

**Please note:** This text is from the fourth edition of *Federal Historic Preservation Laws*, published in 2006 by the National Center for Cultural Resources, National Park Service, Department of the Interior. This edition contains 24 Federal laws and portions of laws that pertain to the preservation of the Nation's cultural heritage.

The citations in this book are no longer current. We have retained this online edition for its historic value, and for the plain-language context that it provides about these laws.

For up-to-date citations and links to the current text of Federal historic preservation laws, please consult our webpage about

**Federal Historic Preservation Laws, Regulations, and Orders:**

<https://www.nps.gov/subjects/historicpreservation/laws.htm>.

For information about **Title 54 of the United States Code**, please visit:

<https://www.nps.gov/subjects/historicpreservation/laws-intro.htm>.

# **Federal Historic Preservation Laws**

## **The Official Compilation of U.S. Cultural Heritage Statutes**

2006 Edition

Cultural Resources  
National Park Service  
U.S. Department of the Interior

Washington, DC

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**National Park Service Mission Statement.** The National Park Service preserves unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

**Cover photo:** The Historic American Buildings Survey (HABS) photographed this 15th Street entrance to the Commerce Department building in Washington, DC, as part of a larger effort to document the highlights of the Federal Triangle grouping. The Historic American Buildings Survey was authorized by the Historic Sites Act of 1935, which directed the Secretary of the Interior to "secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects." Photo by Jack E. Boucher, courtesy of the Historic American Buildings Survey.

**Inside covers:** The metal door leaves of the Justice Department building were photographed by the Historic American Buildings Survey. Photo by Jack E. Boucher, courtesy of the Historic American Buildings Survey.

This publication is produced under a cooperative agreement between the National Park Service and the National Conference of State Historic Preservation Officers.

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# Introduction

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This fourth version of *Federal Historic Preservation Laws* contains 24 Federal laws and portions of laws that pertain to the preservation of the Nation's cultural heritage. These laws developed over the course of the 20<sup>th</sup> century, beginning with the protection of cultural sites on Federal lands. Today, many aspects of the nation's cultural heritage are recognized, protected, and interpreted in national parks, other public lands, and communities across the nation.

Arranged chronologically, the laws trace the evolution of historic preservation philosophy and programs. The 20<sup>th</sup> century saw the establishment of the National Park Service and its development as the Federal government's lead organization for preserving the Nation's cultural heritage. From its creation in 1916, the National Park Service assumed responsibility for the many historical and cultural units of the National Park System. The scope of the National Park Service also grew through preservation responsibilities outside of park boundaries. Starting in 1935 with the Historic Sites Act, the National Park Service initiated the national survey and documentation of important examples of historic and archeologic sites, buildings, and objects throughout the United States.

Passage of the National Historic Preservation Act in 1966, and its subsequent major amendments in 1980 and 1992, expanded preservation benefits to communities nationwide and to American Indian tribes and other cultural groups. The National Historic Preservation Act devolves a wide range of responsibilities for historic preservation work to the National Park Service and its partners in other Federal agencies, Tribal Preservation Offices, State Historic Preservation Offices, Certified Local Governments, and private organizations, including the National Trust for Historic Preservation. Together these make up the national historic preservation partnership. Amendments to the Internal Revenue Code provided important incentives for preserving historic resources, which is another program that the National Park Service administers, in cooperation with the Internal Revenue Service.

Federal laws also recognize that many Federal agencies' work affects historic properties through their outright ownership of historic and prehistoric properties, such as the General Services Administration, and through the impact of their sponsored development and other actions, such as the Department of Transportation. Established by the National Historic Preservation Act, the Advisory Council on Historic Preservation develops procedures that facilitate Federal agency compliance work. Other Federal agencies fund historic preservation through their regular grant programs, such as the Department of Transportation's

transportation enhancements programs. Additional Federal laws address specific types of historic and cultural resources, including abandoned shipwrecks, Native American cultural items, and battlefields on American soil.

The national historic preservation program operates within a broader universe of State historic preservation laws and local government ordinances and review processes. For example, State historic preservation tax incentives may address historic properties not covered by the Federal Historic Preservation Tax Incentives Program. In many ways, government preservation programs at all levels complement one another and provide a broad range of benefits and incentives that communities and individuals may draw upon in ways that are most appropriate for various situations.

This publication was prepared by the cultural resources programs of the National Park Service. It was compiled and edited by Antoinette Lee and John Renaud. Michele Aubrey, Michael Auer, Stan Bond, Ann Hitchcock, Frank McManamon, Bryan Mitchell, Pat Tiller, and Richard Waldbauer suggested materials for this volume. Marcia Axtmann Smith designed the publication. This publication was produced under a cooperative agreement between the National Park Service and the National Conference of State Historic Preservation Officers.

## Selection, Presentation, and Currency

This publication presents each of the Federal statutes in the format of the Act, as amended, through December 2001. Selected laws, including the National Historic Preservation Act of 1966 and the American Battlefield Protection Act of 1996, were updated to December 2004. For each of the statutes, this publication provides annotations by subject matter and United States Code citation.

Because of the variety and number of Federal statutes that contain some historic preservation component, this publication focuses on those statutes that are of key importance to historic preservation and cultural resources work. For many of the statutes in this publication, only the most pertinent sections are included.

Official versions of all laws, regulations, executive orders, and standards are published in the Code of Federal Regulations, the United States Code, or the Federal Register. All three are available online through the Superintendent of Documents, Government Printing Office, [www.access.gpo.gov](http://www.access.gpo.gov).

The appendix to this publication contains Internet addresses for related Federal regulations and relevant executive orders.

Statutory law as a whole (and often individual laws) is not consistent in the use of "archeology" and "archaeology." This publication follows the usage in each law rather than impose a consistency that does not exist.

For questions regarding the implementation or interpretation of the statutes in this publication, contact Cultural Resources, National Park Service, 1849 C Street NW, Washington, DC 20240-0001, or the relevant Federal agency.



# Antiquities Act

## AS AMENDED

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This Act became law on June 8, 1906 (34 Stat. 225, 16 U.S.C. 431-433) and has been amended once. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the “Act” (meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code.

16 U.S.C. 433,  
Penalties for damage,  
destruction, etc. of  
antiquities

### Section 1

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

16 U.S.C. 431,  
Proclamation of  
national monuments,  
reservation of lands,  
etc.

### Section 2

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in [sic] behalf of the Government of the United States.

16 U.S.C. 431a,  
Limitation on more  
national monuments  
in Wyoming

No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.

# Antiquities Act

16 U.S.C. 432,  
Permits for excavation,  
etc.

## Section 3

Permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and Army to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulation as they may prescribe: *Provided*, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums.

16 U.S.C. 432,  
Rules and regulations

## Section 4

The Secretaries of the departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this Act.

# National Park Service Organic Act

## SECTION 1, NPS MISSION, AS AMENDED

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This Act became law on August 25, 1916 (39 Stat. 535, 16 U.S.C. 1) and has been amended twice. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather to the "subchapter" or the "title" of the Code.

16 U.S.C. 1,  
Service created, director,  
other employees

### Section 1

There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service. There shall also be in said service such subordinate officers, clerks, and employees as may be appropriated for by Congress. The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of the Army, as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

# National Park Service Organic Act

## SECTION 8, REPORTS ON THREATENED LANDMARKS AND NEW AREA STUDIES, AS AMENDED

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This Section of the Act became law on October 7, 1976 (Public Law 91-458, 16 U.S.C. 1a-5) and has been amended six times. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. The National Park Service Organic Act is the short title for a much longer law that established the National Park Service 16 U.S.C. 1 (August 25, 1916) and continues to address park related matters.

16 U.S.C. 1a-5,  
Additional areas for  
National Park System

### Section 8

16 U.S.C. 1a-5(a),  
General authority to  
investigate, study,  
and monitor areas of  
national significance

(a) The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.

Report on threatened  
landmarks

The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included in the Registry of Natural Landmarks and those areas of national significance listing on the National Register of Historic Places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats.

(Rest of subsection omitted)

16 U.S.C. 1a-5(b),  
Studies of areas for  
potential addition

(b)(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

(2) In developing the list to be submitted under this subsection, the Secretary shall consider—

# National Park Service Organic Act, Section 8

(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

(B) themes, sites, and resources not already adequately represented in the National Park System; and

(C) public petition and Congressional resolutions.

(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply or to affect or alter the study of any trail for potential addition to the national trails system.

16 U.S.C. 1a-5(c),  
Report on areas for  
potential addition

(c)(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, after reasonable efforts to notify potentially affected land-owners and State and local governments.

(2) In conducting the study, the Secretary shall consider whether the area under study—

(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

(B) is a suitable and feasible addition to the system.

# National Park Service Organic Act, Section 8

(3) Each study—

(A) shall consider the following factors with regard to the area being studied—

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

(iii) similar resources are already protected in the National Park System or in other public or private ownership;

(iv) the public use potential;

(v) the interpretive and educational potential;

(vi) costs associated with acquisition, development and operation;

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support;

and

(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

(D) may include any other information which the Secretary deems to be relevant.

(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

# National Park Service Organic Act, Section 8

16 U.S.C. 1a-5(d),  
New area study office

(d) The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

16 U.S.C. 1a-5(e),  
List of areas

(e) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.

(16.U.S.C. 1a-5(f), Authorization of appropriations, omitted)

# Historic Sites Act

AS AMENDED

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This Act became law on August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467) and has been amended eight times. This description of the Act, as amended, tracks the language of the United States Code except that (in following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. This title is not an official short title, but is merely a convenience for the reader.

16 U.S.C. 461,  
Declaration of national  
policy

## Section 1

It is hereby declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States.

16 U.S.C. 462,  
Administration by  
the Secretary of the  
Interior, powers and  
duties enumerated

## Section 2

The Secretary of the Interior (hereinafter in sections 1 to 7 of this Act referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 of this Act, shall have the following powers and perform the following duties and functions:

16 U.S.C. 462(a),  
Basis for Historic  
American Buildings  
Survey/Historic  
American Engineering  
Record/Historic  
American Landscapes  
Survey

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects.

16 U.S.C. 462(b),  
Basis for National  
Historic Landmarks  
Program

(b) Make a survey of historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

16 U.S.C. 462(c),  
Collection of true and  
accurate information

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological [sic] facts and information concerning the same.

# Historic Sites Act

16 U.S.C. 462(d),  
Federal acquisition  
of personal or real  
property

(d) For the purpose of sections 1 to 7 of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided*, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further*, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

16 U.S.C. 462(e),  
Cooperative  
agreements

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeological building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

16 U.S.C. 462(f),  
Protection of historic  
properties, related  
museums

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

16 U.S.C. 462(g),  
Commemorative  
plaques

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological [sic] significance.

