

[External] Support the "Proposed Program Comment on Accessible, Climate-Resilient, Connected Communities"

Allan Massie <abmassie@verizon.net>

Fri 06-Sep-24 7:58 AM

To:Program Alternatives <program_alternatives@achp.gov>

I was very glad to read about the "Proposed Program Comment on Accessible, Climate-Resilient, Connected Communities" and I strongly encourage the AHCP to adopt it in its current form.

We have a housing crisis. Also, these days more and more people want to live in dense communities, connected by high-quality transit; this could spur all kinds of economic growth, but not if we make it hard where people can't afford where they want to.

Too often, historical preservation rules make it hard to maintain and adapt existing buildings, while adding only marginal historical benefit. Also, there are way too many barriers to building new transportation infrastructure like rail lines (light and heavy), road modifications, bikeways, and walking paths. All that is bad!

The proposal sounds like it will make it easier to build new stuff to make our communities nicer to live and work in. In the long run, the best bet for historical preservation is if people can continue to enjoy and actively use our historic buildings as our society grows and changes.

-Allan Massie

[External] Proposed Program Comment on Accessible, Climate-Resilient, Connected Communities

basil fraysse <bfraysse@gmail.com>

Fri 06-Sep-24 9:22 AM

To:Program Alternatives <program_alternatives@achp.gov>

Sharing my comment, this sounds great! More houses please! As a renter living in an urban area, buying a home is basically impossible. It shouldn't be that way and historic preservation review is part of the matrix of issues. Keep going!

Best,
Basil fraysse
Oakland CA

[External]

Ben Helzner <bhelzner@gmail.com>

Fri 06-Sep-24 8:11 AM

To:Program Alternatives <program_alternatives@achp.gov>

Keep up the good work! Streamlining regulations on housing and infrastructure is incredibly important!

[External] Comment on Proposed Program on Accessible, Climate-Resilient, Connected Communities

Benjamin Recchie <brecchie@gmail.com>

Fri 06-Sep-24 1:59 PM

To:Program Alternatives <program_alternatives@achp.gov>

9\6\24

I am in favor of the proposed rule change to provide federal agencies with an alternate way to comply with their responsibilities under Section 106 of the National Historic Preservation Act. Housing and climate change are both critical issues for our country; it is imperative that our need to address one do not run afoul of our need to address the other.

Thanks,

Benjamin Recchie
Chicago, IL

Bradford J. White
BradfordJWhite36@gmail.com

August 9, 2024

Advisory Council on Historic Preservation
Office of Federal Programs
401 F Street, Suite 308
Washington, D.C. 20001
Via: Email

**Re: Draft Program Comment on Accessible,
Climate-Resilient, and Connected Communities**

To Whom it May Concern:

Overall, the above-referenced draft Program Comment is a welcome addition to the limited tools available to create efficient and effective processes to increase accessibility, climate resilience, alternative transportation improvements, and the availability of housing while limiting impacts on historic and cultural resources. As a former general public member of the Advisory Council on Historic Preservation (ACHP), I am somewhat wary of Program Comments and Programmatic Agreements that remove undertakings from the Section 106 process thereby eliminating or severely limiting any opportunity for public participation. In addition, the heavy burden of monitoring undertakings subject to these agreements to ensure they are properly implemented falls on the ACHP, which has a small staff and already has potential responsibility of hundreds of Section 106 cases annually. However, these concerns are outweighed by the need to expedite climate resiliency and the creation of housing.

This thoughtful approach limits potential negative impacts on historic resources and provides that climate resiliency and housing projects that would take months for approval under Section 106 can be expedited. Other comments are as follows:

- Section X, B. Annual Meetings: There is no provision for public participation in the annual meetings. This should be changed to provide an opportunity for public comment during the annual meetings. Alternatively, a process should be developed to provide for public comment on an annual basis about how the Program Comment is working. Public concerns compiled as part of the public comment process could be addressed at the annual meetings of federal agencies, Indian Tribes, state historic preservation officers, Tribal historic preservation officers, and Native Hawaiian Organizations.
- Definition of Primary Space: I am concerned that the definition of primary space will be inconsistently and/or inappropriately applied due to the incentives to avoid the Section 106 process.
- Qualified Authority: Historically, there has been a tendency by federal agencies and state historic preservation offices to find “qualified” experts that are nothing more than a “hired

gun” advocating for the project. How will the Program Comment ensure that the qualified authority takes a reasoned approach to the issues under review?

- The potential positive message the Program Comment will send to landmarks commissions and practitioners at the local level is exciting. For example, in many instances landmarks commissions have been handling the installation of solar panels very gingerly. The Program Comment should send the message that solar panels if properly installed, even visible from the street, are appropriate on a historic houses and other buildings and buildings within historic districts. The Program Comment also gives wide latitude for changes to interior building spaces. This should send a strong message to the National Park Service and state historic preservation offices, as well as local commissions, about how interiors should be handled.

I applaud the ACHP for taking the important step to promote climate resilience, housing, and climate-friendly transportation-related activities. Please do not hesitate to contact me with any questions. I look forward to the implementation of the Program Comment in the not-too-distant future.

Sincerely,



Bradford J. White



[External] comment on "Proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities"

From Christopher S Elmendorf <cselmendorf@ucdavis.edu>

Date Tue 08-Oct-24 4:55 PM

To Program Alternatives <program_alternatives@achp.gov>

To Whom It May Concern—

I am writing in my personal capacity to comment on the above-mentioned comment.

I applaud this effort to streamline Section 106 consultations through the identification of actions that will not significantly impair a historical resource. This is an important undertaking, akin to the formulation of categorical exclusions under NEPA.

I would encourage ACHP to consider the following options for strengthening the Program Comment:

- 1) expand the exemption from further Section 106 review to the entirety of the interior of residential buildings (rather than limiting the Program Comment to individual housing units);
- 2) apply similar conditions to buildings and elements that are greater than 45 years old as those that are applied to buildings and elements that are less than 45 years old;
- 3) expand the exemption from further Section 106 review to projects that reduce the energy use and greenhouse gas emissions of buildings (such as solar energy systems) even if those projects result in modest changes in appearance from the primary right-of-way;
- 4) determine that the demolition or substantial alternation of a property that is historic not because of its physical appearance, but rather because a historical personage lived in the building or participated in historically significant events in the building, is not significantly adverse so long as the person or event is memorialized with a publicly visible plaque at the site.

It is important to recognize that this Program Comment will affect not only federal action actions, but also **all** housing, clean energy, and transportation projects in states such as California that have incorporated federal historic preservation standards into state law. In California, this incorporation occurred through the California Environmental Quality Act. NIMBY groups and hostile city councils frequently use CEQA litigation—or the threat of CEQA litigation—to derail infill housing projects. The uncertainties of historical reviews (might a famous person once have frequented this property?) make it hard for housing developers to figure out *ex ante* whether an otherwise attractive site can be developed without a long-winded slog through historical resource studies and disputes over the adequacy of proposed mitigation.

Finally, I would like to encourage the Secretary of Interior to update the Section 106 standards in line with this Program Comment and [this excellent recent ACHP report](#).

Regards,

Chris Elmendorf

Christopher S. Elmendorf
Martin Luther King, Jr. Professor of Law, UC Davis
Nonresident Senior Fellow, Institute for Progress

[External] Program Comment on Accessible, Climate-Resilient, Connected Communities

Douglas Meyers <doug.meyers94@gmail.com>

Mon 16-Sep-24 10:29 AM

To:Program Alternatives <program_alternatives@achp.gov>

I am very supportive of this policy!

[External] Comment on draft Program Comment

Hamza Nishtar <hn239@georgetown.edu>

Tue 17-Sep-24 12:57 PM

To: Program Alternatives <program_alternatives@achp.gov>

Hello,

The proposed *Program Comment on Accessible, Climate-Resilient, Connected Communities* specifies that the installation of heat pumps and heat exchangers does not require further Section 106 review when conducted in the interior of buildings/homes, subject to certain restrictions.

Heat pumps include an outdoor component as well as an indoor component. **In the final program comment, please specify if installation of the outdoor component of heat pumps is also exempt from further Section 106 review.**

Sincerely,
Hamza Nishtar



[External] Program Comment Comments

From Ira Beckerman <ibeckerman@icloud.com>

Date Fri 27-Sep-24 2:12 PM

To Program Alternatives <program_alternatives@achp.gov>

I recently read through the August 8th **Draft Program Comment on Accessible, Climate-Resilient, and Connected Communities**, issued by the Advisory Council on Historic Preservation. This was prompted by comments provided by the National Conference of State Historic Preservation Officers' comments, the Society for American Archaeology's comments, and the comments from the Washington State Historic Preservation Office. There is no need to recapitulate the main arguments of NCSHPO or SAA, that the Advisory Council may have exceeded its authority in issuing these Program Comments. I am neither a regulatory attorney nor a Federal judge, so I leave those arguments to those better informed. That being said, there are additional reasons why the Advisory Council should withdraw this draft and rethink its approach.

Does the Program Comment or Programmatic Agreement Take Precedent?

The "integration" with pre-existing program comments and programmatic agreements invites confusion. Take **Appendix C-1.4 Work on Bridges**. The Pennsylvania FHWA programmatic agreement covered this work in approximately the same manner with approximately the same result (no further 106 review), but would the Program Comment or the State Programmatic Agreement take precedent?

Under **II. Scope, C. Effect on Existing Agreements**, a federal agency, in this case FHWA, has a choice to use existing 106 PA's or this Program Comment. It is not clear that this applies to all related undertakings or just the one project activity. The federal agency could terminate the PA and follow the Program Comment or amend the existing PA. Choice is good, right? These decisions will be made by managers, not experts in the dark arts of Section 106. Depending on how this is marketed to federal agencies, at the worst it will result in loss of precise tools for handling these minor projects that had the buy-in of the SHPO and other consulting parties (including tribes). At the best, it will result in extended internal discussions between managers and practitioners over why the Advisory Council would be selling the federal agency a bill of goods. In the credibility racket this is a zero-sum game that benefits no one.

This is an anticipated result in each of the FHWA Divisions, leading to a patchwork of processes nationwide, not exactly the unifying intent of this draft Program Comment. If there is one good thing to come out of this draft Program Comment, it might be a nudge to FHWA Divisions to execute effective programmatic agreements for minor activities, if none exists.

Archaeological Resources under our Feet

The authors of the Program Comment don't really seem to understand how ground disturbance works. This was alluded to in the other previously referenced comment responses, but deserves a bit more here. In definitions, neither previously disturbed ground nor previously disturbed right-of-way seems to take into account situations within urban areas where there is a wealth of archaeological context right below the pavement. As most archaeologists (qualified professionals, if you will) will tell you, relying on as-built drawings and plans for whether there are archaeological deposits right below the pavement is

the surest and fastest way to perdition, if not unanticipated discoveries and delays – something these Program Comments wish to avoid.

In my previous life, working at a state DOT (Pennsylvania), we had an effective programmatic agreement that had an entire section devoted to activities that were unlikely to affect historic resources. We were able to exempt them with the stroke of a pen, actually many strokes of many pens. That authority was placed in the hands of qualified professionals who had the education, training, and experience to check on the context as to whether potential archaeological resources could be present and whether that concern warranted further investigation. They were rarely wrong, something that expertise confers on someone. In addition, the exemptions made by staff were posted to the publicly accessible Project 106 PATH website in near real time. Errors could be caught quickly and long before consequences. The SHPO had the authority to raise any concern on any project at any time for any reason. Again, this rarely happened. As noted by others, these safeguards did not seem to be in the draft Program Comment.

Alienating your Allies

One final point. Let's all agree that the goals of the ACHP's Program Comment are admirable, that they wish to use the flexibility within Section 106 to streamline the process and at least not to be in the way of presumably virtuous projects. Furthermore, let's for the moment agree that what the ACHP is proposing is perfectly legal and would pass judicial scrutiny. This still leaves a bitter taste in the mouths of state historic preservation officers and the archaeological community over process. Section 106 is a process law, not a substance law. Process reigns supreme, not results. You have an entire community of state SHPO's who have fully committed their lives and sacred honor to that process. (There's no fortune to be sacrificed here. Parents tell your children before they pick a major.) As a group, they are process nerds and as fully expert a collection of practitioners as you are going to find. They are the ACHP's natural allies, the one group that can back the Council with full authority within each of their jurisdictions, all 50 of them and territories. And the Council has in one draft document, pulled the rug out from under them. They will not say this publicly. I am not a SHPO, though, and I say they have been disrespected in the one arena they care about most - process.

