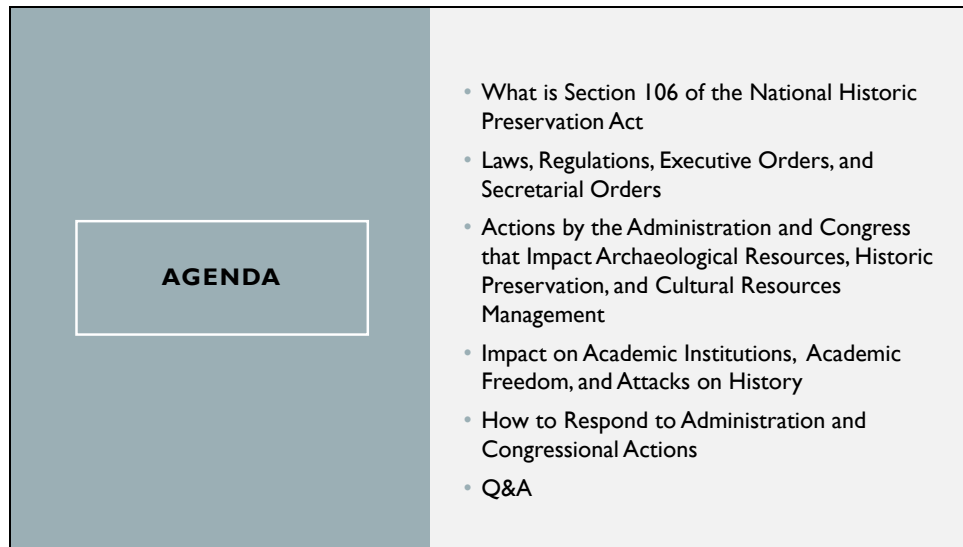


The purpose of this webinar is to inform Society for Historical Archaeology (SHA) members of the unprecedented threats and attacks by the Trump Administration on Section 106 of the National Historic Preservation Act (NHPA), cultural resources management (CRM), and academic freedom. We felt it was important to hold this webinar with SHA members because we all need to work together to respond to these threats and attacks. If things continue as they are now, and given what we anticipate may happen in the future, we may potentially lose everything we have built over the past several decades to protect our nation's archaeological and cultural heritage.

Before we start, we want to thank the Cultural Heritage Partners law firm for allowing us to use some of their PowerPoint slides from their recent webinar on the impacts on Section 106 resulting from Trump's Executive Orders.

Slide 2



The slide is divided into two main sections. On the left, a dark blue vertical bar contains a white rectangular box with the word **AGENDA** in bold, black, uppercase letters. To the right of this bar, on a light gray background, is a bulleted list of seven items.

- What is Section 106 of the National Historic Preservation Act
- Laws, Regulations, Executive Orders, and Secretarial Orders
- Actions by the Administration and Congress that Impact Archaeological Resources, Historic Preservation, and Cultural Resources Management
- Impact on Academic Institutions, Academic Freedom, and Attacks on History
- How to Respond to Administration and Congressional Actions
- Q&A

We will start off the webinar with a brief overview of Section 106 of the National Historic Preservation Act. Some folks attending this webinar may not have much experience with this statute, and understanding this law is important since Section 106 is a key foundation to historic preservation in the US, and the Administration and Congress are threatening this foundational law.

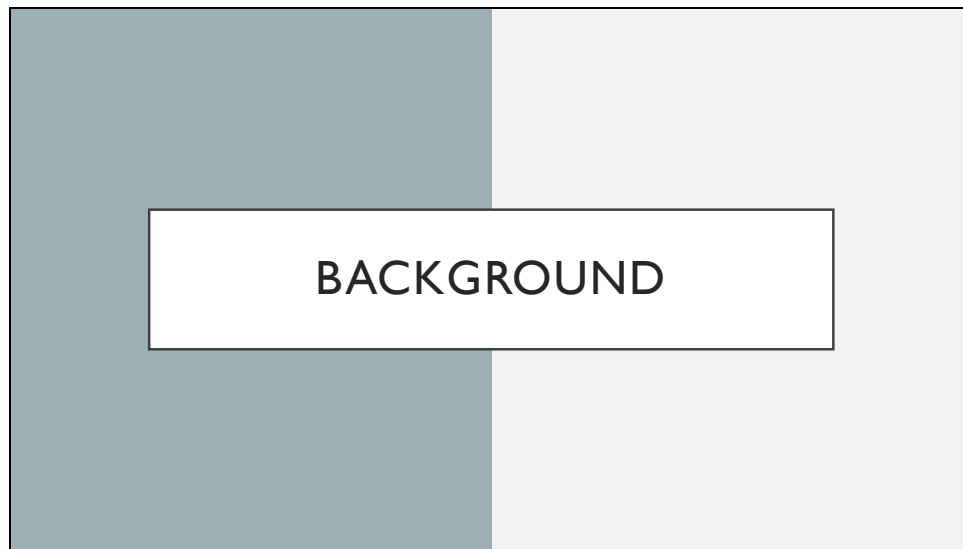
We will then briefly define the differences between laws, regulations, Executive Orders (EOs), and Secretarial Orders (SOs) as the Administration is using these to diminish and outright eliminate federal protections of historical archaeological resources and cultural resources in general.

Next, we will look at actions by the Administration and Congress that impact historical archaeological resources, historic preservation, and cultural resources management, followed by a discussion on impacts on academic institutions, academic freedom, and attacks on history

We will end the webinar with a discussion on how SHA as a society and SHA members can fight back against these attacks.

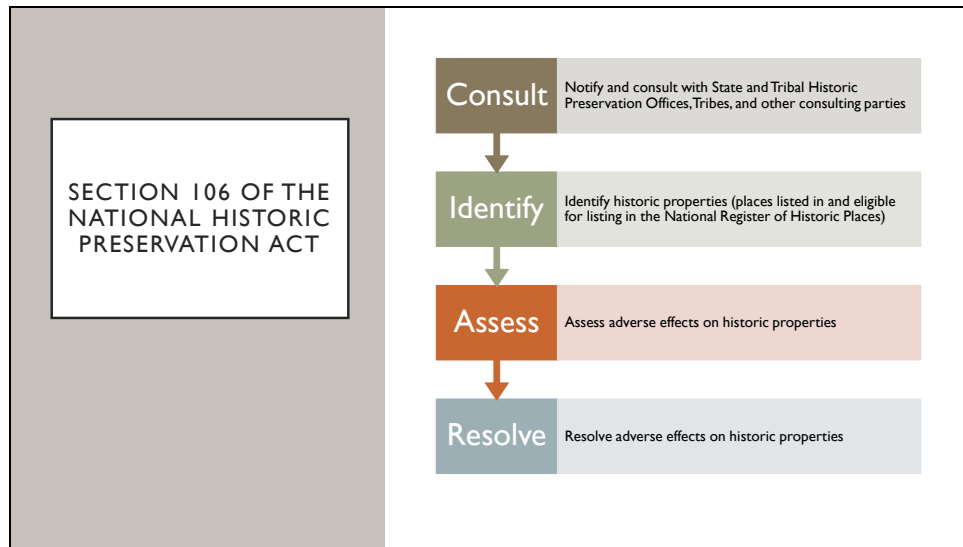
We ask participants to post questions, comments, and observations at any time in the chat box. We will have time after the presentations to review and discuss what is posted in the chat box.

Slide 3



As noted, we will begin with a bit of background on Section 106 of the NHPA, and the differences among laws, regulations, Executive Orders, and Secretarial Orders.