# Historic Sites Act

16 U.S.C. 462(h),  
Operation and management of historic properties

(h) Operate and manage historic and archaeological sites, buildings, and properties acquired under the provisions of sections 1 to 7 of this Act together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

16 U.S.C. 462(i),  
Organization of special corporations to carry out purposes of the Act

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeological site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

16 U.S.C. 462(j),  
Educational programs

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeological sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

16 U.S.C. 462(k),  
Regulations and fines

(k) Perform any and all acts, and make such rules and regulations not inconsistent with sections 1 to 7 of this Act as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by said sections shall be punished by a fine of not more than \$500 and be adjudged to pay all cost of the proceedings.

16 U.S.C. 463,  
National Park System Advisory Board

16 U.S.C. 463(a),  
Establishment, composition, duties

## Section 3

(a) There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed

# Historic Sites Act

on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine sciences, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national [sic; probably meant “natural”] or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of Title 5 [5 U.S.C. 5701-5709, travel and subsistence expenses]. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.

# Historic Sites Act

It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 1 to 7 of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

16 U.S.C. 463(b),  
Staff, applicability of  
Federal law

(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of Section 8344 of Title 5 [5 U.S.C. 8344, civil service retirement, annuities and pay on reemployment], or comparable provisions of Federal law.

16 U.S.C. 463(c),  
Authority of Board

(c)(1) Upon request of the Director, the Board is authorized to—

- (A) hold such hearings and sit and act at such times,
- (B) take such testimony,
- (C) have such printing and binding done,
- (D) enter into such contracts and other arrangements,
- (E) make such expenditures, and
- (F) take such other actions, as the Board may deem advisable.

# Historic Sites Act

Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(2) The Board may establish committee or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

16 U.S.C. 463(d),  
Federal Advisory  
Committee Act

(d) The provisions of the Federal Advisory Committee Act [Public Law 92-463, as amended, 5 U.S.C. Appendix] shall apply to the Board established under this section with the exception of section 14(b).

16 U.S.C. 463(e),  
Cooperation of Federal  
agencies, use of funds

(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality [sic; word missing, probably “available”] to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.

16 U.S.C. 463(f),  
Sunset

(f) The National Park System Advisory Board shall continue to exist until January 1, 2006. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) [Public Law 92-463, as amended, 5 U.S.C. Appendix] are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

# Historic Sites Act

16 U.S.C. 463(g),  
National Park Service  
Advisory Council

(g) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the “advisory council”) which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

16 U.S.C. 464,  
Cooperation with govern-  
mental and private  
agencies

## Section 4

(a) The Secretary, in administering sections 1 to 7 of this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

16 U.S.C. 464(a),  
Authorization

16 U.S.C. 464(b),  
Technical advisory  
committees

(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

16 U.S.C. 464(c),  
Technical assistance

(c) Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 1 to 7 of this Act and for which money may be appropriated by Congress or made available by gifts for such purpose.

16 U.S.C. 465,  
Jurisdiction of States  
and political subdivi-  
sions in acquired lands

## Section 5

Nothing in sections 1 to 7 of this Act shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under said sections.

# Historic Sites Act

16 U.S.C. 466,  
Requirement for  
specific authorization

16 U.S.C. 466(a),  
In general

16 U.S.C. 466(b),  
Savings provision

16 U.S.C. 466(c),  
Authorization of  
appropriations

16 U.S.C. 467,  
Conflict of laws

## Section 6

(a) Except as provided in subsection (b) of this section, notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 2(e) or 2(f) of this Act may be obligated or expended after October 30, 1992—

(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after October 30, 1992; or

(2) in excess of the amount prescribed by law enacted on or after such date.

(b) Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

(c) Except as provided by subsection (a) of this section, there is authorized to be appropriated for carrying out the purposes of sections 1 to 7 of this Act such sums as the Congress may from time to time determine.

## Section 7

The provisions of sections 1 to 7 of this Act shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

# Federal Property and Administrative Services Act

## PORTIONS, AS AMENDED

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The Act became law on June 30, 1949 (63 Stat. 385, 40 U.S.C. 484(k)(3) and (4)) and has been amended seven times. Public Law 107-217 (August 21, 2002) repealed, re-enacted “without substantive change,” and re-codified these portions of the Act from 40 U.S.C. 484 to 40 U.S.C. 550. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the “Act” (meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code.

40 U.S.C. 550,  
Disposal of surplus  
real property

40 U.S.C. 550(a),  
“State” defined

40 U.S.C. 550(b),  
Enforcement  
and revision of  
legal documents  
transferring property  
under this section

40 U.S.C. 550(b)(1),  
Role of Federal agency  
“specified official”

40 U.S.C. 550(b)(2),  
“Specified official”  
defined

### Section 550

(a) **Definition.** In this section, the term “**State**” includes the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b)(1) **In general.** Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this Act, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation, or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government.

(2) **Specified official.** The official referred to in paragraph (1) is

(A) the Secretary of Education, for property transferred under subsection (c) for school, classroom, or other educational use;

(B) the Secretary of Health and Human Services, for property transferred under subsection (d) for use in the protection of public health, including research;

(C) the Secretary of the Interior, for property transferred under subsection (e) for public park or recreation area use;

# Federal Property and Administrative Services Act

(D) the Secretary of Housing and Urban Development, for property transferred under subsection (f) to provide housing or housing assistance for low-income individuals or families; and

(E) the Secretary of the Interior, for property transferred under subsection (h) for use as a historic monument for the benefit of the public.

(Subsections 550(c) and (d) omitted)

40 U.S.C. 550(e),  
Property for use as a  
public park or recre-  
ation area

(e)(1) Assignment. The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of the Interior for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for use as a public park or recreation area.

(2) Sale or lease. Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of the Interior of a proposed transfer, the Secretary, for public park or recreation area use, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a municipality.

(3) Fixing value. In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or municipality.

(4) Deed of conveyance. The deed of conveyance of any surplus real property disposed of under this subsection

(A) shall provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to

(B) the Government; and

(C) may contain additional terms, reservations, restrictions, and conditions the Secretary of the Interior determines are necessary to safeguard the interests of the Government.

# Federal Property and Administrative Services Act

40 U.S.C. 550(f),  
Property for low  
income housing  
assistance

(f)(1) Assignment. The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Housing and Urban Development for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed to provide housing or housing assistance for low-income individuals or families.

(2) Sale or lease. Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Housing and Urban Development of a proposed transfer, the Secretary, to provide housing or housing assistance for low-income individuals or families, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a nonprofit organization that exists for the primary purpose of providing housing or housing assistance for low-income individuals or families.

(3) Self-help housing.

(A) In general. The Administrator shall disapprove a proposed transfer of property under this subsection unless the Administrator determines that the property will be used for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms requiring that

(i) subject to subparagraph (B), an individual or family receiving housing or housing assistance through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(ii) dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

(B) Guidelines for considering disabilities. For purposes of fulfilling self-help requirements under paragraph (3)(A)(i), the Administrator shall ensure that nonprofit organizations receiving property under paragraph (2) develop and use guidelines to consider any disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))).

# Federal Property and Administrative Services Act

## (4) Fixing value.

(A) In general. In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Housing and Urban Development shall take into consideration and discount the value for any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or nonprofit organization.

(B) Amount of discount. The amount of the discount under subparagraph (A) is 75 percent of the market value of the property, except that the Secretary of Housing and Urban Development may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified.

(Subsection 550(g) omitted)

40 U.S.C. 550(h),  
Property for use as a  
historic monument

## (h)(1) Conveyance.

(A) In general. Without monetary consideration to the Government, the Administrator may convey to a State, a political subdivision or instrumentality of a State, or a municipality, the right, title, and interest of the Government in and to any surplus real and related personal property that the Secretary of the Interior determines is suitable and desirable for use as a historic monument for the benefit of the public.

(B) Recommendation by National Park System Advisory Board. Property may be determined to be suitable and desirable for use as a historic monument only in conformity with a recommendation by the National Park System Advisory Board established under section 3 of the Act of August 21, 1935 (16 U.S.C. 463) (known as the Historic Sites, Buildings, and Antiquities Act). Only the portion of the property that is necessary for the preservation and proper observation of the property's historic features may be determined to be suitable and desirable for use as a historic monument.

## (2) Revenue-producing activity.

(A) In general. The Administrator may authorize use of any property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior

# Federal Property and Administrative Services Act

(i) determines that the activities are compatible with use of the property for historic monument purposes;

(ii) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(iii) approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property; and

(iv) examines and approves the accounting and financial procedures used by the grantee.

(B) Use of excess income. The Secretary of the Interior may approve a grantee's financial plan only if the plan provides that the grantee shall use income exceeding the cost of repair, rehabilitation, restoration, and maintenance only for public historic preservation, park, or recreational purposes.

(C) Audits. The Secretary of the Interior may periodically audit the records of the grantee that are directly related to the property conveyed.

(3) Deed of conveyance. The deed of conveyance of any surplus real property disposed of under this subsection

(A) shall provide that all of the property be used and maintained for historical monument purposes in perpetuity, and that if the property ceases to be used or maintained for historical monument purposes, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(B) may contain additional terms, reservations, restrictions, and conditions the Administrator determines are necessary to safeguard the interests of the Government.

# National Trust for Historic Preservation

## CREATION AND PURPOSE, AS AMENDED

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This Act became law on October 26, 1949 (63 Stat. 927, 16 U.S.C. 468) and has been amended once. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 468,  
National Trust for  
Historic Preservation  
in the United States,  
creation, purpose

### Section 1

In order to further the policy enunciated in sections 1 to 7 of the Historic Sites Act, as amended [16 U.S.C. 461-467], and to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest, there is created a charitable, educational, and nonprofit corporation, to be known as the National Trust for Historic Preservation in the United States, hereafter referred to as the "National Trust." The purposes of the National Trust shall be to receive donations of sites, buildings, and objects significant in American history and culture; to preserve and administer them for public benefit; to accept, hold, and administer gifts of money, securities, or other property of whatsoever character for the purpose of carrying out the preservation program; and to execute such other functions as are vested in it by sections 1 to 5 of this Act.