Archaeology and archaeologists are also treated as an afterthought, something archaeologists are used to, but more often from project managers. This is another group that is a natural ally of the ACHP and although the SAA has come out currently as the main archaeological group to speak to the draft Program Comment, others are likely to follow. I also detect the underlying metallic taste in their mouths. Why would the ACHP alienate two of the most important allies it has? As my late mother would say, "Beats me, Lieutenant."

As alluded to in other comments, state programmatic agreements seem the best tool to streamline Section 106 for these minor activities. The two main agencies that seem involved in the list of activities in the draft Program Comment are FHWA and HUD. Maybe FEMA as well although the focus is buildings and transportation, not recovery. Should FHWA be interested, it could work with ACHP to develop a specific template that could be shopped to each state FHWA Division, or execute an agency-wide programmatic agreement. Given FHWA's traditional deference to state divisions, I think the former is more practical. With the support of FHWA and ACHP, needed state PA's could be executed in approximately a year, faster than most PA's. I am less familiar with the modus operandi of HUD, but a template PA could also be useful. State SHPO's and other stakeholders would be the drivers of these agreements. Streamlining 106 could be achieved, and the ACHP could start putting the toothpaste back into the tube.

Ira Beckerman, PhD, RPA
500 9th Street

9/27/24, 5:12 PM

Mail - Jaime Loichinger - Outlook

New Cumberland, PA 17070
717-798-0298

[External] Proposed program comment on "Accessible, Climate-Resilient, Connected Communities"

Jacob Manaker <jmanaker98@gmail.com>

Sun 15-Sep-24 7:16 PM

To: Program Alternatives <program_alternatives@achp.gov>

Dear American Council on Historic Preservation (ACHP),

I would like to congratulate you on what appears to be an extremely well-thought-out program comment that will effectuate the American people's desire to see the continuance of our historic structures for the foreseeable future. As an American citizen, I strongly hope that you do enact the program comment without substantial changes from the draft dated 8/8/2024.

If you do decide to make changes, I have the following opinions on what direction the changes should be towards.

Growing up in eastern Pennsylvania, I have long been surrounded by historic structures. Having returned as an adult, I currently live not half a mile from a house that dates to the mid-18th century. When my family vacations abroad, we spend the majority of our time visiting archeological sites. These experiences have made it extremely clear that the *only* long-term-sustainable strategy for the continued maintenance of historic structures is *adaptive reuse*: the structures must establish and retain a constituency of daily users, invested in the building's continual accessibility for some daily task. Otherwise, they will first become lively museums, and then they will become deserted museums, and then they will become abandoned structures, and then they will become ruins, and then they will be replaced. There is simply no other way.

Your program comment currently attempts to ensure adaptive reuse through the modernization of aging structures. That is *exactly* the *correct* technique.

However, in many cases the new program comment only applies to buildings or architectural elements less than 45 years old. I do not know if that time span is statutorily mandated. If it is not, then I think that time span is unduly short. Both <https://architecture.mit.edu/news/architectural-longevity-what-determines-buildings-lifespan> and <http://dx.doi.org/10.1007/s11367-011-0363-x> suggest that a typical American building lasts for about 60 ± 25 years (standard error of the mean). Thus a 45-year-old structure is not even *unusually* old; and, not being unusually old, it cannot be "historic"! I would encourage members of the ACHP to increase the 45-year cutoffs to 60 years, or even 80 or 90 years, if possible.

Secondly, the program comment "green-lights" a large number of generally-commonplace activities to ensure the continued use and modernization of historic structures. I concur that federal agencies should be able to perform those commonplace maintenance tasks without bothering to do a full historic review. However, an enumerated list of approved activities is unduly restrictive on the scope of tasks that should not require oversight. A reform to a structure that *enhances* the structure's ability to perform its primary function, *even if it requires substantial and unusual modifications to the structure*, should not require substantial historic review oversight. I hope that the ACHP will continue to develop a more flexible approach that generalizes to include those sorts of adaptations as well.

Again, your current draft is a triumph and I support its acceptance in its current form.

Thank you for your time and hard work,
Jacob Manaker
Swarthmore, PA



[External] Comments on the Proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

From Jamie Palmer <jamiepalmer@gmail.com>

Date Tue 08-Oct-24 11:37 AM

To Program Alternatives <program_alternatives@achp.gov>

Mornin',

Here are a couple of comments for the proposed

Comment on the Qualified Professional definition:

Recommendation: Expanding definition to include OPM's 0193 Professional Archaeologist Series.

Rationale: OPM doesn't use the SOI professional qualifications standards when hiring staff to fill vacancies in the 0193 series. According to FedScope's February 2024 data, there are 1,626 federal archaeologists in the 0193 series. This data also shows that 39% (n=636) of these archaeologists do not meet the SOI qualifications standards. Leaving the definition as-is will exclude several Federal Agency offices from fully utilizing this PC.

Universal comment

Recommendation: Change all the series that use the conjunction "and" to "or".

Rationale: It is unlikely that a project will have all the activities listed in a series occurring on one project. For example: "The following activities do not require further Section 106 review when conducted in areas adjacent to or on the same lot as housing: Rehabilitation, replacement, installation, **and** removal of any of the following elements less than 45 years old, provided such activity exclusively affects previously disturbed ground or creates no new ground disturbance:..." Changing the conjunction to "or" will allow federal agencies to expand the number of projects that will fall under this PC.

v/r,

Jamie Palmer

[External] Public comment on accessible climate resilient connected communities

John McIntosh <gohnmcintosh@gmail.com>

Sat 07-Sep-24 8:03 AM

To: Program Alternatives <program_alternatives@achp.gov>

To whom it may concern:

I would like to register my support for the proposed permitting reform on historic preservation. I see this as a great step forward to accelerate necessary projects while still maintaining reasonable procedures in place to facilitate important preservation efforts. Many thanks for your efforts. Regards,

John McIntosh
Brookline, MA

October 8, 2024

Reid Nelson
Executive Director
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Via email: program_alternatives@achp.gov

Re: Proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

Dear Director Nelson,

Thank you for providing the public with an opportunity to provide comments on the *Proposed Program Comment on Accessible, Climate Resilient, and Connected Communities*. The following comments are made as a private citizen and not reflective of my employer or any associated clients.

Overall, the Advisory Council on Historic Preservation's (ACHP) program alternative creates a poor precedent due to its over-broad nature and its failure to provide an adequate justification for its implementation by federal agencies. It also sets the stage for each successive administration to chip away at the consultative foundations granted to States, Tribes, and local jurisdictions, as well as the consideration of public comments by the National Historic Preservation Act (NHPA; 54 U.S.C. § 300101 et seq.).

Additionally, the Program Comment appears to be on thin ice as it fails to acknowledge the statutory role of the Secretary of Interior in administering and funding the programs of the various State Historic Preservation Offices (SHPOs) pursuant to 36 CFR Part 61 and Secretary's collaborative role in the Section 106 process. The Program Comment serves to undermine the Secretary's programs and circumvents its grantees in the following ways:

- 1) The Program Comment impinges upon the consultative opportunities accorded to State Historic Preservation Offices (SHPOs) by the NHPA under 54 U.S.C. §§ 302301 & 302303(b)(9). The ability of SHPOs to comment on federal undertakings falls under the specific programs administered by the Secretary of the Interior (Secretary) not the ACHP.
- 2) The SHPOs are federal grantees who receive funds from the Historic Preservation Fund (HPF) – a fund administered by the National Park Service (NPS). Section 106 consultation is a mandated SHPO program activity covered by HPF grant assurances. The Program Comment truncates the ability for the SHPO to fulfill its grant obligations.
- 3) The Program Comment forecloses upon the ability of SHPOs to agree or disagree with the eligibility of a property for the NRHP that is affected by federal undertakings related to the rehabilitation of housing (See Program Comment Appendix A-1 (2)(a)). While the ACHP created a process for ensuring that federal agencies evaluate historic properties in consultation with SHPOs (36 CFR 800.4(c)(2)), the ACHP's regulations are ultimately

deferential to the regulations promulgated by the Secretary (36 CFR Part 63) when disagreements arise between the SHPO and a federal agency. The ACHP's Program Comment is clearly intended to circumvent the Secretary's statutory and regulatory authorities governing the NRHP by eliminating any opportunity for the SHPO to potentially disagree with a federal agency determination.

- 4) The Program Comment fails to request the concurrence of the Secretary regarding the ACHP's use of exempted categories consistent with the NHPA (36 CFR 800.14(c) & 54 U.S.C. § 306108(c)).

Program Alternatives (Background)

A program comment was first implemented by Federal rule by the ACHP on May 18, 1999. The intent behind the program comment was to afford the ACHP

the flexibility to issue comments on a Federal program or class of undertakings rather than comment on such undertakings on a case-by-case basis. This section sets forth the process for issuing such comments and withdrawing them. The Federal agency is obligated to consider, but not necessarily follow, the Council's comments. If it does not, the Council may withdraw the comment, in which case the agency continues to comply with section 106 on a case-by-case basis. (64 FR 27044).

This brief description that appeared in the *Federal Register* was subsequently promulgated as one of several Program Alternatives under 36 CFR § 800.14. Indeed, in 1999, the ACHP was prompted by Congress to more efficiently discharge its responsibilities by crafting a suite of alternative pathways for complying with 36 CFR Part 800 including "alternate procedures" (§ 800.14(a)), "programmatic agreements" (§ 800.14(b)), "exempted categories" (§ 800.14(c)), "standard treatments" (§ 800.14(d)), and "program comments" (§ 800.14(e)).

As operationalized, the ACHP recognized the potential need to provide federal agencies with an opinion regarding a "category of undertakings in lieu of conducting individual reviews under §§ 800.4 through 800.6" that the federal agency has the discretion to follow or not. It should be noted that within its own regulations, the ACHP affords itself numerous opportunities to enter into the Section 106 consultation process on its own volition to consult, engage fellow agencies, and provide "comments" among other responsibilities. The NHPA does not permit the ACHP to unilaterally limit a SHPO/THPO from consulting on federal undertakings.

It should be noted that the Program Comment alternative compliance path was integrated into 36 CFR Part 800 during a long, and arduous rule making process that was initiated in 1992 following Congress's amendments to the National Historic Preservation Act (NHPA) and took seven years to promulgate. Unfortunately, components of the 1999 regulations were subsequently challenged by the National Mining Association (NMA). The D.C. Circuit Court of Appeals partially sided with the NMA by identifying where the ACHP incorrectly promulgated regulations that gave the agency powers not afforded to it by Congress including the ability to

reverse a federal agency's finding of effects.¹ The ACHP's regulations survived a larger regulatory revision owing to the National Historic Preservation Act's (54 U.S.C. § 304108) granting of broad authorities to the ACHP to "promulgate regulations as it considers necessary to govern implementation of section [54 U.S.C.] § 306108 (a) of this title in its entirety."

One specific authority granted by the NHPA to the ACHP included creating exemptions "for Federal Programs or Undertakings" [54 U.S.C. § 306108(c)] whereby

The Council, with the concurrence of the Secretary [of the Interior], shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this division when the exemption is determined to be consistent with the purposes of this division, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic property.

This provision illustrates the collaborative interagency nature of the NHPA and the intersection of agency authorities (i.e. the ACHP and the Secretary of the Interior (Secretary)). It also circumscribes the limits of ACHP authority in discharging its rulemaking responsibilities. Interestingly, under 54 U.S.C. § 306108(b), Congress explicitly permitted the ACHP to "establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in § 306108 of this title that affect the local governments." This division of the NHPA, however, is notably silent on the abilities of the ACHP to create regulations relative to the participation of SHPOs and THPOs in implementing § 306108.

On the contrary, Congress ensured that the THPO/SHPOs and their related programs, which includes their consultative role under § 306108, are governed in sections of the NHPA administered by the Secretary (§ 302301). The breadth of the THPO/SHPOs' program, as authorized by the Secretary, includes the compulsory responsibility to "consult with Federal agencies in accordance with this division on- (A) Federal undertakings that may affect historic property; and (B) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to that property" (54 U.S.C. § 302303(b)(9)). Further, as grant recipients from the federal Historic Preservation Fund, the THPO/SHPOs are contractually obligated by the National Park Service to comment on federal undertakings as a part of their overall historic preservation program without limitation.² The programmatic ability of THPO/SHPOs to comment on federal undertakings, therefore lies under the authority of the Secretary and not the ACHP.

