

SUBDIVISION 5—FEDERAL AGENCY HISTORIC  
PRESERVATION RESPONSIBILITIES

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SUBCHAPTER I—IN GENERAL

**§ 306101. Assumption of responsibility for preservation of historic property**

(a) IN GENERAL.—

(1) AGENCY HEAD RESPONSIBILITY.—The head of each Federal agency shall assume responsibility for the preservation of historic property that is owned or controlled by the agency.

(2) USE OF AVAILABLE HISTORIC PROPERTY.—Prior to acquiring, constructing, or leasing a building for purposes of carrying out agency responsibilities, a Federal agency shall use, to the maximum extent feasible, historic property available to the agency, in accordance with Executive Order No. 13006 (40 U.S.C. 3306 note).

(3) NECESSARY PRESERVATION.—Each Federal agency shall undertake, consistent with the preservation of historic property, the mission of the agency, and the professional standards established pursuant to subsection (c), any preservation as may be necessary to carry out this chapter.

(b) GUIDELINES FOR FEDERAL AGENCY RESPONSIBILITY FOR AGENCY-OWNED HISTORIC PROPERTY.—In consultation with the Council, the Secretary shall promulgate guidelines for Federal agency responsibilities under this subchapter (except section 306108).

(c) PROFESSIONAL STANDARDS FOR PRESERVATION OF FEDERALLY OWNED OR CONTROLLED HISTORIC PROPERTY.—The Secretary shall establish,

in consultation with the Secretary of Agriculture, the Secretary of Defense, the Smithsonian Institution, and the Administrator of General Services, professional standards for the preservation of historic property in Federal ownership or control.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3224.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306101(a) .....	16 U.S.C. 470h–2(a)(1).	Pub. L. 89–665, title I, §110(a)(1), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996; Pub. L. 102–575, title XL, §4012(f), Oct. 30, 1992, 106 Stat. 4760; Pub. L. 106–208, §4, May 26, 2000, 114 Stat. 318.
306101(b) .....	16 U.S.C. 470a(g).	Pub. L. 89–665, title I, §101(g), (h), formerly §101(f), (g), Oct. 15, 1966, 80 Stat. 915; Pub. L. 91–383, §11, as added Pub. L. 94–458, §2, Oct. 7, 1976, 90 Stat. 1942; Pub. L. 93–54, §1(d), July 1, 1973, 87 Stat. 139; Pub. L. 96–205, title VI, §608(a)(1), (2), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96–515, title II, §201(a), Dec. 12, 1980, 94 Stat. 2992; redesignated as §101(g), (h), Pub. L. 102–575, title XL, §4006(a)(1), Oct. 30, 1992, 106 Stat. 4758.
306101(c) .....	16 U.S.C. 470a(h).	

In subsection (a)(3), the cross reference is treated as a cross reference to 16 U.S.C. 470a(h), restated as subsection (c) of this section, rather than 16 U.S.C. 470a(g), restated as subsection (b) of this section, to correct an error in the source provision.

In subsection (c), the words “Administrator of General Services” are substituted for “Administrator of the General Services Administration” to use the correct title of the Administrator.

EX. ORD. NO. 13287. PRESERVE AMERICA

Ex. Ord. No. 13287, Mar. 3, 2003, 68 F.R. 10635, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act ([former] 16 U.S.C. 470 *et seq.*) [see 54 U.S.C. 300301 *et seq.*] (NHPA) and the National Environmental Policy Act [of 1969] (42 U.S.C. 4321 *et seq.*), it is hereby ordered:

SECTION 1. *Statement of Policy.* It is the policy of the Federal Government to provide leadership in preserving America’s heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation’s communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies (“agency” or “agencies”) shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and

this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

**SEC. 2. *Building Preservation Partnerships.*** When carrying out its mission activities, each agency, where consistent with its mission and governing authorities, and where appropriate, shall seek partnerships with State and local governments, Indian tribes, and the private sector to promote local economic development and vitality through the use of historic properties in a manner that contributes to the long-term preservation and productive use of those properties. Each agency shall examine its policies, procedures, and capabilities to ensure that its actions encourage, support, and foster public-private initiatives and investment in the use, reuse, and rehabilitation of historic properties, to the extent such support is not inconsistent with other provisions of law, the Secretary of the Interior's Standards for Archeology and Historic Preservation, and essential national department and agency mission requirements.