Slide 4



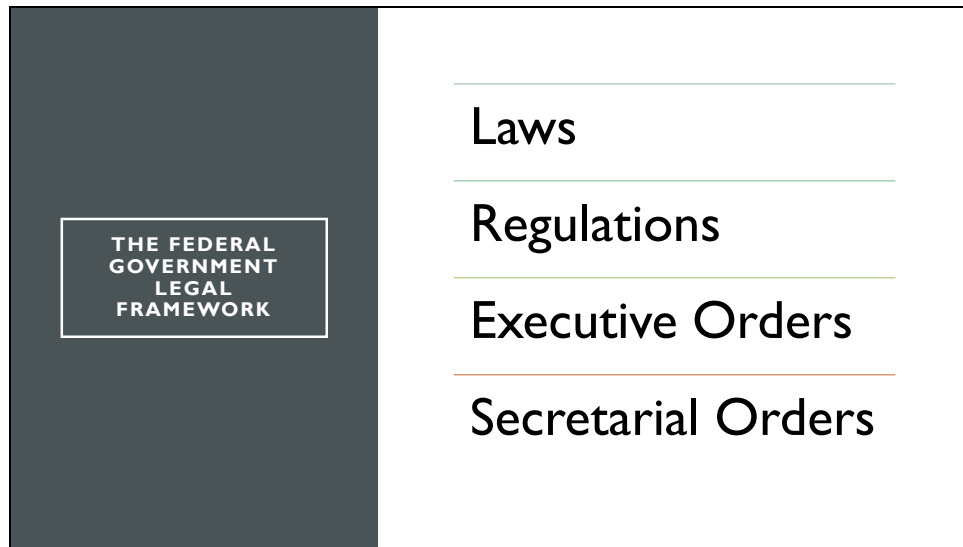
Section 106 is a two-sentence paragraph but is arguably the most consequential section in the National Historic Preservation Act. Section 106 requires federal agencies to take into account the effects of their actions, be it funding, permitting, or approving a project, on historic properties, that is, places listed in or eligible for listing in the National Register of Historic Places.

This chart shows the Section 106 process as laid out in federal regulation – 36 CFR 800, “Protection of Historic Properties.” Each step - consult, identify, assess, and resolve - is defined in the Section 106 regulations, but consultation is the key.

Federal agencies are responsible for complying with Section 106, but in consultation with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), federally recognized Tribes, local governments, and other consulting parties as appropriate.

NHPA established the Advisory Council on Historic Preservation (ACHP), SHPOs, and THPOs. The role of the ACHP is to advise the President and Congress on historic preservation issues and has the authority to promulgate regulations for implementing Section 106 of the Act, which they did with 36 CFR 800. The ACHP finalized these regulations eight years after the passage of NHPA. The ACHP continues to provide federal agencies with guidance on implementing the Section 106 process and under certain circumstances actively participates in the process.

To repeat, consultation is the heart of Section 106 as it prevents federal agencies from operating unchecked or unilaterally with respect to decisions affecting places listed in or eligible for listing in the National Register of Historic Places.



Continuing with the background to our discussions, let's briefly look at the roles and differences among federal laws, regulations, Executive Orders, and Secretarial Orders. The list shown in this slide is from the most expansive to the most specific.

The Administration has been using EOs and SOs to target regulations, so far, because laws can only be amended or revoked through an act of Congress. Regulations are published in the Code of Federal Regulations (CFR) while laws are published as part of the US Code.

Slide 6

LAWS

Article I of the Constitution empowers Congress with the legislative authority to enact and pass laws.

PUBLIC LAW 96-515—DEC. 12, 1980 94 STAT. 2887

Public Law 96-515
96th Congress

An Act

To amend the National Historic Preservation Act of 1966, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That this Act may be cited as the "National Historic Preservation Act Amendments of 1980".

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 15, 1966 (16 U.S.C. 475-476), hereinafter in this Act referred to as the "National Historic Preservation Act", is amended to read as follows:

"Sec. 1. (a) This Act may be cited as the "National Historic Preservation Act".

"(b) The Congress finds and declares that—

"(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

"(3) historic properties significant to the Nation's heritage are better lost or substantially altered, often irreversibly, with increasing frequency;

"(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

"(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial development, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

"(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the engagement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

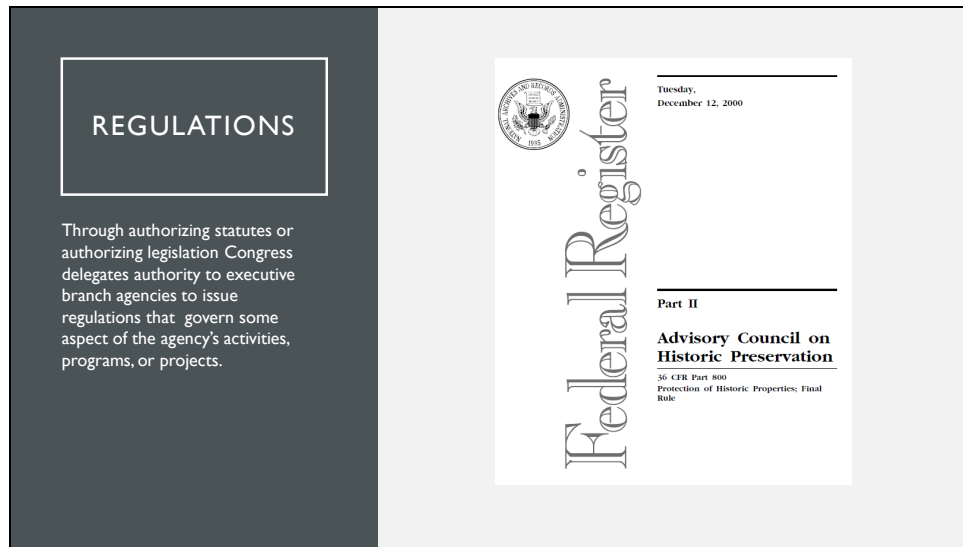
"(7) although the major burden of historic preservation has been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to coordinate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic

Both Houses of Congress can introduce a bill (draft law) but both houses must approve a bill before it becomes law.

Congress can pass a law authorizing a program or project, but the House must approve funding (i.e., appropriations). The president or executive branch agencies cannot introduce legislation, but the president or agencies can work with supportive legislators to get them to introduce legislation. And the president can veto legislation.

Laws are also subject to judicial review

Slide 7



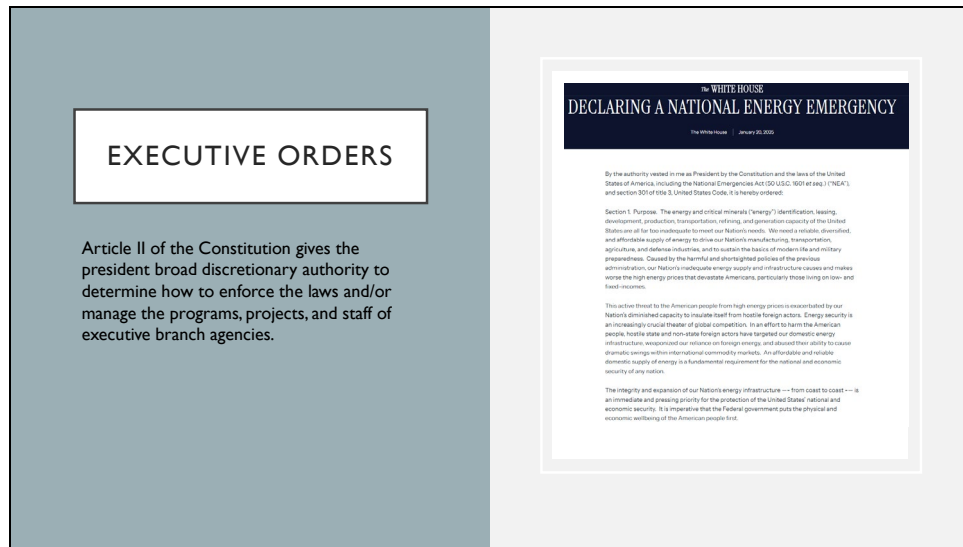
Regulations provide the process and steps an agency must take to comply with a law.

- Regulations must comply with the Organic Act establishing an agency.
- Regulations are codified in the Code of Federal Regulations and must be published in the *Federal Register* for public comment prior to being finalized.
- Once finalized they have the effect of law as they can include penalties for failure to comply; consequently, they are subject to judicial review

For example, the NHPA gave the Advisory Council on Historic Preservation the power to promulgate regulations – 36 CFR 800 – shown here.