¹ See *National Mining Ass'n v. Fowler*, 324 F.3d 752 (D.C. Cir. 2003)(NMA v. Fowler). On September 4, 2003, the district court issued an order declaring sections 800.3(a) and 800.16(y) invalid to the extent that they applied Section 106 to the mentioned undertakings, and remanded the matter to the ACHP. The current amended regulations became effective on August 5, 2004 (69 FR 40544).

² See NPS, Historic Preservation Fund Grants Manual: State, Tribal, Local, Plans, & Grants Division, Chapter 6 (O.3.a).

Program Comment on Accessible, Climate Resilient, and Connected Communities

According to the ACHP, the agency's issuance of the draft Program Comment is to take "action on housing, climate-smart buildings, climate friendly transportation, and clean energy that will make it faster and easier to meet the nation's climate and housing goals while preserving historic properties." The ACHP alleges that if "the ACHP approves the Program Comment, federal agencies would be better equipped to conduct historic preservation reviews for the frequent and recurring undertakings covered by the Program Comment across three sectors – housing, climate-smart buildings, and climate-friendly transportation." The ACHP, however, provides no evidence to these assertions or how this action will affect historic properties which are central to the agency's furtherance of the NHPA. This is problematic.

Perhaps more problematic, in its press release, the ACHP lists construction activities that the Council would be "exempting" from review (such as interior spaces of historic housing/installation of solar panels/electrification of historic buildings) or subjected to "limited or no review" (such as maintenance work to historic housing).³ Interestingly, the words "exempt" and "exemption" don't appear in the text of the Draft Program Comment, but the intent to eliminate and/or limit the review of certain undertakings is overt and clear. In Section III, for instance, the ACHP "authorizes alternative compliance approaches for covered undertakings", as follows:

1. *For undertakings or components of undertakings with no or minimal potential to adversely affect historic properties, as set forth in Appendix A-1, B-1, or C-1 of this Program Comment, a federal agency may proceed with the undertaking without conducting further review under Section 106.*
2. *For undertakings or components of undertakings for which the federal agency satisfies certain conditions, exclusions, or requirements, as set forth in Appendix A-2, B-2, or C-2 of this Program Comment, a federal agency may proceed with the undertaking if it satisfies the conditions, exclusions, or requirements prescribed in those Appendices, and it documents the manner in which it has satisfied such conditions, exclusions, or requirements.*

Section III appears to draw from the criteria for granting exemptions under 36 CFR 800.14(c) and yet the ACHP notably does not pursue that program alternative option.

In summary, given the extensive range of projects covered under the Program Comment and its Appendices, the ACHP would be conceding to federal agencies access to sweeping sets of exemptions and "streamlining" that is intended to avoid project reviews by the SHPOs, local jurisdictions, as well as the public. Curiously, however, the ACHP elected to integrate these exemptions into a program comment under 36 CFR 800.14(e) as opposed to "exempted categories" under 36 CFR 800.14(c). This may have been undertaken to avoid the concurrence of

³ See <https://www.achp.gov/news/achp-announces-draft-program-comment-accessible-climate-resilient-connected-communities>, accessed September 30, 2024.

the Secretary who retains separate and distinct statutory responsibilities under the NHPA as it pertains to exempting categories of undertakings.

Because the ACHP does not administer programs implemented by the SHPO/THPOs (who are funded by the Secretary), the ACHP would do well to review what the U.S. Court of Appeals, District of Columbia stated in *NPCA v. Semonite* (916 F.3d 1075 (2019)) when the Chief Judge Garland-led court opined that

Because we "owe no deference to [the Corps's] interpretation of a statute it does not administer," Amax Land Co. v. Quarterman, 181 F.3d 1356, 1368 (D.C. Cir. 1999). "[w]e begin our analysis with the language of the statute," United States v. Wilson, 290 F.3d 347, 352 (D.C. Cir. 2002).

In any reading of the NHPA, the limiting or eliminating of THPO/SHPO Section 106 reviews by the ACHP, through an exempted category, **must** receive the written concurrence of the Secretary in order to be in compliance with the NHPA under 54 U.S.C. § 306108(c). There is no evidence in the record for this Program Comment (or any other that includes exemptions for that matter) that states that the ACHP will pursue that concurrence.

Additional Comments

If promulgated by the ACHP, federal agencies would do well to weigh the litigation risk of availing themselves of the ACHP's improperly justified and promulgated Program Comment. Federal agencies should be recommending instead that the ACHP codify this Program Comment through a more formal rulemaking process as required under the Administrative Procedures Act (5 U.S.C. 551 et seq.).

Furthermore, the ACHP imposes no additional record keeping by federal agencies to document how many times an agency will utilize the Program Comment. There is therefore no way to clearly show that the Program Comment is effective in its administration by federal agencies and that adverse effects aren't occurring to historic properties.

Lastly, transportation agencies should review their obligations under Section 4(f) of the National Department of Transportation Act. The Program Comment includes a review exemption for land acquisitions that would be potentially integrated into a transportation facility (see Appendix C-1, 5). The Department of Transportation (DOT) may wish to opine about the legality of this exemption, particularly as it applies to SHPO/THPOs. The SHPO/THPO (as well as the ACHP if it is participating in consultation) are the "officials with jurisdiction" for "historic sites" under Section 4(f) of the Department of Transportation Act (23 CFR 774.17; 49 U.S.C. §303 & 23 U.S.C. §138). While the ACHP may pre-empt its own ability to serve in this capacity under its own regulations within the context of a Program Comment, it doesn't appear to retain a similar capacity to limit the abilities of SHPO/THPOs to serve as "officials with jurisdiction" under the DOT Act. The ACHP should be working more closely with the Department of Transportation to explore the implications of Appendix C-1 upon the DOT's separate regulatory authorities. In other words, if the DOT adopts the ACHP's Program Comment, will it be contravening its own statute by depriving SHPO/THPOs of being an official with jurisdiction if a property is acquired

with the intention of it being incorporated into a transportation facility? If property acquisitions (that perhaps include a historic site) are exempted from Section 106 review, how can the SHPO/THPO serve as the official with jurisdiction if they are never consulted or worse consulted after the acquisition occurs and reasonable and feasible alternatives are thereby foreclosed upon due to the irretrievable commitment of resources?

While there may be significant and understandable frustration by federal agencies in their varying capacities to comply with Section 106, particularly during the consultation process with Tribes, SHPO/THPOs, and local jurisdictions, the ACHP should be working more closely with the SHPOs as well as the Secretary of the Interior when implementing its statutory authorities under the NHPA. The dramatic proliferation of program comments, particularly in scale and magnitude, are effectively creating “shadow regulations” and providing a road map for how each successive administration works to undermine the cooperative federalism epitomized by the NHPA. I recommend you withdraw the Program Comment.

Thank you for considering my comments.

Sincerely,

A handwritten signature in blue ink, reading "Kirk Ranzetta". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kirk Ranzetta

Cc: Robert Anderson, Solicitor, U.S. Department of Interior (robert.anderson@sol.doi.gov)
Michael Martinez, Deputy Assistant Secretary, U.S. Department of the Interior
(Mike_Martinez@fws.gov)
Caroline Henry, Federal Preservation Officer, U.S. Department of the Interior,
(caroline_henry@ios.doi.gov)
Megan Brown, Chief, State, Tribal, Local, Plans & Grants Division &
CLG Program National Coordinator, National Park Service (Megan_Brown@nps.gov)
Christopher Coes, Assistant Secretary for Transportation Policy (Christopher.c@dot.gov)
Subash Iyer, Acting General Counsel, U.S. Department of Transportation
(subash.iyer@dot.gov)



Outlook

[External] Public Comments for the Proposed Program on Accessible, Climate Resilient, and Connected Communities

From Kristin Swanton <keswanton@gmail.com>**Date** Wed 09-Oct-24 1:33 PM**To** Program Alternatives <program_alternatives@achp.gov>

To whom it may concern:

I object to the program comments that the ACHP has proposed to streamline projects for climate resilience. While I believe that climate resilience, accessibility for all, and access to quality housing are needs within the United States, the program comments are too broad and undermine existing MOAs, Programmatic Agreements, the authority of each State Historic Preservation Officer and tribal nations, and the public. I believe that exemptions should be state by state and completed through programmatic agreements, rather than a broad brush that doesn't consider the specific and unique needs of each state. Section 106 of the NHPA is a processual regulation that considers the input of consulting parties regarding the effects to historic properties. MOAs and PAs are legally binding documents and the proposed program comment would allow the federal agency to terminate an existing MOA or PA.

As an Archaeologist meeting the Secretary of Interior's Standards, I believe that the program comment does not provide adequate consideration for archaeological resources that have not been previously identified. Also, as an Archaeologist who specifically works on transportation-related projects, the program comment will not require any archaeological consideration for transportation projects that are climate related. From my experience, the vast majority of my projects are climate related and significant archaeological sites have been identified because below ground resources were considered during the scoping and planning phases of projects in compliance with Section 106. Should archaeological sites be identified during construction, projects have the risk of adversely affecting NRHP-eligible sites and delaying projects.

Below are a few examples of the specific language within the program comment that I object to within Appendix A-1:

1. Site work:

- A)
 - i -Exemptions to activities within "previously disturbed areas" - I have identified many NRHP-eligible archaeological sites within areas considered to be previously disturbed. Additionally, this determination should be made by a SOI-qualified archaeologist;
 - ii and vi- From my experience, significant landscaping may be involved for construction of parks, playgrounds, and water features;
 - v - changes in lighting that could adversely affect a historic district if identification of historic properties is not properly done;

- vii - many of these features are not appropriate in historic districts if identification of historic properties is not properly done;

2. Work on Building Exterior:

- iii - replacement of a tree in its existing location is not possible and often will require relocation at least 5' from the existing tree. Depending on the size of the tree, archaeology should be considered;
- vi - "green infrastructure" is too broad and encompassing to consider possible adverse effects to historic properties
- E) "Clean energy Technologies" is too broad and encompassing to consider possible adverse effects to historic properties

4. Emergency Work - too broad and encompassing

Below are a few examples of the specific language within the program comment that I object to within Appendix C-1 and C-2:

1.-3.: Work involving fixtures and equipment - as mentioned above, I challenge the definition of previously disturbed areas. Also, this section makes no mention of historic districts provided there is no demolition or removal of "potentially historic ground surface materials";

4: This section does not consider a bridge to be contributing to a historic district. It appears to only consider a bridge to be individually eligible.

Additionally, I object to not having comments for the program comment be made public. I believe that having comments be received to an email without the public being afforded the opportunity to read other organizations and individuals comments is a transparency issue. I look forward to the ACHP publishing all comments and providing responses once they are received.

Regards,

Kristin Swanton M.A., RPA

October 9, 2024

RE: Comment on the ACHP's proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

Dear Chair Bronin and Members of the ACHP,

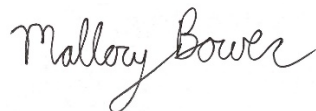
Throughout my career in historic preservation and cultural resource management, the Advisory Council on Historic Preservation served as an educational resource and advocate for regulatory preservation through the Section 106 process. The conversations across the preservation field sparked by the recent assessment of the application and interpretation of the federal historic preservation standards initiated by the ACHP felt like a movement towards a stronger preservation community built through collaboration and clarity. I hoped that these conversations would continue, bringing in voices from all communities, implementing what we have learned from the last fifty years of preservation, and rectifying patterns from past historic preservation efforts that perpetuated the disenfranchisement of marginalized communities by preferencing certain histories over others.

The work of the ACHP on this Program Comment (PC) shows a desire to "improve" federal review of expenditures; however, this PC confuses the Section 106 process and removes local consultation and qualified professionals from the decision-making process, likely leading to detrimental adverse effects to both built and natural historic landscapes. I support the comments already submitted and made public by organizations like the National Conference of State Historic Preservation Officers, the National Alliance of Preservation Commissions, and the U.S. Department of the Interior highlighting specific issues with the language, process, and organization of the PC. Instead of repeating what has already been shared, I suggest the ACHP considers collaborating with federal agencies on Standard Treatments. By creating a library of best practices, the ACHP will provide resources to those working within Section 106 while advocating for the historic resources across the United States.