16 U.S.C. 468a,  
Principal office of  
National Trust

### Section 2

The National Trust shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant and resident thereof. The National Trust may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

16 U.S.C. 468b,  
Administration of  
National Trust, com-  
position of board of  
trustees, terms of  
office, compensation,  
expenses

### Section 3

The affairs of the National Trust shall be under the general direction of a board of trustees composed as follows: The Attorney General of the United States; the Secretary of the Interior; and the Director of the National Gallery of Art, ex officio; and not less than six general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. The Attorney General, and the Secretary of the Interior, when it appears desirable in the interest of the

# National Trust for Historic Preservation

conduct of the business of the board and to such extent as they deem it advisable, may, by written notice to the National Trust, designate any officer of their respective departments to act for them in the discharge of their duties as a member of the board of trustees. The number of general trustees shall be fixed by the Board of Trustees of the National Trust and shall be chosen by the members of the National Trust from its members at any regular meeting of said National Trust. The respective terms of office of the general trustees shall be as prescribed by said board of trustees but in no case shall exceed a period of five years from the date of election. A successor to a general trustee shall be chosen in the same manner and shall have a term expiring five years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of that term. The chairman of the board of trustees shall be elected by a majority vote of the members of the board. No compensation shall be paid to the members of the board of trustees for their services as such members, but they shall be reimbursed for travel and actual expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the National Trust at the direction of the board.

16 U.S.C. 468c, Powers and duties of National Trust

## Section 4

To the extent necessary to enable it to carry out the functions vested in it by sections 1 to 5 of this Act, the National Trust shall have the following general powers:

- (a) To have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America.
- (b) To sue and be sued in its corporate name.
- (c) To adopt, alter, and use a corporate seal which shall be judicially noticed.

# National Trust for Historic Preservation

(d) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as it deems necessary for the administration of its functions under sections 1 to 5 of this Act, including among other matter, bylaws, rules, and regulations governing visitation to historic properties, administration of corporate funds, and the organization and procedure of the board of trustees.

(e) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the National Trust is authorized to sell, exchange, or otherwise dispose of and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the National Trust shall determine and shall be subject to expenditure by the National Trust for its corporate purposes.

(f) To acquire by gift, devise, purchase, or otherwise, absolutely or on trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of, any real property, or any estate or interest therein (except property within the exterior boundaries of national parks and national monuments), as may be necessary and proper in carrying into effect the purposes of the National Trust.

(g) To contract and make cooperative agreements with Federal, State, or municipal departments or agencies, corporations, associations, or individuals, under such terms and conditions as it deems advisable, respecting the protection, preservation, maintenance, or operation of any historic site, building, object, or property used in connection therewith for public use, regardless of whether the National Trust has acquired title to such properties, or any interest therein.

# National Trust for Historic Preservation

(h) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include such concession contracts, leases, or permits for the use of lands, buildings, or other property deemed desirable either to accommodate the public or to facilitate administration.

(i) To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust may determine.

(j) And generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the National Trust is created.

16 U.S.C. 468d,  
Consultation with the  
National Park System  
Advisory Board

## Section 5

In carrying out its functions under sections 1 to 5 of this Act, the National Trust is authorized to consult with the National Park System Advisory Board [Advisory Board on National Parks, Historic Sites, Buildings, and Monuments], on matters relating to the selection of sites, buildings, and objects to be preserved and protected pursuant hereto.

16 U.S.C. 468e,  
Repealed

## Section 6

(Section repealed)

16 U.S.C. 468 note,  
Reservation of rights

## Section 7

The right to repeal, alter, or amend this Act [sections 1 to 5 of this Act] at any time is hereby expressly reserved, but no contract or individual right made or acquired shall thereby be divested or impaired.

# Archeological and Historic Preservation Act

AS AMENDED

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This Act became law on June 27, 1960 (Public Law 86-523, 16 U.S.C. 469-469c-2) and has been amended six times. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. The Act was originally known as the "Reservoir Salvage Act" when the initial legislation was enacted in 1960. With broadening amendments, the Act became known as the "Moss-Bennett Act" (after an early amendment) or the "Archeological Recovery Act."

16 U.S.C. 469,  
Purpose

## Section 1

It is the purpose of this Act [16 U.S.C. 469-469c-1] to further the policy set forth in the Act entitled, "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes," approved August 21, 1935 [Historic Sites Act, as amended, 16 U.S.C. 461-467] by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.

16 U.S.C. 469(a),  
Notice of dam construction to be given Secretary of the Interior

## Section 2

Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any floodwater retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds,

# Archeological and Historic Preservation Act

16 U.S.C. 469a-1,  
Threat of loss or  
destruction of signifi-  
cant data by Federal  
construction projects

16 U.S.C. 469a-1(a),  
Notification and  
request for preserva-  
tion of data

16 U.S.C. 469a-1(b),  
Survey of sites,  
preservation of data,  
compensation

or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

## Section 3

(a) Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

(b) Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands.

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16 U.S.C. 469a-2,  
Survey, data recovery,  
and compensation

16 U.S.C. 469 a-2(a),  
Survey conducted,  
preservation of data

16 U.S.C. 469a-2(b),  
Emergency projects

16 U.S.C. 469a-2(c),  
Initiation of survey

16 U.S.C. 469a-2(d),  
Compensation by  
Secretary as a result  
of delay

## Section 4

(a) The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

(b) No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land.

# Archeological and Historic Preservation Act

16 U.S.C. 469a-3,  
Progress reports, dis-  
position of relics, and  
coordination

16 U.S.C. 469a-3(a),  
Progress reports

16 U.S.C. 469a-3(b),  
Repositories for relics  
and specimens

16 U.S.C. 469a-3(c),  
Coordination of  
activities

16 U.S.C. 469b,  
Administration issues

## Section 5

(a) The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under sections 1 to 7 of this Act [16 U.S.C. 469-469c] or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

(b) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

(c) The Secretary shall coordinate all Federal survey and recovery activities authorized under sections 1 to 7 of this Act [16 U.S.C. 469-469c-1].

## Section 6

In the administration of sections 1 to 8 of this Act [16 U.S.C. 469-469c-1], the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5 [of the United States Code]; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

# Archeological and Historic Preservation Act

16 U.S.C. 469c,  
Use of project funds  
and authorization of  
appropriation

16 U.S.C. 469c(a),  
Assistance of Federal  
agencies, 1% limit

16 U.S.C. 469c(d),  
Appropriation avail-  
ability

16 U.S.C. 469c-1,  
"State" defined

## Section 7

(a) To carry out the purposes of sections 1 to 8 of this Act [16 U.S.C. 469-469c-1], any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves \$50,000 or less: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

(16 U.S.C. 469c(b), Appropriation authorization  
for data preservation, omitted)

(16 U.S.C. 469c(c), Appropriation authorization  
for surveys and investigations text, omitted)

(d) Beginning fiscal year 1979, sums appropriated for purposes of this section shall remain available until expended.

## Section 8

As used in sections 1 to 8 of this Act [16 U.S.C. 469-469c-1], the term "**State**" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

# Archeological and Historic Preservation Act

## Addendum

Addendum to the Archeological and Historic Preservation Act of 1974, as amended, from section 208 of the National Historic Preservation Act Amendments of 1980 [Public Law 96-515], as amended.

16 U.S.C. 469c-2,  
Costs for identifica-  
tion, surveys, evalua-  
tion, and data recovery  
Planning, not mitiga-  
tion costs

Costs chargeable  
to licensees and  
permittees

Waiver of 1% limit

### Section 208

Notwithstanding section 7(a) of this Act [16 U.S.C. 469c], or any other provision of law to the contrary—

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7 of this Act [16 U.S.C. 469c(a)].

# National Historic Preservation Act

AS AMENDED

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This Act became law on October 15, 1966 (Public Law 89-665, October 15, 1966; 16 U.S.C. 470 et seq.). Since enactment, there have been 23 amendments. This description of the Act, as amended, follows the language of the United States Code except that (in common usage) we refer to the “Act” (meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code. This description also excludes some of the notes found in the Code as well as those sections of the amendments dealing with completed reports.

16 U.S.C. 470,  
Short title of the Act,  
Congressional finding  
and declaration of policy

16 U.S.C. 470(b),  
Purpose of the Act

## Section 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 being lost or substantially altered, often inadvertently, 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 developments, 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 encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

# National Historic Preservation Act

(7) although the major burdens of historic preservation have 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 accelerate 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 Preservation in the United States to expand and accelerate their historic preservation programs and activities.

16 U.S.C. 470-1,  
Declaration of policy of  
the Federal Government

## Section 2

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

# National Historic Preservation Act

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

## Title I, Historic Preservation Programs

### Section 101

16 U.S.C. 470a, Historic preservation programs

16 U.S.C. 470a(a), National Register of Historic Places, expansion and maintenance, regulations, etc.

(a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. Notwithstanding section 1125(c) of Title 15 [of the U.S. Code], buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

National Historic Landmarks designation

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as “National Historic Landmarks” and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on December 12, 1980 [the date of enactment of the National Historic Preservation Act Amendments of 1980], shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as “National Historic Landmarks” or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666) [16 U.S.C. 461 to 467]; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

# National Historic Preservation Act

Criteria for National Register and National Historic Landmarks and regulations

(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing such designation;

(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

Nominations to the National Register

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b) of this section, shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110(a)(2) of this Act shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

# National Historic Preservation Act

Nominations from individuals and local governments

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b) of this section. The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

Appeals of nominations

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

Owner participation in nomination process

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform

# National Historic Preservation Act

the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

Regulations for curation, documentation, and local government certification

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act [16 U.S.C. 470h-2], the Act of June 27, 1960 (16 U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 103(c) of this Act [16 U.S.C. 470c(c)].

Review threats to eligible and listed properties and recommend action

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

# National Historic Preservation Act

16 U.S.C. 470a(b),  
State Historic  
Preservation Programs

(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

Designation of the State  
Historic Preservation  
Officer (SHPO)

(A) provides for the designation and appointment by the Governor of a “State Historic Preservation Officer” to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

Designation of the State  
Review Board

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

Review of State pro-  
grams

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.

# National Historic Preservation Act

(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

(i) establishes and maintains substantially similar accountability standards; and

(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

## SHPO responsibilities

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

# National Historic Preservation Act

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training, and technical assistance in historic preservation;

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;

(I) consult with the appropriate Federal agencies in accordance with this Act on—

(i) Federal undertakings that may affect historic properties; and

(ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties; and

(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

Arrangements with non-profit organizations

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

Approval of existing programs

(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection, or

(B) three years after October 30, 1992 [the date of the enactment of the National Historic Preservation Act Amendments of 1992].

# National Historic Preservation Act

Contracts or cooperative agreements with State Historic Preservation Officers

(6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—

(i) Identification and preservation of historic properties.

(ii) Determination of the eligibility of properties for listing on the National Register.

(iii) Preparation of nominations for inclusion on the National Register.

(iv) Maintenance of historical and archaeological data bases.

(v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

(B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—

(i) the State Historic Preservation Officer has requested the additional responsibility;

(ii) the Secretary has approved the State historic preservation program pursuant to subsection (b)(1) and (2) of this section;

(iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;

(iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and

# National Historic Preservation Act

(v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.