**SEC. 3. *Improving Federal Agency Planning and Accountability.*** (a) Accurate information on the state of Federally owned historic properties is essential to achieving the goals of this order and to promoting community economic development through local partnerships. Each agency with real property management responsibilities shall prepare an assessment of the current status of its inventory of historic properties required by section 110(a)(2) of the NHPA ([former] 16 U.S.C. 470h-2(a)(2)) [see 54 U.S.C. 306102], the general condition and management needs of such properties, and the steps underway or planned to meet those management needs. The assessment shall also include an evaluation of the suitability of the agency's types of historic properties to contribute to community economic development initiatives, including heritage tourism, taking into account agency mission needs, public access considerations, and the long-term preservation of the historic properties. No later than September 30, 2004, each covered agency shall complete a report of the assessment and make it available to the Chairman of the Advisory Council on Historic Preservation (Council) and the Secretary of the Interior (Secretary).

(b) No later than September 30, 2004, each agency with real property management responsibilities shall review its regulations, management policies, and operating procedures for compliance with sections 110 and 111 of the NHPA [former] (16 U.S.C. 470h-2 & 470[h]-3 [see 54 U.S.C. 306101 to 306107, 306109 to 306114, 306121, 306122]) and make the results of its review available to the Council and the Secretary. If the agency determines that its regulations, management policies, and operating procedures are not in compliance with those authorities, the agency shall make amendments or revisions to bring them into compliance.

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Federal Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

(d) Agencies may use existing information gathering and reporting systems to fulfill the assessment and reporting requirements of subsections 3(a)-(c) of this order. To assist agencies, the Council, in consultation with the Secretary, shall, by September 30, 2003, prepare advisory guidelines for agencies to use at their discretion.

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organi-

zation. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA [see 54 U.S.C. 306104]. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

**SEC. 4. *Improving Federal Stewardship of Historic Properties.*** (a) Each agency shall ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties as Federal assets and, where consistent with agency missions, governing law, and the nature of the properties, contributes to the local community and its economy.

(b) Where consistent with agency missions and the Secretary of the Interior's Standards for Archeology and Historic Preservation, and where appropriate, agencies shall cooperate with communities to increase opportunities for public benefit from, and access to, Federally owned historic properties.

(c) The Council is directed to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in Federal ownership to fulfill the goals of the NHPA and this order.

(d) The National Park Service, working with the Council and in consultation with other agencies, shall make available existing materials and information for education, training, and awareness of historic property stewardship to ensure that all Federal personnel have access to information and can develop the skills necessary to continue the productive use of Federally owned historic properties while meeting their stewardship responsibilities.

(e) The Council, in consultation with the National Park Service and other agencies, shall encourage and recognize exceptional achievement by such agencies in meeting the goals of the NHPA and this order. By March 31, 2004, the Council shall submit to the President and the heads of agencies recommendations to further stimulate initiative, creativity, and efficiency in the Federal stewardship of historic properties.

**SEC. 5. *Promoting Preservation Through Heritage Tourism.***

(a) To the extent permitted by law and within existing resources, the Secretary of Commerce, working with the Council and other agencies, shall assist States, Indian tribes, and local communities in promoting the use of historic properties for heritage tourism and related economic development in a manner that contributes to the long-term preservation and productive use of those properties. Such assistance shall include efforts to strengthen and improve heritage tourism activities throughout the country as they relate to Federally owned historic properties and significant natural assets on Federal lands.