It should be noted that it is easier to change or drop a regulation than a law and that is why the Administration is focusing on regulations rather than laws, at least for now.

Slide 8



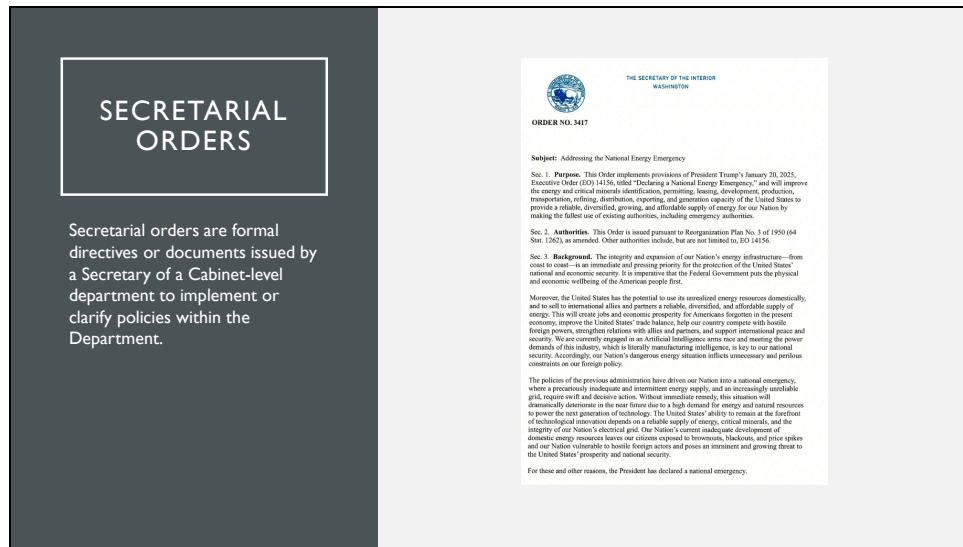
Only the president can issue Executive Orders and they only apply to executive branch agencies.

EOs often address compliance with specific aspects of a law or regulation. For example, EO11593, which President Nixon issued in 1971, is in furtherance of the purposes and policies of the NHPA, the Antiquities Act, and other federal laws, and requires federal agencies to “locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places,” in addition to other actions involving the cultural environment. Nixon’s EO is still in effect because a subsequent president has not rescinded this EO. A president can rescind an EO that a former president issued, and Trump has rescinded several of Biden’s EOs.

EOs have the force of law if the topic of the EO is "founded on the authority of the President derived from the Constitution or statute" and can therefore be subject to judicial review

As of May 5 2025, Trump has signed 147 EOs, of which at least 26 address cultural resources and historic preservation either directly or indirectly

Slide 9



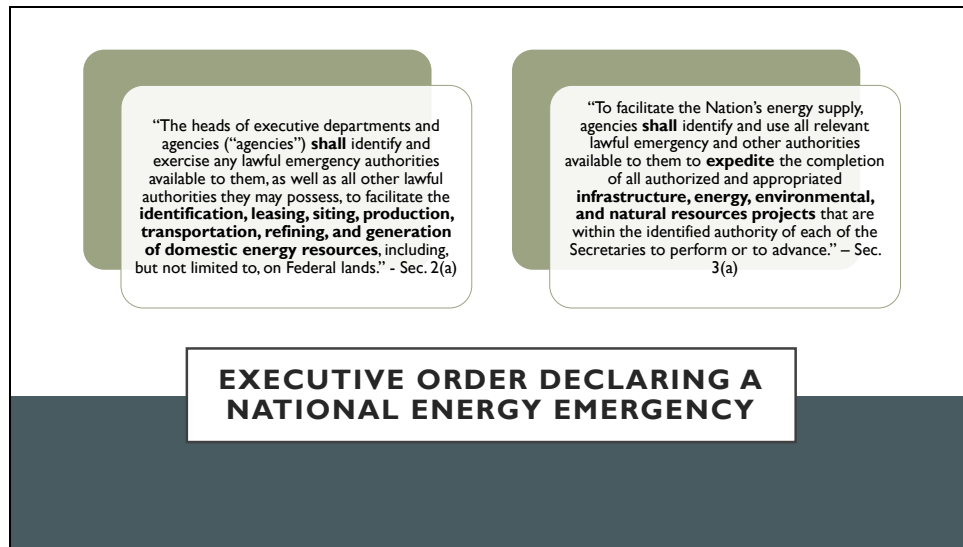
Secretarial Orders are used to provide guidance and direction to federal departmental employees or bureaus, offices, and divisions within a department with respect to policies, operational standards, and procedures. SOs can be issued to interpret statutes or regulations as they apply to the department or subunits within the department.

SOs may be written to support, expand upon, or provide specific directives in support of EOs. For example, the Department of the Interior's SO 3417 "Addressing the National Energy Emergency" was written in support of EO 14156 and directs all bureaus and offices under the Department of the Interior to identify all emergency and legal authorities to "facilitate the identification, permitting, leasing, development, production, transportation, refining, distribution, exporting, and generation of domestic energy resources and critical minerals including, but not limited to, on Federal lands and the Outer Continental Shelf," and to "expedite the completion of all authorized and appropriate" projects in support of energy production.



Now on to actions by the Administration and Congress that are having a direct impact on historical archaeology, CRM, and historic preservation.

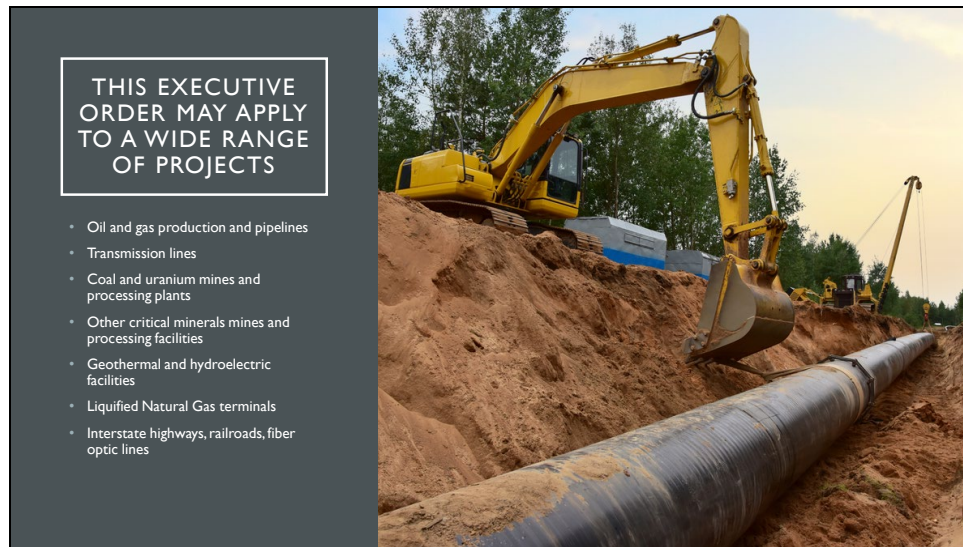
The Administration and Congress are currently not repealing outright historic preservation laws, but the application and implementation of these laws are being diminished through death by a thousand cuts by Administration and Congressional actions.



One of the greatest threats to archaeological resources and CRM is the President's Executive Order declaring a national energy emergency.

On January 20, 2025, Trump issued this EO in which he declared an energy emergency in regard to the availability of domestic energy resources and domestic energy production, transportation, refining, and generation. In this EO Trump directed **all** executive agencies, including the Advisory Council on Historic Preservation, to identify and exercise any emergency authorities available to them, as well as all other authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to projects on federal lands.

Slide 12



This slide shows a list of the types of projects that may fall under this Executive Order.

The thing is, there is no energy emergency. This is a fake emergency because:

- Oil and gas production are at record highs in the U.S.
- The U.S. produces more oil than any other country in the world
- The U.S. is the world's largest liquified natural gas exporter

As we will discuss later, there is a lawsuit challenging the legality of this EO.