(C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

16 U.S.C. 470a(c)  
Certification of local governments  
Certification criteria

(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c) of this Act [16 U.S.C. 470c(c)], of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this Act.

# National Historic Preservation Act

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

Participation of certified local governments in National Register nominations

(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this subsection. The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to subsection (a) of this section. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

# National Historic Preservation Act

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provision of section 103(c) of this Act [16 U.S.C. 470c(c)], and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

## Definitions

(4) For the purposes of this section the term—

(A) “**designation**” means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

(B) “**protection**” means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

16 U.S.C. 470a(d),  
Establish program and  
regulations to assist  
Indian tribes

(d)(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe’s chief governing authority.

# National Historic Preservation Act

(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

Indian Tribes may assume State Historic Preservation Officer functions

(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3) of this section, with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if—

(A) the tribe's chief governing authority so requests;

(B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(D) the Secretary determines, after consultation with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106 of this Act), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

# National Historic Preservation Act

(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3) of this section; and

(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) of this Act with respect to tribal programs that assume responsibilities under paragraph (2).

(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) of this section on tribal land, if—

(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and

(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

(i) the tribe's traditional cultural authorities;

(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

# National Historic Preservation Act

(iii) the interested public.

(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106 of this Act, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

Traditional religious and cultural properties may be eligible for listing in the National Register

(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(B) In carrying out its responsibilities under section 106 of this Act, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

(C) In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer for the State of Hawaii shall—

(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

16 U.S.C. 470a(e),  
Grants, grants to States

(e)(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.

# National Historic Preservation Act

Grants to the National Trust

(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927) [16 U.S.C. 468], consistent with the purposes of its charter and this Act.

Direct grants for threatened National Historic Landmarks, demonstration projects, training, and displacement prevention

(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108 of this Act. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

Grants or loans to Indian tribes and non-profit ethnic or minority organizations for preserving cultural heritage

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104 of this Act.

# National Historic Preservation Act

Grants for religious properties

(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

Direct grants to Indian tribes and Native Hawaiian organizations

(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

Direct grants to Micronesia, Marshall Islands, and Palau

(6)(A) As a part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled "Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes" (48 U.S.C. 1681 note). The goal of the program shall be to establish historic and cultural

# National Historic Preservation Act

preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

16 U.S.C. 470a(f),  
Prohibition on compensating intervenors

(f) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

16 U.S.C. 470a(g),  
Guidelines for Federal agency responsibilities

(g) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this Act.

16 U.S.C. 470a(h),  
Preservation standards for federally owned or controlled properties

(h) Within one year after December 12, 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

16 U.S.C. 470a(i),  
Technical advice, training, and educational materials

(i) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

16 U.S.C. 470a(j),  
Comprehensive preservation education and training program

(j)(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

# National Historic Preservation Act

(2) The education and training program described in paragraph (1) shall include—

(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and

(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

(i) distribution of information on preservation technologies;

(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

16 U.S.C. 470b,  
Grant requirements

16 U.S.C. 470b(a),  
Applications, matching  
share, reports, etc.

## Section 102

(a) No grant may be made under this Act—

(1) unless application therefore is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 4601-4];

# National Historic Preservation Act

(3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 101(b)(3) of this Act in any one fiscal year;

(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1986 [Title 26 of the U.S. Code].

16 U.S.C. 470b(b),  
Waiver for the National  
Trust

(b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National Trust for Historic Preservation in the United States.

16 U.S.C. 470b(c\*),  
State limitation on  
matching

(c\*) No State shall be permitted to utilize the value of real property obtained before October 15, 1966 [the date of original approval of this Act], in meeting the remaining cost of a project for which a grant is made under this Act.

16 U.S.C. 470b(d),  
Availability of funds

(d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

\*Technically, subsection (c) was repealed and replaced by two subsection "d"s.

# National Historic Preservation Act

16 U.S.C. 470b(e),  
Administrative costs

(e) The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 101(e)(6) of this Act.

16 U.S.C. 470c,  
Apportionment of grant  
funds

## Section 103

16 U.S.C. 470c(a), Basis  
for apportionment

(a) The amounts appropriated and made available for grants to the States for the purposes of this Act shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

16 U.S.C. 470c(b),  
Apportionment basis,  
notice, reapportion-  
ment, etc.

(b) The amounts appropriated and made available for grants to the States for projects and programs under this Act for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection. The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.

16 U.S.C. 470c(c),  
Requirements for certi-  
fied local government  
pass-through subgrants

(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) of this Act for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c) of this Act.

# National Historic Preservation Act

16 U.S.C. 470c(d),  
Guidelines for State  
distribution to certified  
local governments

(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) of this section to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c) of this section, nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

16 U.S.C. 470d,  
Insured loans for  
National Register

## Section 104

16 U.S.C. 470d(a),  
Program establishment

(a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

16 U.S.C. 470d(b),  
Loan qualification

(b) A loan may be insured under this section only if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

# National Historic Preservation Act

(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

Interest rates

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

16 U.S.C. 470d(c),  
Limitation on loan  
authority

(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 of this Act and subsections (g) and (i) of this section, as in effect on December 12, 1980 [the date of the enactment of this provision of the Act], but which has not been appropriated for any purpose.

16 U.S.C. 470d(d),  
Assignability and effect  
of insurance contracts

(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

16 U.S.C. 470d(e),  
Method of payment for  
losses

(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

16 U.S.C. 470d(f),  
Protection of Govern-  
ment's financial inter-  
ests; foreclosure

(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g) of this section.

# National Historic Preservation Act

16 U.S.C. 470d(g),  
Conveyance of fore-  
closed property

(g)(1) In any case in which a historic property is obtained pursuant to subsection (f) of this section, the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 of this Act and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

16 U.S.C. 470d(h),  
Fees

(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 of this Act and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

16 U.S.C. 470d(i),  
Loans to be considered  
non-Federal funds

(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

16 U.S.C. 470d(j),  
Appropriation  
authorization

(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e) of this section.

# National Historic Preservation Act

16 U.S.C. 470d(k),  
Prohibition against  
acquisition by Federal  
Financing Bank

(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

16 U.S.C. 470e,  
Recordkeeping

## Section 105

The beneficiary of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

16 U.S.C. 470f,  
Advisory Council on  
Historic Preservation,  
comment on Federal  
undertakings

## Section 106

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 shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

16 U.S.C. 470g,  
Exemption of White  
House, Supreme Court,  
and Capitol

## Section 107

Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

# National Historic Preservation Act

16 U.S.C. 470h,  
Establishment of  
Historic Preservation  
Fund, authorization  
for appropriations

## Section 108

To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the “fund”) in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980 and \$150,000,000 for fiscal year 1981 and \$150,000,000 for each of fiscal years 1982 through 2005, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469) as amended (43 U.S.C. 1338), and/or under section 7433(b) of Title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

16 U.S.C. 470h-l,  
Acceptance of donated  
funds

16 U.S.C. 470h-l(a),  
Authorization, use of  
funds

## Section 109

(a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

16 U.S.C. 470h-1(b),  
Expenditure of donated  
funds

(b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and

# National Historic Preservation Act

16 U.S.C. 470h-1(c),  
Transfer of funds  
donated for the  
National Park Service

16 U.S.C. 470h-2,  
Federal agency historic  
preservation programs

16 U.S.C. 470h-2(a),  
Federal agencies'  
responsibility to pre-  
serve and use historic  
properties

Each Federal agency to  
establish a preservation  
program to protect and  
preserve historic prop-  
erties in consultation with  
others

the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.

(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.

## Section 110

(a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071). Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g) of this Act, any preservation, as may be necessary to carry out this section.

(2) Each Federal agency shall establish (unless exempted pursuant to Section 214) of this Act, in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure—

(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

# National Historic Preservation Act

(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act and gives special consideration to the preservation of such values in the case of properties designated as having National significance;

(C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning;

(D) that 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 with the private sector; and

(E) that the agency's procedures for compliance with section 106 of this Act—

(i) are consistent with regulations issued by the Council pursuant to section 211 of this Act;

(ii) provide a process for the identification and evaluation of historic properties for listing in 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 such properties will be considered; and

(iii) 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 Grave Protection and Repatriation Act (25 U.S.C. 3002(c)).

# National Historic Preservation Act

16 U.S.C. 470h-2(b),  
Recordation of his-  
toric properties prior to  
demolition

(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a) of this Act, in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

16 U.S.C. 470h-2(c),  
Federal Agency  
Preservation Officers

(c) The head of each Federal agency shall, unless exempted under section 214 of this Act, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(h) of this Act.

16 U.S.C. 470h-2(d),  
Conduct of agency pro-  
grams consistent with  
Act

(d) Consistent with the agency's mission and mandates, all Federal agencies 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 Act and, give consideration to programs and projects which will further the purposes of this Act.

16 U.S.C. 470h-2(e),  
Transfer of surplus  
Federal historic  
properties

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

16 U.S.C. 470h-2(f),  
Federal undertakings  
affecting National  
Historic Landmarks

(f) Prior to the approval of any Federal undertaking which 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 such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

# National Historic Preservation Act

16 U.S.C. 470h-2(g),  
Preservation activities as  
an eligible project cost

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

16 U.S.C. 470h-2(h),  
Preservation awards  
program

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

16 U.S.C. 470h-2(i),  
Environmental impact  
statement

(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

16 U.S.C. 470h-2(j),  
Disaster waivers

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

16 U.S.C. 470h-2(k),  
Anticipatory demolition

(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106 of this Act, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

# National Historic Preservation Act

16 U.S.C. 470h-2(l),  
Documentation of  
Federal agency Section  
106 decisions

(l) With respect to any undertaking subject to section 106 of this Act which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement pursuant to regulations issued by the Council, the head of such agency shall document any decision made pursuant to section 106 of this Act. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 of this Act memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

16 U.S.C. 470h-3,  
Lease or exchange of  
Federal historic property

## Section 111

16 U.S.C. 470h-3(a),  
Authorization, consul-  
tation with Advisory  
Council

(a) Notwithstanding any other provision of law, any Federal agency after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may lease an 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 insure the preservation of the historic property.

16 U.S.C. 470h-3(b),  
Use of proceeds

(b) The proceeds of any lease under subsection (a) of this section may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

# National Historic Preservation Act

16 U.S.C. 470h-3(c),  
Management contracts

(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of historic property.

16 U.S.C. 470h-4,  
Professional standards

16 U.S.C. 470h-4(a),  
Each Federal agency is to protect historic resources through professionalism of employees and contractors

## Section 112

(a) Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this Act or any other law shall ensure each of the following—

(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.