I have the privilege to work within the Section 106 process, and I find that my experience with historic building materials and inappropriate treatments prevents damage to building fabric that may cause issues down the road for low-income families in the community I serve. I explain the role of Section 106 proudly, how this process was written into law in 1966 after the advocacy of local leaders in the aftermath of federal expenditures that led to the decimation of communities through Urban Renewal. The Program Comment on Accessible, Climate-Resilient, and Connected Communities in its current form removes local people from the process of federal agency expenditures and qualified professionals from using their knowledge for the betterment of the projects and the community.

I close this comment with a message of thanks to everyone serving on the ACHP. Your work in this capacity is not overlooked. May we all continue this effort to preserve our complex past while ushering in a more equitable, just, climate-resilient, and collaborative future.

Best,

A handwritten signature in cursive script that reads "Mallory Bower". The signature is written in dark ink and is positioned below the word "Best,".

Mallory Bower
Taylor, Michigan

[External] Comment on Program for Accessible, Climate-Resilient, Connected Communities

Matthew Baddorf <mattbaddorf@gmail.com>

Sat 14-Sep-24 4:22 PM

To:Program Alternatives <program_alternatives@achp.gov>

Hello,

I am writing in support of the proposed rule change. We must preserve our heritage in ways that are consistent with climate-smart and affordable housing. Encouraging cycling is especially exciting!

Sincerely,

Dr. Matthew Baddorf

1027 LeConte Rd

Knoxville, TN 37918

[External] HUD and 24 CFR Part 58

George <neparulemakings@gmail.com>

Sun 25-Aug-24 8:11 AM

To:Program Alternatives <program_alternatives@achp.gov>

I have observed public housing agencies illegally acting as Responsible Entities. HUD has little to no oversight over most public housing agency environmental reviews. How will the terms of this policy be enforced?

From: [George](#)
To: [Program Alternatives](#)
Subject: [External] HUD and NHPA
Date: Tuesday, August 20, 2024 3:11:49 PM

How does HUD check housing authorities for compliance? Many of these housing authorities are in places where the locality has no other HUD funds. How does that work? How do they have capacity under Part 58? Is there mandatory training? How does the Office of Public Housing monitor for compliance when a community uses no other HUD assistance? What corrective actions are available if a housing authority ignores NEPA on land subject to a Declaration of Trust?

It seems like NEPA is not evenly applied to public housing agencies. Most public housing agencies seem to lack the capacity to do any NEPA work, and there is little evidence that HUD monitors these entities for compliance with Part 58. Is there a risk analysis for public housing agencies and NEPA/NHPA compliance?

Thank you

[External] Comments on Program Comment on Accessible, Climate-Resilient, Connected Communities

Spuriurs2023 <Spuriurs2023@protonmail.com>

Fri 06-Sep-24 11:00 PM

To: Program Alternatives <program_alternatives@achp.gov>

Especially with regard to transportation, I strongly recommend being clear that issuance of real estate permissions from one federal agency to another for any covered action are also covered by this comment-- currently the focus is on transfer/lease/sale of buildings, when in most cases, what will actually be granted is none of those, but rather an easement to cross real property. I recommend reworking these sections to include all potential permissions to use land, as the effects will be the same regardless of which other agencies have to issue permissions.

Similarly, recommend extending to other required permissions from other agencies (e.g. 404 permits, modifications to Forest Plans, etc). Any action taken by other agencies to authorize a covered action should be a covered action.

I see no basis for the distinction between state lands and tribal lands, exempting tribal lands from applicability. Tribes and states have extremely similar and limited rights under the 106 process and I do not understand the reason for treating them separately here. I recommend removing this limitation on this comment.

Even more concerning is the treatment of TCPs/ HPRCSITs, that is categorically exempting them from applicability of the comment. I recommend removing them from this comment. Especially in the pacific northwest given the broad geographic nature of TCPs, keeping this requirement would render much of this comment essentially irrelevant. I recommend removing this limitation.

The slide from 50 years to 45 years for buildings is also concerning to me. I understand the desire for a buffer, however if the agency is already having to determine age in order to document compliance with the comment, then the buffer is not necessary. Recommend returning to 50.

I'm concerned that by by officially 'exempting' activities from 106 under this process, there will be an impression that absent it fitting within the scope of the program, those activities should require independent reviews. For instance, is it truly the case that mowing existing lawns requires consultation if it's not part of this program and therefore doesn't fall within the scope of Appendix A-1(1)(c)(i)?

Adding language clarifying that these are simply examples of activities with no potential to cause effect, or limiting it to activities which the ACHP believes would otherwise require independent compliance coverage would be helpful.

I strongly recommend that this be reworked to include standard treatments, especially for the housing portions as this is an opportunity to provide some clarity and certainty on the requirements for these projects.

I recommend re-evaluating the list of restrictions placed on applicability with an eye towards the fact that agencies will need to document compliance with all restrictions in order to demonstrate they fit within the scope of the program. This is an attempt at streamlining, which does very little streamlining.

If the restrictions are all required, I recommend including a checklist/flow chart with the comment so that agency staff can, as easily as possible, determine if they fit within it.

The transportation section is by far the strongest, actually authorizing actions which have a chance of occurring, rather than nibbling around the edges, recommend taking that style and using it in the other appendices.

If not, recommend taking a position on whether segmentation is appropriate. The other sections are all focused on *very* small actions, which are likely to be part of a larger action. If they can be carved out, then there's some potential value, but if they need to stick with larger actions, then I foresee very limited utility to those sections.

A clearer definition of ground disturbance would be helpful. Is driving heavy equipment inherently ground disturbing? Is any removal of fence posts? Replacement in the same holes? Walking on the ground?

Sent with [Proton Mail](#) secure email.



Outlook

[External] Comment on Program Alternatives proposal

From Ramie Gougeon <rgougeon@uwf.edu>**Date** Wed 09-Oct-24 2:15 PM**To** Program Alternatives <program_alternatives@achp.gov>

October 9, 2024

The Honorable Sara Bronin, Chair
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Dear Chair Bronin,

I appreciate this opportunity to comment on the ACHP's recently proposed "Program Comment on Accessible, Climate Resilient, Connected Communities." While I find it admirable and desirable for the ACHP to encourage solutions to issues related to housing, climate-smart building, and climate-friendly transportation infrastructure, I feel that the proposed program will ultimately do more harm than good and that this proposal should be withdrawn.

My reading of the proposed program comment leaves me concerned about several issues. First, carve-outs for projects not requiring Sec. 106 review (as described in Appendix A-1) will include buildings and structures that are not older than 45 years. These resources are already largely exempt from Sec. 106 review as the benchmark has long been 50 years. Creating exceptions for resources that already fall outside typical Sec. 106 requirements only creates the perception that ACHP can and should develop programmatic agreements to make exceptions for other categories of resources. This is the classic "slippery slope" we're always hearing about.

Second, for projects involving buildings and structures over 45 years in age, the ACHP is proposing to shift the burden of review to qualified authorities identified by Indian Tribes and Native Hawaiian Organizations. Reviewing bodies of Tribes and other Native authorities are traditionally overworked and under-staffed. If determinations about the eligibility of a project will fall to them - even if they are only designating qualified authorities to make these determinations on their behalf - the proposed program change represents a potentially crippling increase in their review workload.

Qualified authorities currently assess whether projects fall under Sec. 106 review and conduct the work necessary to determine whether an activity will have an adverse impact on a historical resource. When Sec. 106 obligations are considered early in the development stages of a project, current policies and practices allow for the timely completion of projects while also giving due consideration to historic resources. Building carve-outs for activities that will first require similar, if expedited, evaluations and

determinations is both unnecessary and places an undue burden on Indigenous governments. I strongly recommend that the ACHP undertake a thorough assessment of how the proposed program would impact the many partners involved in Sec. 106 and present evidence that the proposed program would provide the efficiencies ACHP hopes to achieve without causing harm.

Respectfully,

Ramie A. Gougeon, PhD, RPA

The above message represents my own opinions and views and not those of my employer.

--

Ramie A. Gougeon, Ph.D., RPA

Chair and Professor, Anthropology

Acting Director, Archaeology Institute

University of West Florida

11000 University Pkwy

Building 13, Room 115

Pensacola, FL 32514

850.474.2831 [Office](tel:850.474.2831)

rgougeon@uwf.edu

uwf.edu/cassh/departments/anthropology/



DRAFT PROGRAM COMMENT ON ACCESSIBLE, CLIMATE-RESILIENT, AND CONNECTED COMMUNITIES

By Richard Starzak, Historic Preservation Specialist, Vice President, ICF, 10/03/2024

The following comments are based on a 40-year long career as an architectural historian and specifically after working as a consultant in disaster recovery efforts since 2018. The comments are entirely my own and may not reflect the views of my company, ICF.

Duration-2044. The program comment's duration is 20 years through December 31, 2044 (page 11, section VII). Given the accelerated effects of climate change, the program comment should consider more aggressive resiliency measures after large scale disaster events. 100-year events now happen every year--thereby making extensive resiliency of fireproofing, flood-proof, and hardening existing buildings far too costly to implement. For example, wildfires in Oregon, California, and Hawaii devastated large swaths of the built environment, and at the time of this writing Hurricane Helene caused major floods that damaged buildings and infrastructure across a 600-mile front traversing six states. Consequently, we are in reactive mode and to facilitate victims who lost their homes, we need to conduct Section 106 reviews for repairs and resiliency in the most efficient and reasonable way. ***Given the ever-increasing frequency, size and extent of disaster events and sea level rise, we should think of amending the program comment to conduct sweeping Section 106 reviews for entire neighborhoods rather limiting its current focus on individual buildings.*** This can be done simply by expanding the 45-year screening criteria consideration to include other National Register of Historic Places criteria requirements, including integrity and historic context.

Integrity. Damage by natural disasters can greatly diminish the integrity of character defining features before a scope to repair buildings and infrastructure is even developed. Working with SHPO to review mapping of the most seriously damaged areas, perhaps entire neighborhoods can be determined to lack integrity. Individual buildings within those neighborhoods could be exempted from further Section 106 review.

Historic Context. Similarly, working with SHPO, there may be neighborhoods that are not recognized as representing a significant historic context. Buildings in such neighborhoods that were badly damaged by a natural disaster or prone to future disasters could perhaps be considered as exempt from Section 106 review because lacking a significant historic context, they would be unlikely to meet National Register criteria.

To implement these changes for large scale disasters, the program comment could be simply edited by adding a few phrases as follows:

1. For rehabilitation, replacement, installation, and removal of elements, (Appendix A-1, 1.a., page 21): why is 45 years the only screening criteria? Why not add other aspects of National Register criteria for example, please consider inserting: ", on buildings that lack integrity, or on buildings that represent no significant historic context"
2. Similarly, for those other places where "45 years old and not known after a records check to be a historic property;" is the first screening criteria, please consider inserting "on a

building lacking integrity; on a building not representing a significant historic context;”, including insertion at the following locations:

- Appendix A-1, 2.a, page 22
- Appendix A-1, 3.a, page 24
- Appendix A-2, 2.a, page 28
- Appendix B-1, 2.a, page 31

Thank you very much for the opportunity to provide comments.

[External] Public feedback for proposed Program Comment

Runal A. Patel <runalpatel1@gmail.com>

Tue 10-Sep-24 12:16 PM

To:Program Alternatives <program_alternatives@achp.gov>

Hello,

My name is Runal A. Patel, and I live in Washington, D.C. I fully support the ACHP's draft Program Comment on Accessible, Climate-Resilient, Connected Communities.

This proposal is crucial for addressing the nation's housing crisis by making it easier and faster to build more homes, while also improving the affordability and accessibility of housing for all. As someone who hopes to buy a home one day, I understand the importance of reducing barriers to building affordable housing and creating opportunities for more people to access safe and energy-efficient homes.

The streamlining of the Section 106 review process for housing, climate-smart buildings, and transportation projects will help accelerate critical investments in affordable, climate-resilient housing, all while preserving historic properties. This proposal's emphasis on renovating and reusing historic buildings for affordable housing, along with its simplifications for interior renovations and sitework, will make housing development more efficient and less costly.

Additionally, allowing energy efficiency upgrades, such as solar panels and building electrification, without extensive reviews will lower energy costs and improve the overall affordability of homes—an essential factor for future homebuyers like myself.

I urge the ACHP to adopt this Program Comment to ensure we can build more affordable housing and create resilient, connected communities for everyone.