Now, most projects falling under this Executive Order will likely constitute a federal project requiring compliance with Section 106. The regulations implementing Section 106, 36 CFR 800, include provisions for expediting Section 106 reviews in order to respond to a disaster or emergency declared by the president.

**EXPEDITED EMERGENCY PROVISIONS:
7 DAYS OR FEWER TO COMMENT ON
PERMANENT HARM**

36 C.F.R. Section 800.12(b)(2), usually implemented in cases of natural disasters, only requires agencies to:

- Notify ACHP, appropriate SHPO/THPO, and tribe or Native Hawaiian organizations that may attach religious and cultural significance to historic properties likely to be affected; and
- Give **seven days** to comment.
- Or, if agency decides, give **even fewer** days.

For any project that falls within the scope of this EO declaring an energy emergency, an agency can do two things under the emergency provisions of the Section 106 regulations:

“follow the terms of any applicable Section 106 agreements that contains emergency provisions, when such agreements exist”

OR

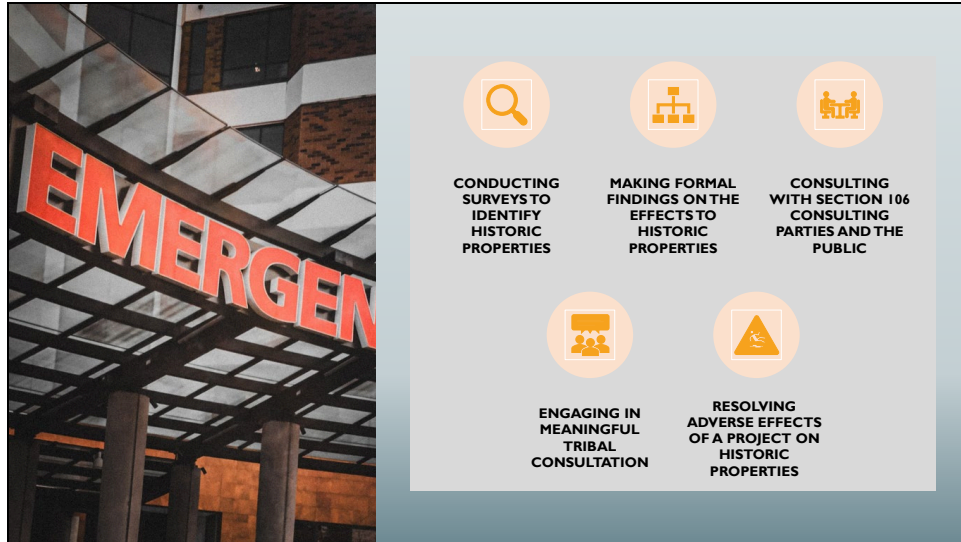
“avail themselves of the expedited emergency provisions in Section 800.12(b)(2) of the Section 106 regulations” in the absence of applicable Section 106 agreements.”

This slide shows what is required under 800.12(b)(2) of the Section 106 regulations if an agency does not have an agreement to follow.

In their directions to agencies for implementing these emergency provisions, in the context of Trump’s EO, the ACHP stated:

“While Section 800.12 only applies for 30 days following an emergency declaration, pursuant to Section 800.12(d), the ACHP is hereby extending the applicability of the Section 106 emergency provisions to run for the duration of the Presidential declaration.”

Slide 14



So, under these emergency Section 106 provisions, an agency can minimize or even avoid doing the things listed in this slide, which are the standard steps and activities of the Section 106 process.

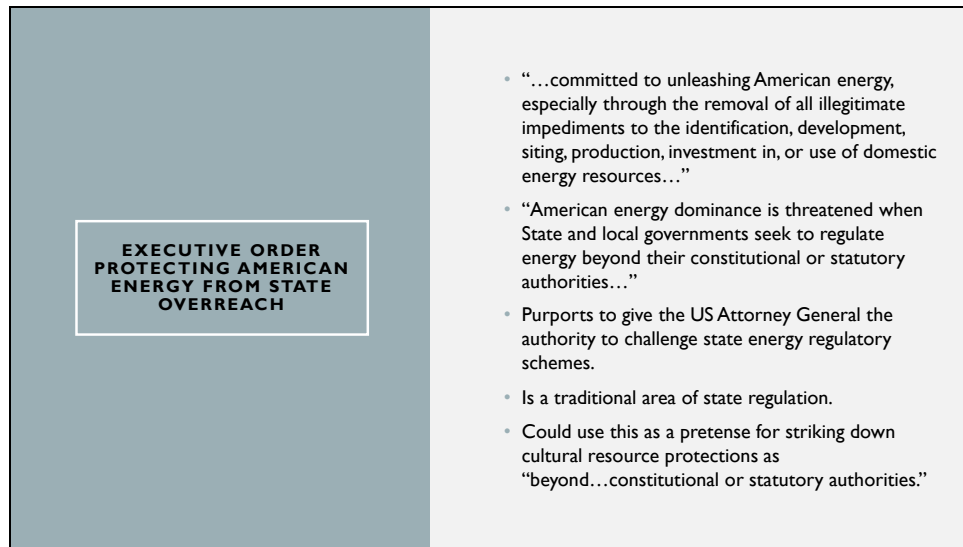
Clearly, all of this will short-change and diminish the consideration of impacts of federally linked energy-related projects on archaeological resources, and historic and cultural places of value to Tribes and other communities.

Now, even though a project sponsor is following the emergency procedures and is not doing the things shown in this slide, some project sponsors are doing some of these things because of state historic preservation laws. However, as we will discuss shortly, even the application of state historic preservation laws on federally linked energy projects is in jeopardy because of another EO.

OTHER EXECUTIVE ORDERS AND ADMINISTRATION ACTIONS

- Executive Order Protecting American Energy from State Overreach
- Department of the Interior Secretarial Orders
- Department of Agriculture Memorandum Implementing Executive Order for the Immediate Expansion of American Timber Production
- Department of Homeland Security and the Border

Next let's look at some of the other impactful Executive Orders, in addition to agency Secretarial Orders and Memoranda, and other Administration actions.



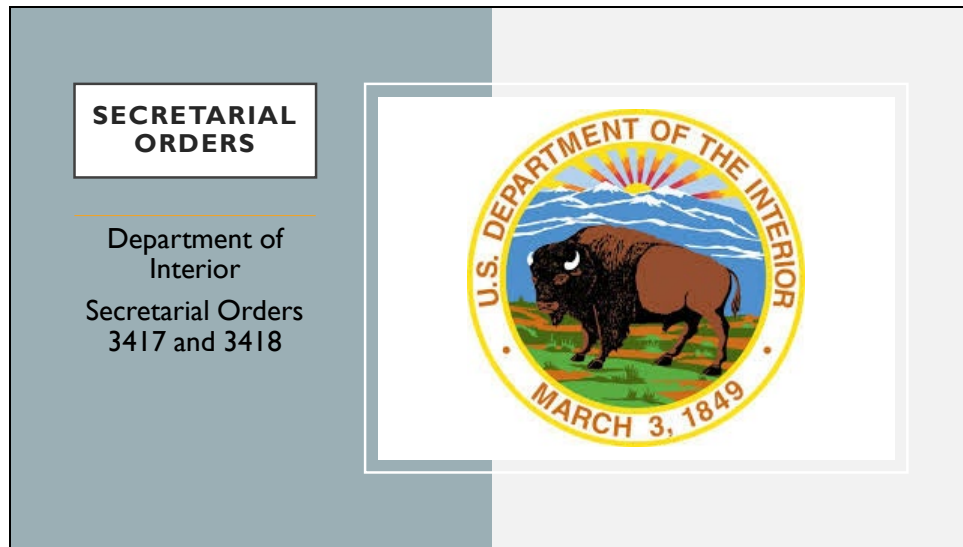
**EXECUTIVE ORDER
PROTECTING AMERICAN
ENERGY FROM STATE
OVERREACH**

- "...committed to unleashing American energy, especially through the removal of all illegitimate impediments to the identification, development, siting, production, investment in, or use of domestic energy resources..."
- "American energy dominance is threatened when State and local governments seek to regulate energy beyond their constitutional or statutory authorities..."
- Purports to give the US Attorney General the authority to challenge state energy regulatory schemes.
- Is a traditional area of state regulation.
- Could use this as a pretense for striking down cultural resource protections as "beyond...constitutional or statutory authorities."