(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after October 30, 1992, [the date of enactment of the 1992 Amendments to this Act] for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

Maintaining permanent databases

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

# National Historic Preservation Act

16 U.S.C. 470h-4(b), Secretary to promulgate guidelines to owners about protecting and preserving historic resources

(b) In order to promote the preservation of historic resources on properties eligible for listing in 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 Act include plans to—

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

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

Encourage protection of Native American cultural items and properties

(3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9))) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

Conduct archaeological excavations to meet Federal standards, allow access to artifacts for research, consult with Indian tribe or Native Hawaiian organization if related items likely

(4) encourage owners who are undertaking archaeological 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 section 3(a)(2)(B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2)(B) or (C)), given notice to and consult with such Indian tribe or Native Hawaiian organization.

# National Historic Preservation Act

16 U.S.C. 470h-5,  
Interstate and interna-  
tional traffic in antiquities

16 U.S.C. 470h-5(a),  
Study to report ways to  
control illegal trafficking  
in antiquities

16 U.S.C. 470h-5(b),  
Consultation

16 U.S.C. 470h-5(c),  
Report

16 U.S.C. 470h-5(d),  
Funding authorization

16 U.S.C. 470i,  
Advisory Council on  
Historic Preservation

16 U.S.C. 470i(a),  
Establishment,  
membership

## Section 113

(a) In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

(b) In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

(c) Not later than 18 months after October 30, 1992 [the date of enactment of this section], the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a) of this section.

(d) There are authorized to be appropriated not more than \$500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

## Title II, Advisory Council on Historic Preservation

### Section 201

(a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:

# National Historic Preservation Act

- (1) a Chairman appointed by the President selected from the general public;
- (2) the Secretary of the Interior;
- (3) the Architect of the Capitol;
- (4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior), the activities of which affect historic preservation, designated by the President;
- (5) one Governor appointed by the President;
- (6) one mayor appointed by the President;
- (7) the President of the National Conference of State Historic Preservation Officers;
- (8) the Chairman of the National Trust for Historic Preservation;
- (9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archaeology, and other appropriate disciplines;
- (10) three at-large members from the general public, appointed by the President; and
- (11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.

16 U.S.C. 470i(b),  
Designees

(b) Each member of the Council specified in paragraphs (2) through (8) other than (5) and (6) of subsection (a) of this section may designate another officer of his department, agency, or organization to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

16 U.S.C. 470i(c),  
Term of office

(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) through (11) of subsection (a) of this section shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that

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paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

16 U.S.C. 470i(d),  
Vacancies

(d) A vacancy in the Council shall not affect its powers, but shall be filled not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before December 12, 1980 [the enactment of the National Historic Preservation Act Amendments of 1980], shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after December 12, 1980 [the enactment of the National Historic Preservation Act Amendments of 1980].

16 U.S.C. 470i(e),  
Vice Chairman

(e) The President shall designate a Vice Chairman, from the members appointed under paragraphs (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

16 U.S.C. 470i(f),  
Quorum

(f) Nine members of the Council shall constitute a quorum.

16 U.S.C. 470j,  
Council functions

## Section 202

16 U.S.C. 470j(a),  
Duties of Council

(a) The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

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(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

16 U.S.C. 470j(b),  
Annual and special  
reports

(b) The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act.

# National Historic Preservation Act

16 U.S.C. 470k,  
Council information  
from agencies

## Section 203

The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this title of the Act; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

16 U.S.C. 470l,  
Compensation of Council  
members

## Section 204

The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

16 U.S.C. 470m,  
Council administration

16 U.S.C. 470m(a),  
Executive Director

## Section 205

(a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

16 U.S.C. 470m(b),  
General Counsel and  
other attorneys

(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, including enforcement of agreements with Federal agencies to which the Council is a party, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

# National Historic Preservation Act

16 U.S.C. 470m(c),  
Appointment and  
compensation of staff

(c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5 [United States Code]: *Provided, however,* That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of Title 5 [United States Code].

16 U.S.C. 470m(d),  
Appointment and com-  
pensation of additional  
personnel

(d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949 [chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code].

16 U.S.C. 470m(e),  
Expert and consultant  
services

(e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5 [United States Code].

16 U.S.C. 470m(f),  
Financial and adminis-  
trative services

(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided,* That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514(b)) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 1513(d), 1514) shall apply to appropriations of the Council: *And provided further,* That the Council shall not be required to prescribe such regulations.

# National Historic Preservation Act

16 U.S.C. 470m(g),  
Use of funds, personnel,  
facilities, and services

(g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.

16 U.S.C. 470n,  
International Centre  
for the Study of the  
Preservation and  
Restoration of Cultural  
Property

16 U.S.C. 470n(a),  
Authorization for  
participation

16 U.S.C. 470n(b),  
Members of official  
delegation

## Section 206

(a) The participation of the United States as a member of the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

(b) The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

# National Historic Preservation Act

16 U.S.C. 470n(c),  
Authorization for  
membership payment

(c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessment shall begin in fiscal year 1981, but shall include earlier costs.

16 U.S.C. 470o,  
Transfer of personnel,  
funds, etc. to the Council

## Section 207

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programmed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act [Pub. L. 94-422, September 28, 1976].

16 U.S.C. 470p,  
Rights of Council  
employees

## Section 208

Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all rights, benefits, and privileges pertaining thereto held prior to such transfer.

16 U.S.C. 470q,  
Council exemption  
from Federal Advisory  
Committee Act

## Section 209

The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of subchapter II of chapter 5 and chapter 7, of Title 5 [U.S. Code] [the Administrative Procedure Act (80 Stat. 381)] shall govern the operations of the Council.

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16 U.S.C. 470r,  
Council direct submission of documents to the Congress

## Section 210

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

16 U.S.C. 470s,  
Regulations for Section 106, local government participation

## Section 211

The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act in its entirety. The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 of this Act which affect such local governments.

16 U.S.C. 470t,  
Council budget, appropriation authorization

## Section 212

(a) The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated for purposes of this title not to exceed \$4,000,000 in each fiscal year 1997 through 2005.

16 U.S.C. 470t(a),  
Council appropriation authorization

16 U.S.C. 470t(b),  
Concurrent submission of budget to Congress

(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

# National Historic Preservation Act

16 U.S.C. 470u,  
Reports from Secretary  
at request of Council

## Section 213

To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

16 U.S.C. 470v,  
Council exemptions for  
Federal activities from  
provisions of the Act

## Section 214

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

16 U.S.C. 470v-1,  
Council reimbursement  
from State and local  
agencies, etc.

## Section 215

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.

16 U.S.C. 470w,  
Definitions

## Title III, General and Miscellaneous

### Section 301

As used in this Act, the term—

(1) **“Agency”** means agency as such term is defined in section 551 of title 5 [United States Code].

(2) **“State”** means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.

# National Historic Preservation Act

(3) **“Local government”** means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(4) **“Indian tribe”** or **“tribe”** means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act [43 U.S.C. 1602], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) **“Historic property”** or **“historic resource”** means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.

(6) **“National Register”** or **“Register”** means the National Register of Historic Places established under section 101 of this Act.

(7) **“Undertaking”** means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

(A) those carried out by or on behalf of the agency;

(B) those carried out with Federal financial assistance;

(C) those requiring a Federal permit license, or approval; and

(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

(8) **“Preservation”** or **“historic preservation”** includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

# National Historic Preservation Act

(9) “**Cultural park**” means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) “**Historic conservation district**” means an area which contains

(A) historic properties,

(B) buildings having similar or related architectural characteristics,

(C) cultural cohesiveness, or

(D) any combination of the foregoing.

(11) “**Secretary**” means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

(12) “**State historic preservation review board**” means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B) of this Act—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer; and

(iv) perform such other duties as may be appropriate.

# National Historic Preservation Act

(13) “**Historic preservation review commission**” means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B) of this Act, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

(14) “**Tribal lands**” means—

(A) all lands within the exterior boundaries of any Indian reservation; and

(B) all dependent Indian communities.

(15) “**Certified local government**” means a local government whose local historic preservation program has been certified pursuant to section 101(c) of this Act.

(16) “**Council**” means the Advisory Council on Historic Preservation established by section 201 of this Act.

(17) “**Native Hawaiian**” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(18) “**Native Hawaiian organization**” means any organization which—

(A) serves and represents the interests of Native Hawaiians;

(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

# National Historic Preservation Act

(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.

16 U.S.C. 470w-1,  
Federal agency authority  
to expend funds for pur-  
poses of this Act

## Section 302

Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.

16 U.S.C. 470w-2,  
Donations and bequests

## Section 303

16 U.S.C. 470w-2(a),  
Donations to Secretary;  
money and personal  
property

(a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.

16 U.S.C. 470w-2(b),  
Donations of less than  
fee interests in real  
property

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

16 U.S.C. 470w-3,  
Limitations on access to  
information

## Section 304

16 U.S.C. 470w-3(a),  
Confidentiality of the  
location of sensitive  
historic resources

(a) The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

# National Historic Preservation Act

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resources; or
- (3) impede the use of a traditional religious site by practitioners.

16 U.S.C. 470w-3(b),  
Access determination

(b) When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a) of this section, the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

16 U.S.C. 470w-3(c),  
Consultation with the  
Advisory Council

(c) When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f) of this Act, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b) of this section.

16 U.S.C. 470w-4,  
Attorneys' fees

## Section 305

In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

16 U.S.C. 470w-5,  
National Museum for  
the Building Arts

## Section 306

16 U.S.C. 470w-5(a),  
Cooperative agreement  
for National Museum of  
the Building Arts

(a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

# National Historic Preservation Act

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

16 U.S.C. 470w-5(b),  
Cooperative agreement  
provision

(b) The cooperative agreement referred to in subsection (a) of this section shall include provisions which—

(1) make the site available to the Committee referred to in subsection (a) of this section without charge;

(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

16 U.S.C. 470w-5(c),  
Grants to Committee

(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) of this section for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

16 U.S.C. 470w-5(d),  
Site renovation

(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

# National Historic Preservation Act

(1) be commenced immediately,

(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

16 U.S.C. 470w-5(e),  
Annual report

(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

16 U.S.C. 470w-5(f),  
Definition of “building arts”

(f) For purposes of this section, the term “**building arts**” includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

16 U.S.C. 470w-6,  
Regulations and  
Congress

## Section 307

16 U.S.C. 470w-6(a),  
Effective date of  
regulations

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

16 U.S.C. 470w-6(b),  
Congressional disapproval of regulations

(b) The regulation shall not become effective if, within ninety 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 therein being appropriately filled.