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

**SEC. 6. *National and Homeland Security Considerations.*** Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

**SEC. 7. *Definitions.*** For the purposes of this order, the term "historic property" means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA ([former] 16 U.S.C. 470w(5)) [see 54 U.S.C. 300308]. The term "heritage tourism" means the

business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale's history, landscape (including trail systems), and culture. The terms "Federally owned" and "in Federal ownership," and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

SEC. 8. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

### § 306102. Preservation program

(a) **ESTABLISHMENT.**—Each Federal agency shall establish (except for programs or undertakings exempted pursuant to section 304108(c) of this title), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register, and protection, of historic property.

(b) **REQUIREMENTS.**—The program shall ensure that—

(1) historic property under the jurisdiction or control of the agency is identified, evaluated, and nominated to the National Register;

(2) historic property under the jurisdiction or control of the agency is managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values in compliance with section 306108 of this title and gives special consideration to the preservation of those values in the case of property designated as having national significance;

(3) the preservation of property not under the jurisdiction or control of the agency but potentially affected by agency actions is given full consideration in planning;

(4) the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and the private sector; and

(5) the agency's procedures for compliance with section 306108 of this title—

(A) are consistent with regulations promulgated by the Council pursuant to section 304108(a) and (b) of this title;

(B) provide a process for the identification and evaluation of historic property for listing on the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on historic property will be considered; and

(C) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)).

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3225.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306102 .....	16 U.S.C. 470h–2(a)(2).	Pub. L. 89–665, title I, §110(a)(2), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996; Pub. L. 102–575, title XL, §4012(2), Oct. 30, 1992, 106 Stat. 4760.

In subsection (a), the words "except for programs and undertakings exempted" are substituted for "unless exempted" for clarity.

In subsection (b)(2), the words "as are listed in or may be eligible for the National Register" are omitted as unnecessary because of the definition of "historic property" in section 300308 of the new title.

### § 306103. Recordation of historic property prior to alteration or demolition

Each Federal agency shall initiate measures to ensure that where, as a result of Federal action or assistance carried out by the agency, a historic property is to be substantially altered or demolished—

(1) timely steps are taken to make or have made appropriate records; and

(2) the records are deposited, in accordance with section 302107 of this title, in the Library of Congress or with such other appropriate agency as the Secretary may designate, for future use and reference.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3226.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306103 .....	16 U.S.C. 470h–2(b).	Pub. L. 89–665, title I, §110(b), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996.

### § 306104. Agency Preservation Officer

The head of each Federal agency (except an agency that is exempted under section 304108(c) of this title) shall designate a qualified official as the agency's Preservation Officer who shall be responsible for coordinating the agency's activities under this division. Each Preservation Officer may, to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 306101(c) of this title.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3226.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306104 .....	16 U.S.C. 470h–2(c).	Pub. L. 89–665, title I, §110(c), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996; Pub. L. 102–575, title XL, §4006(b), Oct. 30, 1992, 106 Stat. 4757.

### § 306105. Agency programs and projects

Consistent with the agency's missions and mandates, each Federal agency shall carry out agency programs and projects (including those under which any Federal assistance is provided

or any Federal license, permit, or other approval is required) in accordance with the purposes of this division and give consideration to programs and projects that will further the purposes of this division.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3226.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306105 .....	16 U.S.C. 470h–2(d).	Pub. L. 89–665, title I, §110(d), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996.

**§ 306106. Review of plans of transferees of surplus federally owned historic property**

The Secretary shall review and approve the plans of transferees of surplus federally owned historic property not later than 90 days after receipt of the plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3226.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306106 .....	16 U.S.C. 470h–2(e).	Pub. L. 89–665, title I, §110(e), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996.

**§ 306107. Planning and actions to minimize harm to National Historic Landmarks**

Prior to the approval of any Federal undertaking that may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall to the maximum extent possible undertake such planning and actions as may be necessary to minimize harm to the landmark. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3226.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306107 .....	16 U.S.C. 470h–2(f).	Pub. L. 89–665, title I, §110(f), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996.

