



Preserving America's Heritage

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ADVISORY COUNCIL ON HISTORIC PRESERVATION

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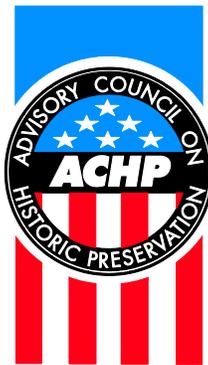
Preserving America's Heritage

MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Conference Room SVC 201-200, U.S. Capitol Visitor Center
Washington, D.C.
October 4, 2018

PROVISIONAL AGENDA

Call to Order 8:30 a.m.

- I. Chairman's Welcome
- II. Presentation of the ACHP-HUD Award for Historic Preservation Achievement
- III. Transition to Full-Time ACHP Chairman
 - A. Member Questionnaire Responses
 - B. Strategic Plan Development
 - C. Unassembled Meetings
- IV. Section 106 Issues
 - A. Department of Veterans Affairs Program Comment on Underutilized Properties
 - B. Proposed Exemption Regarding Railroad and Rail Transit Rights of Way
 - C. Administration Infrastructure Initiatives
- V. Historic Preservation Policy and Programs
 - A. White House Initiative on Historically Black Colleges and Universities and the ACHP
 - B. ACHP Approaches to Commenting on Historic Preservation Legislation
- VI. New Business
- VII. Adjourn



Preserving America's Heritage

**MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
ANNOTATED AGENDA**

- I. Chairman's Welcome.
- II. Presentation of the ACHP-HUD Secretary's Award for Excellence in Historic Preservation. *Chairman Wayne Donaldson and Associate Deputy Secretary Janet Golrick will present the award.*
- III. Transition to Full-Time ACHP Chairman. *Chairman Donaldson will introduce a discussion on actions the membership will need to address with the confirmation of a new full-time ACHP chairman. These include updating the ACHP Operating Procedures, adopting a new Strategic Plan, and reviewing the ACHP organizational structure. No formal action.*
 - A. Member Questionnaire Responses. *Transition Working Group Chairman Jordan Tannenbaum will lead a discussion on possible operational and organizational improvements that have been identified in the responses to the questionnaire sent to members in May. Discussion only, no formal action.*
 - B. Strategic Plan Development. *Chairman Donaldson will lead a discussion on the process to develop the required ACHP strategic plan. Members will be asked for their recommendations to be shared with the incoming chairman. Possible vote on recommendations.*
 - C. Unassembled Meetings. *Chairman Donaldson will lead a discussion on the use of "unassembled meetings" to transact ACHP business. Members will be asked for their recommendations to be shared with the incoming chairman. No formal action.*
- IV. Section 106 Issues
 - A. Department of Veterans Affairs Program Comment on Underutilized Properties. *Federal Agency Program Committee Chairman Jordan Tannenbaum will report on the development of a Program Comment to address the historic preservation impacts of VA's initiative to dispose of vacant and underutilized facilities. Members will be asked to vote on adopting the Program Comment. Formal action needed.*
 - B. Proposed Exemption Regarding Railroad and Rail Transit Rights-of-Way. *Committee Chairman Tannenbaum will lead a discussion on issues raised by members during the development of a Program Comment to exempt certain rail and transit rights-of-way from Section 106. Members may offer suggestions to address concerns. No formal action needed.*

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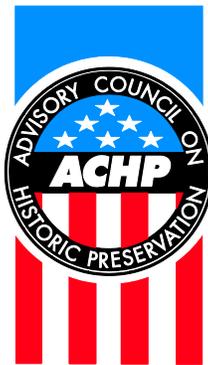
- C. Administration Infrastructure Initiatives. *Committee Chairman Tannenbaum will report on the progress of initiatives to advance the Administration's policy goals. ACHP staff will provide updates on ongoing activities, including the Energy Transmission Industry Working Group, and invite guidance from members to advance preservation goals within the initiative. No formal action.*

- V. Historic Preservation Policy and Programs
 - A. White House Initiative on Historically Black Colleges and Universities and the ACHP. *Communications, Education, and Outreach Committee Acting Chairman Reno Franklin will report on recent ACHP efforts to open the field of historic preservation to a more diverse group of students. Members will have the opportunity to hear from the leadership of the White House Initiative as well as students who recently participated in a program jointly sponsored by the ACHP, the National Park Service, and the National Trust. Members will be invited to provide recommendations and guidance on the future direction of this effort. No formal action needed.*

 - B. ACHP Approaches to Commenting on Historic Preservation Legislation. *Preservation Initiatives Committee Chairman Brad White will lead a discussion on how the ACHP should deal with congressional bills that focus on specific sites. The members will have the opportunity to recommend or adopt a policy on the subject. Formal action possible.*

- VI. New Business. *There is no new business at this time.*

- VII. Adjourn. *The meeting will adjourn by 1 p.m.*



Preserving America's Heritage

**RESPONSES TO MEMBER QUESTIONNAIRE ON
ACHP ORGANIZATION AND MEMBER ENGAGEMENT
Office of Preservation Initiatives
and Office of General Counsel**

Background. For the first 50 years of its organizational life, the ACHP has had a chairman who was appointed by the President but was not a full-time federal official. Legislation enacted in December 2016 changed this, converting the chairman position to a full-time Presidential appointment requiring Senate confirmation. On March 13, 2018, President Donald Trump announced his intention to appoint Aimee Jorjani to be the ACHP's first full-time chairman. At the March 22 ACHP business meeting, the membership discussed the unprecedented opportunity of the transition from a part-time to a full-time chairman for the ACHP to examine its structure. There was consensus that the ACHP's operating procedures, committee structure, business meeting format, and other operational conventions should be reviewed.

Following the meeting, Chairman Wayne Donaldson appointed a member working group to oversee the transition to a full-time chairman. The working group consists of Jordan Tannenbaum, as working group chairman; Wayne Donaldson; Leonard Forsman; Robert Stanton; Brad White; Maureen Sullivan, Department of Defense; Shasta Gaughen, National Association of Tribal Historic Preservation Officers; Mark Wolfe, National Conference of State Historic Preservation Officers; and Tom Cassidy, National Trust for Historic Preservation. The Office of Preservation Initiatives and the Office of General Counsel are providing staff support to the working group.

Questionnaire to the Membership. The transition working group developed a questionnaire that was sent to the full membership in May. This was designed to get member feedback on the operational relationship among the members, the full-time chairman, and the staff, and how to optimize the ACHP's structure and operations with the incorporation of a full-time chairman. Responses to the questionnaire came from 25 out of 27 ACHP members and observers.

Attached is a summary of the questionnaire responses, which characterizes the often wide-ranging responses. The document also includes the text of member comments given in response to open-ended questions soliciting general feedback. The summary identifies questions where there was general consensus, where a majority view emerged, and where there were varied responses. In brief, these categories break down as follows:

General Consensus

- The concept of standing committees is sound.
- The limited-term, task-oriented working group system should continue to be used.

Majority Views

- About three-quarters of respondents believe that:
 - the Executive Committee should be formalized in the Operating Procedures with a specific delineation of its powers and procedures.

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- About two-thirds of respondents feel that:
 - the ACHP should host out-of-DC business meetings on a regular basis;
 - the ACHP should explore videoconferencing or other technologies for business meetings; and
 - the dearth of policy-level agency representatives at committee meetings poses a problem.
- A slight majority of respondents feel that:
 - the Operating Procedures do not need to be changed regarding business meetings;
 - there are overlaps in committee jurisdiction and subject matter that should be addressed;
 - the ACHP should continue to have committee meetings the day before the business meeting and committee conference calls halfway between business meetings;
 - the Executive Committee should be authorized to take formal actions on behalf of the full membership; and
 - the Operating Procedures need revision regarding communications between the chairman, executive director, and the members.

Varied Responses

- On the optimum frequency of ACHP business meetings and how long they should last.
- On the structure of business meeting agendas.
- Whether the current committee structure should be modified.
- Whether the Executive Committee's size or mix of members should be changed, and whether it should have a set meeting schedule or meet as needed.
- Whether current guidelines for member involvement in Section 106 cases need to be modified.

In addition to the attached summary, a compilation of all responses to the questionnaire is available at [this link](#).

Action Needed. The members should review the results of the questionnaire and be prepared to discuss their views at the committee meetings and business meeting. While further action toward exploring or implementing organizational and operational changes must await confirmation of the new chairman, the transition working group would benefit from hearing member feedback on the questionnaire results.

Attachment: Summary of Member Responses to Questionnaire on ACHP Organization and Member Engagement, July 6, 2018

September 19, 2018

**Summary of
Member Responses to Questionnaire
on ACHP Organization and Member Engagement**

July 6, 2018

Note: Not all respondents answered every question. At the request of some members, responses were anonymized while still noting whether the respondent was an individual member or a representative of an agency or organization.

I. Business meetings.

The ACHP for many years met on a quarterly basis, but budget constraints a few years ago led to scaling back to three times a year, the current schedule. Meetings are currently a half-day, but in some periods were a full two days. Traditionally the ACHP would meet as often as every other meeting out of DC to address specific issues and engage with local communities. Pages 4-7 of the Operating Procedures pertain to Council meetings.

1. *What do you see as the optimum frequency of ACHP business meetings?*

Varied responses: Members are split on whether there should be two, three, or four meetings a year. A plurality of respondents would like to continue with three meetings annually, but there also is significant support for both two days and four days. Most of those who prefer two days are federal agency representatives, while most of those who suggest four days are individual members.