# National Historic Preservation Act

16 U.S.C. 470w-6(c),  
Inaction by Congress

(c) If at the end of sixty 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 such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

16 U.S.C. 470w-6(d),  
Session days  
computation

(d) For the purposes of this section—

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

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

16 U.S.C. 470w-6(e),  
Effect of Congressional  
inaction

(e) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

16 U.S.C. 470w-7,  
Historic lighthouse  
preservation

## Section 308

(a) In order to provide a national historic light station program, the Secretary shall—

16 U.S.C. 470w-7(a),  
National historic light  
station program

(1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;

(2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;

(3) sponsor or conduct research and study into the history of light stations;

(4) maintain a listing of historic light stations; and

(5) assess the effectiveness of the program established by this section regarding the conveyance of historic light stations.

# National Historic Preservation Act

16 U.S.C. 470w-7(b),  
Conveyance of historic  
light stations

(b)(1) Not later than 1 year after October 24, 2000 [the date of the enactment of this section], the Secretary and the Administrator shall establish a process and policies for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes, and to monitor the use of such light station by the eligible entity.

(2) The Secretary shall review all applications for the conveyance of a historic light station, when the agency with administrative jurisdiction over the historic light station has determined the property to be “excess property” as that term is defined in the Federal Property Administrative Services Act of 1949 (40 U.S.C. 472(e)), and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary shall consult with the State Historic Preservation Officer of the State in which the historic light station is located.

(3)(A) Except as provided in subparagraph (B), the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, subject to the conditions set forth in subsection (c) after the Secretary’s selection of an eligible entity. The conveyance of a historic light station under this section shall not be subject to the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) or section 416(d) of the Coast Guard Authorization Act of 1998 (Public Law 105-383)[14 U.S.C. 93 note].

(B)(i) Historic light stations located within the exterior boundaries of a unit of the National Park System or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

(ii) If the Secretary approves the conveyance of a historic light station referenced in this paragraph, such conveyance shall be subject to the conditions set forth in subsection (c) and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

# National Historic Preservation Act

(iii) If the Secretary approves the sale of a historic light station referenced in this paragraph, such sale shall be subject to the conditions set forth in subparagraphs (A) through (D) and (H) of subsection (c)(1) and subsection (c)(2) and any other terms or conditions the Secretary considers necessary to protect the resources of the park unit or wildlife refuge.

(iv) For those historic light stations referenced in this paragraph, the Secretary is encouraged to enter into cooperative agreements with appropriate eligible entities, as provided in this Act, to the extent such cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the park unit or wildlife refuge, as appropriate.

16 U.S.C. 470w-7(c),  
Terms of conveyance

(c)(1) The conveyance of a historic light station shall be made subject to any conditions, including the reservation of easements and other rights on behalf of the United States, the Administrator considers necessary to ensure that—

(A) the Federal aids to navigation located at the historic light station in operation on the date of conveyance remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(B) there is reserved to the United States the right to remove, replace, or install any Federal aid to navigation located at the historic light station as may be necessary for navigational purposes;

(C) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with any Federal aid to navigation, nor hinder activities required for the operation and maintenance of any Federal aid to navigation, without the express written permission of the head of the agency responsible for maintaining the Federal aid to navigation;

# National Historic Preservation Act

(D) the eligible entity to which the historic light station is conveyed under this section shall, at its own cost and expense, use and maintain the historic light station in accordance with this Act, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws, and any proposed changes to the historic light station shall be reviewed and approved by the Secretary in consultation with the State Historic Preservation Officer of the State in which the historic light station is located, for consistency with 36 CFR part 800.5(a)(2)(vii), and the Secretary of the Interior's Standards for Rehabilitation, 36 CFR part 67.7;

(E) the eligible entity to which the historic light station is conveyed under this section shall make the historic light station available for education, park, recreation, cultural or historic preservation purposes for the general public at reasonable times and under reasonable conditions;

(F) the eligible entity to which the historic light station is conveyed shall not sell, convey, assign, exchange, or encumber the historic light station, any part thereof, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, unless such sale, conveyance, assignment, exchange or encumbrance is approved by the Secretary;

(G) the eligible entity to which the historic light station is conveyed shall not conduct any commercial activities at the historic light station, any part thereof, or in connection with any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, in any manner, unless such commercial activities are approved by the Secretary; and

(H) the United States shall have the right, at any time, to enter the historic light station conveyed under this section without notice, for purposes of operating, maintaining, and inspecting any aid to navigation and for the purpose of ensuring compliance with this subsection, to the extent that it is not possible to provide advance notice.

# National Historic Preservation Act

(2) Any eligible entity to which a historic light station is conveyed under this section shall not be required to maintain any Federal aid to navigation associated with a historic light station, except any private aids to navigation permitted under section 83 of title 14 [United States Code], to the eligible entity.

(3) In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the historic light station, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including but not limited to any lens or lanterns, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(A) the historic light station, any part thereof, or any associated historic artifact ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

(B) the historic light station or any part thereof ceases to be maintained in a manner that ensures its present or future use as a site for a Federal aid to navigation;

(C) the historic light station, any part thereof, or any associated historic artifact ceases to be maintained in compliance with this Act, the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR part 68, and other applicable laws;

(D) the eligible entity to which the historic light station is conveyed, sells, conveys, assigns, exchanges, or encumbers the historic light station, any part thereof, or any associated historic artifact, without approval of the Secretary;

(E) the eligible entity to which the historic light station is conveyed, conducts any commercial activities at the historic light station, any part thereof, or in conjunction with any associated historic artifact, without approval of the Secretary; or

# National Historic Preservation Act

(F) At least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station or any part thereof is needed for national security purposes.

Light stations originally conveyed under other authority

(4) Upon receiving notice of an executed or intended conveyance by an owner who—

(A) received from the Federal Government under authority other than this Act an historic light station in which the United States retains a reversionary or other interest; and

(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.

16 U.S.C. 470w-7(d),  
Description of property

(d)(1) The Administrator shall prepare the legal description of any historic light station conveyed under this section. The Administrator, in consultation with the Commandant, United States Coast Guard, and the Secretary, may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the light station at the time of conveyance. Wherever possible, such historical artifacts should be used in interpreting that station. In cases where there is no method for preserving lenses and other artifacts and equipment in situ, priority should be given to preservation or museum entities most closely associated with the station, if they meet loan requirements.

# National Historic Preservation Act

(2) Artifacts associated with, but not located at, the historic light station at the time of conveyance shall remain the personal property of the United States under the administrative control of the Commandant, United States Coast Guard.

(3) All conditions placed with the quitclaim deed of title to the historic light station shall be construed as covenants running with the land.

(4) No submerged lands shall be conveyed under this section.

16 U.S.C. 470w-7(e),  
Definitions

(e) For purposes of this section:

(1) The term “**Administrator**” shall mean the Administrator of General Services.

(2) The term “**historic light station**” includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, underlying and appurtenant land and related real property and improvements associated therewith; *provided* that the “historic light station” shall be included in or eligible for inclusion in the National Register of Historic Places.

(3) The term “**eligible entity**” shall mean:

(A) any department or agency of the Federal Government; or

(B) any department or agency of the State in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that

(i) has agreed to comply with the conditions set forth in subsection (c) and to have such conditions recorded with the deed of title to the historic light station; and

(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in subsection (c).

# National Historic Preservation Act

(4) The term “**Federal aid to navigation**” shall mean any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation, and shall include, but not be limited to, a light, lens, lantern, antenna, sound signal, camera, sensor, electronic navigation equipment, power source, or other associated equipment.

(5) The term “**Secretary**” means the Secretary of the Interior.

16 U.S.C. 470w-8,  
Historic light station  
sales

16 U.S.C. 470w-8(a),  
In general

## Section 309

(a) In the event no applicants are approved for the conveyance of a historic light station pursuant to section 308 of this Act, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator of General Services and consistent with the requirements of section 308 of this Act, subparagraphs (A) through (D) and (H) of subsection (c)(1), and subsection (c)(2). Conveyance documents shall include all necessary covenants to protect the historical integrity of the historic light station and ensure that any Federal aid to navigation located at the historic light station is operated and maintained by the United States for as long as needed for that purpose.

16 U.S.C. 470w-8(b),  
Net sale proceeds

(b) Net sale proceeds from the disposal of a historic light station—

(1) located on public domain lands shall be transferred to the National Maritime Heritage Grant Program, established by the National Maritime Heritage Act of 1994 (Public Law 103-451) [U.S.C. 5401 et seq.] within the Department of the Interior; and

(2) under the administrative control of the Coast Guard shall be credited to the Coast Guard’s Operating Expenses appropriation account, and shall be available for obligation and expenditure for the maintenance of light stations remaining under the administrative control of the Coast Guard, such funds to remain available until expended and shall be available in addition to funds available in the Operating Expense appropriation for this purpose.

# National Historic Preservation Act

114 Stat. 1390,  
Appropriation  
authorization

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out [Sections 308 and 309] of this Act.

## Title IV, National Center for Preservation Technology and Training

16 U.S.C. 470x,  
National initiative to  
coordinate and promote  
research, distribute infor-  
mation, and provide train-  
ing about preservation  
skills and technologies

### Section 401

The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial.

16 U.S.C. 470x-1,  
Definitions

### Section 402

For the purposes of this title—

(1) The term “**Board**” means the National Preservation Technology and Training Board established pursuant to section 404 of this Act.

(2) The term “**Center**” means the National Center for Preservation Technology and Training established pursuant to section 403 of this Act.

(3) The term “**Secretary**” means the Secretary of the Interior.

16 U.S.C. 470x-2,  
Establishment of  
National Center

### Section 403

16 U.S.C. 470x-2(a),  
Establishment

(a) There is hereby established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

16 U.S.C. 470x-2(b),  
Purposes of Center

(b) The purposes of the Center shall be to—

(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

# National Historic Preservation Act

(2) develop and facilitate training for Federal, State and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

(5) cooperate with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

16 U.S.C. 470x-2(c),  
Programs

(c) Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 405 of this Act.

16 U.S.C. 470x-2(d),  
Executive Director

(d) The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

16 U.S.C. 470x-2(e),  
Assistance from  
Secretary

(e) The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

16 U.S.C. 470x-3,  
Preservation Technology  
and Training Board

## Section 404

(a) There is established a Preservation Technology and Training Board.

(b) The Board shall—

(1) provide leadership, policy advice, and professional oversight to the Center;

(2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and

(3) submit an annual report to the President and the Congress.

16 U.S.C. 470x-3(a),  
Establishment

16 U.S.C. 470x-3(b),  
Duties

# National Historic Preservation Act

16 U.S.C. 470x-3(c),  
Membership

(c) The Board shall be comprised of—

(1) The Secretary, or the Secretary’s designee;

(2) 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations; and

(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications who represent major organizations in the fields of archaeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

16 U.S.C. 470x-4,  
Grants for research,  
information distribution,  
and skill training

## Section 405

(a) The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields.

16 U.S.C. 470x-4(a),  
In general

(b)(1) Grants provided under this section shall be allocated in such a fashion to reflect the diversity of the historic preservation fields and shall be geographically distributed.

