Preservation's proposed revisions to the Section 106 regulations are currently undergoing review by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget. Tribal Nations do not need to wait for publication of the proposed rule in the Federal Register to make their concerns known.

- [Redlined version of the proposed 36 CFR 800 updates](#)
- [Draft Notice of Proposed Rulemaking](#)

OIRA review is part of the federal regulatory process under Executive Order 12866. Among other things, OIRA considers the costs, benefits, legal and policy implications, and practical consequences of significant federal regulatory actions. That review can include effects on Tribal governments and communities, conflicts with other federal responsibilities, administrative burdens, and novel legal or policy questions.

For Tribal Nations, this is an opportunity to explain not only why the proposed Section 106 changes matter for historic preservation, but also how they could affect Tribal governments, federal project delivery, treaty and trust responsibilities, agency workload, consultation, and the cost and predictability of federal decision-making.

Tribes Can Request an OIRA Meeting Now. OIRA allows members of the public, organizations, businesses, state and local governments, and **Tribal Nations** to request meetings concerning regulatory actions that are under review. To request a meeting on the proposed Section 106 revisions:

1. Go to the OIRA EO 12866 Meeting Request webpage, the federal government's online portal for requesting a meeting: <https://www.reginfo.gov/public/do/eo/neweomeeting>
2. Enter the Regulatory Identification Number: RIN 3010-AA10
3. Complete the email confirmation process and provide the requested information, including the individuals who will participate in the meeting.
4. Select teleconference to participate remotely; in-person meetings are in Washington, D.C.

OIRA also provides an official "How To" guide for meetings on regulatory actions under review, available through RegInfo.gov: <https://www.reginfo.gov/public/do/eomHowTo>

What to Expect in an OIRA Meeting. These meetings are generally brief, often around 30 minutes. OIRA staff primarily listen and may ask clarifying questions. Representatives from ACHP or other federal agencies may also participate.

Do not expect the meeting to operate like a formal government-to-government consultation or a hearing where federal officials respond to every concern. The value is in putting Tribal concerns directly before the officials reviewing the proposed rule while the proposal is still under executive review.

Tribes may also provide written materials associated with the meeting. A short written statement can be especially useful for identifying the Tribe's principal concerns and providing concrete examples from the Tribe's own experience.

The strongest presentations will generally focus on a few issues that matter most to the Tribe rather than attempting to discuss every proposed regulatory change. For example, a Tribe may want to explain how the proposal could affect Tribal jurisdiction or THPO authority, treaty-protected interests, ancestral or ceded lands, Indigenous Knowledge, culturally sensitive information, consultation timelines, or the ability to identify and resolve problems early in project planning.



It can also be useful to explain the practical consequences. A rule intended to streamline federal review should be evaluated for whether it actually makes federal decision-making faster, cheaper, and more predictable, or instead shifts costs to Tribal governments, creates additional consultation or legal processes, causes problems to surface later, or creates new administrative burdens for federal agencies.

Prepare for the Formal Comment Period Too. The proposed regulations have not yet been published in the Federal Register. Once they are published, ACHP will establish a formal period for written public comments. There has been discussion that the comment period could be as short as **30 days**. If that occurs, Tribal Nations should consider whether 30 days provides enough time for meaningful governmental review of changes this significant.

Developing a Tribal position may require coordination among THPO staff, legal counsel, natural-resource programs, Tribal Council, and your community. If the comment period does not provide sufficient time for meaningful review, Tribes can request an extension, including requesting at least 60 or 90 days based on the breadth of the proposed changes and the time necessary for informed Tribal participation.

Do Not Wait to Prepare. Tribes can begin now by identifying two or three examples from their own experience that show why Section 106 consultation matters. Consider where Tribal participation:

- identified a place or effect the federal agency had missed;
- protected Tribal authority, treaty rights, or culturally sensitive information;
- changed project design or secured meaningful commitments; or
- resolved a problem early enough to avoid greater cost, delay, or conflict later.

Those examples can be used in an OIRA meeting now and later in government-to-government consultation, congressional discussions, and formal comments on the proposed rule.

NATHPO and several partner organizations have provided resources for Tribal Leaders, THPOs, and allies who wish to speak out and oppose these proposed changes to Section 106. Here are a few:

- NATHPO [Talking Points for Tribal Nations](#) regarding the proposed changes to 36 CFR Part 800;
- [Supporting Information](#) for NATHPO Talking Points for Tribal Nations regarding the proposed changes to 36 CFR Part 800;
- [NATHPO Section 106 Updates](#): NATHPO's ongoing updates regarding the ACHP's proposed changes to Section 106, including public statements and analysis of the proposal itself;
- [NATHPO letter announcing "No" vote](#) on the proposed changes, including detailed reasons why that lay out the potential harms they would inflict on Tribal Nations;
- [NATHPO message to Tribal Leaders & THPOs](#) providing details of the process thus far, as well as a deeper explanation of our "No" vote;
- [NATHPO February 2026 letter](#) outlining proposed improvements and areas of concern to Tribal Nations;
- [List of scheduled meetings](#) with OIRA already on the books;
- Cultural Heritage Partners [Defend Section 106](#) webpage;
- NCSHPO [Section 106 AT RISK](#) webpage;
- NTHP [Section 106 Under Threat](#) webpage;
- [VIDEO](#) of the recent forum hosted by the National Trust on the proposed changes, featuring Ira L. Matt (Séliš), NATHPO, Executive Director for Indigenous Diplomacy and Federal Relations.

Find the latest news on NATHPO's webpage dedicated to the proposed revisions [here](#).

Have questions? Please contact Ira L. Matt, Executive Director for Indigenous Diplomacy and Federal Relations, NATHPO, at Ira@NATHPO.org.