2. *How long should they last?*

Varied responses: Opinions on the optimum length of the meetings range widely from less than a half day to two days. However, a plurality of respondents prefer continuing with the current half day schedule. The next largest group supports expanding the meetings to a full day. There are two interesting comments regarding increasing member engagement. One agency representative suggests having more “closed” sessions where the entire membership could have in-depth, candid discussions about policy, controversial issues, and strategic direction. Another agency member, who supports full-day business meetings, suggests moving some topics off of committee agendas and onto the agenda of the full membership.

3. *Should the ACHP hold out-of-DC business meetings on a regular basis?*

Majority view: About two thirds of respondents support regularly scheduled meetings out of town, and several others support having such meetings on an ad hoc basis. However, potential constraints on travel for federal agency members are a concern.

4. *Should the ACHP explore videoconferencing or other technologies for business meetings?*

Majority view: Over two thirds of respondents support exploring new technological approaches for ACHP business meetings. That being said, a number of members feel that in-person attendance should still be encouraged even if new technological options are pursued.

5. *Are there any specific provisions of the Operating Procedures relating to business meetings that you think should be changed?*

Majority view: A slight majority of respondents don't believe that the Operating Procedures need to be changed regarding business meetings. The other half made a variety of recommendations. Some feel

that public participation at business meetings should be enhanced. Suggestions include having a 30-minute opportunity for public testimony at each meeting and increasing use of topical listening lessons. Several members note that business meeting videoconferencing could improve public involvement, but the Operating Procedures would need updating in Section III.B. Likewise, videoconferencing would require changing the quorum provisions of Section III.E. One agency member advocates empowering designated agency staff to sit at the table and vote on behalf of their agency in lieu of the official designee. Another agency member feels that the current provisions for agencies to abstain on legislation absent an Administration position are inadequate. Other suggestions include: address the role of the ACHP Foundation; ensure each committee reports at business meetings; and clarify the scope of member compensation.

6. *Do you have any suggestions for structuring the business meeting agenda?*

Varied responses: A majority view did not emerge from the responses, but a plurality desires agendas that encourage greater substantive discussion. Specific suggestions for accomplishing this include: have one topic per meeting that will be a focal point for discussion; free up time in business meeting by holding awards presentations and recognition ceremonies outside of the business meeting; break the members into smaller discussion groups during part of the business meeting; limit updates and reporting; focus on actionable items; replace committee chair verbal reports with one-page written summaries; hold longer business meetings that include a working lunch; and convene a once-a-year, four-hour committee of the whole workshop to address big-picture issues.

Other suggestions for structuring the business meeting agenda include: have a “policy roundup” explaining critical cases and votes; incorporate more public interaction and listening sessions; invite a special guest (a mayor, cabinet secretary, civic leader, etc.) to each meeting to make a presentation; and clarify the speaking roles so that the Executive Director runs the meeting while the Chairman presides.

7. *Do you have any other comments or suggestions regarding business meetings and how they might change with the arrival of a full-time Chairman?*

Specific member comments:

- “I think the Chairman’s report will need to be a more substantial part of the meeting. We will need to have a good understanding of how they are spending their time.”
- “I imagine there might be more time for the Chair to share concerns or the specifics of a particular case with the membership. We should allow time for that.”
- “A full time Chairman could increase number of meetings and perhaps tailor 1-2 of the 4 quarterly to address emerging issues, hot topics, highlight successes and programs.”
- “The full-time Chairman should take full advantage of increased direct access to staff, files and equipment to implement any suggested changes, improvements or adjustment to Council specific issues either during the meetings or assign to staff immediately afterwards to address, flattening the organization by eliminating the need to inform the Executive Director who must subsequently delegate the actions to appropriate staff. The full-time Chairman can immediately begin to delegate responses and actions at the meeting and state for the record who and when to create more accountability. In addition, s/he would be best informed of the current workload of the staff and be able to inform the members what realistic responses/outcomes they can expect.”

- “Having a full-time Chair introduces opportunities for a very different dynamic between the Chair and Members, as well as between the Chair and the staff of the ACHP. The continuous presence of the Chair at the ACHP offices will allow for a much greater flow of information between Chair-Members-Staff. It will also enable decisions, tasks and assignments to be made and delegated out during business or committee meetings or in preparation for and follow-up from those meetings in a way that will increase the communication flow, and therefore the productivity of the members’ time they put to serving on the Council. Greater interaction between members and ACHP staff should be encouraged, as the current model often appears to have staff and members operating and focusing on completely separate issues/topics.”
- “Perhaps more guest speakers (preservation partners, eg. Civil War Trust) could be invited to speak.”
- “- Consider using the business meetings as an opportunity to plan an evening reception on the Hill with significant outreach to members of Congress.
- You have removed the question about the use of “unassembled” meetings, but that is a procedure that has been over-utilized in the past and should be kept to an absolute minimum.”
- “The full-time Chairman will be more involved in the regular work of the council and may have a different perspective on the need to review certain issues as part of the business meeting. It will be important to consider the difference between how a FTC experiences the issues vs the PT members.”
- “One concern I have as a Federal member is when the policies or actions diverge from Administration priorities or agenda. Holding votes make it extremely difficult and cause abstentions. I think when ACHP is going to express a position that is counter to an administration position, perhaps a way can be found to do that, but members that are there are representing a cabinet member and as such, are going to be holding to position that we know of or seeking advice on positions within the administration.”
- “1. A new organization chart for ACHP should indicate where the public at large falls under ACHP purview. This may be strengthened via re-boot of a Preserve America type program. What is the intended breakdown of effort?, aka, 30% public citizen property and education programs, 30% Federal Agency Policy engagement; 40% Funding and Legislative Initiatives? Currently more emphasis seems placed on interagency concerns. 2. Meetings tend to be reactory, Federal or representative comments made in response to stated ACHP concern or action. Based on new expectations set by the Chairperson, might there be a shift in content and proceedings? Just wondering what is possible. Federal Members to present examples of best practice collaboration, innovation, sponsoring of interns, funding of initiatives within their agencies, etc.”
- “With a full-time chair it will offer a much different dynamic relationship between the chair and members, but more importantly with staff. Decisions, tasks and assignments will be made from a policy perspective as supported by the membership to staff that should increase the communications. The chair will also have the time to call members, discuss relevant topics, policies and groom them for more interaction on the council. From [Agency 4]: Greater interaction between members and ACHP staff should be encouraged, as the current model often appears to have staff and members operating and focusing on completely separate issues/topics. Amen!”

II. Committees

The core of the current ACHP committee structure (Preservation Initiatives, Communications Education and Outreach, Federal Agency Programs, and Executive) was created in 2001 and expanded to include the Native American Committee in 2011. Previously the ACHP had an occasional standing committee (e.g., legislation) and functioned primarily through task-oriented working groups and task forces. These continue to be used for overseeing development of special projects and reports. The Operating Procedures address “Council Subgroups” on page 3 (a standing Credentials Committee is the only one specified).

1. *Is the concept of standing ACHP committees sound or is there a more desirable organizational model?*

General consensus: Respondents are almost unanimous that the concept of standing committees is sound. That being said, several members are concerned that the topics of the committees overlap (see also Question 3) and that the committees may need to be realigned to reflect the priorities of the Administration and the new Chairman. Other suggestions for improving the standing committee structure include: have monthly meetings; pare down committee agendas to emphasize discussion and reduce updates; consider establishing a legislative committee; and establish and implement yearly committee agendas.

2. *If the committee concept is retained, should the current committee structure be modified?*

Varied responses: Respondents are split almost evenly on whether modifying (or considering modifying) the current committee structure is necessary. Of those who feel changes may be needed, several note the importance of addressing current Administration priorities and emerging issues. Other members are concerned regarding a lack of definition in the roles of the committees, particularly in the PI Committee and the CEO Committee. Specific suggestions include: rename the PI Committee as the Policy and Legislation Committee; move away from the “catch-all” quality of the PI and CEO Committee issues; have the Executive Committee meet more regularly to be briefed by the Chairman; assess whether the PI Committee is needed absent its Preserve America functions and transfer legislative affairs responsibilities elsewhere in the agency; and sharpen committee focus and deliverables, particularly regarding social media in CEO.

3. *Are there overlaps in committee jurisdiction and subject matter that should be addressed?*

Majority view: A slight majority of respondents feel that there is overlap among the committees that could be addressed constructively. Overlaps in subject matter were identified between the PI and CEO Committees, the PI and FAP Committees, and the FAP and NAA Committees. Respondents who felt the overlaps were a problem suggested: use executive decision making to ensure that overlaps between the FAP and PI Committees don’t result in duplication of effort; consider moving Preserve America to the CEO Committee; and do away with the PI Committee by moving its legislative functions to elsewhere in the agency and rolling its other initiatives to the FAP or CEO Committees. Three agency members note an appropriate level of overlap between the FAP and NAA Committees, but suggest that those committees should not meet at the same time, should sometimes have partial joint meetings, and should better share agendas and discussion topics.

4. *Should the current approach to having committee meetings the day before the business meeting and committee conference calls halfway between business meetings be revised? If so, how?*

Majority view: A slight majority feel that change in the current approach is not needed. Of the remainder of respondents who have concerns, a few question the productivity of the interim conference calls. One respondent suggests they be scrapped and replaced by written briefings. A few also note that the overlap in the timing of committee meetings does not allow for participation in all the committees.

Other specific ideas for changes include: committees should meet monthly; the committees could meet in the morning and the full membership in the afternoon; and schedule the business meeting before the committee meetings so that the full membership can better direct committee assignments.

5. *Should the limited-term, task oriented working group system continue to be used? Do you see ways to improve it?*

General consensus: Respondents are nearly unanimous in their support for limited-term, task oriented working groups. However, a number of members note the need for more transparency in the work of such groups. Suggestions include: sometimes have working groups be subcommittees; ensure well-defined scope, deliverable, or target end-date for each group; improve communication from the groups and enhance the ability to track their progress; make it easier to identify current work groups and the members participating; and have a centralized way of accessing the reports or guidance developed by the groups.