16 U.S.C. 470x-4(b),  
Grant requirements

(2) No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

(3) The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

16 U.S.C. 470x-4(c),  
Eligible applicants

(c) Eligible applicants may include Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations; offices, units, and Cooperative Park Study Units of the National Park System, State Historic Preservation Offices, tribal preservation offices, and Native Hawaiian organizations.

# National Historic Preservation Act

16 U.S.C. 470x-4(d),  
Standards

(d) All such grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

16 U.S.C. 470x-4(e),  
Authorization of  
appropriations

(e) There is authorized to be appropriated to carry out this section such sums as may be necessary.

16 U.S.C. 470x-5,  
General provisions

## Section 406

16 U.S.C. 470x-5(a),  
Center may accept  
grants, donations, and  
other Federal funds; may  
enter into contracts and  
cooperative agreements

(a) The Center may accept—

(1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

(2) transfers of funds from other Federal agencies.

16 U.S.C. 470x-5(b),  
Contracts and coopera-  
tive agreements

(b) Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this title of the Act.

16 U.S.C. 470x-5(c),  
Authorization of  
appropriations

(c) There are authorized to be appropriated such sums as may be necessary for the establishment, operation, and maintenance of the Center. Funds for the Center shall be in addition to existing National Park Service programs, centers, and offices.

16 U.S.C. 470x-6,  
Improve use of existing  
NPS centers and regional  
offices

## Section 407

In order to improve the use of existing National Park Service resources, the Secretary shall fully utilize and further develop the National Park Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination of such centers and offices within the National Park Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.

# National Historic Preservation Act

## Addendum

This addendum contains related legislative provisions enacted in the National Historic Preservation Act Amendments of 1980 [Public Law 96-515] but that are not part of the National Historic Preservation Act.

16 U.S.C. 470a-1,  
World Heritage  
Convention

16 U.S.C. 470a-1(a),  
United States  
participation

16 U.S.C. 470a-1(b),  
Nominations of proper-  
ties to World Heritage  
Committee

16 U.S.C. 470a-1(c),  
Concurrence of owners  
for non-Federal property  
nominations

## Section 401

(a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. 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.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such 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 such nomination, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

# National Historic Preservation Act

16 U.S.C. 470a-2,  
International Federal  
activities affecting  
historic properties

## Section 402

Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which 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 such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

# Department of Transportation Act

## DECLARATION OF PURPOSE AND SECTION 4(F), AS AMENDED

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This Act became law on October 15, 1966 (Public Law 89-670), 49 U.S.C. 303 (formerly 49 U.S.C. 1651(b)(2) and 49 U.S.C. 1653f). Public Law 90-495 (August 23, 1968) amended section 4(f) to its most commonly known form which is presented here. Public Law 97-449 (January 12, 1983) re-codified the Act from 49 U.S.C. 1651 to 49 U.S.C. 303. Congress has amended this Act three other times. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act as amended) rather than to the "subchapter" or the "title" of the Code.

49 U.S.C. 303,  
Policy on lands,  
wildlife and water-  
fowl refuges, and  
historic sites.

### Section 4(f)

It is hereby declared to be the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

49 U.S.C. 303(b)

The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

49 U.S.C. 303(c)

The Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) [of the United States Code, "Federal Lands Highways Program"] requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

# National Environmental Policy Act

PORTIONS, AS AMENDED

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This Act became law on January 1, 1970 (Public Law 91-190), 42 U.S.C. 4321 and 4331-4335 and has been amended once. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

42 U.S.C. 4321,  
Congressional declaration of purpose

## Section 2

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

42 U.S.C. 4331,  
Congressional declaration of national environmental policy

## Section 101

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

# National Environmental Policy Act

Preservation of historic, cultural, and natural heritage

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation of the environment.

42 U.S.C. 4332,  
Cooperation of agencies, reports, availability of information, recommendations, international and national coordination of efforts

## Section 102

The Congress authorizes and directs that, to the fullest extent possible:

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and

(2) all agencies of the Federal government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

# National Environmental Policy Act

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by Section 202 of this Act [42 U.S.C. 4341-4347], which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

Environmental impact statements, etc.

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Consultation with agencies having special expertise

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5 [of the United States Code], and shall accompany the proposal through the existing agency review processes;

(Remainder of Section 102(D) omitted)

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

# National Environmental Policy Act

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) makes available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects;

(Remainder of paragraph omitted)

## Section 103

(42 U.S.C. 4333, Conformity of administrative procedures to national environmental policy, omitted)

## Section 104

(42 U.S.C. 4334, Other statutory obligations of agencies, omitted)

42 U.S.C. 4335,  
Efforts supplemental to  
existing authorizations

## Section 105

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

(Remainder of Act omitted)

# National Marine Sanctuaries Act

PORTIONS, AS AMENDED

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This Act became law on October 23, 1972 (Public Law 92-532, 16 U.S.C. 1431-1445) and has been amended 15 times. This description of the Act, as amended, follows the language of the United States Code except that (in common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 1431,  
Findings, purposes,  
and policies; estab-  
lishment of system

16 U.S.C. 1431(a),  
Congressional  
findings

## Section 301

(a) The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will—

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

# National Marine Sanctuaries Act

16 U.S.C. 1431(b),  
Purposes and policies

(b) The purposes and policies of this Act are—

- (1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;
- (2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;
- (3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- (4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;
- (5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;
- (6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;
- (7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;
- (8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and
- (9) to cooperate with global programs encouraging conservation of marine resources.

16 U.S.C. 1431(c),  
Establishment of  
system

(c) There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this Act.

# National Marine Sanctuaries Act

16 U.S.C. 1432,  
Definitions

## Section 302

As used in this Act, the term—

(1) “**draft management plan**” means the plan described in section 304(a)(1)(C)(v) of this Act [16 U.S.C. 1434(a)(1)(C)(v)];

(2) “**Magnuson-Stevens Act**” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) “**marine environment**” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(4) “**Secretary**” means the Secretary of Commerce;

(5) “**State**” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) “**damage**” includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 303(b)(2) of this Act [16 U.S.C. 1433(b)(2)];

(C) the reasonable cost of monitoring appropriate to [sic] the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

# National Marine Sanctuaries Act

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) “**response costs**” means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 303 of this Act [16 U.S.C. 1443];

(8) “**sanctuary resource**” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and

(9) “**exclusive economic zone**” means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) “**System**” means the National Marine Sanctuary System established by section 301 of this Act [16 U.S.C. 1431].

16 U.S.C. 1433,  
Sanctuary designa-  
tion standards

16 U.S.C. 1433(a),  
Standards

## Section 303

(a) The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this Act;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

# National Marine Sanctuaries Act

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

16 U.S.C. 1433(b),  
Factors and consultations  
required in making  
determinations and  
findings

(b)(1) For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a) of this section, the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this Act;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

# National Marine Sanctuaries Act

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

## Consultation

(2) In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

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## Section 304

(Section 304(a)(1), Notice, omitted)

16 U.S.C. 1434,  
Procedures for  
designation and  
implementation

16 U.S.C. 1434(a),  
Sanctuary proposal

16 U.S.C. 1434(a)(2),  
Sanctuary designa-  
tion documents

(a)(2) The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

# National Marine Sanctuaries Act

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 303(a) of this Act [16 U.S.C. 1433(a)] with respect to the area.

(F) An assessment of the considerations under section 303(b)(1) of this Act [16 U.S.C. 1433(b)(1)].

(Section 304(a)(3), Public hearing, omitted)

(4) The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(Remainder of paragraph omitted)

(Subsections 304(b) and (c) omitted)

(c)(1) Nothing in this Act shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

16 U.S.C. 1434(a)(4),  
Terms of designation

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16 U.S.C. 1434(d),  
Interagency  
cooperation

16 U.S.C. 1434(d)(1),  
Review of agency  
actions

Agency statements  
required

16 U.S.C. 1434(d)(2),  
Secretary's recom-  
mended alternatives

16 U.S.C. 1434(d)(3),  
Response to  
recommendations

16 U.S.C. 1434(d)(4),  
Failure to follow  
alternative

16 U.S.C. 1434(e),  
Review of manage-  
ment plans

(d)(1)(A) Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of

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site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this Act. This review shall include a prioritization of management objectives.

16 U.S.C. 1434(f),  
Limitation on  
designation of new  
sanctuaries

(f)(1) The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

16 U.S.C. 1434(f)(1),  
Finding required

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

16 U.S.C. 1434(f)(2),  
Deadline

(2) If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

16 U.S.C. 1434(f)(3),  
Limitation on  
application

(3) Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(Section 305 (16 U.S.C. 1435), Application of regulations, international negotiations, and cooperation, omitted)

16 U.S.C. 1436,  
Prohibited activities

## Section 306

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

# National Marine Sanctuaries Act

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this Act by—

(A) refusing to permit any officer authorized to enforce this Act to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this Act;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this Act or any such authorized officer in the conduct of any search or inspection performed under this Act; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this Act in connection with any search or inspection conducted under this Act; or

(4) violate any provision of this Act or any regulation or permit issued pursuant to this Act.

(Sections 307 and 308 omitted)

16 U.S.C. 1440,  
Research, monitoring,  
and education

16 U.S.C. 1440(a),  
In general

16 U.S.C. 1440(b),  
Research and  
monitoring

## Section 309

(a) The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) of this section and the purposes and policies of this Act.

(b)(1) The Secretary may—

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

# National Marine Sanctuaries Act

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

Availability of results

(2) The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

16 U.S.C. 1440(c),  
Education

(c)(1) The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

Educational activities

(2) Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

16 U.S.C. 1440(d),  
Interpretive facilities

(d)(1) The Secretary may develop interpretive facilities near any national marine sanctuary.

Facility requirement

(2) Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

16 U.S.C. 1440(e),  
Consultation and  
coordination

(e) In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d) the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

16 U.S.C. 1441,  
Special use permits

## Section 310

16 U.S.C. 1441(a),  
Issuance of permits

(a) The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

# National Marine Sanctuaries Act

16 U.S.C. 1441(b),  
Public notice  
required

(2) to promote public use and understanding of a sanctuary resource.

(b) The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a) of this section.

16 U.S.C. 1441(c),  
Permit terms

(c) A permit issued under this section—

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

(Section 310(d), Fees, omitted)

16 U.S.C. 1441(e),  
Violations

(e) Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 307 of this Act [16 U.S.C. 1437]; or

(3) both.