With this EO, the Trump Administration is focusing its ire directly on state regulatory schemes that might have anything to do with energy exploration and development. This would easily include basic state-level cultural resources protections. Therefore, this EO is a real threat given that several cultural resource protections occur at the state level.

However, this EO is in direct violation of the Tenth Amendment of the Constitution, which was a negotiated means in the late 1700s to limit federal overreach. It reserves the states the right to pass all laws not expressly reserved to the federal government in the Constitution.

The Constitution is silent regarding energy-related matters. Arguably, energy may be regulated by Congress either on federal property (and maybe tribal) and in matters where interstate commerce is at stake. The latter will be the Administration's fallback argument.



As we discussed earlier, the Department of the Interior (DOI) Secretarial Orders listed in this slide are based off of the president’s energy-related EOs. Arguably (but barely) these EOs could be said to be bolstered by the later “State Overreach” order, but that is a weak argument.

DOI Secretarial Order 3417, as noted, directs DOI agencies to identify emergency authority and other means to expedite energy production on federal and Outer Continental Shelf lands. It also directs the agencies to speed up completion of existing projects. Order 3418 directs the DOI agencies to implement Trump’s revocation of climate change, environmental protection, Environmental Justice, and other earlier orders as they relate to energy exploration and production. This order also directs the agencies to identify federal lands withheld from energy exploration and production under environmental laws and to facilitate their entry into production

Both DOI orders contain instructions requiring DOI and agency leadership to review all policies within their jurisdictions and to submit action plans within 15 days of the signing of the orders, detailing how they intend to achieve the described goals. Order 3418, in particular, explicitly instructs department and agency leaders to “review all relevant internal regulations, policies, and guidance to ensure the lawful implementation of Section 106 of the National Historic Preservation Act.”

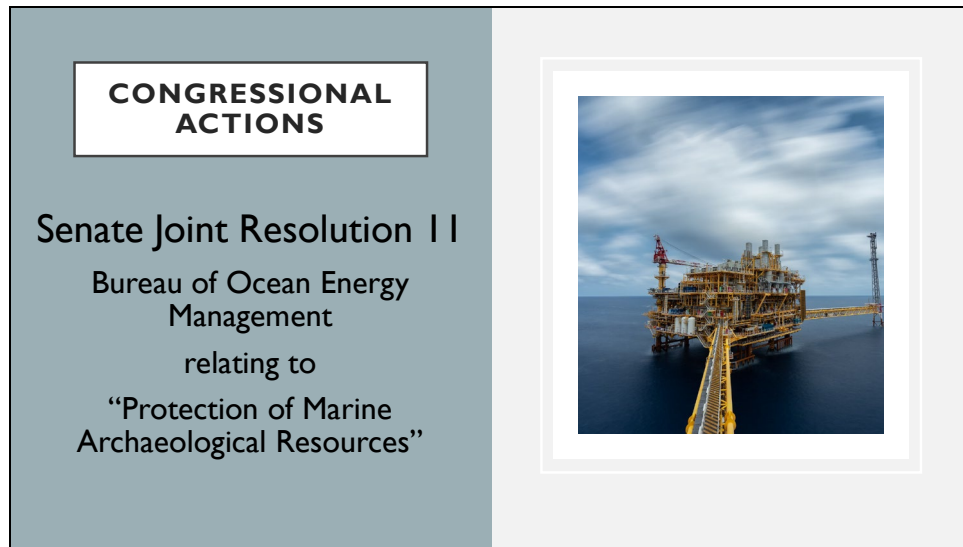


Department of Agriculture
Memo 1078-006

April 2025 Notice on
Enforcement of Illegal
Immigration Reform and
Immigrant Responsibility Act
of 1996

Department of Agriculture Memo 1078-006 purports to effectuate Trump’s EO directive to increase timber production in national forests. The EO purports to cover 67 million acres of National Forest Service land at “fire risk.” The EO directs agencies to identify any “fire risks” as defined in the EO and, in those cases, per the Department of Agriculture Memo, to activate emergency consultation and processing under the Section 106 regulations’ emergency provisions.

Based on the April 2025 Notice on Enforcement, the Department of Homeland Security (DHS) declared that the border in California is a point of “high illegal entry” and directed the removal of regulatory and policy limitations on the construction of the border wall; effectively suspending environmental and cultural resources protections in order to build the border wall.




On February 4, 2025, US Senator John Kennedy (R-LA) and US Senator Cindy Hyde-Smith (R-MS) co-sponsored Senate Joint Resolution 11, “A joint resolution providing for congressional disapproval under chapter 8 of title 5, US Code, of the rule submitted by the Bureau of Ocean Energy Management (BOEM) relating to "Protection of Marine Archaeological Resources." As proposed the disapproval would rescind the nationwide marine archaeological survey rule issued in September 2024. As argued by the bill’s co-sponsors, the Rule was an unnecessary cost to developers and unfairly delayed project permitting.

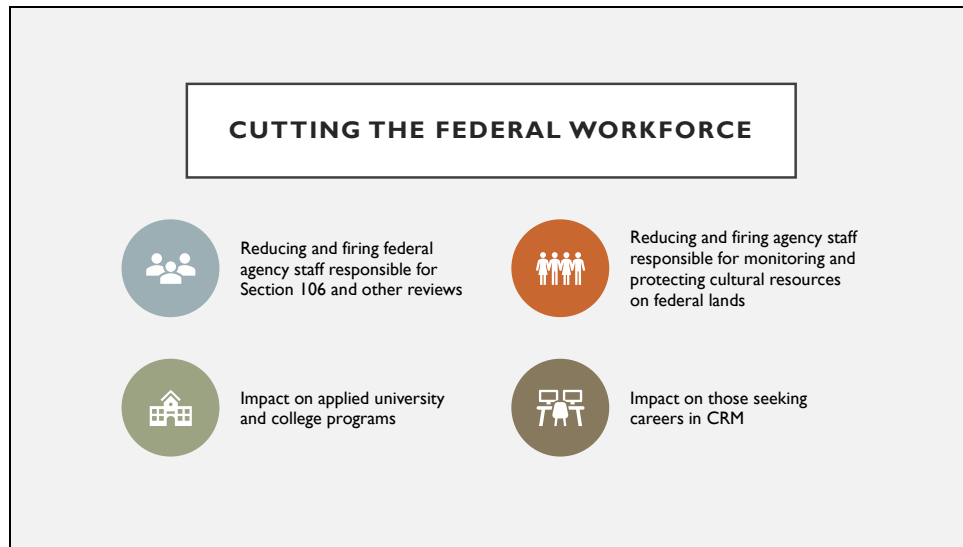
The Rule, however, was intended to improve efficiency and standards, some of which had been in place for 20 years, by removing uncertainty as to when or where a marine archaeological survey was required in advance of oil and gas operations on the Outer Continental Shelf. The Rule also created uniformity between survey guidelines across BOEM’s Atlantic, Gulf, Pacific, and Alaska regions. Following the Rule’s approval last fall, and effective as of October 3, 2024, each region’s individual notice to lessees (NTLs) outlining marine archaeological survey and reporting guidelines was rescinded and superseded by the Nationwide Rule.

On February 2, 2025, Senate Joint Resolution 11 passed the Senate, and it passed the House on March 4th. It has since been signed into law. The individual regional NTLs however, remain rescinded. This creates a situation where no published guidance exists.