Thank you,
Runal

SAMUEL BURNS | ARCHAEOLOGIST | DETROIT/HAMTRAMCK

October 9, 2024

The Honorable Sara Bronin, Chair
Advisory Council on Historic Preservation
401 F. Street NW, Suite 308
Washington, D.C. 20001

RE: Comment on the ACHP's proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

Dear Chair Bronin and members,

I am writing in my personal capacity as a concerned citizen and professional archaeologist to provide my perspective on the Advisory Council for Historic Preservation's (ACHP) proposed Program Comment (PC) on Accessible, Climate-Resilient, and Connected Communities.¹ I have nearly two decades of archaeological experience planning and directing archaeological projects of all sizes, including several major urban excavations in Detroit, and have a technical background in geoarchaeology and archaeological methodology. I currently work as the archaeologist for the City of Detroit's Housing and Revitalization Department, a Responsible Entity for federal Housing and Urban Development funds allocated in Detroit. We operate under a Programmatic Agreement with the Michigan State Historic Preservation Office (SHPO), developed in consultation with the ACHP, local Tribal governments, and other consulting partners.² As a Section 106 professional with a day-to-day view into the Section 106 process, I fully support efforts to make the Section 106 process faster, more efficient, and more beneficial for our communities. However, the proposed PC fails to recognize the complexity of the task we face, and threatens to cause permanent, lasting harm to the very communities it purports to serve.

In the first half of the 20th century, federal agencies began spending increasing amounts of money across the nation to advance their own agency goals. The federal government damned rivers, built freeways, and cleared slums. The motivations for these actions were often noble, but for far too many communities, the effects were devastating. The City of Detroit was on the front lines of many of these federal activities. The Federal Highway Administration sliced through the center of Corktown, Detroit's oldest working-class neighborhood, cutting residents off from adjacent commercial and industrial areas. The twin neighborhoods of Paradise Valley and Black Bottom, the cultural heart of Black Detroit, also received a freeway. Detroit's Black community lost a thriving cultural and economic engine with the destruction of the Hastings Street commercial corridor, whose clubs and bars hosted a world-renowned jazz and nightclub scene. In its place, the highway administration built the I-75 and I-375 freeways to carry white suburbanites past the neighborhoods into downtown offices and shopping malls. Federal housing authorities also demolished blocks of aging, substandard housing in these neighborhoods, replacing them with

¹ [Proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities](#)

² [Detroit Programmatic Agreement](#)

public housing projects that further segregated Black Detroiters. Sites of cultural, religious, and historical importance were swept away in the clearances, and forced relocations severed long-standing ties between communities and places. The cost to Detroit's cultural heritage and damage to Detroit's communities was incalculable, and Detroit still grapples with the fallout today. Despite these actions dramatically reshaping the city for generations, the local community was not given a voice in the process. Largely in response to growing public anger and concern over such unilateral federal actions, in 1966, Congress passed the National Historic Preservation Act to hold federal agencies accountable for considering the impact of their undertakings on the historic fabric of our communities and ensuring that the public have an opportunity to make their voices heard.

Today, Detroit is growing again. Federal agency investments in Detroit, including substantial investments in the largely demolished neighborhoods of Corktown, Paradise Valley, and Black Bottom, have played an important role in Detroit's slow and often painful recovery. This time, however, the NHPA has required that federal agencies consider the effects of their undertakings on Detroit's cultural heritage. This has meant that for the last several years, significant archaeological research has been conducted in these neighborhoods as part of the Section 106 process. This ongoing work has already led to the identification of dozens of historic archeological sites, including many that are individually eligible for listing on the National Register of Historic Places, and the formal identification of at least two NRHP-eligible archaeological districts, the North Corktown Archaeological District and the Brewster-Douglass Archaeological District. Findings from this research have already significantly advanced our knowledge of the daily lives of the former inhabitants of these neighborhoods and have informed museum exhibits³ and interpretive projects.⁴ We have had an opportunity to not only gain important insights into several critical periods of American history, but also to honor the stories and experiences of the people who lived in these neighborhoods. The data recovered has had impact well beyond the world of regulatory compliance, but this impact has only been possible through the hard work of a variety of stakeholders who were initially brought together by the Section 106 process.

Under the proposed program comment, little or none of this work would have occurred. All of the ground in these neighborhoods is previously disturbed, meaning a federal agency bureaucrat with no archaeological training and no knowledge of the history of these neighborhoods would be allowed to exempt undertakings in these neighborhoods from archaeological consultation and review, contributing to the erasure of these stories from history. Compounding the injustice, these stories belong to communities that have already been devastated by past federal actions, and in many cases the stories themselves are directly related to this devastation.

³ [The Metro: New exhibit tells history of Jewish community living in Detroit's Black Bottom neighborhood; The Art of the Drink: From Metro Detroit to KwaZulu-Natal](#)

⁴ [Julia DiLaura, "Schlussel Bathhouse Archaeology"](#)

As drafted, the proposed PC suffers from a multitude of fatal weaknesses, many of which are highlighted in comments submitted by professional heritage associations.⁵ Concerns include the unprecedented use of a Program Comment to enact sweeping regulatory changes; the lack of data justifying such sweeping changes; poorly defined and confusing terminology; and inconsistency with both the spirit and the plain language of the National Historic Preservation Act (NHPA). I add my voice to that of these organizations, and would like to highlight a few of my most pressing specific concerns.

- **The scope and scale of proposed exceptions are inappropriate for a Program Comment:** Program Comments, which are implemented unilaterally by the ACHP, should be precise tools, only used for categories of undertakings where both the types of Historic Properties potentially affected and the nature and extent of potential effects are definable, predictable, and similar. The proposed PC, however, exempts entire categories of undertakings based on their motivation rather than on any assessment of their potential effects. This is an ideological exercise that cuts deeply against the purpose of the NHPA. Any attempt to make such sweeping changes to the Section 106 process should be subject to normal regulatory processes and should be written in consultation with experts on historic properties and adverse effects.
- **All archaeological sites are, by definition, disturbances on the natural landscape:** The language of the Program Comment in regard to previously disturbed ground exposes its drafters' significant misunderstandings of archaeological methodology, the nature of archaeological deposits, and the Section 106 archaeology process.⁶ Ground disturbance, far from being a simple concept, is a central question within archaeological science. In a Section 106 context, the relevant determination is not whether ground has been disturbed but whether the remaining deposits contain meaningful archaeological information. This determination is highly technical and requires familiarity with a wide range of locally specific cultural, environmental, and geological factors. In urban settings, which have experienced highly complex, varied, overlapping patterns of intensive land use, making this determination often requires specialized geoarchaeological or geophysical methods. Under the proposed PC, however, unqualified agency officials with no archaeological training and no familiarity with the nature of archaeological deposits would be allowed to exempt a stunning range of undertakings from archaeological review and consultation if, in the sole opinion of the unqualified agency official, the undertaking will only affect

⁵ See, for example, the letters submitted by the [American Cultural Resources Association](#); the [National Alliance of Preservation Commissions](#); the [National Conference of State Historic Preservation Officers](#); National Preservation Partners Network; the [Society for American Archaeology](#); and the Society for Historical Archaeology. While I am writing here in my personal capacity, I also endorse the letter submitted by my employer, the City of Detroit Housing & Revitalization Department, as well as the letter submitted by my colleagues with the City of Detroit's Historic Designation Advisory Board.

⁶ This is not surprising. The ACHP is not an archeological organization and no member of the council is a trained archaeologist, highlighting the importance of involving qualified archaeological professionals with knowledge of archaeological site formation processes and the nature of archaeological deposits in the drafting of any exemptions concerning ground disturbance.

previously disturbed ground.⁷ Implementation of this proposed process would lead to the wholesale destruction of urban archaeological resources.

- **Cutting SHPOs and other consulting partners out of the process will lead to damage to cultural resources, project delays, and duplicative efforts:** SHPOs play a critical role in the Section 106 process. They manage state archaeological site files⁸ and historic registers; facilitate the coordination of individual agencies' Section 106 efforts at the state and local levels; and develop expertise and knowledge of local archaeological and historical resources and their contexts. By reducing the role of SHPOs in managing and sharing the data generated by each agency's historic preservation activities, the proposed PC would lead to data silos across individual federal agencies and needless duplication of work.
- **Allowing agencies to circumvent their historic property identification and evaluation obligations will reinforce existing inequalities:** Under the proposed PC, agencies would be allowed to largely avoid their obligations to identify and evaluate previously unrecorded historic properties that potentially could be affected by their undertakings, relying solely on existing registers of historic properties. In the past, due to our nation's history of discrimination many sites that represent marginalized groups were systemically disregarded and not recorded. Thus, in many cases, sites that represent dominant cultural groups are heavily overrepresented on the rosters of these existing registers. In recent years, Section 106-related identification and evaluation efforts, conducted in consultation with local communities, have begun to rectify the situation. By allowing federal agencies to rely solely on these existing but biased registers, the proposed Program Comment threatens to halt this progress.
- **Exempting projects from review will not address the real causes of delays:** In most cases, the Section 106 process is completed within the timeframes of other project planning processes. It only becomes a delaying factor in a small percentage of cases. In my experience, most Section 106-related project delays involve either adverse effects to historic properties or inadvertent discoveries made during construction, which trigger a consultative mitigation process. In some cases, despite reasonable and good faith planning efforts, these delays are unavoidable. In others, they could have been avoided by earlier and better consultation with tribes, SHPOs and other local stakeholders, who have

⁷ The definition of *previously disturbed ground* in the proposed PC includes a statement that previously disturbed ground, as used in the proposed exemption determinations, does not include "historic urban deposits." This term is not defined anywhere in the proposed PC, but I understand it to mean something like "deposits containing meaningful archaeological information." However, determining the presence or absence of such deposits is rarely a simple question, and in urban environments answering that question makes up a large percentage of Section 106 archeological work.

⁸ In order to protect sensitive archaeological sites from looting, most state archaeological site files are protected information and are only made available to qualified archaeologists. This means that agency officials tasked with making exemption decisions under the proposed PC would be making these decisions without reference to state archaeological site files, which may lead to inadvertent destruction of already-known resources.

valuable knowledge that can help agencies design project plans that minimize potential impacts to local historic resources.

- **Local conditions matter:** The Section 106 process works best when qualified professionals with specialized expertise in the Section 106 process and knowledge of local conditions are closer to the projects. Making this possible requires federal agencies to invest in their own cultural resource management expertise programs so that agencies can navigate the Section 106 processes better. One powerful tool for streamlining the Section 106 process involves the development of locally tailored Programmatic Agreements that take into account local heritage contexts and the needs of local communities. This is hard work, but when done thoughtfully, it results not in a “patchwork” of inconsistent regulation but a diverse approach to managing the complex cultural heritage of our nation of over 300 million people.

While I applaud bold steps to address our escalating climate and housing emergencies, this proposed Program Comment is a misstep. Detroit’s history shows the wisdom of requiring federal agencies to consult with the public and consider the effects of federal actions on our nation’s cultural heritage. Circumventing consultation and consideration entirely, as the proposed PC would do, fails to address the real-world inefficiencies in the process that cause project delays and utterly fails to uphold the ACHP’s Congressionally mandated mission of promoting the “preservation, enhancement, and sustainable use of the nation’s diverse historic resources.”

I urge the Council to withdraw the proposed PC and to instead engage with tribes, SHPOs, Section 106 professionals, and other stakeholders as well as federal agencies to develop focused, tailored program alternatives that respect the purpose and intent of the National Historic Preservation Act and are informed by the highly skilled work that we all do every day. Streamlining the Section 106 process is critical to meeting our nation’s climate and housing crises, but there is no shortcut through the hard work involved. I look forward to continuing to work together towards harmonizing our modern society with our historic properties and providing leadership in preserving our heritage.

Sincerely,



Samuel R. Burns, MPhil

October 9, 2024

The Honorable Sara Bronin, Chair
Advisory Council on Historic Preservation
401 F Street NW, Suite 308 Washington, DC 20001

Re: Proposed Program Comment on Accessible, Climate-Resilient, Connected Communities

Dear Chair Bronin:

I appreciate the opportunity to comment on the Advisory Council on Historic Preservation Program Comment on Accessible, Climate-Resilient, and Connected Communities. As an archaeologist who has worked in historic preservation and cultural resource management for nearly three decades in various capacities in the private and public sector, I have serious concerns about the proposed program comment (PC).