6. *Do you have any other comments or suggestions regarding committees and subgroups and how they might change with the arrival of a full-time Chairman?*

Specific member comments:

- “The full-time Chairman should continue outreach to the citizen appointees on issues facing the preservation community.”
- “If there isn’t a technology working group there probably should be, to address social media, web design, etc. ACHP deals every day with exciting subject matter, but the agency’s website and electronic communications couldn’t be more boring.”
- “I am pleased with the arrival of a full-time Chairman and believe it will provide increased continuity and transparency for the ACHP.”
- “It seems the Chairman may have priorities or approaches that should be considered that will provide insights into how & what the committees cover.”
- “After gaining an understanding of the workload and capacity of staff, the new Chairman will be able to evaluate the effectiveness of committees and sub-groups and determine appropriate work group compositions and deadlines.”
- “Recommend a holistic assessment of how the primary information exchange points (i.e. Business meeting, committee meetings, interim conference calls and work groups) communicate and inform each other towards the larger goals, mission and strategic plan of ACHP. Additional time should be spent evaluating the best way to integrate ACHP staff into the communication flow to ensure they are providing the most up-to-date information to members and, in turn, receiving timely guidance from members.”
- “As stated earlier, the ACHP [Foundation] could be a subgroup or perhaps even a committee. I would also consider having a dinner the night before the meeting with a speaker or special guest.”
- “I could see that the full-time Chairman might wish to implement additional committees or reduce some. At the risk of sounding incoherently bureaucratic, I might suggest a “task force on committees” to help guide any changes in the structure.”

- “I do wonder how the work of ACHP both respects the organic act of its creation as well as reflect key aspects of the administration’s priorities on a constructive way.”
- “The new Chairperson should convene a committee of the whole WORKSHOP to discuss next 50 years ACHP priorities. Committees should be organized per priorities. There was overlap in BAMIPP particularly between communications and PI. Believe there is a tendency to discuss issues per definition of Committees. This results in “Preserve America”, citizen focused efforts, be harder to administer and therefore easily falls through the cracks. Federal Programs is very interesting but more can be done to stimulate Federal participants to stronger action, perhaps by setting up expectations/goals for each year to accomplish.”
- “I’d like to figure out why it has been so difficult for me to keep engaged with the Federal Agency Programs committee work. I rely on direct contacts with Reid instead.” (*Agency II*)
- “As with most organizations with a full-time leader there should be an initial outreach to the members, staff and the public at large to gain a better understanding of what ACHP does best and those challenges of preservation. Too much emphasis is placed on process rather than preservation as the final outcome.”

III. Miscellaneous

1. *The Executive Committee currently comprises the Chairman, the Vice Chairman, the four committee chairs, and a policy-level federal agency member. It meets in person just before ACHP business meetings and occasionally by conference call. The members are also consulted periodically to advise the Chairman on specific issues. In recent times, the federal agency seat on the Executive Committee has been vacant, due to lack of policy-level appointees in the designated agency (Interior). On rare occasion, the Executive Committee has taken formal action on behalf of the membership, but its role has been primarily advisory to the Chairman.*

a. Should the Executive Committee be formalized in the Operating Procedures with a specific delineation of its powers and procedures?

Majority view: Over three quarters of the respondents agree that the Executive Committee should be formalized in the Operating Procedures.

b. Should the Executive Committee be authorized to take formal actions on behalf of the full membership?

Majority view: A slight majority of respondents believe that the Executive Committee should be authorized to take formal actions on behalf of the full membership, but most of this group feel that such authorization should only be in very limited situations. One citizen member notes that unassembled meetings have worked well for most instances where ACHP action is needed between business meetings, thus making it rare that there would be instances where the Executive Committee would have to act. Some members who advocate against empowering the Executive Committee to act believe doing so would inappropriately take away the authority of presidentially appointed members and members appointed by designated federal agencies.

c. Should the size or mix of members be changed?

Varied responses: Respondents who specifically answered yes or no are almost evenly split, while some members have no comment or feel the question can only be addressed after the current

committee structure is assessed. Some suggested changes include: have six members or a similar clear minimum number; periodically rotate members onto the Executive Committee to engage all members; consider adding the Executive Director and the ACHP Foundation; add more citizen members; increase diversity; and seek to enhance agency policy-level participation, particularly by DOI. One agency member feels that the Executive Committee currently is not sufficiently transparent and accountable.

d. Should the Executive Committee have a set meeting schedule or meet as needed (or both)?

Varied responses: A plurality of respondents feel that both scheduled and ad hoc meetings are appropriate. Specific suggestions for a set schedule include monthly conference calls and meeting every other month. Three federal agency members note the importance of the Executive Committee reporting out to the full membership following Executive Committee meetings.

2. ***The established ACHP procedure is to seat principals and primary policy-level designees at ACHP business meetings. Such members are also entitled to participate in committee meetings, but policy-level representatives of federal agencies rarely do. Is this a problem that requires attention and, if so, how might it be addressed? (Membership credentials are found in Appendix A of the Operating Procedures, pages 13-14)***

Majority view: About two thirds of respondents agree that the dearth of policy-level agency representatives at committee meetings poses a problem, however, about a third of them believe that fully solving the problem is unlikely given the demands and time constraints on policy-level designees. Those who offered possible solutions suggested: have the new chairman actively recruit policy-level participants and foster more personal connections; take full advantage of having policy-level designee attendance at out-of-town meetings to engage them in committee activity; invite policy-level representatives to certain committee meetings for discussion of specifics; craft more focused committee agendas with action items; and discuss at business meetings the importance of policy-level attendance at committee meetings. If policy-level representation is going to remain less than optimal, a number of members note the benefits of committee attendance by agency staff with a depth of knowledge and experience, and who are committed and active in ACHP activities.

3. ***The Delegation of Authority found in Appendix B of the Operating Procedures (pages 16-24) allocates specific responsibilities of the Section 106 regulations among the members, the Chairman, and the Executive Director (ACHP staff). Often ACHP members have an interest in an ongoing Section 106 review, but their participation needs to be consistent with their role as the ultimate decision-makers in the event of a termination and must also conform to ethics and conflicts of interest standards. Current guidelines for member involvement in cases that are pending before the staff or the Chairman are found on page 11. Do these need to be modified?***

Varied responses: A plurality of respondents don't believe that modifications are needed. The remaining members either had no opinion – in several cases due to a stated lack of knowledge about the issue – or think changes are needed. Suggested modifications include: provide greater clarity and make the guidelines for member involvement more understandable; enhance how staff should alert members to cases of potential interest; provide for direct member participation in cases (as representatives of the ACHP, not in their personal capacity); limit member requests to review cases when there are conflicts of interest; and increase the length of time for members to request consideration of a case.

4. ***The Operating Procedures on page 9 prescribe some methods of communication from the Executive Director to the members. Additionally, the members receive reports from committee meetings and conference calls. Do these need to be revised, with consideration given to the arrival of a full-time Chairman or any modifications in the role of the Executive Committee? If so, how?***

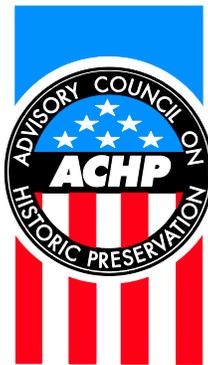
Majority view: A majority of respondents believe that the Operating Procedures will need revision regarding communications between the Chairman, Executive Director, and the members. Specific suggestions include: create a line of communication from the Chairman to the members separate from the Executive Director and ACHP staff; ensure that communication with members on matters directly affecting them and their participation on the ACHP comes from the Chairman; have more frequent communication between the Chairman and members between business meetings; maximize information exchange; establish a higher level of regular interaction with policy-level principals; and have the Chairman assume many of the Executive Director's current communication with members.. A few members note that it would be premature to make such changes quickly without time to review the communications protocols holistically.

5. *Do you have any other comments or suggestions on the ACHP organization and relationships among the members, the full-time Chairman, and the staff?*

Specific member comments:

- “I’ve been through several new chair appointments over the past decade in my own [organization], and I know how disruptive this can be. Each chair brings their own perspective and has a specific area of expertise that then becomes a priority for the agency. This can be a good thing, or not. The ED has the most frequent contact with the chair, and so ends up having to be the primary “trainer”. But that’s complicated because the ED answers to the chair. It’s important for the ED (and the chair) to know that the membership is there to provide guidance and support when necessary, and should help to focus the chair’s attention if the chair gets out of sync with the organization. And it’s very important for the membership to set an example for the chair with respect to how we communicate with each other, and how good service on the part of staff is recognized. I had a chair whose only public comments about the staff tended to be about how we can all do better, if we aren’t growing we’re dying, silo mentality is wasteful, etc. It was demoralizing. There are better ways to spur improvements, and the membership needs to watch for those opportunities and provide positive reinforcement.”
- “The ACHP organization is well organized, the staff is always available to respond to questions. The past [several] years representing [Agency 2] has been a rewarding experience, has increased my knowledge and passion for Historic Preservation. You provide an excellent service to the Federal government. Thank you!”
- “With a full-time chairman in DC, it seems there are opportunities to build more rapport among the members.”
- “I am wondering about the appropriate staff structure with a full-time Chair, particularly as it relates to the Executive Director position. Does the ED position become more like a Chief of Staff/Chief Operating Officer? This is probably the direction it should take, but I don’t know what typically occurs in the federal government in circumstances like this.”
- “The appointment of the ACHP’s first full-time, Senate confirmed Chair is a significant opportunity to revisit all aspects of how the ACHP operates, communicates and how the Chairman, Members and staff can most effectively work as a team to affect national preservation policy while maintaining a strong relationship informing Congress and the Administration.”
- “I recommend the full time Chairman make the objectives of the CEO Committee a priority and seek new opportunities for outreach.”