<https://www.congress.gov/bill/119th-congress/senate-joint-resolution/11>
<https://www.boem.gov/about-boem/regulations-guidance/guidance-portal>

<p>IN SUMMARY, THESE ACTIONS WILL RESULT IN:</p>	
<p>Dismantling and dramatically reducing Section 106 consultation process and public participation</p>	
<p>Increasing impacts to historical and other archaeological resources</p>	
<p>Increasing impacts to places of significance to Tribes and other communities</p>	
<p>Reducing CRM work in all sectors</p>	

This slide provides a summary of the results of these Executive Orders, Secretarial Orders, Memoranda, and Congressional actions.



Now let's look at the reductions in the federal CRM workforce and the impacts of these reductions in staffing.

Reducing the size of the federal workforce is an element of the Trump Administration's efforts to dramatically reshape the federal government. We do not know how many federal workers have been laid off because the numbers keep changing with the firing and rehiring of staff, and the Administration has not provided staffing information to the public. The information that we do have about the federal workforce is anecdotal.

For example, we know that the National Park Service and the Forest Service have laid off many probationary cultural resources staff, though some have been rehired. Also, senior historic preservation staff within the General Services Administration, Federal Railroad Administration, Natural Resource Conservation Service (within the US Department of Agriculture) have been fired.

In addition, an unknown number of senior agency historic preservation staff have taken buyouts and have left federal service voluntarily. These buyouts are one of the ways the Administration is able to reduce the federal workforce.

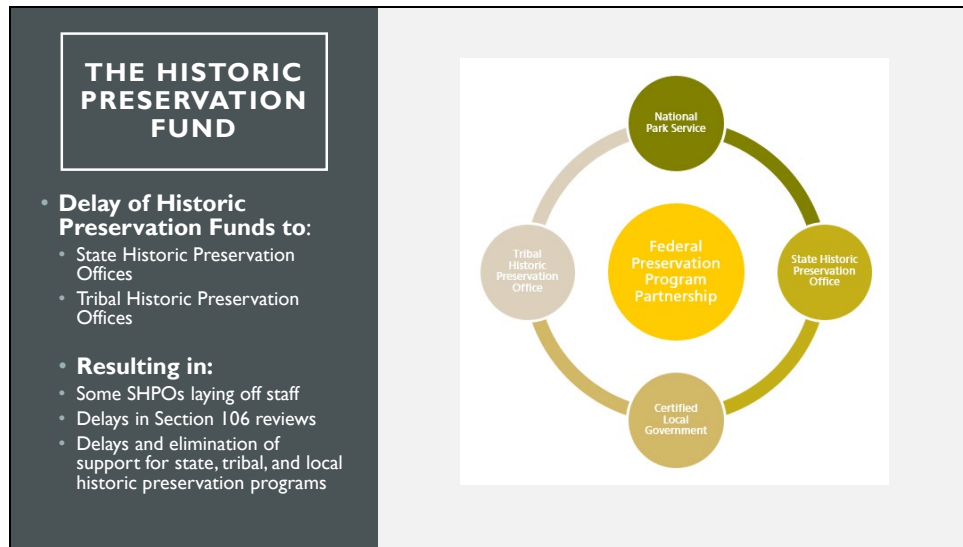
As a result of these layoffs, the government is experiencing a significant loss of institutional knowledge, and a reduction of experienced staff in cultural resources management. These reductions in staff impact an agency's ability to conduct historic preservation reviews mandated by statutes such as Section 106 of the NHPA.

Also, fewer cultural resources staff within land-managing agencies means fewer staff to monitor and protect archaeological resources on federal lands.

These reductions and ups and downs in the federal workforce might also result in university and college students being less likely to consider a career in CRM within federal agencies, and possibly CRM in general. In the past federal positions were generally very secure and provided good benefits, but no longer under the current Administration. Students' reluctance of going after a CRM career, given the precarious nature of federal employment, will most likely force universities to rethink supporting applied archaeology and cultural resources management programs.

<https://www.nytimes.com/interactive/2025/03/28/us/politics/trump-doge-federal-job-cuts.html>

Section 3c at **<https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-presidents-department-of-government-efficiency-workforce-optimization-initiative/>**



Next, let's discuss the Administration's threats to the national Historic Preservation Fund (HPF).

The Historic Preservation Fund, established through the National Historic Preservation Act, is a federal-state partnership created to assist in the funding of historic preservation efforts. The HPF does not use tax-payer dollars, rather, the legislation was crafted to utilize a relatively small portion of the royalties that energy companies pay for the right to drill for oil and natural gas on the federally owned Outer Continental Shelf.

The HPF, which is administered by the Department of the Interior (and more specifically National Park Services (NPS)), provides funding to SHPOs and THPOs for their reviews of federal projects under the Section 106 process. SHPOs also use HPF funding to administer in their state programs such as the national Historic Tax Credit Program for the rehabilitation of historic commercial buildings. The HPF also funds surveys and repair of historic resources, training, and grants to local jurisdictions to address their preservation priorities. HPF funding also goes to Tribal Heritage Grants that assist Tribes, Alaskan Native Villages and Corporations, and Native Hawaiian Organizations in protecting and promoting their cultural heritage and traditions.

Each SHPO is required to match HPF funds at a minimum of 40%. Each Tribal Historic Preservation Office receives approximately 80% of their total appropriation divided equally among all THPOs and the remaining 20% is apportioned based on the area of Tribal lands as defined in the National Historic Preservation Act.

As a result of the Office of Management and Budget's and NPS' on-going delay in the distribution of Fiscal Year 2025 (FY25) HPF funding to SHPOs and THPOs, funding that has already been approved and appropriated by Congress, some SHPOs have had to lay off staff. As a result, these SHPOs will have difficulty conducting reviews of federal projects, as mandated by Section 106, potentially resulting in project delays. And because of this delay in FY25 funding, some SHPOs and THPOs cannot support their respective historic preservation programs that preserve historic and cultural places, several of which have a direct economic benefit to states and communities, while also promoting cultural heritage and traditions.

**PROPOSED PRESIDENTIAL
FY 2026 BUDGET
AND THE HISTORIC PRESERVATION FUND**

- **Under the Department of Interior's proposed budget, eliminates funding for:**
 - State Historic Preservation Offices
 - Tribal Historic Preservation Offices
- **Because (as stated in the President's proposed FY 26 budget):**

"Many historic preservation projects have matching funds from State, local, and private sources, rendering the Historic Preservation Fund highly duplicative. Further, the projects are often of local, rather than national, significance."

The proposed FY26 Trump budget cuts \$158 million from the HPF and is shown under the Department of the Interior section of the proposed budget. In that section of the budget is the following statement:

"Many historic preservation projects have matching funds from State, local, and private sources, rendering the Historic Preservation Fund highly duplicative. Further, the projects are often of local, rather than national, significance."

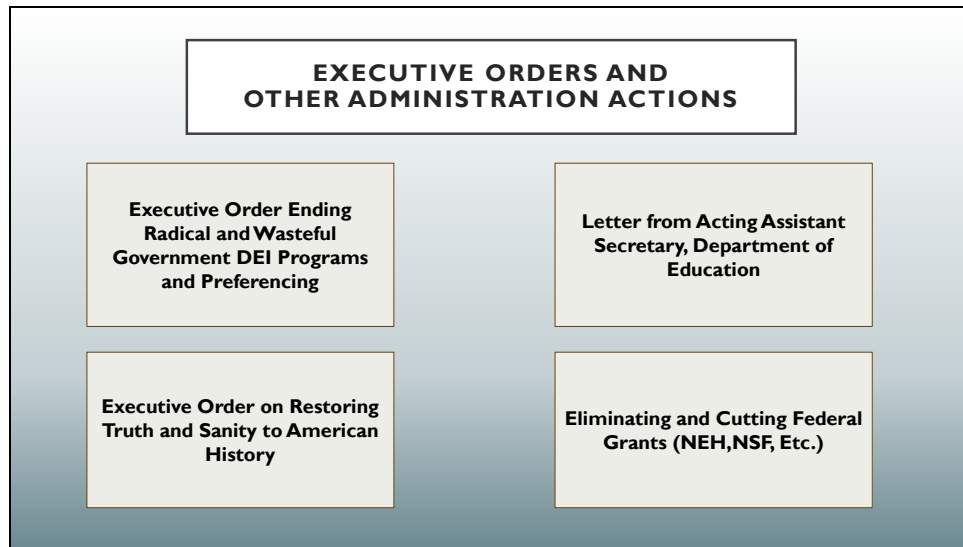
The FY26 budget proposes to eliminate HPF funding to SHPOS and THPOs. The only remaining HPF funding would be for Historically Black Colleges and Universities.