The PC as proposed would eliminate mandated consultation with SHPOs and THPOs, and effectively remove the citizens of each respective state from the consultation process established by Section 106 of the NHPA. As written, the PC would essentially allow federal agencies to police themselves by creating a system akin to categorical exclusions for the Section 106 process. Federal agencies are not the subject matter experts in historic preservation and often do not have SOI qualified staff. Eliminating the subject matter experts from consultation will result in significant negative affects to below-ground archaeological resources and traditional cultural landscapes and places (TCL/TCP).

As written, the PC does not acknowledge TCL/TCPs and could result in unmitigated destruction, and devastation to elements that often comprise TCL/TCPs such as water, shorelines, archaeological sites and other cultural resources, flora and fauna, and natural features. If implemented, we also anticipate a significant increase in the number of inadvertent discoveries along with the destruction of archaeological sites.

SHPOs, THPOs, and descendant communities are the regional experts and repositories of data for our respective states and Tribal Nations, and as such are aware of essential contextual information for understanding the nature and complexity of archaeological resources and TCL/TCPs. The proposed PC has a top-down and ethnocentric perspective that fails to recognize the localized and community-based nature of heritage knowledge that SHPOs have accumulated from decades of stakeholder collaboration.

The exemptions for ground disturbance in the proposed PC impose a one-size fits all approach that does not recognize the importance of situational contexts in predicting the archaeological and cultural sensitivity of an undertaking. For example, conventional wisdom suggests that urban settings and previously disturbed rights-of-way have highly disturbed soils and lack archaeological integrity. However, I can cite numerous significant examples, within the last decade, of how this perspective is misleading and is often proven incorrect when an unanticipated discovery of human remains or archaeological sites occur. Unfortunately, archaeological sites and human remains are relatively routinely uncovered in “previously

disturbed” areas and rights-of-way throughout the U.S. Likewise, urban communities have a rich and important history that would be ignored without careful assessment of local contexts that might otherwise be deemed “disturbed”. Whether or not an undertaking occurs in “previously disturbed” ground is often best defined and assessed by archaeologists and tribal knowledge keepers. The bottom line is, that only through the knowledge and expertise of SHPOs and THPOs, can ground disturbance and cultural sensitivity be appropriately evaluated.

If the goal is to streamline and create efficiencies in Section 106 review, I do not believe that the proposed PC will accomplish this. Rather, the proposed PC will create additional confusion about how, when, and where Section 106 is required. Confusion will ultimately result in longer review times. In addition, the proposed PC will undermine the relationships cultivated between SHPOs, federal agencies, THPOs, local governments, and organizations in the negotiation of successful Programmatic Agreements (PA). SHPOs and THPOs invest thousands of hours into developing PAs that work for states, tribes, federal agencies, local agencies, and communities. PAs have proven to be extremely successful at streamlining Section 106 review and promoting responsible development in harmony with historic preservation.

While I agree there are places where the Section 106 process could be streamlined, the best place to accomplish this is with federal agencies and applicants. Most federal agencies do not have historic preservation specialists that are SOI qualified to make crucial decisions about whether an undertaking is likely to have an adverse effect or determine whether cultural resources are eligible for the National Register of Historic Places. Additionally, many federal agencies delegate their responsibilities to applicants, who are not versed in cultural resource law or regulations and have no understanding of how to implement Section 106. Federal agencies do not communicate to their applicants properly about the Section 106 process which leads to confusion and delays. These shortcomings cause persistent problems and result in requests for more information from our office which delays review.

If the ACHP’s goal is to streamline Section 106, I respectfully suggest that the way to accomplish this is to 1) ensure SHPOs and THPOs have appropriate funding to fully staff offices, 2) encourage federal agencies to work with SHPOs and THPOs to develop PAs that are appropriate for our states and regions, and 3) educate federal agencies of their responsibilities under Section 106 and ensure that they employ SOI qualified staff.

Sincerely,



Sarah Surface-Evans, PhD, RPA



[External] Program Comment on Accessible, Climate-Resilient, and Connected Communities

From Shelley Smith <shelleyesmitharchitect@gmail.com>

Date Wed 02-Oct-24 12:07 AM

To Program Alternatives <program_alternatives@achp.gov>

 2 attachments (3 MB)

ACCCProgramComment.DRAFT 8.8.24_feedback.pdf; WellingtonHotel_PineHill_NY_Photos.pdf;

Hello,

Please see attached comments on the PDF, related to non-primary facades on historic buildings.

Also attached is a photo -- one of probably a million possible examples of how impactful it might be to allow completely unmitigated replacement / installation of window and siding on a side elevation a historic building. This is a historic Catskill hotel proposed for 10 units of workforce housing, in the process of cobbling together grants and partners.

I am in support of this effort to facilitate more housing and sustainable development!

Thank you,
Shelley E Smith PhD AIA
New York City College of Technology CUNY

APPENDIX A-1: HOUSING-RELATED ACTIVITIES NOT REQUIRING FURTHER REVIEW

1. Site Work

The following activities do not require further Section 106 review when conducted in areas adjacent to or on the same lot as *housing*:

a. *Rehabilitation, replacement, installation, and removal of any of the following elements less than 45 years old, provided such activity exclusively affects previously disturbed ground or creates no new ground disturbance:*

i. Concrete and asphalt ground surfaces such as streets, parking areas, driveways, and walkways, including repaving, restriping, replacing such surfaces with *permeable ground surface materials*, and reducing surface size, but not changing vertical alignment or expanding surface size.

ii. Park, playground, and sports equipment such as platforms, guardrails, handrails, climbers, ramps, stairways, ladders, balance beams, fitness equipment, rings, rolls, un-mechanized merry-go-rounds, seesaws, slides, swings, benches, netting, basketball hoops, drinking fountains, and *ground surface materials*, but not *buildings*.

iii. Fencing, but not *replacement* or removal of fencing that is a *character-defining feature* of a *historic property*.

iv. Wayfinding, address, and identification signage.

v. Lighting, such as *building-mounted* lighting and freestanding lighting in parking areas, along driveways or walkways, or in park and playground areas, and including relamping and rewiring, but not including *replacement* or removal of lighting that is a *character-defining feature* of a *historic property*.

vi. Water feature, such as decorative fountains, including replumbing, but not *replacement* or removal of a water feature that is a *character-defining feature* of a *historic property*.

vii. Curb, gutter, steps, ramp, and retaining wall, but not a retaining wall that is a *character-defining feature* of a *historic property*.

b. *Maintenance, repair, and in-kind replacement* of any element listed in Section 1.a. of this Appendix.

c. Any of the following landscaping, grounds, and water management activities:

i. Fertilizing, pruning, trimming, mowing, deadheading, weeding, and maintaining, as applicable, grass, shrubs, other plants, and trees.

ii. Planting of grass, shrubs, and other plants, and xeriscaping.

iii. *Replacement* of a tree in its existing location and planting of a new tree within 40 feet of the *building*.

iv. Removal of grass, shrubs, other plants, invasive species, dead plant and tree material, and diseased or hazardous trees.

v. Removal of rocks and debris, but not rocks arranged in a rock wall or other feature that is a *character-defining feature* of a *historic property*.

vi. *Maintenance, repair, rehabilitation, replacement, and installation of green infrastructure* either in *previously disturbed ground*, in areas within 10 feet of existing paved areas, or in areas within 10 feet of the *building*.

d. *Maintenance, repair, rehabilitation, replacement, and removal of the following elements serving housing*, provided such activity exclusively affects *previously disturbed ground* or creates no new *ground disturbance*, and further provided that such activity does not result in physical changes visible from the *primary right-of-way*:

i. Above-ground utilities, including overhead wires, anchors, crossarms, transformers, monopole utility structures placed in auger holes, or other miscellaneous hardware.

ii. Below-ground utilities, including underground water, sewer, natural gas, electric, telecommunications, drainage improvements, septic systems, and leaching systems.

iii. Vault toilets.

e. Test borings, soil sampling, well drilling, or perc tests less than eight inches in diameter that do not impact *ground surface materials* 45 years or older or known *historic properties*.

f. *Installation and removal of temporary construction-related structures*, including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers, and restrooms.

2. Work on the Building Exterior

The following activities do not require further Section 106 review when conducted on or near the exterior of *housing*:

a. *Rehabilitation, replacement, and installation of the following elements: on a building less than 45 years old and not known after a records check to be a historic property; on a building the federal agency or another federal agency has determined to not be a historic property within the preceding ten years; or on the non-primary façade of a historic building or on the non-primary façade of a building whose eligibility for inclusion in the National Register is not known and in a location not otherwise visible from the primary right-of-way:*

i. **Doors**, including insulated exterior doors and basement bulkhead doors.

ii. **Windows**, including storm windows, glazing treatments, window jambs, window sills, solar screens, awnings or window louvers.

iii. Canopies, awnings, and solar shades.

iv. **Roofing**, including cladding and sheeting, flashing, gutters, soffits, downspouts, eaves, parapets, and reflective or energy efficient coating; white roofs or cool roofs on flat roofs; and green, sod, or grass roofs on flat roofs.

v. Improvements that address the requirements of the Americans with Disabilities Act, such as ramps and railings.

vi. *Mechanical systems* and fire alarm, fire suppression, and security systems and equipment.

when on the non-primary facade of a historic building -- with good faith and reasonable replication of scale, rhythm, dimensions, pattern of divided lites, profiles of casings and trim

OR ... use a formulation similar to that in Appendix A.2, section 2.c. for i, ii, iv and xiii (doors, windows, at least soffit/eave details, siding) on non-primary facades on historic buildings. (comment applies to all similar sections below re: non-primary facades on historic buildings)

vii. *Solar energy systems.*

viii. Elevator systems.

ix. Hardware, such as dead bolts, door hinges, latches and locks, window latches, locks and hinges and door peepholes.

x. Foundations and seismic and structural *repairs*, with *ground disturbance* limited to areas within 10 feet of the *building*.

xi. Chimneys.

xii. Vents, such as continuous ridge vents covered with ridge shingles or boards, roof vents, bath and kitchen vents, soffit vents, or frieze board vents.

xiii. **Siding.** when on the non-primary facade of a historic building -- with good faith and reasonable replication of scale, pattern, dimensions, and appearance

xiv. Energy and water metering devices.

b. *Maintenance, repair, and in-kind replacement* activities on any *building*, including:

i. *Maintenance, repair, and in-kind replacement* of any element listed in Section 2.a. of this Appendix.

ii. Caulking, weatherstripping, reglazing of windows, *installation* of door sweeps, and other air infiltration control measures on windows and doors.

iii. Repointing of mortar joints with mortar similar in composition, joint profile, color, hardness, and texture of existing mortar.

iv. Removal of exterior paint or graffiti using non-destructive means, limited to hand scraping, low-pressure water wash of less than 500 psi, heat plates, hot air guns, and chemical paint removal.

c. *Maintenance, repair, rehabilitation, replacement, installation* and removal of any of the following elements on or near a *building*, provided that such activity exclusively affects *previously disturbed ground* or creates no new *ground disturbance*, and further provided that such activity does not result in physical changes visible from the *primary right-of-way*:

i. Above-ground utilities, including overhead wires, anchors, crossarms, transformers, monopole utility structures placed in augur holes, and other miscellaneous hardware.

ii. Below-ground utilities, including underground water, sewer, electric, telecommunications, drainage improvements, septic systems, and leaching systems.

iii. Foundation vents, if painted or finished to match the existing foundation material.

iv. *Green infrastructure*.

v. Gray water systems.

d. Paint on previously painted exterior surfaces.

e. *Rehabilitation, replacement, and installation of clean energy technologies*, provided that:

- i. Such technology is located either outside the boundaries of a *historic district*, or on the non-primary façade side of historic *housing*, or in a location not otherwise visible from the *primary right-of-way*; and is located on the same lot as or on an adjacent lot to that *housing*, or in the case of a *community solar system*, in a lot within two blocks or two thousand feet (whichever is longer) of the *housing* served;
- ii. Such activity exclusively affects *previously disturbed ground* or creates no new *ground disturbance*, and further provided that such activity does not result in physical changes visible from the *primary right-of-way*;
- iii. Notwithstanding Section 2.e.i. of this Appendix, a roof-mounted *solar energy system* may be visible from the *primary right-of-way* if it is installed with methods that do not irreversibly damage historic materials, sits close to the roof, and has a profile that matches the roof profiles (including pitched or hip roofs) or if on a flat roof has a profile with a slope not to exceed 20%.

f. *Maintenance, repair, or in-kind replacement of clean energy technologies*.

g. *Abatement of hazardous materials* where *effects* of the *abatement* are reversible or temporary or not visible from the *primary right-of-way*, the *abatement* either exclusively affects *previously disturbed ground* or creates no new *ground disturbance*, and the *abatement* does not involve the permanent removal or *replacement* of: windows on the primary façade of historic *housing* or *housing* whose eligibility for inclusion in the National Register is not known; or windows 45 years or older.