**§ 306108. Effect of undertaking on historic property**

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306108 .....	16 U.S.C. 470f.	Pub. L. 89–665, title I, §106, Oct. 15, 1966, 80 Stat. 917; Pub. L. 94–422, title II, §201(3), Sept. 28, 1976, 90 Stat. 1320.

The words “historic property” are substituted for “district, site, building, structure, or object that is included in or eligible for inclusion in the National Register” because of the definition of “historic property” in section 300308 of the new title.

**§ 306109. Costs of preservation as eligible project costs**

A Federal agency may include the costs of preservation activities of the agency under this division as eligible project costs in all undertakings of the agency or assisted by the agency. The eligible project costs may include amounts paid by a Federal agency to a State to be used in carrying out the preservation responsibilities of the Federal agency under this division, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of the license or permit.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306109 .....	16 U.S.C. 470h–2(g).	Pub. L. 89–665, title I, §110(g), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2996.

**§ 306110. Annual preservation awards program**

The Secretary shall establish an annual preservation awards program under which the Secretary may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic property. The program may include the issuance of annual awards by the President to any citizen of the United States recommended for the award by the Secretary.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306110 .....	16 U.S.C. 470h–2(h).	Pub. L. 89–665, title I, §110(h), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2997.

The words “historic property” are substituted for “historic resources” for consistency because the defined term in the new division is “historic property”.

**§ 306111. Environmental impact statement**

Nothing in this division shall be construed to—

- (1) require the preparation of an environmental impact statement where the statement would not otherwise be required under the Na-

tional Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) provide any exemption from any requirement respecting the preparation of an environmental impact statement under that Act.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306111 .....	16 U.S.C. 470h–2(i).	Pub. L. 89–665, title I, §110(i), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2997.

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

**§ 306112. Waiver of provisions in event of natural disaster or imminent threat to national security**

The Secretary shall promulgate regulations under which the requirements of this subchapter (except section 306108) may be waived in whole or in part in the event of a major natural disaster or an imminent threat to national security.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306112 .....	16 U.S.C. 470h–2(j).	Pub. L. 89–665, title I, §110(j), as added Pub. L. 96–515, title II, §206, Dec. 12, 1980, 94 Stat. 2997.

**§ 306113. Anticipatory demolition**

Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant that, with intent to avoid the requirements of section 306108 of this title, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, has allowed the significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting the assistance despite the adverse effect created or permitted by the applicant.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306113 .....	16 U.S.C. 470h–2(k).	Pub. L. 89–665, title I, §110(k), as added Pub. L. 102–575, title XL, §4012(3), Oct. 30, 1992, 106 Stat. 4760.

**§ 306114. Documentation of decisions respecting undertakings**

With respect to any undertaking subject to section 306108 of this title that adversely affects any historic property for which a Federal agen-

cy has not entered into an agreement pursuant to regulations issued by the Council, the head of the agency shall document any decision made pursuant to section 306108 of this title. The head of the agency may not delegate the responsibility to document a decision pursuant to this section. Where an agreement pursuant to regulations issued by the Council has been executed with respect to an undertaking, the agreement shall govern the undertaking and all of its parts.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3228.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
306114 .....	16 U.S.C. 470h–2(l).	Pub. L. 89–665, title I, §110(l), as added Pub. L. 102–575, title XL, §4012(3), Oct. 30, 1992, 106 Stat. 4761; Pub. L. 106–208, §5(a)(8), May 26, 2000, 114 Stat. 319.

The words “historic property” are substituted for “property included in or eligible for inclusion in the National Register” because of the definition of “historic property” in section 300308 of the new title. The words “to document a decision pursuant to this section” are substituted for “pursuant to such section” for clarity. The language was not intended to limit agency authority to delegate responsibilities under section 106 of the National Historic Preservation Act (Public Law 89–665, 80 Stat. 917). The words “agreement pursuant to regulations issued by the Council” are substituted for “a section 106 memorandum”, and the word “agreement” is substituted for “memorandum”, for clarity and for consistency in the new section.