The impacts resulting from the President's proposed FY26 budget will be much worse than what we are experiencing as a result of the delay in getting FY25 HPF funding to SHPOS and THPO, and these impacts will last for the duration of FY26 and maybe beyond.

We should note that there is currently a House bill for FY26 HPF funding for \$225 million, but nothing much has happened since the bill has been introduced as far as we can tell.



Several of the recent Executive Orders have direct impacts on academic freedom, institutions of higher education, and how history is taught.



The impacts of the actions listed in this slide all have the potential to adversely affect the practice of archaeology in the United States.

These include the Executive Order “Ending Radical and Wasteful Government DEI Programs and Preferencing,” EO 14151. This EO characterizes existing DEI programs implemented under the Biden Administration as illegal and immoral, as well as wasteful and discriminatory, and works to terminate within sixty days DEI mandates and Environmental Justice positions and grants.

Equally concerning is the Dear Colleague Letter of February 14, 2025 from the Acting Assistant Secretary for Human Rights at the Department of Education, which argues that educational institutions have toxically indoctrinated students with the false presence—their words—that the United States is based on “systemic and structural racism” and encourages individuals to report such programs and notes that funding to institutions may be removed.

Third, the Executive Order on “Restoring Truth and Sanity to American History”, March 27, 2025, notes that rather than fostering unity and a deeper understanding of our shared past, the widespread effort to rewrite history deepens societal divides and fosters a sense of national shame, disregarding the progress America has made and the ideals that continue to inspire millions around the globe. This EO directly impacts museums, including the Smithsonian Museum, argues for the restoration of Independence Hall, and speaks to restoring monuments.

There have also been significant cuts to the National Endowment for the Humanities, which has, through state partners, supported archaeology, to the National Science Foundation, and other

granting agencies, all of which directly impact research in archaeology and science and the humanities more generally.

There are also ongoing challenges to academic freedom, especially at elite institutions, with the cancellation of grants and removal of other forms of support.

The slide is divided into two main sections. On the left, a dark gray vertical rectangle contains a white-bordered box with the text "RESULTING IN:". To the right of this box, a white rectangular area contains a list of six consequences, each preceded by a horizontal line. The consequences are: Challenges to academic freedom, Reduced funding for institutions of higher education, Reduced funding for museums and for scientific studies, A limited view of history rather than an inclusive view, Fewer employment opportunities in the fields of history, historic preservation, and cultural resource management, and Fewer students choosing to pursue majors in these fields.

RESULTING IN:

- Challenges to academic freedom.
- Reduced funding for institutions of higher education.
- Reduced funding for museums and for scientific studies.
- A limited view of history rather than an inclusive view.
- Fewer employment opportunities in the fields of history, historic preservation, and cultural resource management.
- Fewer students choosing to pursue majors in these fields.

In summary, this slide shows the results of these Executive Orders and other Administration actions.

First, there have been significant challenges to academic freedom and freedom of speech. Grants have been terminated or delayed, and in some instances, this has been done in particularly targeted ways, for instance at Harvard and Columbia University. One of the historic strengths of American higher education has been as institutions where diverse viewpoints are presented. This historical strength seems to be very much under fire.

We also see reduced funding for institutions of higher education. This is not only through the targeted attacks previously noted, but also through reduced funding for the Department of Education (\$12 million), Institute for Museum and Library Sciences, AmeriCorps, the National Endowment for the Arts, and National Endowment for the Humanities. These reductions directly impact archaeological research and are part of a larger effort to reduce funding for basic scientific research.

Another EO was directed specifically at the teaching of American history. It is titled, "Restoring Truth in American History" and may be seen as part of a larger attack on DEI initiatives. The EO directs the Vice President, who is a member of the Smithsonian Board of Regents, to work to eliminate improper, divisive, or anti-American ideology from the Smithsonian and its museums, education and research centers, and the National Zoo.

The EO directs the Administration to work with Congress to ensure that future Smithsonian appropriations: (1) prohibit funding for exhibits or programs that degrade shared American values, divide Americans by race, or promote ideologies inconsistent with federal law; and (2) celebrate women's achievements in the American Women's History Museum and do not recognize men as women. The Vice President is to work with Congressional leaders to appoint members to the Smithsonian Board of Regents who are committed to advancing the celebration of America's extraordinary heritage and progress. This hyper positive view of American history is unbalanced and misleading and has the potential to provide a very limited view of the past.

The cumulative effect of these Executive Orders may well be fewer jobs in the fields of history, historic preservation, and cultural resource management, and this comes at a time when fewer and fewer students are studying anthropology and history.

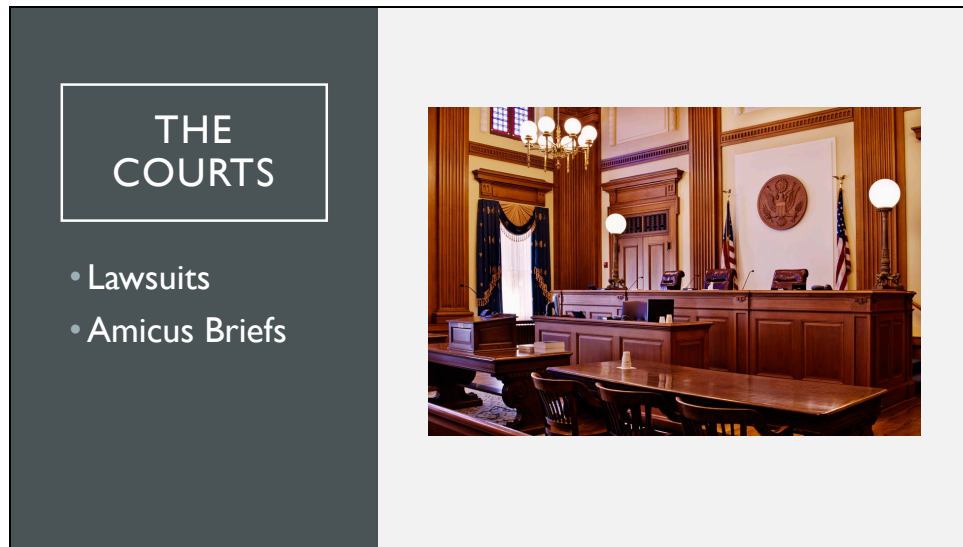
Slide 27



You are all probably very depressed at this point but know that there are actions that SHA, and our preservation partners, have taken to counter these threats to historical archaeology, CRM, and historic preservation, and there are actions that we will continue to advance in the future.

And there are things SHA members can do. Your voices do count.

So, let's look at some of the ways to respond to these threats.



Lawsuits are being filed by states and national organizations in typically liberal strongholds on the east and west coasts. For example, 17 state Democratic Attorneys General and the District of Columbia have filed a lawsuit against the Administration, challenging the legality of the EO declaring a national energy emergency. However, even Trump-appointed judges in conservative jurisdictions such as Texas are rejecting the Administration's actions.

It is tricky what organizations and individuals can do in terms of the court challenges. Organizations risk a loss of tax-exempt status and other retribution. However, court challenges to Trump's orders are abounding and many nonprofit organizations are leading the charge.

The SHA cannot facilitate a suit alone. The costs are too expensive for an organization like SHA, and it is easy for the federal government to file anything or to direct Department of Justice (DOJ) lawyers to spend massive amounts of time on the cases. SHA could elect to join with other like organizations to spread the legal expenses of direct litigation across multiple sources, but this would have to be a decision of the SHA President and Board of Directors, with legal counsel.