- “It might be good to have further discussion of these questions in person at the next meeting. I recognize that the point of asking now is to help prepare for the arrival of the Chairman, but there will definitely be structural questions that arise after the Chairman is in place. And, the questions about the committees might be easily discussed by everyone, possibly at lunch during the committee meeting day. Or not. I could see that maybe it would be best to get everything packaged up neatly to present to the incoming Chairman.”
- “Some of my comments are critical, but please understand I have great admiration for ACHP and its role in this country. It has a critical role and one I respect greatly respect.”
- “Two thoughts:
 1. That the Chair in making recommendations for future Presidential appointments to the Council, give careful consideration to candidates representing the nation’s cultural and geographical diversity.
 2. That the Chair continue and fully support the Chairman’s Award and the joint ACHP/HUD Award. (The presentation of these two awards for possible greater visibility might be presented during a business meeting. The CEO committee will review this option and provide a recommendation.”
- “One thought on a delicate subject: Chairman interaction with staff on a daily basis. The small agency size, coupled with the professional camaraderie of the staff makes ACHP a unique place to work. In many ways, it is like a big (and at times dysfunctional!) family. That comfortable, casual interaction can, however, add an element of “answering to many masters” for the staff. With a full time Chair present in the office daily, I can imagine that could intensify. This could especially be true as the Chairman “learns the ropes” and may seek information/assistance from any ready/willing source (and a number of the staff are highly knowledgeable and eager to share). Without appearing to censor information or contact, I imagine that “managing” information flow and input will be a delicate (and necessary) task.”
- “Believe under leadership of Chr. Donaldson, the organization, initiatives have been both very cooperative and functional. At this transition and juncture of 50 years of the Preservation Program, believe organizational consultants may be useful to assess what the ACHP opportunities are to accomplish goals, then to reorganize to most effectively accomplish the new directions for the next generation. This may affect how the budget is organized, types of initiatives endeavored.”
- “I’m concerned about succession planning at ACHP.”
- “This will be an incredible time for ACHP with a full-time chair. Her leadership will be paramount in the federal government and hopefully, raise ACHP to the proper level of respect and awareness from the general public. ACHP can do much more as an agency in working closely with the Administration, Congress as well as our preservation partners on a grand national scale for the preservation of our collective heritage.”



Preserving America's Heritage

DEVELOPMENT OF A NEW ACHP STRATEGIC PLAN **Office of Preservation Initiatives**

Background. Enacted in 2010, the Government Performance and Results Act (GPRA) Modernization Act establishes requirements for federal agency strategic planning. The ACHP adopted its first strategic plan under the law in February 2011 and revised that plan in October 2014 (see attached). The ACHP was due to develop a new strategic plan in February 2018, since each agency is required to produce a new strategic plan by the February following the year in which a Presidential term begins. However, the Office of Management and Budget (OMB) authorized a postponement pending confirmation of the ACHP's first full-time chairman. Given that such confirmation may be imminent, this paper provides background on the ACHP's strategic plan and outlines a proposed process for developing a new plan. The Office of Preservation Initiatives will be coordinating the planning effort.

Role of the Strategic Plan. The ACHP's strategic plan must conform to standards for federal agencies set by OMB, but as a small agency, the ACHP has some flexibility in applying those standards. In general, the plan must include a mission statement and a series of long-range goals that are designed to help the ACHP fulfill its mission. The long-range goals define the primary areas of the agency's program. The ACHP's current strategic plan has five.

For each long-range goal there are one or more six-year goals that can be substantially accomplished over the period covered by the plan. The current law requires that such strategic goals should be established for a period of not less than four years, but agencies may set strategic goals for longer periods of time, as the ACHP has done. (This reflects the requirements of an earlier GPRA process, which called for plans of not less than five years and review after at least three years.) The completed plan, including the mission statement, long-range goals, and six-year goals becomes the framework for developing the ACHP's budget, establishing work plans for members and staff, and reporting to the ACHP members and OMB on the agency's accomplishments. Specific action items are established to implement each of the plan's six-year goals.

Long-Range Goals of the Current Plan. The ACHP's current strategic plan specifies the following long-range goals:

- **Promote Historic Preservation Policy and Programs:** Formulate and advance effective public policies that support and encourage historic preservation activities carried out by the federal government, states, local governments, Indian tribes, and private organizations and individuals.
- **Improve Federal Preservation Programs:** Improve federal agency programs to enhance the preservation and stewardship of all types of historic properties, and contribute to tribal, state, local, and private preservation efforts.

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- **Foster the Protection and Enhancement of Historic Properties:** Foster the protection and enhancement of historic properties to advance the purposes of the National Historic Preservation Act.
- **Promote the Importance of Historic Preservation:** Foster broader appreciation for and knowledge of historic preservation, history, and the work of the ACHP among diverse audiences, and communicate the value and benefits of preservation.
- **Develop and Manage ACHP Organizational Capacity.** Obtain and effectively manage the ACHP's resources to ensure that its mission is accomplished and the needs of the ACHP's customers are met.

Determining the continuing validity of these goals and whether new goals should be addressed will be a central focus of developing a new strategic plan.

Proposed Strategic Plan Development Process. While final decisions on how to develop the required strategic plan must await the arrival of the new chairman, member guidance on a process will position the ACHP to move ahead promptly when confirmation occurs. Staff proposes that the new plan be developed using the following series of steps, which are modeled upon the approach used in developing the current strategic plan. The exact timing of this process will be contingent upon confirmation of the chairman.*

- **ACHP committee input.** At the October 2018 ACHP meeting, the committees would initiate discussion of the plan, looking both at the proposed process for creating a new plan and the key issues from their program perspective.
- **Staff review and drafting.** Based on committee input and subsequent staff strategic planning discussions, staff would develop 1) a redline-strikeout version of the current plan showing proposed changes and 2) a summary of past achievements under each of the goals. These documents would be provided to the ACHP members for review and comment. If the timing of chairman confirmation permits, members would have the opportunity to discuss these on the committee conference calls. Alternatively, special committee calls or a full membership call could be held.
- **ACHP member review.** On the day prior to a future business meeting (date to be determined), the committees would meet in the morning to discuss the proposed revised plan. In the afternoon, the entire membership would convene in an informal work session to discuss the plan. The goal for the day would be to reach consensus on the mission statement, the long-range goals, and the six-year goals.
- **ACHP member adoption.** The following day, at the business meeting, the members would have an opportunity to take formal action, if they so wish. This ideally would be adoption of the plan, but an endorsement in concept might be appropriate if there is further work to be done before adoption. The chairman could work through the Executive Committee to refine the new strategic plan and schedule formal adoption at a later date, either at a future business meeting or in an unassembled meeting.

*The GRPA Modernization Act requires agency consultation with relevant congressional committees, but the Office of Management and Budget has provided exemptions for small agencies. The ACHP did not conduct such consultation in developing its last strategic plan, but the chairman may opt to do so this time. That would change the timeline for development.

- **Development of action items.** Following adoption of the new strategic plan, the staff would develop—with input from the committees—specific action items for each six-year goal.

Action Needed. The committees should review the proposed process for developing a new strategic plan and be prepared to adopt a process at the business meeting. The committees also should review the portions of the current plan relevant to their responsibilities and provide staff with feedback on subjects of concern or areas of opportunity so as to assist in staff development of a first draft of a new plan.

Attachment: ACHP Strategic Plan (adopted January 2011, revised October 2014)

September 19, 2018



Preserving America's Heritage

ACHP STRATEGIC PLAN
Adopted January 2011
Revised October 2014

Mission Statement: The ACHP promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy.

I. PROMOTE HISTORIC PRESERVATION POLICY AND PROGRAMS

Long-Range Goal: Formulate and advance effective public policies that support and encourage historic preservation activities carried out by the federal government, states, local governments, Indian tribes, and private organizations and individuals.

- A. **Six-Year Strategic Goal:** Assist the executive branch and the Congress in formulating policies that fulfill the goals of the National Historic Preservation Act.
- B. **Six-Year Strategic Goal:** Develop and implement initiatives, such as Preserve America, that promote the economic, environmental, educational, and social benefits of historic preservation.
- C. **Six-Year Strategic Goal:** Develop and advance policies that support the role of Indian tribes and Native Hawaiian organizations in the national historic preservation program.
- D. **Six-Year Strategic Goal:** Develop and advance policies that encourage greater engagement of diverse constituencies in the national historic preservation program.

II. IMPROVE FEDERAL PRESERVATION PROGRAMS

Long-Range Goal: Improve federal agency programs to enhance the preservation and stewardship of all types of historic properties, and contribute to tribal, state, local, and private preservation efforts.

- A. **Six-Year Strategic Goal:** Assess and report on the effectiveness of the federal preservation program.
- B. **Six-Year Strategic Goal:** Collaborate with federal agencies and other stakeholders to recognize and communicate examples that demonstrate the successful preservation and productive use of historic properties.
- C. **Six-Year Strategic Goal:** Assist federal agencies in meeting the goals and requirements of Executive Order 13287 and other Presidential directives that support historic preservation.

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- D. **Six-Year Strategic Goal:** Facilitate collaboration and partnerships between federal agencies and other parties that help agencies meet their preservation program needs, advance national historic preservation goals and improve coordination with other actions and requirements.
- E. **Six-Year Strategic Goal:** Encourage federal agencies to engage the full range of the affected public in their implementation of federal programs that affect historic properties.
- F. **Six-Year Strategic Goal:** Foster the understanding that preservation of historic properties is inherently consistent with sustainability and climate change adaptation and resilience goals, promote historic preservation as a method to meet these goals, and ensure that federal policies and programs that address renewable energy development and climate change minimize impacts on historic properties.