SUBCHAPTER II—LEASE, EXCHANGE, OR MANAGEMENT OF HISTORIC PROPERTY

**§ 306121. Lease or exchange**

(a) AUTHORITY TO LEASE OR EXCHANGE.—Notwithstanding any other provision of law, each Federal agency, after consultation with the Council—

(1) shall, to the extent practicable, establish and implement alternatives (including adaptive use) for historic property that is not needed for current or projected agency purposes; and

(2) may lease historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately ensure the preservation of the historic property.

(b) PROCEEDS OF LEASE.—Notwithstanding any other provision of law, the proceeds of a lease under subsection (a) may be retained by the agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to that property or other property that is on the National Register that is owned by, or are under the jurisdiction or control of, the agency. Any surplus proceeds from the leases shall be deposited in the Treasury at the end of the 2d fiscal year following the fiscal year in which the proceeds are received.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3228.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306121(a) .....	16 U.S.C. 470h-3(a).	Pub. L. 89-665, title I, §111(a), as added Pub. L. 96-515, title II, §207, Dec. 12, 1980, 94 Stat. 2997; Pub. L. 102-575, title XL, §4013, Oct. 30, 1992, 106 Stat. 4761.
306121(b) .....	16 U.S.C. 470h-3(b).	Pub. L. 89-665, title I, §111(b), as added Pub. L. 96-515, title II, §207, Dec. 12, 1980, 94 Stat. 2997.

HISTORIC LEASE PROCESS SIMPLIFICATION

Pub. L. 105-391, title VIII, §802(b), Nov. 13, 1998, 112 Stat. 3523, provided that: “The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.”

[For “Secretary” as used in section 802(b) of Pub. L. 105-391, set out above, as meaning the Secretary of the Interior, see section 2 of Pub. L. 105-391, Nov. 13, 1998, 112 Stat. 3498, which was classified to section 5901 of Title 16, Conservation, prior to repeal by Pub. L. 113-287.]

§ 306122. **Contracts for management of historic property**

The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Council, enter into a contract for the management of the property. The contract shall contain terms and conditions that the head of the agency considers necessary or appropriate to protect the interests of the United States and ensure adequate preservation of the historic property.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3228.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306122 .....	16 U.S.C. 470h-3(c).	Pub. L. 89-665, title I, §111(c), as added Pub. L. 96-515, title II, §207, Dec. 12, 1980, 94 Stat. 2997.

SUBCHAPTER III—PROTECTION AND PRESERVATION OF RESOURCES

§ 306131. **Standards and guidelines**

(a) STANDARDS.—

(1) IN GENERAL.—Each Federal agency that is responsible for the protection of historic property (including archeological property) pursuant to this division or any other law shall ensure that—

(A) all actions taken by employees or contractors of the agency meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of archeology, architecture, conservation, history, landscape architecture, and planning;

(B) agency personnel or contractors responsible for historic property meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of archeology, architecture, conservation, curation, history, landscape architecture, and planning; and

(C) records and other data, including data produced by historical research and archeological surveys and excavations, are permanently maintained in appropriate databases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

(2) CONSIDERATIONS.—The standards referred to in paragraph (1)(B) shall consider the particular skills and expertise needed for the preservation of historic property and shall be equivalent requirements for the disciplines involved.

(3) REVISION.—The Office of Personnel Management shall revise qualification standards for the disciplines involved.

