Section 106 Is Under Threat: Please Oppose Regulatory Changes

National Trust for Historic Preservation®

The Advisory Council on Historic Preservation (ACHP) is advancing a sweeping and damaging proposal to rewrite the regulations for Section 106 of the National Historic Preservation Act (NHPA). If implemented, these new rules would dramatically diminish the effectiveness of the NHPA and the current legal protections for historic and cultural places.

Since the enactment of NHPA 60 years ago, Section 106 has been the foundational requirement for federal agencies to "take into account" the effects of their actions on historic properties and places, enabling public participation and comment in the process, empowering state and local governments and tribal communities to have a voice in the process, and often improving the project and enhancing the outcome.

The ACHP Proposal Would Eviscerate This Process And Principles

These new regulations will lead to more delays and more litigation as federal agencies and applicants try to navigate compliance without the well-known and well-used consultation process, which often leads to negotiated win-win outcomes. The preservation community and our partners across the country are mobilizing to fight this harmful proposal.

Some of the most disturbing aspects of the proposed changes include:

- Federal agencies will no longer be required to try to avoid or minimize damage to America's historic architecture, neighborhoods, and landscapes.
- State and local governments will no longer have the right to be notified or have the opportunity to comment when federal agencies propose to damage or destroy historic places within their jurisdiction.
- The public's opportunity to comment on federal historic preservation policies or actions would now be entirely optional, at the discretion of the federal agency.
- The federal government will no longer be required to consult with Native American tribes or seek their expertise regarding their own significant cultural resources.
- Significant cultural landscape features would no longer be considered historic properties, so federal agencies would no longer be required to take into account any adverse effects to significant places such as the Grand Canyon.
- Federal agencies would no longer be required to consider the reasonably foreseeable consequences of their actions on historic properties, other than direct actions that physically damage the properties.
- These regulations are inconsistent with the National Historic Preservation Act and would violate the Council's own rules and procedures.
- The proposed changes are also internally inconsistent and riddled with errors, likely to cause enormous regulatory confusion and chaos.

Help Protect America's Historic and Cultural Heritage

To stay informed on the latest developments, including action alerts, please visit: https://savingplaces.org/section106