III. FOSTER THE PROTECTION AND ENHANCEMENT OF HISTORIC PROPERTIES

Long-Range Goal: Foster the protection and enhancement of historic properties to advance the purposes of the National Historic Preservation Act.

- A. **Six-Year Strategic Goal:** Enhance the awareness, knowledge, and capabilities of participants, including industry and other stakeholders, and the public to better carry out their respective roles in the Section 106 process, and to improve communication among these parties.
- B. **Six-Year Strategic Goal:** Focus ACHP involvement in individual Section 106 cases to advance preservation outcomes and serve the public interest.
- C. **Six-Year Strategic Goal:** Improve the effectiveness of Section 106 consultation and its coordination with other sections of the National Historic Preservation Act, related federal environmental and preservation processes, and Administration initiatives.
- D. **Six-Year Strategic Goal:** Raise the level of accountability for federal agency compliance with the Section 106 process, from the nature and scope of consultation to the actions taken to implement agreed-upon outcomes.
- E. **Six-Year Strategic Goal:** Encourage the consideration of historic and cultural values important to diverse constituencies in the Section 106 process.

IV. PROMOTE THE IMPORTANCE OF HISTORIC PRESERVATION

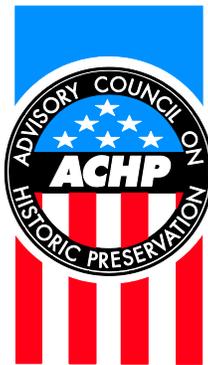
Long-Range Goal: Foster broader appreciation for and knowledge of historic preservation, history, and the work of the ACHP among diverse audiences, and communicate the value and benefits of preservation.

- A. **Six-Year Strategic Goal:** Raise the level of understanding of the value of the nation's historic preservation program and of a preservation ethic.
- B. **Six-Year Strategic Goal:** Increase awareness of and participation in ACHP programs and activities.
- C. **Six-Year Strategic Goal:** Advise executive and legislative branch officials, members, and staff regarding the benefits of historic preservation and the federal historic preservation program.

V. DEVELOP AND MANAGE ACHP ORGANIZATIONAL CAPACITY

Long-Range Goal: Obtain and effectively manage the ACHP's resources to ensure that its mission is accomplished and the needs of the ACHP's customers are met.

- A. **Six-Year Strategic Goal:** Develop and implement a financial and human capital strategy that recognizes and responds to the ACHP's mission, maximizes expertise and effectiveness among members and staff, and reflects the diversity of America.
- B. **Six-Year Strategic Goal:** Maximize internal operational performance through analysis of work processes, enhancements to information technology resources, changes to administrative procedures, and the implementation of fiscal controls.
- C. **Six-Year Strategic Goal:** Improve services to ACHP customers by identifying major areas of interaction and implementing measurable enhancements.



Preserving America's Heritage

DISCUSSION OF UNASSEMBLED MEETINGS

Introduction. The ACHP's Operating Procedures authorize the membership to act on the business before it in an "unassembled meeting:"

"When the chairman determines that the membership or a subgroup should act on a single or limited number of issues and a regular or special meeting is not warranted, the chairman may convene an unassembled meeting. In an unassembled meeting, business will be conducted by mail, telephone, electronic mail, facsimile, or other such methods of communication. Reasonable notice of unassembled meetings shall be given by the executive director. No business shall be transacted at unassembled meetings that will violate the principles of public participation adopted by the membership."

The ACHP uses this process in order to take actions in between the regularly-scheduled business meetings. It is a useful tool to obtain action by the full membership in a timely fashion, but on occasion it has raised concerns among members.

Use of the Unassembled Meeting Process. The process is used in three primary ways:

1. *Legislative actions.* Frequently the timing for taking a position on pending congressional legislation requires prompt action by the ACHP, without the opportunity to wait until the next business meeting. Members will recall that the ACHP in 2015 adopted specific procedures for addressing legislative issues that acknowledged use of the unassembled meeting process. It was most recently used for adopting positions on the Restore Our Parks Act (S. 3172) / Restore Our Parks and Public Lands Act (H.R. 6510) and the Golden Spike 150th Anniversary Act (S. 2831/H.R.5751).
2. *Reports and policy recommendations.* It is common for a report or set of policy recommendations to be discussed at a business meeting, the result being agreement in principle on the report or policy but subject to further revisions to the final document. An edited version is subsequently circulated to the membership for adoption by mail or electronic vote. Use of an unassembled meeting may be driven by a deadline for submission of a report to the President or Congress. For instance, in 2014, Congress gave the ACHP a 90-day deadline to submit a report on the U.S. Postal Service's compliance with Section 106 for closure and disposal of postal facilities. In light of the tight timeframe, the chairman sought the members' approval through an unassembled meeting to authorize a working group to finalize and submit the report on behalf of the membership.
3. *Section 106 program alternatives.* Not unlike the preceding topic of reports and policy recommendations, Program Comments, Exemptions, and other Section 106 program alternatives occasionally are approved via unassembled meeting. The process is similar, in that substantive discussions may be held at business or Federal Agency Programs Committee meetings, drafts are circulated for review and comment, a teleconference is scheduled prior to the vote for member discussion, and final documents are then approved in an unassembled meeting. This has been particularly useful since

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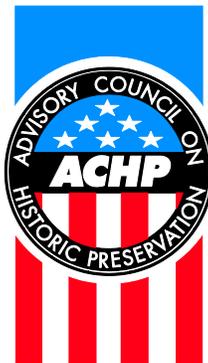
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the ACHP is typically operating under legally imposed deadlines for action, such as its own regulatory requirement that it act within 45 days of a federal agency's submission of a Program Comment, or legislatively set deadlines. Recent examples of program alternatives adopted in unassembled meetings include the Railroad Right-of-Way Program Comment and the amendments to extend the General Services Administration's Program Comment for Select Repairs and Upgrades.

The Issue. Unassembled meetings by their nature limit the ability of the members to discuss issues in a face-to-face meeting context. While views may be shared in writing, the deliberative process may seem constrained, and occasionally members feel they have not had an adequate opportunity to ask questions, hear the viewpoints of others, and engage in debate. In many cases where teleconferences were arranged for members to discuss matters prior to initiating an unassembled vote, participation was low. While efforts are made to compensate for the loss of in-person dialogue (the recent Railroad Right-of-Way Program Comment was the subject of a Federal Agency Programs Committee meeting that was scheduled so all members could participate), they do not always meet the needs of all members.

Action Needed. The members should consider whether there are criteria that might be established for determining when it is appropriate to use the unassembled meeting process. Likewise, consideration should be given to any special steps that might be taken to promote member participation and interaction when an issue is dealt with in an unassembled meeting.

September 19, 2018



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**DEPARTMENT OF VETERANS AFFAIRS PROGRAM COMMENT ON VACANT
AND UNDERUTILIZED PROPERTIES
Office of Federal Agency Programs**

Background. The ACHP received a request from the Department of Veterans Affairs (VA) on August 2, 2018, to issue a Program Comment to address VA's real property actions related to the reduction of vacant and underutilized properties in VA's inventory. The ACHP requested the VA grant an extension of the 45-day regulatory period in which the ACHP is required to respond to VA's request, and the VA has granted this extension until October 4, at which time the matter will be subject to an assembled vote by the ACHP members.

The proposed VA Program Comment establishes efficiencies and an expedited review process for some real property actions related to the transfer of property rights of vacant and underutilized buildings, structures and land, including outleases, exchanges, sales, transfers, conveyances, deconstructions and demolitions, and for certain maintenance and repairs of such properties. The steps proposed in the Program Comment encourage reuse of non-utilitarian historic properties through leasing solicitations and give priority consideration to reuse proposals that incorporate the retention of character-defining features of these properties, while expediting the review process for non-historic properties and historic properties that have been characterized as utilitarian. This Program Comment does not apply to: (1) archaeological properties; or (2) properties of traditional religious and cultural significance to federally recognized Indian tribes or Native Hawaiian organizations; or (3) National Historic Landmarks. The proposed Program Comment reflects input the ACHP provided to VA and incorporates feedback provided to VA during its own public comment period.

Over a 10-month period prior to the formal request, VA consulted with internal stakeholders (e.g. Office of Construction and Facilities Management, Office of Real Property, Office of Asset Enterprise Management, Office of Tribal Government Relations, Office of General Counsel, and National Cemetery Administration), and external stakeholders (e.g. the ACHP, National Conference of State Historic Preservation Officers [NCSHPO], National Association of Tribal Historic Preservation Officers [NATHPO], the National Trust for Historic Preservation [NTHP], seven national Veterans Service Organizations [VSOs], federally recognized Indian tribes, and the public via a *Federal Register* notice that invited comments through May 18, 2018). Additionally, VA presented the concept of its proposed Program Comment at the FAP Committee meeting on August 2.

Subsequent feedback from ACHP staff, NCSHPO, NTHP representatives, and others resulted in VA removing NHLs from being subject to the Program Comment, added further clarity on the definition of utilitarian properties and steps VA would take to consult SHPOs on changes in the eligibility to them, and further flexibility in determining appropriate mitigation.