3. Work on the Building Interior

The following activities do not require further Section 106 review when conducted in the interior of *housing*, and do not result in physical changes visible from the *primary right-of-way*:

a. *Maintenance, repair, rehabilitation, replacement, and installation, and abatement of hazardous materials*, that take place entirely within the interior of the *housing* and: in an individual *housing* unit; in any interior location of *housing* less than 45 years old and not known after a *records check* to be a *historic property*; on *housing* the *federal agency* or another *federal agency* has determined to be not a *historic property* within the preceding ten years; or in any interior space within historic *housing* that is not a *primary space*. Example activities covered by this Section 3.a. include: removal, alteration (including of width, height, and location), and construction of interior walls; alteration of floors and flooring (including of material, pattern, and texture); alteration of ceilings (including of material, lighting, and height); *installation of mechanical systems* and fire alarm, fire suppression, and security systems and equipment; insulation and air sealing; removal and *installation* of equipment and fixtures (including bathroom, kitchen, and lighting equipment and fixtures); *replacement* and refurbishment of elevator cabs, system-wide upgrades to elevator *mechanical systems*, *installation of building energy control systems*; and *installation* of code-required signage; removal, alteration, and construction of stairs; cosmetic improvements; and improvements to address the requirements of the Americans with Disabilities Act.

b. *Rehabilitation, replacement and installation* of any of the following elements, in any location other than the locations identified in Section 3.a. of this Appendix, if such activity does not result

in physical changes visible from the *primary right-of-way* and has no visual *effect* on the *primary spaces* of historic *housing*:

- i. *Mechanical systems*, including but not limited to heating, ventilating, and cooling components such as heat pumps, electric furnaces and boilers, vented space heaters, electric heat systems, electronic ignition devices, central air conditioners, window air conditioners, evaporative coolers, condensers, compressors, heat exchangers, air exchangers, ventilation systems, and refrigeration lines; and fire alarm, fire suppression, and security systems and equipment.
 - ii. Waste heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment.
 - iii. Adjustable speed drives such as fans on mechanical equipment including air handling units, cooling tower fans, and pumps.
 - iv. Electronic ignition devices.
 - v. Duct and pipe systems, including return ducts, diffusers, registers, air filters, and thermostatic radiator controls on steam and hot water heating systems.
 - vi. Water conservation measures, such as low flow faucets, toilets, shower heads, urinals, and distribution device controls.
 - vii. Light fixtures, bulbs, ballasts, exit signs, HID fixtures, and lighting technologies such as dimmable ballasts, day lighting controls, and occupant-controlled dimming.
 - viii. *Building energy control systems*.
 - ix. EnergyStar (or similarly rated) appliances.
 - x. Battery energy storage systems.
 - xi. Thermal insulation, other than spray foam, in or around walls, floors, ceilings, attics, crawl spaces, ducts, water heater tanks, water heating pipes, refrigeration lines, and foundations, where such insulation can be installed and removed without damaging exterior walls, even if such insulation increases interior wall thickness.
 - xii. Spray foam, other than closed cell spray foam or extruded polystyrene, that does not directly touch *historic building materials* and can be installed and removed without damaging exterior walls, even if such insulation increases interior wall thickness.
 - xiii. Caulk, weather-stripping, and other air infiltration control measures in and around bypasses, penetrations, ducts, and *mechanical systems*.
- c. *Maintenance, repair, and in-kind replacement* of any of the elements listed in Section 3.b., any *building* element, any improvement that addresses the requirements of the Americans with Disabilities Act, and any cosmetic or decorative features of the *housing*.
- d. *Maintenance, repair, in-kind replacement, and rehabilitation* of a skylight, atrium, courtyard, or lightwell; and *installation* of a new skylight, atrium, courtyard, or lightwell that will not be visible

from the *primary right-of-way* and will not result in interior reconfigurations to *primary spaces* or removal of *historic building materials* in *primary spaces*.

e. *Abatement* of *hazardous materials* where *effects* of the *abatement* are reversible or temporary or not visible from the *primary right-of-way*, the *abatement* either exclusively affects *previously disturbed ground* or creates no new *ground disturbance*, and the *abatement* does not involve the permanent removal or *replacement* of: windows on the primary façade of historic *housing* or *housing* whose eligibility for inclusion in the National Register is not known; or windows 45 years or older.

4. Emergency Work

The following activities related to the exterior or interior of any historic *housing* do not require further Section 106 review when such work relates to an *emergency situation* and takes place within 30 *days* of the occurrence of the *emergency situation* and otherwise complies with 36 C.F.R. § 800.12:

- a. Temporary stabilization that causes no permanent damage to historic *housing* or any other *historic property*, including *installation* of temporary bracing, shoring and tarps.
- b. Emergency *repair* of masonry, concrete, or *building* façade cracks or falling elements.
- c. Emergency *repair* of falling plaster or other elements that pose an immediate and imminent health and safety hazard.
- d. *Abatement* of *hazardous materials* required to address an *emergency situation*.
- e. *Replacement* and demolition of a deteriorated or damaged mobile or manufactured home.

5. Other Activities

The following activities do not require Section 106 review:

- a. Energy audits, life cycle analyses, energy performance modeling, and retrocommissioning studies of *housing*.
- b. Feasibility studies related to energy efficiency improvements, *electrification*, improvements incorporating *clean energy technologies*, and other topics relating to *building* energy use.
- c. Leasing, refinancing, acquisition, or purchase by the *federal agency* of *housing*, provided that any changes in use or access, or any physical activities related to the *maintenance, repair, rehabilitation, replacement, or installation* of such *housing* must separately undergo Section 106 review if and as required, and pursuant to the standard review process or to applicable agreements or program alternatives.
- d. Transfer, lease, or sale of a federal government-owned *housing* from one *federal agency* to another *federal agency*, provided that any changes in use or access, or any physical activities related to the *maintenance, repair, rehabilitation, replacement, or installation* of such *housing* must separately undergo Section 106 review if and as required, and pursuant to the standard review process or to applicable agreements or program alternatives.
- e. Transfer, lease, or sale out of federal ownership or out of federal control of historic *housing*, provided there are adequate and legally enforceable restrictions or conditions (such as in a deed

covenant) to ensure long-term preservation of the property's historic significance in accordance with 36 C.F.R. § 800.5(a)(2)(vii).

f. *Maintenance, repair, rehabilitation, replacement, and installation of electric vehicle supply equipment* satisfying the *EVSE* criteria.

APPENDIX A-2: HOUSING-RELATED ACTIVITIES NOT REQUIRING FURTHER REVIEW AFTER THE SATISFACTION OF CONDITIONS, EXCLUSIONS, OR REQUIREMENTS

1. Site Work

The following activities do not require further Section 106 review when conducted in areas adjacent to *housing* or on the same lot as *housing*, after the satisfaction of the identified conditions, exclusions, or requirements:

a. *Replacement, installation, or removal of any of the following elements which are either less than 45 years old and create new ground disturbance in previously undisturbed soils, or 45 years or older; if a qualified authority makes a written determination that such activity will have no adverse effects on any historic property; or if the area of potential effects has been previously field surveyed (acceptable to current state or Tribal standards or within the past ten years) and, if applicable, has been subject to consultation with Indian Tribes and Native Hawaiian Organizations without such survey or consultation identifying any historic properties:*

i. Any of the elements listed in Sections 1.a. and 1.d. of Appendix A-1, including *character-defining features* of such elements.

ii. Test borings, soil sampling, well drilling, or perc tests more than eight inches in diameter, or that impact *ground surface materials* 45 years or older or known *historic properties*.

b. Planting of a new tree 40 feet or more from a *building* or *replacement* or *installation* of *green infrastructure* either in *previously disturbed ground*, in areas within 10 feet of existing paved areas, or in areas within 10 feet of the *building*, if a *qualified authority* has made a written determination that such planting will have no *adverse effects* on any *historic property*.

2. Work on the Building Exterior

The following activities do not require further Section 106 review when conducted on, or in the case of *clean energy technologies* near (as further provided below), the exterior of *housing*, after the satisfaction of the identified conditions, exclusions, or requirements:

a. *Rehabilitation, replacement, and installation* of the following elements on the exterior of: *buildings* 45 years or older if a *qualified authority* determines that the *building* is not a *historic property*; or *buildings* 45 years or older determined by a *qualified authority* to be a *historic property*, if a qualified professional makes a written determination that such *installation* or *replacement* will have no or minimal *adverse effects* on any *character-defining feature* of a *historic building*:

i. Any of the elements listed in Section 2.a. of Appendix A-1, including elements in locations other than those identified in that Section.

b. *Rehabilitation, replacement, or installation* of any of the following elements on, or in the case of *clean energy technologies* near (as further provided below), a *building*, which create new *ground disturbance* on previously undisturbed ground, if a *qualified authority* makes a written determination that such activities will have no *adverse effects* on any *historic property*:

i. Any of the elements listed in Section 2.c. of Appendix A-1, including elements in locations other than those identified in that Section.

ii. *Clean energy technologies*, when located or configured in a manner other than that identified in Section 2.e. of Appendix A-1.

c. *Replacement of exterior historic building materials of historic housing with in-kind or substitute building materials after the federal agency, with the assistance of a qualified authority, conducts the following selection procedure:*

i. Characterize existing *historic building materials* in terms of condition, design, material properties, performance (including insulation and air sealing value), safety, and presence of hazards such as lead-based paint, asbestos, or other *hazardous materials*;

ii. Next, determine, based on an evaluation of *technical feasibility* and *economic feasibility*, if *historic building materials* can be repaired or if they must be replaced;

iii. Next, if *replacement* is required, identify potential in-kind and *substitute building materials* and evaluate their *technical feasibility* and *economic feasibility*;

iv. Finally, based on such evaluation, select the most appropriate in-kind or substitute *building material*;

provided, however, that a *federal agency* may only utilize this selection procedure if such *replacement* or demolition does not create *ground disturbance*, creates *ground disturbance* exclusively on *previously disturbed ground*, or, in the opinion of a *qualified authority*, has no *adverse effects* on any *historic property*.

d. The *abatement of hazardous materials*, where such activity is irreversible or permanent or will be visible from the *primary right-of-way*, create new *ground disturbance*, or result in the permanent removal or *replacement* of: windows on the primary façade of a historic *building* or a *building* whose eligibility for inclusion in the National Register is not known; or windows 45 years or older, if a *qualified authority* makes a written determination that such activity will have no *adverse effects* on any *historic property*.

3. Work on the Building Interior

The following activities do not require further Section 106 review when conducted in the interior of *housing*, after the satisfaction of the identified conditions, exclusions, and requirements:

a. In addition to those activities listed in Section 3 of Appendix A-1, *maintenance, repair, rehabilitation, replacement, and installation*, and the *abatement of hazardous materials*, where such activity results in physical changes to a historic *building* visible from the *primary right-of-way* or has a visual effect on the *primary spaces* of a historic *building*, if a *qualified authority* makes a written determination that such activity has no *adverse effects* on any *historic property*.

HISTORIC PRESERVATION CERTIFICATION APPLICATION PART 2 – DESCRIPTION OF REHABILITATION

Historic Property Name Wellington Hotel

NPS Project Number _____

Property Address 310 Main Street, Pine Hill, NY

Number & Feature: 00 / Historic and overviews

Photos taken August 2023



Fig 00.03: South elevation, looking north



Fig 00.04: West elevation, front block, looking east



[External] My Public Comments on on Accessible, Climate-Resilient, and Connected Communities

From Stacy - Blake Hill House <stacyfg@gmail.com>

Date Wed 09-Oct-24 6:07 PM

To Program Alternatives <program_alternatives@achp.gov>

To Whom It May Concern,

Thank you for the opportunity to comment on the possible changes to Section 106 of the National Historic Preservation Act relating to the Secretary of the Interior's Standards for the Treatment of Historic Properties--**specifically original wood windows and storm windows.**

My co-author, Scott Sider, and I are in the final stages of publishing our book titled *The Case for Historic Windows: The Truth About Energy Efficiency and Old Windows*. Scott Sidler's company, Austin Historical, has been restoring original wood, steel, and storm windows since 2010. I have been teaching window restoration to DIYers for five years. Scott and I are long-time blog and book writers on topics related to historic preservation.

