

The Advisory Council on Historic Preservation's (ACHP) proposed revisions to the regulations found at 36 CFR 800 implementing the Section 106 process are currently under review with the Office of Information and Regulatory Affairs (OIRA). Before an Agency can proceed with a proposed rulemaking, it is required to go through review by OIRA under Executive Order 12866 and consider the cost benefit analysis of any new regulation that is "significant."

Part of the OIRA review includes the opportunity for interested parties to submit a request for an OIRA meeting. If preservation partners, tribal, state, and local governments, or members of the public wish to request a meeting to express their concerns about the proposed regulation changes, they can do so at this website <https://www.reginfo.gov/public/do/eo/neweomeeting>. The RIN number of the proposed rule is **3010-AA10**. After going through an email confirmation process, you can request the meeting and will be asked to identify who will attend. Be sure to select "teleconference" unless you plan on traveling to DC to meet in person. Meetings with OIRA typically include representatives from the agencies who have proposed the rulemaking and do not last longer than 30 minutes. They are not able to answer most questions but they may ask them of you. Their primary role is to listen to comments.

OIRA's specific role in this process is to consider whether a proposed rule will:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the **environment**, public health or safety, or **State, local, or tribal governments or communities**;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) **Raise novel legal or policy issues arising out of legal mandates**, the President's priorities, or the principles set forth in this Executive order.

DHR has prepared talking points based on concerns that we have identified in our initial review that may be of specific importance to OIRA, primarily the discrepancies between the proposed revised regulations and the language in the National Historic Preservation Act. We would encourage parties to consider these talking points but also raise issues that are of particular interest to your group and the constituents you might represent.

DHR's general opinion regarding the proposed rule is that it will eliminate local, state, and public input in Federal Agency decision making that will impact historic properties and empower Federal Agency officials to make unilateral decisions without any input. There are many points within the proposed rule that directly contradict the statute which makes these regulations, if enacted, vulnerable to litigation. This will undermine the intended goal of the revision to streamline Section 106 reviews by making the process more unpredictable for Federal Agencies.