Current Status. Upon receiving a formal request for a Program Comment, the ACHP has sought feedback from State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), federally recognized Indian tribes, Native Hawaiian organizations, NCSHPO, NATHPO, NTHP, seven

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VSOs (AMVETS, Disabled American Vets, The American Legion, Military Officers Association of America, Paralyzed Veterans of America, Veterans of Foreign Wars, and Vietnam Veterans of America), preservation organizations, and the public. The ACHP published the text of the proposed Program Comment, along with information on how to provide comments, at its VA Program Comment Website at <https://www.achp.gov/VAProgramComment>.

The public review period inviting comments was open from August 23–September 19. Once the public review period closes and prior to the FAP Committee meeting, the ACHP will host a teleconference with ACHP members to summarize feedback from stakeholders and members, answer questions, and discuss any proposed changes to the language of the proposed Program Comment. The ACHP will then circulate the final language proposed for the VA Program Comment to members for their consideration.

Next Steps. A final discussion of the proposed Program Comment will take place at the FAP Committee meeting. This discussion will allow members to seek clarification on and discuss provisions within the final Program Comment presented to them via separate email following the member teleconference and prior to the October business meeting. The matter will then be subject to an assembled vote at the business meeting.

Action Needed. Members should be ready to seek any further clarifications on the Program Comment in the FAP Committee meeting and to vote on the matter during the business meeting.

September 19, 2018



Preserving America's Heritage

**ACHP ISSUANCE OF PROGRAM COMMENT TO EXEMPT EFFECTS TO
RAIL PROPERTIES WITHIN RAIL RIGHTS-OF-WAY
Office of Federal Agency Programs**

Background. On June 25, 2018, the U.S. Department of Transportation (DOT) submitted to the ACHP the final draft Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights of Way. On August 17, 2018, the Program Comment was adopted by the ACHP membership via unassembled meeting with a vote of 13 in favor, five opposed, and one abstaining.

The development and issuance of this Program Comment was carried out in compliance with Section 11504 of the Fixing America's Surface Transportation Act (FAST Act), which required that the ACHP issue an exemption for certain rail and transit rights-of-way. This mandate followed nearly a decade of study and interaction between federal agencies, rail and transit stakeholders, and the preservation community on how to better manage Section 106 responsibilities within rail rights-of-way while preserving important rail history. The FAST Act required the exemption be issued within 180 days of the request being received, and Senate committee staff allowed the ACHP a brief extension on that time period recognizing the complexity of issues involved.

Program Comment Development and Goals. The requirements of the FAST Act and related matters were brought to the attention of ACHP members as early as December 2015, shortly after its passage, including alerting the members of the requirement of Section 11504. ACHP staff further informed and continued to update the members of the status of the DOT's efforts to develop a draft program alternative in accordance with Section 11504 and consult the ACHP and other stakeholders on its development in multiple Federal Agency Programs (FAP) Committee meetings, as well as business meetings, throughout 2016 and 2017. Periodic and at times extensive consultation with DOT and ACHP staff, NCSHPO, NATHPO, and National Trust representatives occurred throughout these periods, as did interaction between many of these parties and Senate committee staff and industry representatives from the American Association of Railroads and American Public Transit Association. DOT submitted the first version of the draft Program Comment to the ACHP on July 29, 2017, and the ACHP requested public comment on the revised draft via *Federal Register* publication in November 2017. At various points in the development of this draft and prior to and after its formal submission to the ACHP, individual State and Tribal Historic Preservation Officers were also consulted.

Key to the development of this Program Comment was the requirement that it be consistent with the Interstate Highway Exemption (IHE) issued by the ACHP in 2005. ACHP staff recognized early on that this requirement would be challenging given the very different levels of federal involvement and ownership in highway rights-of-way when compared to rail and transit corridors. They also recognized the different types of historic properties within each, and the much more active role of applicants within privately owned rail and transit corridors. The ACHP worked with DOT and Senate staff, as well as preservation and industry stakeholders, to develop both lists of exempted activities and procedures for resolving adverse effects to historic properties that were consistent with the IHE. Importantly, the

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Program Comment was designed not to apply on tribal lands, to properties of religious and cultural significance to Indian tribes, or to archaeological properties within undisturbed locations.

The draft Program Comment was provided to the members and other stakeholders first in November 2017 and then again in June 2018, following extensive comment and revisions to the initial draft. Members were provided draft versions of the Program Comment for review in November 2017 and July 2018. They were provided an opportunity to discuss the revised draft via teleconferences on December 7, 2017, and July 20, 2018, as well as during FAP Committee meetings, prior to it being formally presented to them via unassembled meeting.

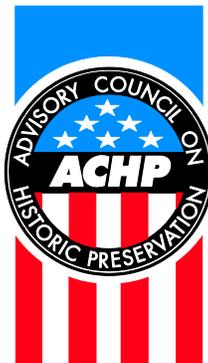
Member Concerns and Discussion. While the Program Comment was issued by the members in August, a number of members shared with staff their concerns principally about the substance of the Program Comment, and in a few circumstances, the process of presenting such measures for action to them via unassembled meeting. These issues include the concern that the role of State and Tribal Historic Preservation Officers and Indian tribes in carrying out the Program Comment will be minimized and that historic properties of religious and cultural significance to Indian tribes would not be adequately considered or protected. (There were also concerns expressed about the consideration of such measures via unassembled meeting where the opportunity for discussion among members is not in person, rather than through regularly scheduled business meetings. This issue is being dealt with elsewhere in the agenda.)

The members will be asked to provide their views on what steps the ACHP might take to address these concerns during the implementation of the Program Comment. These views will inform ACHP staff participation in the development of implementing guidance required by Section IV of the Program Comment, which requires that DOT publish guidance within nine months of the adoption of the Program Comment that provides further detail on the identification and evaluation of excluded historic rail properties. Section IV also specifies that the property-based element of the Program Comment will only go into effect once DOT publishes this guidance. The ACHP will therefore have an important opportunity to provide further advice to DOT as it develops this guidance on how it might address the concerns of the members, including, for example, ways in which greater collaboration between applicants and SHPOs and Indian tribes might be encouraged.

Staff will also provide an overview of the draft Q&A guidance it is developing to address basic questions that stakeholders and the public may have about the Program Comment and its implementation, and seek input from committee members on how this guidance might clarify certain issues of concern to them.

Next Steps. FAP and Native American Affairs Committee members will be asked for their input on the issues noted above and offer recommendations for the business meeting discussion, where the full membership will have the opportunity to address this issue.

September 19, 2018



Preserving America's Heritage

INFRASTRUCTURE PROJECTS AND SECTION 106 REVIEWS WORKING GROUP Office of Federal Agency Programs

Introduction. Recognizing the importance that improving the federal permitting process for infrastructure projects holds as a priority for the Administration, the ACHP convened a Working Group on Infrastructure Projects and Section 106 Reviews in December 2017. The objective of this effort is to engage industry representatives, beginning with the energy transmission sector, in a collaborative process of identifying and resolving challenges in carrying out reviews required under Section 106 for federal or federally assisted, licensed, or permitted projects. The working group's task is to assess the challenges facing parties in the historic preservation review process and develop constructive solutions that can be implemented in the near term through actions that do not require formal regulatory or legislative action.

The ACHP's experience with Section 106 reviews of infrastructure projects shows that those planned and carried out by non-federal sponsors present challenges often quite different from actions financially assisted or directly conducted by federal agencies. However, the Section 106 process offers opportunities to improve the interaction between private sector project proponents, stakeholders, preservation review bodies, and federal permitting agencies. Thus, the working group is comprised of representatives of industry, State and Tribal Historic Preservation Offices, a tribal government, cultural resource consultants, and practitioners who deal with the federal permitting process and its intersection with Section 106, along with ACHP management and leadership.

The initial meeting was hosted by the Colorado School of Mines in Golden, Colorado. During that meeting, participants identified both challenges confronted by participants in the Section 106 process and potential pathways to solutions. Participants collaborated with ACHP staff in developing a plan of action based on the issues identified during the initial meeting that was finalized in March.

While work will continue through 2018, some objectives in the plan have been achieved or are currently underway, such as:

- Issuance of [Frequently Asked Questions about Lead Federal Agencies in Section 106 Review](#) in June 2018, which also addresses the relationship between lead agencies for National Environmental Policy Act (NEPA) reviews under the One Federal Decision policy and Section 106 review coordination.
- Following up on working group interest in how the Federal Energy Regulatory Commission's (FERC's) interstate gas pipeline certificate review procedures align with Section 106 by developing comments in response to a FERC-issued Notice of Inquiry this summer. The ACHP offered recommendations about enhancing guidance for early coordination with Indian tribes, involving all appropriate consulting parties, and using Programmatic Agreements (PAs) to avoid the necessity that pipeline applicants carry out subsequent rounds of review for operations and maintenance activities. ACHP staff are reaching out to FERC to offer technical assistance in implementing program improvements in areas where FERC sees a mutual priority.

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- Collaboration with Federal Permitting Improvement Steering Council (Permitting Council) partners, including the Department of Housing and Urban Development (HUD), to advance the Permitting Council's FY18 best practice related to making a government-wide tribal contact information system available. The ACHP and HUD have provided an analysis and recommendations about how HUD's Tribal Directory Assistance Tool (TDAT) could be adapted to this purpose, and Permitting Council members will weigh in this fall.
- Exploring methods to reduce review burdens, increase consistency of Section 106 reviews and focus compliance effort on activities with the greatest likelihood of affecting historic properties, such as through publicizing recent Program Comments and nationwide Programmatic Agreements that address specific concerns in infrastructure sectors like surface transportation, utilities, and telecommunications.