During the year-long research to write our book, we uncovered some critical information proving that replacing original wood windows with new windows will yield neither long-term savings nor significant energy efficiency. We based our findings on four key areas of research:

1. The lifespan of original wood windows vs. replacement windows
2. The cost of producing replacement windows, including embodied vs. operational carbon
3. The monetary return on investment of replacement windows
4. Modifying original wood windows to align them with the current energy efficiency standards and codes

1. Lifespan of Historic Windows

-
- Historic windows are designed for repair, not replacement. They consist of wood and single-pane glass, lasting indefinitely with proper maintenance.
- The sacrificial elements, such as glazing putty and paint, are designed to be renewed, ensuring the window's core elements can be preserved.
-
- Modern replacement windows, especially those with insulated glass units (IGUs), often fail within 15-20 years due to seal failures and the loss of insulating gases.

[\(source\)](#)[\(source\)](#)[\(source\)](#)[\(source\)](#)

2. The Cost of Producing Replacement Windows:

-

- **Embodied Carbon and Energy Deficit:**

- Replacement windows require significant energy for production, beginning with raw material extraction and continuing through manufacturing, distribution, and installation.
- Vinyl windows require approximately 10,000 kWh of electricity per metric ton to produce, equivalent to 8,600 lbs of CO₂ emissions. Aluminum windows require even more energy—around 17,000 kWh per metric ton, resulting in 14,620 lbs of CO₂.
- Producing new windows **results in a large energy deficit before installation**. A Swedish study found that producing a single double-pane vinyl window emits approximately 1,244 lbs of CO₂.
- On the other hand, historic windows require zero additional energy to remain in place, as they are already installed and functional. This makes them a more sustainable choice, as they do not carry an inherent carbon deficit.

([source](#))([source](#))([source](#))([source](#))

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- **Operational vs. Embodied Carbon:**

- Focusing solely on operational energy savings from modern windows (i.e., reduced utility bills) overlooks the significant embodied carbon involved in manufacturing them, especially if replacements must be replaced repeatedly due to IGU and frame material failure.
- Helen Sanders, Ph.D., notes that replacing single-pane historic glass, which can last up to 1,000 years, with modern insulated glass units (IGUs) with a 25-30-year lifespan trades long-term durability for a short-term reduction in operational carbon emissions.
- The energy and environmental impact of producing new windows should be factored into decisions about energy efficiency. Ignoring embodied carbon is equivalent to robbing Peter to pay Paul; in other words, taking from one resource to provide for another. All embodied or operational carbon contributes to greenhouse gases.

([source](#))

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- **Transportation and Additional CO₂:**

- The Environmental Defense Fund estimates that transporting materials for replacement windows adds about 7,100 lbs of CO₂ for an average house. This is in addition to the carbon footprint of manufacturing and installation, further deepening the energy deficit.
- Historic windows avoid these transportation emissions entirely.

([source](#))

3. The monetary return on investment of replacement windows

- **Energy Contribution of Windows:** According to the U.S. Department of Energy, windows and doors account for only 25-30% of a home's heating and cooling costs. This translates to just 14% of the total energy bill for an average home.

- **High Replacement Costs:** The average cost to replace 24 windows in a home is approximately \$17,344, but the annual savings on energy costs is only about \$542.50, which results in a return on investment (ROI) of 32 years.
- **Unfavorable Return on Investment:** Even in ideal conditions, the breakeven point for energy savings is 32 years, far exceeding the 15-20-year lifespan of many replacement windows. This means homeowners will likely need to replace their windows again before they ever see significant savings.
- **Environmental Impact:** Constant replacement of windows due to their short lifespan (15-20 years) leads to ongoing embodied carbon costs and waste, undermining long-term sustainability goals. On the other hand, historic windows can be repaired and maintained indefinitely, offering a far more environmentally responsible solution.

([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))

4. Modifying original wood windows to align them with the current efficiency standards and codes

Historic windows, though often criticized for their lower energy efficiency compared to modern replacement windows, can be improved to meet or approach modern energy standards with proper restoration and upgrades, such as storm windows or advanced glazing systems. However, I want to mention two points related to frame materials first.

Frame Materials

- **Superior Frame Materials:** Historic wood frames, commonly made of pine, are far superior insulators compared to modern materials like vinyl, aluminum, and Fibrex®. Aluminum, for instance, is 131,328% worse than pine in terms of thermal conductivity, while vinyl is 42% worse and Fibrex® 86% worse. This makes historic wood frames a better option for energy conservation.
- **Thermal Expansion Differences:** Modern materials like vinyl and Fibrex® also experience greater thermal expansion than pine. This expansion leads to earlier failure of seals, caulks, and frame components, negatively affecting the long-term performance and efficiency of modern replacement windows. Vinyl expands 1,368% more than pine, and Fibrex® expands 628% more, increasing the likelihood of air and water infiltration over time.

([source](#))

Effective Alternatives for Improving Energy Efficiency related to the U-factor, Solar Heat Gain Coefficient (SHGC), and Air Leakage:

- **Interior Storm Windows** (e.g., Indow, Magnetite) can improve the U-factor, SHGC, and Air Leakage to acceptable levels without altering the original historic window.
- **Exterior Storm Windows** are a traditional and effective method that can achieve near-code compliance, especially in colder climates.
- **Advanced Technologies** such as Pilkington Spacia™ Vacuum Insulated Glass can exceed modern energy requirements without compromising historic aesthetics but at a higher cost.
- **Additional Considerations for Energy Efficiency:** Window treatments like shades, curtains, solar screens, and cellular shades substantially improve energy efficiency. These simple and cost-effective solutions can reduce heat loss by 40% or more.

([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))([source](#))
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Additional Findings That Fall Outside of the Four Categories

- The replacement cycle of modern windows every 15-20 years contributes to significant construction waste, as failed IGUs or broken glass typically require replacing the entire window or sash ([source](#)).
- **Construction Waste Concerns:** Replacement windows contribute to massive amounts of construction waste due to their short lifespans and lack of repairability.

Conclusion:

All of the points within this comment highlight the importance of considering the longevity, repairability, and environmental impact of windows in historic preservation decisions. **The preservation of historic windows aligns with sustainable building practices and energy efficiency goals.** Policies should encourage repairing, maintaining, improving, and modifying historic windows rather than replacement, reducing construction waste and long-term environmental costs.

Sincerely,

Stacy Grinsfelder
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[External] comment from public on "ACHP Proposed Program Comment"

From Tamara Bray <tamara.bray@wayne.edu>

Date Thu 26-Sep-24 9:13 PM

To Program Alternatives <program_alternatives@achp.gov>

To Whom it May Concern

I write as a concerned member of the public and an informed professional with a clear understanding of the Section 106 process.

The National Historic Preservation Act was a brilliant piece of compromise legislation that carefully balanced the needs of a modern and developing nation with that of preserving elements of our national and local heritage for future generations. This compromise, which is realized in the Section 106 process of the NHPA, has worked fairly well for some 60+ years.

The proposed Program Comment issued by the Ad Council seeks to chip away at, if not ultimately eliminate, the Section 106 process, which again is based on compromise and consultation. While the proposal cloaks itself in noble causes, ie., accelerating housing construction, climate resiliency, etc., it seems to me that this is subterfuge. The ultimate aim appears more geared toward allowing developers a completely free hand, unconstrained by any local, historical, or preservation-oriented concerns. Looking at the Appendices in the Draft Program Comment, for instance, one notes the multiple activities that "do not require further Section 106 review." These are so vaguely written, for instance, in stating that Sec. 106 need not be conducted in "areas adjacent to"... "a building or on the same lot as a building," or "in areas adjacent to housing or on the same lot as housing." What is the potential scope of "areas" here? One could imagine "areas" extending significant distances from existing buildings. The idea of "adjacency" could undoubtedly also be manipulated.

Elsewhere in the Appendices, "qualified professionals" are to be permitted to simply sign off that Section 106 processes are unnecessary. One has to ask on what basis would this determination be made, and who exactly would count as a qualified professional to make such a determination?

In thinking about this draft proposal to reconfigure the significance of the Section 106 process, such debacles as the African-American Burial Ground fiasco in NYC, come to mind, where corners were cut and big prices were paid as a result in terms of both dollars and public trust. Another example is that of Stone Street in Flint, Michigan, where housing developers encountered a native burial ground that they'd failed to take account of prior to initiating construction due to lack of following Sec. 106 processes. These should serve as salient examples of things that can (and undoubtedly will) go wrong if Sec. 106 is eliminated.

These draft Program Comments aimed at reconfiguring the NHPA are not a good idea for either the federal govt or the public.

Sincerely, Tamara Bray

Tamara L. Bray, Professor
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[External] Proposed Program Comment on Accessible, Climate-Resilient, Connected Communities

Thomas Christiansen <thomasgwchristiansen@gmail.com>

Fri 06-Sep-24 9:41 AM

To:Program Alternatives <program_alternatives@achp.gov>

I am writing to express my unequivocal support for the proposed Program Comment. Having worked on issues of zoning and historic preservation in SLC (where I relied on resources from the ACHP), I know very well the importance of ensuring that all our needs are met, including abundant housing, a green transition, and preservation of our history. I believe this program comment strikes a much improved balance between these considerations

Thank you for your diligent work in advancing all these interests. Please reach out to me by email for any follow up

Thanks,
Tom Christiansen

Thomas Christiansen

October 8, 2024

Hon. Sara Bronin
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

RE: Call for comments on Program Comment proposals.

Dear Chair Bronin,

I am submitting comments on the Draft Program Comment on Accessible, Climate-Resilient, and Connected Communities (PC), released on August 8, 2024. I am a 36 CFR qualified architectural historian with nearly 10 years of experience and have been working in Section 106 review at the local government level for 5 years.

It is my opinion that the broad scope of the PC makes it hard to define appropriate alternatives and exemptions for federal programs across different federal agencies. A HUD specific program comment, based on the agency's eligible activities would serve as a more effective option to streamline the rehabilitation of existing housing and create new housing in existing buildings. At the very least, housing and transportation related activities deserve their own respective Program Comments in order to adequately identify and define an appropriate scope of exemptions.

Some of the listed exemptions are very fitting, however, the language surrounding ground disturbance is open to a range of interpretations and as written would put unidentified archaeological resources at risk. In cities like Detroit, archaeological resources are often the only remnants of the underrepresented communities displaced through urban renewal efforts. Such unidentified resources do not appear to have been taken into account in this draft. The current draft would allow for many historic urban deposits to be overlooked when assessing the potential to effect historic properties due to previous ground disturbance on a site.

The draft PC fails to define, broadly defines, or vaguely defines multiple key terms, which could lead to a variety of interpretations based on an individual's professional experience. The definition for *previously disturbed soil*, and *previously disturbed right of way*, and *hazardous materials* should be clarified, and a definition for *historic urban deposits* should be included. Archaeology sites in urban environments are typically contaminated. Abatement of hazardous materials in previously disturbed soils in urban areas would disrupt the historic urban deposits present.

The definition of "*efforts to reduce energy use and greenhouse gas emissions*" are too broad putting historic windows and doors at risk for irresponsible replacement due to lack of knowledge about the embodied energy and repairable nature of historic wood windows. In my experience, wood windows are always challenged as being less energy efficient, although

studies have shown this is not the case. Including qualified professionals in review of window and door replacements and other historic building materials leads to better outcomes for the homeowners, and residents. In my own experience, the home I grew up in was subject to a number of issues when the wood windows were replaced- including temperature inconsistencies, water intrusion, and mold growth.

I also have concern about the reporting requirements in this PC. How would newly identified historic resources be tracked if determinations are made by qualified authorities instead of SHPO? This could create data silos across different agencies and limit the information available to the public for historic record checks. Removing eligible historic resources and previously unidentified districts from the protections awarded in the National Historic Preservation Act undermines the core of the regulation.

Reducing the roles of qualified professionals, State Historic Preservation Offices, and local communities in making decisions about their historic resources goes against the essential nature of Section 106 Review. I echo the comments provided by The National Conference of State Historic Preservation Officers, The Society of American Archaeology, and The National Alliance of Preservation Commissions.

I look forward to ACHP's response to the above comments, questions and concerns.

Sincerely,

A handwritten signature in blue ink that reads "Tiffany Ciavattone". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tiffany Ciavattone