(b) GUIDELINES.—To promote the preservation of historic property eligible for listing on the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this division include plans to—

(1) provide information to the owners of historic property (including architectural, curatorial, and archeological property) with demonstrated or likely research significance, about the need for protection of the historic property, and the available means of protection;

(2) encourage owners to preserve historic property intact and in place and offer the owners of historic property information on the tax and grant assistance available for the donation of the historic property or of a preservation easement of the historic property;

(3) encourage the protection of Native American cultural items (within the meaning of section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)) and of property of religious or cultural importance to Indian tribes, Native Hawaiian organizations, or other Native American groups; and

(4) encourage owners that are undertaking archeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under subparagraph (B) or (C) of section 3(a)(2) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(a)(2)(B), (C)), give notice to and consult with the Indian tribe or Native Hawaiian organization.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3229; Pub. L. 114-289, title VI, §601(f), Dec. 16, 2016, 130 Stat. 1491.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
306131 .....	16 U.S.C. 470h-4.	Pub. L. 89-665, title I, §112, as added Pub. L. 102-575, title XL, §4014, Oct. 30, 1992, 106 Stat. 4761; Pub. L. 106-208, §5(a)(9), May 26, 2000, 114 Stat. 319.

In subparagraphs (A) and (B) of subsection (a)(1), the words “the disciplines involved, specifically” are omitted as unnecessary.

In subsection (a)(3), the words “within 2 years after October 20, 1992” are omitted as obsolete.

In subsection (b)(1), the word “property” is substituted for “resources” for consistency because the defined term in the new division is “property”.

## AMENDMENTS

2016—Subsec. (a)(3). Pub. L. 114-289 substituted “Office of Personnel Management” for “Office of Management and Budget”.

## SUBDIVISION 6—MISCELLANEOUS

## CHAPTER 3071—MISCELLANEOUS

Sec.	
307101.	World Heritage Convention.
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## § 307101. World Heritage Convention

(a) **AUTHORITY OF SECRETARY.**—In carrying out this section, the Secretary of the Interior may act directly or through an appropriate officer in the Department of the Interior.

(b) **PARTICIPATION BY UNITED STATES.**—The Secretary shall direct and coordinate participation by the United States in the World Heritage Convention in cooperation with the Secretary of State, the Smithsonian Institution, and the Council. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(c) **NOMINATION OF PROPERTY TO WORLD HERITAGE COMMITTEE.**—The Secretary shall periodically nominate property that the Secretary determines is of international significance to the World Heritage Committee on behalf of the United States. No property may be nominated unless it has previously been determined to be of national significance. Each nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any nomination, the Secretary shall notify the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(d) **NOMINATION OF NON-FEDERAL PROPERTY TO WORLD HERITAGE COMMITTEE REQUIRES WRITTEN CONCURRENCE OF OWNER.**—No non-Federal property may be nominated by the Secretary to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in the nomination in writing.

(e) **CONSIDERATION OF UNDERTAKING ON PROPERTY.**—Prior to the approval of any undertaking outside the United States that may directly and adversely affect a property that is on the World Heritage List or on the applicable country’s equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over the undertaking shall take into account the effect of the undertaking on the property for purposes of avoiding or mitigating any adverse effect.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3230.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
307101(a) .....	no source.	
307101(b) through (d).	16 U.S.C. 470a-1.	Pub. 96-515, title IV, §401, Dec. 12, 1980, 94 Stat. 3000; Pub. L. 103-437, §6(d)(28), Nov. 2, 1994, 108 Stat. 4584.
307101(e) .....	16 U.S.C. 470a-2.	Pub. L. 96-515, title IV, §402, Dec. 12, 1980, 94 Stat. 3000.

Subsection (a) is added for clarity because of the definition of “Secretary” in section 300316 of the new title.

## § 307102. Effective date of regulations

(a) **PUBLICATION IN FEDERAL REGISTER.**—No final regulation of the Secretary shall become effective prior to the expiration of 30 calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

(b) **DISAPPROVAL OF REGULATION BY RESOLUTION OF CONGRESS.**—The regulation shall not become effective if, within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: “That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of \_\_\_\_\_, which regulation was transmitted to Congress on \_\_\_\_\_,” the blank spaces in the resolution being appropriately filled.

(c) **FAILURE OF CONGRESS TO ADOPT RESOLUTION OF DISAPPROVAL OF REGULATION.**—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within the 60 calendar days, a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

(d) **SESSIONS OF CONGRESS.**—For purposes of this section—

(1) continuity of session is broken only by an adjournment sine die; and