Another option is for SHA to author and file amicus briefs in any number of cases. An amicus brief is a legal document that individuals or organizations submit to the court because they have an interest in the pending case, even though they are not directly a party to the case itself. While those filing the amicus brief are not involved in the litigation of the case, they can submit

their brief to offer further information, expertise, arguments, or perspectives that can help the court decide in favor of the party which the group submitting the amicus brief supports.


The Advisory Council on Underwater Archaeology (ACUA), for example, filed an amicus brief in the past, in 2009, providing information to the court on the economic value of historic preservation. This brief was filed in a case involving treasure salvage claims.

Amicus briefs can be written jointly between lawyers and SHA. They must bring unique perspectives in cases to the court's attention and cannot simply be "me too" briefs. If at the district courts, SHA will have to pay local lawyers to draft and file. If in the appellate courts, SHA may be able to draft and file internally to minimize costs. In the latter case, only filing fees will be assessed—usually a few hundred dollars per case. Still, some legal fees may need to be paid as well.

THE COURTS

WHAT SHA MEMBERS CAN DO

- Affidavits
- Passing on information to the SHA Government Affairs Committee



SHA members can also take the opportunity to author affidavits in support of briefs opposing the Administration's actions. An affidavit is a sworn statement a person makes before a notary or officer of the court outside of the court asserting that certain facts are true to the best of that person's knowledge. Affidavits are usually collected in preparation for a trial.

SHA members should clear the submission of an affidavit with employers first. There could be blowback, especially to academic institutions. Identify cases that are challenging the presidential and agency orders and contact the attorneys involved in the case and offer to assist for free.

Related to tracking and fighting against the Administration's Executive Orders and other actions, we are asking SHA members to send to the SHA government affairs committee any instances where you know of or have experienced:


- Agencies fast-tracking permits without full review, citing the Section 106 emergency provisions.
- Developers who are ignoring Section 106 agreements.
- Black or Tribal burial grounds or other important sites that are threatened as a result of the Administration's actions.

SHA will pass on this information to our preservation partners who are or have attorneys that can then work with other organizations to file lawsuits against the Administration. The goal is to identify communities and individuals who have been directly harmed by these actions and therefore would have standing in court in relation to the lawsuit to be filed.

So, if you have this type of information, please send the information to hq@sha.org.

At this point, everything depends on the courts. Congress has handed the administration a blank check and is no longer a check on presidential power. The question is whether the administration will follow the courts' rulings. So far, signs are mixed.

LEGISLATIVE TOOLKIT
A GUIDE TO BEING A SUCCESSFUL ADVOCATE



CONGRESS

The most direct impact you can have is a face-to-face meeting with your senators and representative and/or one of their aides.

Remember: They work for you!

The following focuses on Congress but also applies to your state legislators.

- Do your homework, review your Senator's and Representative's bio, find out what committees they are on and their political views; find a common point of agreement.
- You can meet at their office in Washington, D.C. or in their state office.
- You can also send a letter or email, link through social media, or call.
- Personal letters are more effective than form letters.
- Most likely, you will meet with an aide and not the Senator or Representative, so make sure you have the points you want to make because you will probably have 15 minutes at most to get your asks across if you are meeting in person; be prepared to explain the NHPA and Section 106 as aides often know little, if anything, about NHPA and Section 106.
- If you do not know the answer to a question, admit it and say you will find out and get back to them, then do it!
- Dress appropriately.
- Send a thank you note.

As a side note, the House has a caucus that focuses on historic preservation and is comprised of both Democrats and Republicans:

https://www.legistorm.com/organization/summary/122074/Historic_Preservation_Caucus.html

Do not just focus on those Congressional members that support historic preservation; be prepared to talk to both sides of the aisle. We need to grow our support now, more than ever.

In addition to these ways of engaging members of Congress, SHA has joined with the Society for American Archaeology and the American Cultural Resources Association in support of the **History Matters Campaign**. The campaign is intended to educate elected officials on the value of archaeology in understanding and preserving our past. One of the best ways to educate elected officials is through visits to archaeological sites and constituent meetings in their local offices. Nothing makes an impression on members of Congress like personal visits to sites that showcase our work

The creation of long-term relationships with representatives in government is essential to ensuring the preservation of our cultural heritage. We hope you will reach out to your elected representatives and share your stories with them.



COMMUNITIES AND THE PUBLIC

- Public lectures and presentations
- Interpretive displays and exhibitions
- Educational programs and workshops
- Digital media and online resources
- Collaboration with museums, schools, and community organizations

Many SHA members are already engaging communities and the general public as partners in historic preservation. The goal is to work with communities and the public as advocates for historical archaeology, historic preservation, and telling the diverse history of our nation. Ways of building this partnership in advocacy can be done through:

- Public lectures and presentations
 - Tailor to the interests and background of the audience (general public, students)
 - Use engaging visuals and storytelling techniques (photographs, 3D models)
- Interpretive displays and exhibitions
 - Showcase artifacts, photographs, and other materials (museum exhibits, traveling displays)
 - Provide context and explanations for non-specialist viewers (labels, audio guides)
- Educational programs and workshops
 - Hands-on activities and demonstrations (artifact handling, excavation simulations)
 - Designed for various age groups and learning styles (children, adults, visual learners)
- Digital media and online resources
 - Websites, blogs, and social media platforms (virtual tours, interactive maps)
 - Accessible and interactive content (videos, podcasts, online databases)
- Collaboration with museums, schools, and community organizations
 - Leverage existing networks and resources (museum education departments, local historical societies)

- Reach diverse audiences and build lasting partnerships (joint programs, co-sponsored events)



SHA, with our historic preservation partners such as the Society for American Archaeology (SAA), the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers (NCSHPO), the National Association of Tribal Historic Preservation Officers and the American Cultural Resources Association, have submitted letters to the Secretaries of various federal agencies highlighting the impacts on cultural resources resulting from the reduction of historic preservation staff and the use of the Section 106 emergency provisions for energy projects. SHA and SAA, along with the ACUA, sent to Congress a letter against the Senate Joint Resolution relating to “Protection of Marine Archaeological Resources,” which we discussed earlier.

Also, the NCSHPO and other preservation organizations have developed one-pagers on the importance and economic, social, and cultural values of the HPF, in addition to the impact of the delays in getting FY25 HPF funding to SHPOs and THPOs. The one-pagers also showcase the impacts of the President’s proposed FY26 budget. The plan is to distribute these one-pages to Congress and state and local governments around the country. SHA has posted these one-pagers on the SHA government affairs website for the use of SHA members: <https://sha.org/15408-2/>. This link also includes the letters SHA and our preservation partners have submitted to federal agencies and Congress.

The Society for American Archaeology has also set up a webpage for taking action in support of SHPO and THPO HPF funding in FY26. The webpage provides guidance on how to identify your

Senators and Representatives and how to reach out to them: <https://www.saa.org/government-affairs/take-action#/>

SHA, working with our preservation partners, will continue to monitor and take actions defending the protection of historical archaeological resources and academic freedom.



In addition to working with our historic preservation partners, we also need to engage folks outside of the historic preservation community as part of our efforts to counter what the Administration is doing.

There are developers and industries, and financial institutions and banks that finance their projects, that understand the value of historic preservation laws and regulations as a mechanism for bringing predictability to their projects and also as a way of avoiding risk – looking at these laws and regulations as a way of doing their due diligence. The last thing a project proponent or the entity funding a project wants to experience is a late discovery of a significant archaeological or other cultural resource that impacts project schedules and costs. They also want to avoid third party lawsuits that would result from not taking into account impacts on significant cultural resources, or that result from a late discovery, and these lawsuits will slow down or even stop their projects.

So, again, working with our preservation partners, we plan to reach out to receptive industries and financial institutions, especially since members of Congress will listen to these industries and financial institutions.



We will now take time to discuss the questions, comments, and observations posted in the chat.

Note: SHA did not record the discussion in the chat or the responses to questions posed in the chat.