ACHP staff continues its work with the working group toward achieving the goals set in the plan of action, and a number of other activities are underway or anticipated in the near term. These include the following:

- Gathering and publicizing examples of successful PAs to illustrate how this program alternative can be used to address project-specific or program-level infrastructure project planning.
- Developing training and guidance for federal agencies on early coordination with Indian tribes.
- Working with preservation partners to bring focused attention to the value digital resources like historic properties databases and platforms for Section 106 review bring to infrastructure project planning and to explore means of enhancing access and interoperability. This is closely related to one of the recommendations in the 2018 Section 3 report.
- Addressing regulatory conflicts with the U.S. Army Corps of Engineers' Appendix C at the policy level once a new ACHP chairman is confirmed.

ACHP staff provides quarterly, or more frequent, updates to the working group members to invite their feedback on specific issues and activities. On September 7, Blythe Semmer of the Office of Federal Agency Programs spoke at the American Cultural Resources Association (ACRA) conference to provide an overview and update of the working group's efforts and to receive any feedback from cultural resources consultants, a key working group constituency, on what direction the ACHP's efforts on this initiative should take in the coming months.

Action Needed. Members are encouraged to offer their perspective on the working group's direction in general as well as on specific goals identified in the working group's plan of action, which was included in the August 2018 meeting book materials. The ACHP staff seeks input on points such as:

1. What objectives should be prioritized in the ACHP's work with infrastructure projects and Section 106 review at this time?
2. Should the working group initiative be expanded to include other infrastructure sectors beyond energy transmission or other members?
3. Where and how should the ACHP engage the working group members more actively in pursuing goals mentioned in the plan of action, or in assisting the ACHP in other work related to infrastructure project planning and permitting? Would other agency-specific or program-specific concerns about Section 106 reviews for infrastructure projects benefit from working group involvement or collaboration?

Attachment. Improving the Efficiency of Infrastructure Project Section 106 Reviews

September 19, 2018



Preserving America's Heritage

IMPROVING THE EFFICIENCY OF INFRASTRUCTURE PROJECT SECTION 106 REVIEWS

The Advisory Council on Historic Preservation (ACHP) is demonstrating how to use existing regulatory authorities to tailor historic preservation reviews conducted under the National Historic Preservation Act to suit accelerated permitting processes, better coordinate with the National Environmental Policy Act (NEPA), and reduce the likelihood of delays.

The ACHP has long been involved in initiatives to advance certain infrastructure sectors and in reforming environmental reviews, but attention to such efforts has dramatically increased over the last year. During 2017-2018, the ACHP has actively coordinated with a wide range of other federal agencies and the Administration regarding environmental reviews for infrastructure projects as modernizing the nation's infrastructure has emerged as a focus of federal agency project planning.

This coordination has supported the development of more efficient environmental review processes for large-scale infrastructure projects in accordance with the requirements of Title 41 of the Fixing America's Surface Transportation (FAST) Act and the One Federal Decision (OFD) policy instituted through Executive Order 13807, "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure." The ACHP staff has also been working on tailored solutions to improve the efficiency of Section 106 reviews for specific infrastructure sectors, particularly communications, transportation, and rural utilities.

At the beginning of this Administration, the ACHP responded to the exploration of policy and legislative changes aimed at making the permitting and environmental review process, including Section 106, for infrastructure projects more efficient. The ACHP demonstrated that a range of options inherent in the Section 106 regulations ("Protection of Historic Properties," 36 CFR Part 800) make statutory interventions unnecessary, as they provide a more rapid path to efficiency improvements than the legislative process. Using the flexibility of the regulations has the added advantage of being familiar to preservation stakeholders and ensuring the consideration of important historic preservation values. Regulatory solutions can be tailored on the most appropriate scale, whether multi-agency or nationwide, agency-wide, or for a specific state or region, retaining federal agencies' ability to pinpoint changes that would be most useful to their programs without upending agency procedures that are already working efficiently.

Defining lead agency roles and responsibilities

The emphasis the FAST-41 process and OFD policy place on lead agency coordination and the development of permitting timetables engender questions about how they may also affect Section 106 review coordination for large-scale infrastructure undertakings. The ACHP finalized new [frequently asked questions](#) on lead agencies in the Section 106 review process in June 2018. Delivery of the guidance completes one of the ACHP's commitments in the implementation plan required by the [interagency MOU](#) for the One Federal Decision policy of EO 13807. While the information about roles and responsibilities of lead agencies is applicable to any Section 106 review scenario, the timing of the release of the guidance allowed the ACHP to help agencies more fully realize potential efficiencies of the

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OFD policy for major infrastructure projects by coordinating their Section 106 process along similar lines of responsibility as other environmental reviews, including those for NEPA.

Making strategic use of Section 106 program alternatives to speed infrastructure delivery

The ACHP has recently partnered with federal agencies to develop a group of program alternatives (see 36 CFR 800.14) with relevance to the infrastructure sector that expand on established ACHP efforts to speed the delivery of telecommunications and transportation projects.

As mandated by Section 11504 of the FAST Act of 2015, the ACHP worked with the Department of Transportation (DOT) to develop a **Program Comment providing an exemption from Section 106 review within rail and transit rights-of-way**. Following extensive coordination with preservation stakeholders, industry, and congressional staff, the ACHP voted to approve a final [Program Comment](#) in August 2018. The approach exempts from Section 106 review certain routine maintenance, repair, and upgrade activities within rail right-of-way that have little or no potential to adversely affect historic properties. It also allows railroads and rail transit systems to proactively identify important historic properties within certain areas of their right-of-way to which the Program Comment should not apply. Effects to other historic rail properties in those areas could then proceed without further review. Issuance of the Program Comment marks resolution of a specific and longstanding concern with routine infrastructure maintenance and, when taken with the 2005 Section 106 [exemption for effects to the Interstate Highway System](#), the 2012 [Program Comment for Actions Affecting Post-1945 Concrete and Steel Bridges](#), and the prevalence of state-based Programmatic Agreements (PAs) for Federal Highway Administration (FHWA)-funded activities, streamlines historic preservation review activities for a large portion of the nation's surface transportation system.

In the telecommunications sector, the ACHP has worked with the Federal Communications Commission (FCC) and other federal agencies for many years to make the deployment of communications and broadband infrastructure more efficient. Beginning with two Nationwide Programmatic Agreements (nPAs) for FCC-approved communications facilities and cell tower co-locations in 2001, and continuing with a [Program Comment](#) (2009, 2015) and [Nationwide Programmatic Agreement](#) (2009) that helped speed the delivery of broadband to underserved areas through grant and loan programs established under the Recovery Act, the development of program alternatives have eliminated duplicative review processes. Most recently, the ACHP issued a [Program Comment for Communications Projects on Federal Land and Property](#) (2017) that extends the strategy of streamlined review procedures in place on non-federal land to locations where a communications facility crosses federal property. The sum of these Section 106 program alternatives is a review paradigm for telecommunications and broadband that recognizes the central role non-federal applicants play in deploying this infrastructure by allowing them to carry out many of the steps in the Section 106 review process with structured oversight from federal permitting and licensing agencies.

A new Nationwide Programmatic Agreement further resolves procedural challenges inherent in a major funding source for rural broadband expansion as well as other infrastructure project types. On July 3, 2018, the ACHP executed a [Nationwide Programmatic Agreement with the USDA Rural Utilities Service \(RUS\) and NCSHPO for the Sequencing of Section 106 for Rural Development Programs](#). The nPA covers loans and grants offered through programs supporting water and wastewater treatment, electric power, and broadband, among other things. It addresses specific timing issues that have complicated Rural Development's (RD's) ability to obligate funds by allowing the agency to approve financial assistance for undertakings prior to the completion of a Section 106 review with the clarification that RD retains the authority to reverse funding commitments should the agency conclude, through Section 106 consultation, that to be necessary. Under the terms of the agreement, RD agencies will develop appendices for each of the loan or grant programs that outline exemptions, consulting parties, and protocols for addressing the effects of routine activities. The nPA also provides for tribal consultation protocols that may be negotiated with Indian tribes.

These new program alternatives join a group of other established solutions that have increased the efficiency of Section 106 reviews in a variety of infrastructure sectors, including the [Bureau of Land Management's nPA](#), the [historic natural gas pipelines exemption](#), and a [Program Comment for Positive Train Control](#). The ACHP is actively highlighting the utility of Section 106 program alternatives to federal agencies and preservation stakeholders and is developing additional materials to help federal agencies decide which tools might best meet their needs.

Addressing impediments to effective tribal consultation

The ACHP reported on [Improving Tribal Consultation in Infrastructure Projects](#) in May 2017. Among the agency's findings were that Indian tribes should be consulted earlier in the project planning process so alternatives that might avoid effects to properties about which tribes are concerned might be considered, thereby reducing the likelihood of delays later should properties of tribal significance be overlooked in siting decisions. Tribes also registered concerns about receiving notice of and invitations to consult about projects in areas where properties of significance to them may be located, however distant those may be from where the tribe currently resides.

The ACHP has advocated for creation of a government-wide database that would provide contact information to federal agency officials about which tribes may have an interest in consulting as part of the Section 106 review for an undertaking. That initiative took a step forward this summer with the involvement of the Federal Permitting Improvement Steering Council (Permitting Council). The Permitting Council included as a best practice the establishment of a government-wide contact database for Indian tribes based on their geographic areas of interest in its FY2018 report on permitting best practices. ACHP and the Department of Housing and Urban Development (HUD), both members of the Permitting Council, recently collaborated in developing information for the Permitting Council's consideration about how HUD's Tribal Directory Assistance Tool (TDAT) might serve as such a government-wide resource. Reaction from the Permitting Council's working group has been positive, and the ACHP is working with the Permitting Council on steps to advance a more specific proposal to bring this goal to fruition. In this effort and in other venues this year, the ACHP has promoted the availability of TDAT to all federal agencies as a free, easy-to-use tool to support agencies' early and meaningful involvement of Indian tribes in project planning.

Other challenges to meaningful tribal participation in infrastructure project planning and siting revolve around questions of government-to-government consultation and how applicants for federal permits, licenses, grants, or other assistance coordinate with Indian tribes in early project planning circumstances where the federal agency official may be only indirectly involved. The ACHP's Office of Native American Affairs is working on guidance for federal agencies on early coordination with Indian tribes expected to be finalized in late 2018.

Engaging industry and other Section 106 stakeholders in defining priorities

The ACHP is engaging industry representatives, beginning with the energy transmission sector, in a collaborative process of identifying and resolving challenges in carrying out reviews required under Section 106 for federal or federally-assisted, licensed, or permitted projects. This effort recognizes that infrastructure projects planned and carried out by non-federal sponsors pose different challenges from those carried out directly by federal agencies.

The ACHP convened a working group in December 2017 to help improve the interaction among private sector project proponents and their cultural resource consultants, stakeholders, preservation review bodies, and federal permitting agencies. The working group's task is to assess the challenges facing the parties in the historic preservation review process and develop constructive solutions that can be implemented in the near term. The Working Group on Infrastructure Projects and Section 106 Reviews is comprised of representatives of industry, a state and a tribal historic preservation office, a tribal government, cultural resource consultants, and practitioners who deal with the federal permitting process

and its intersection with Section 106, along with ACHP management and leadership. Participants refined a plan of action that is informing the ACHP's work with infrastructure issues in 2018. The ACHP is involving federal permitting agencies and other partners as the working group explores specific improvement strategies.

Improving interagency coordination

The ACHP serves as a member of the **Permitting Council**, created by Title 41 of the FAST Act. Among other duties, the Permitting Council plays a key role in implementing the FAST-41 review process for certain major infrastructure projects. ACHP staff participate regularly in conversations with staff of the Permitting Council and other agencies to resolve questions about reconciling Section 106 review requirements with other federal authorizations and timelines for specific FAST-41 covered projects. The early interagency coordination central to the FAST-41 process offers the ACHP an opportunity to provide direct input into agency review plans and timelines at an early stage of project planning. The Office of Federal Agency Programs is also working with other Permitting Council member agencies to improve the information and tools available to federal agencies carrying out environmental reviews, including Section 106, for covered projects. As a member, the ACHP contributes to the Permitting Council's yearly publication of a report on permitting best practices.

As a signatory to the One Federal Decision MOU, the ACHP also serves as a member of the **E.O. 13807 working group** charged with operationalizing the OFD policy across federal environmental permit and authorization decisions. These two federal interagency working groups have offered the ACHP the opportunity to share information about Section 106 efficiencies and best practices as well as to learn from the experiences of fellow agencies.

The ACHP has also worked with individual federal agencies, including the Federal Energy Regulatory Commission (FERC) and the U.S. Army Corps of Engineers, in a technical assistance capacity to address Section 106 concerns for infrastructure project reviews and agency-specific opportunities for programmatic approaches or enhanced guidance to applicants. For example, the ACHP recently responded to FERC's Notice of Inquiry on interstate gas pipeline certification procedures to offer recommendations about how FERC could further improve the effectiveness and efficiency of its Section 106 review procedures. The ACHP will offer staff assistance in developing such improvements where FERC sees a mutual priority.

Aligning Section 106 and NEPA

The White House Council on Environmental Quality (CEQ) and the ACHP released [*NEPA and NHPA: A Handbook for Integrating NEPA and Section 106*](#) in 2013. The Handbook is designed to help coordinate required review processes under the National Historic Preservation Act and NEPA. It can help federal agencies significantly improve the coordination of their environmental reviews by offering practical advice to practitioners and stakeholders on two approaches to integrating NEPA and Section 106. The ACHP has augmented the Handbook with a suite of online courses that illustrate its principles with case examples and application exercises.

Fortunately, the regulatory tools and guidance available to federal agencies carrying out infrastructure projects afford a range of approaches to making the Section 106 review process work efficiently, effectively, and in harmony with other environmental reviews. The ACHP staff, as a technical resource, is committed to helping agencies leverage these flexibilities to the maximum benefit of the American people through prompt delivery of infrastructure development that takes into account community heritage concerns.



Preserving America's Heritage

**POLICY DIRECTION FOR ACHP COMMENTS
TO CONGRESS ON SITE-SPECIFIC LEGISLATION
Office of Preservation Initiatives**

Background. When tracking pending legislation and providing advice to Congress on selected bills, the ACHP generally follows an unwritten policy of not addressing site-specific legislation. Rather, the focus has been on bills with national implications for preserving historic properties. Examples include legislation involving appropriations, the Section 106 process, the Historic Tax Credit, transportation policy, the National Register of Historic Places, National Monuments, and new preservation vehicles such as the U.S. Civil Rights Network. However, there have been occasions where the ACHP has commented on site-specific bills that have broader implications for historic property preservation. Since the ACHP has been more active in recent years in advising Congress, it would be useful for the members to provide guidance regarding ACHP involvement in site-specific legislation.

Challenges. There are two principal concerns related to the ACHP addressing site-specific bills involving historic properties. The first is the sheer volume of such bills. For example, there currently are 16 bills before Congress regarding the study, establishment, reauthorization, or amendment of specific National Heritage Areas and six bills concerning National Historic Trails. There also are numerous site-specific public land management bills that include provisions addressing preservation of cultural resources.

The second concern is lack of localized knowledge and insight. Unless the ACHP has learned about the relevant area and resources through Section 106 review or other direct involvement, there is the prospect of basing its advice to Congress on incorrect assumptions. This could result in inadvertently overlooking controversial situations or relying on faulty second-hand information, undermining both the ACHP's goal with the comments and its reputation as a credible source. This is far less likely to happen with bills addressing national policy or a nationwide range of resources.

Opportunities. Despite the problematic issues discussed above, the following scenarios—with examples—demonstrate where ACHP advice to Congress on site-specific legislation can be appropriate.

- **The bill addresses a highly significant historic property.** In 2012 and 2014, the ACHP wrote to Congress in support of legislation to create the Manhattan Project National Historical Park. The properties associated with the Manhattan Project rank among the most significant historic resources of the last century and give testimony to America's achievement in bringing World War II to a close and ushering in the nuclear era. In this case, the ACHP also had extensive, first-hand knowledge of the properties, having participated in an interagency partnership with the Department of Energy studying preservation of the resources and actually recommending the creation of the park in a special report.

An example of currently pending legislation addressing a highly significant historic property is the Chaco Cultural Heritage Area Protection Act (S. 2907). The bill would prevent energy leasing or development on federal land around Chaco Culture National Historical Park. The park is on the

UNESCO World Heritage List as part of the Chaco Culture World Heritage Site, which includes elements of a vast pre-Columbian cultural complex. The ACHP is familiar with the park and its management issues through lengthy involvement in Section 106 reviews.

- **The bill is site-specific but also addresses a broader range of historic properties or advances an innovative preservation strategy.** On August 20, the ACHP wrote to Congress in support of the pending Golden Spike 150th Anniversary Act (S. 2831/H.R.5751). While portions of the bill concern management of the Golden Spike National Historic Site, the bill also would establish the Transcontinental Railroad Network. The Network would consist of National Park Service (NPS) units and programs that relate to the Transcontinental Railroad and other relevant federal, state, local, and privately owned properties that wish to participate. NPS would provide promotion, interpretation, and technical assistance for the Network. Thus, the bill could help to promote the preservation of historic properties along the 1,912-mile Transcontinental Railroad corridor as well as possibly other sites. Likewise, the concept of a network of non-federally owned sites offers a technique for building public-private partnerships without imposing budgetary and management burdens on the NPS.

Similarly, in 2015, the ACHP wrote to Congress in support of the Los Angeles Homeless Veterans Leasing Act (S. 2013/H.R. 3484). The bill proposed expanding the ability of the Department of Veterans Affairs (VA) to lease properties at its historic West Los Angeles Campus for uses beyond the already authorized use of supportive housing for veterans at risk of homelessness. Through its work with VA under Section 106, the ACHP was well aware of the challenges VA faces in managing about 2,000 historic buildings and landscapes, including a number of National Historic Landmarks. The bill offered an opportunity for the ACHP not only to support expanded leasing in Los Angeles but also to recommend that Congress consider expansion of leasing authority at all VA facilities so VA's many historic properties might potentially benefit.

- **The bill could advance an established ACHP policy goal.** The ACHP has been pursuing the theme of building a more inclusive historic preservation program for a number of years. Occasionally there are bills introduced that would promote the preservation of sites associated with diverse and underrepresented communities. Examples of currently pending legislation that would advance this goal include the Medgar Evers Home National Monument Act (S. 2889/H.R. 4895) and the Camp Nelson Heritage National Monument Act (S. 3287/H.R. 5655). The Medgar Evers home was the residence and site of the assassination of the African American civil rights leader. Camp Nelson, an important Union supply depot and training center during the Civil War, was one of the largest recruiting, mustering, and training centers for African American troops. Designating these sites as National Monuments would further the policy of according federal recognition to a more inclusive and representative range of historic properties.
- **The bill would set a damaging precedent for treatment of historic properties.** In January, the ACHP provided a statement for the record advising Congress against passage of the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532). The bill would nullify the 2016 Presidential proclamation that established the Bears Ears National Monument and establish two smaller National Monuments in its stead. Noting that Congress has never, in the over century-long history of the Antiquities Act, exercised its power to vacate a Presidential designation of a National Monument, the ACHP advised against setting such a precedent.

Action Needed. The Preservation Initiatives Committee should discuss when it is appropriate for the ACHP to comment on site-specific legislation and consider advancing recommendations to the full membership for possible action.