16 U.S.C. 1441(f),  
Reports

(f) Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(Remaining text of this section and the remaining sections of this Act omitted)

# Coastal Zone Management Act

PORTIONS, AS AMENDED

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This Act became law on October 27, 1972 (Public Law 92-583, 16 U.S.C. 1451-1456) and has been amended eight times. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 1451,  
Congressional findings

## Section 302

The Congress finds that—

- (a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.
- (b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.
- (c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.
- (d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.
- (e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.
- (f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters; [sic; should be period]

# Coastal Zone Management Act

- (g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.
- (h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.
- (i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.
- (j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.
- (k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.
- (l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.
- (m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

# Coastal Zone Management Act

16 U.S.C. 1452,  
Congressional declaration of policy

## Section 303

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

# Coastal Zone Management Act

(G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and [sic; Federal?] wildlife agencies, and

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state [sic] and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this Act;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

# Coastal Zone Management Act

16 U.S.C. 1453,  
Definitions

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

## Section 304

For purposes of this Act—

(1) The term “**coastal zone**” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Puerto Rican Federal Relations Act (the Act of March 2, 1917, 48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 [48 U.S.C. 1801 et seq.], or section 1 of the Act of November 20, 1963 [submerged lands, Guam, Virgin Island, and American Samoa] (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(Definitions (2) through (15) omitted)

(16) The term “**Secretary**” means the Secretary of Commerce.

(Remainder of Section 304 omitted)

# Coastal Zone Management Act

16 U.S.C. 1454,  
Submittal of State  
program for approval

## Section 305

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306 of this Act [16 U.S.C. 1455].

16 U.S.C. 1455,  
Administrative grants

## Section 306

(Subsections 306(a), (b), and (c) omitted)

(d) Before approving a management program submitted by a coastal state, the Secretary shall find the following:

16 U.S.C. 1455(d),  
Mandatory adoption  
of State management  
program for coastal  
zone

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this Act and is consistent with the policy declared in section 303 of this Act [16 U.S.C. 1452].

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

# Coastal Zone Management Act

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, area-wide, State, regional, and interstate agencies in the management process.

(G) A definition of the term “beach” and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State’s management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this Act; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

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(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

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(A) to administer land use and water use regulations to control development, to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

# Coastal Zone Management Act

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 306(b) of this Act [16 U.S.C. 1455(b)].

(Section 306(e), Amendment or modification of State management program for coastal zone, omitted)

16 U.S.C. 1456,  
Coordination and  
cooperation

16 U.S.C. 1456(a),  
Federal agencies

16 U.S.C. 1456(b),  
Adequate consid-  
eration of views of  
Federal agencies

16 U.S.C. 1456(c),  
Consistency of  
Federal activities  
with State manage-  
ment programs,  
Presidential exemp-  
tion, certification

## Section 307

(a) In carrying out his functions and responsibilities under this Act, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 of this Act [16 U.S.C. 1455] unless the views of Federal agencies principally affected by such program have been adequately considered.

(c)(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(Paragraph (c)(1)(B), Court decisions and Presidential exemptions from compliance, omitted)

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) of this Act [16 U.S.C. 1455(d)(6)] at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(Paragraph (c)(2) omitted)

# Coastal Zone Management Act

(3)(A) After final approval by the Secretary of a state's management program, any applicant for required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this Act or is otherwise necessary in the interest of national security.

(Remainder of subsection (c) omitted)

# Coastal Zone Management Act

16 U.S.C. 1456(d),  
Application of local  
governments for  
Federal assistance,  
relationship of  
activities with  
approved manage-  
ment programs

(d) State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of [sic; probably should be “or”] natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of Title IV of the Intergovernmental Cooperation Act of 1968 as amended [31 U.S.C. 6506]. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state’s management program, except upon a finding by the Secretary that such project is consistent with the purposes of this Act or necessary in the interest of national security.

16 U.S.C. 1456(e),  
Construction with  
other laws

(e) Nothing in this Act shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(Subsection (f) omitted)

# Coastal Zone Management Act

16 U.S.C. 1456(g),  
Concurrence with  
programs which affect  
inland areas

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this Act [16 U.S.C. 1455], includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(Remainder of Section 307 and all of Section 308 omitted)

16 U.S.C. 1456b,  
Coastal zone enhance-  
ment grants

16 U.S.C. 1456b(a),  
Coastal zone enhance-  
ment objective  
defined

## Section 309

(a) For purposes of this section, the term “**coastal zone enhancement objective**” means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

# Coastal Zone Management Act

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

16 U.S.C. 1456b(b),  
Limits on grants

(b)(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 306 of this Act [16 U.S.C. 1455], and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e) of this Act [16 U.S.C. 1455(e)].

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(Remainder of the Act omitted)

# Department of Transportation Act

## SECTION 4(I) AS CREATED BY THE AMTRAK IMPROVEMENT ACT, AS AMENDED

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The Amtrak Improvement Act became law on October 28, 1974 (Public Law 93-496, 49 U.S.C. 5561-5567, formerly 49 U.S.C. 1653i) as an amendment to the Department of Transportation Act (Public Law 89-670). It has been amended seven times. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. We have added extra code citations because of the complex amendment history.

49 U.S.C. 5561-5567,  
Terminals

49 U.S.C. 5562,  
Terminal assistance  
projects

49 U.S.C. 5562(a),  
Requirements to pro-  
vide assistance

49 U.S.C. 5562(a)(1)-(4),  
Purposes

49 U.S.C. 5563,  
Conversion of cer-  
tain rail passenger  
terminals, authority  
to provide assistance

### Section 4(i)

(1) The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(A) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(B) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(C) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(D) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(2) The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 4(i)(1)(A) of this Act [49 U.S.C. 5562(a)(1)] only if—

# Department of Transportation Act, Section 4(i)

- 49 U.S.C. 5563(a)(1) (A) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—
- 49 U.S.C. 5563 (a)(1)(i) (i) motorbus transportation;
- (ii) mass transit (rail or rubber tire); and
- (iii) airline ticket offices and passenger terminals providing direct transportation to area airports;
- 49 U.S.C. 5563(a)(2) (B) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;
- 49 U.S.C. 5563(a)(3) (C) the architectural integrity of the terminal will be preserved;
- 49 U.S.C. 5563(a)(4) (D) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—
- 49 U.S.C. 5563(a)(4)(A) (i) the Advisory Council on Historic Preservation;
- (ii) the Chairman of the National Endowment for the Arts; or
- (iii) consultants retained under subsection(b) of this section; and
- 49 U.S.C. 5563(a)(5) (E) the terminal and the conversation project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and the Chairman.
- 49 U.S.C. 5563(b), Architectural integrity The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (i)(1)(C) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (i)(1)(D) [49 U.S.C. 5563 (A)(4)] of this section.
- 49 U.S.C. 5563(c), Government's share of costs The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

# Department of Transportation Act, Section 4(i)

49 U.S.C. 5564,  
Interim preservation of  
certain rail passenger  
terminals

49 U.S.C. 5564(a),  
General grant  
authority

49 U.S.C. 5564(b),  
Grant requirements

49 U.S.C. 5564(b)(i)

49 U.S.C. 5564(c),  
Maximizing preserva-  
tion of terminals

49 U.S.C. 5564(c)(i)

49 U.S.C. 5564(c)(i)(A)

49 U.S.C. 5564(c)(2)

(3)(A) Subject to paragraph 4(i)(3)(B) of this section [49 U.S.C. 5564(b)], the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 4(i)(1)(B) of this Act [49 U.S.C. 5562(a)(2)]. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(B) The Secretary of Transportation may make a grant of financial assistance under this section only if—

(i) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(ii) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(C) Maximizing Preservation of Terminals.—

(i) Amounts appropriated to carry out this section and section 4(i)(1)(B) of this Act [49 U.S.C. 5562(a)(2)] of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(I) reasonably capable of conversion to intermodal transportation terminals;

(II) listed in the National Register of Historic Places maintained by the Secretary of Interior; or

(III) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(ii) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

# Department of Transportation Act, Section 4(i)

49 U.S.C. 5562(c),  
Consultation

(4) The Secretary may acquire space under subsection (1)(c) [49 U.S.C. 5562(a)(3)] of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

49 U.S.C. 5565,  
Encouraging the development of plans for converting certain rail passenger terminals

(5)(A) The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 4(i)(1)(D) of this Act [49 U.S.C. 5562(a)(4)]. To receive assistance under this section, the person must—

49 U.S.C. 5565(a),  
General grant authority

(i) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

49 U.S.C. 5565(a)(1)

(ii) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(iii) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

49 U.S.C. 5565(b),  
Preference

(B) In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

49 U.S.C. 5565(c),  
Maximizing conversion and continued public use

(C)(i) Amounts appropriated to carry out this section and section 4(i)(2)(D) of this Act [49 U.S.C. 5562(a)(4)] shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

49 U.S.C. 5565 (c)(i)

(I) listed in the National Register of Historic Places maintained by the Secretary of Interior; or

49 U.S.C. 5565(c)(i)(A)

(II) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

# Department of Transportation Act, Section 4(i)

49 U.S.C. 5565(c)(2)

(ii) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

(Subsection 4(i)(6) omitted)

49 U.S.C. 5567,  
Amtrak use, prefer-  
ence for preserving  
buildings of historic  
or architectural  
significance

(7) Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

(Subsections 4(i)(8) and (9) omitted)

49 U.S.C. 5561,  
Definition

(10) In this chapter, “**civic and cultural activities**” includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

49 U.S.C. 5562(b),  
Effects on eligibility

(11) This Act does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(Remainder of the Act omitted)

# Mining in the National Parks Act, Section 9

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This Act became law on September 28, 1976 (Public Law 94-429; 16 U.S.C. 1908). It has not been amended. The description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than the "subchapter" or the "title" of the Code.

16 U.S.C. 1908,  
Landmarks and  
surface mining

## Section 9

(a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(Remainder of Act omitted)

# Public Buildings Cooperative Use Act

## PORTION

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This Act became law on October 18, 1976 (Public Law 94-541, 40 U.S.C. 601a). It has not been amended. The description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than to the "subchapter" or the "title" of the Code.

40 U.S.C. 601a,  
General Services  
Administration use  
of historically and  
architecturally signifi-  
cant buildings

### Section 102

(a) In order to carry out his duties under this Act and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator [of the General Services Administration] shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to Title II of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3331 et seq.] and Title IV of the Intergovernmental Cooperation Act of 1968, as amended [31 U.S.C. 6506], and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

# American Indian Religious Freedom Act

PORTION, AS AMENDED

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This Act became law on August 11, 1978 (Public Law 95-341, 42 U.S.C. 1996 and 1996a) and has been amended once. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

42 U.S.C. 1996,  
Protection and preservation of traditional religions of Native Americans

## Section 1

On and after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

42 U.S.C. 1996 note,  
Federal implementation of protective and preservation functions relating to Native American religious cultural rights and practices; Presidential report to Congress

## Section 2

The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after August 11, 1978, the President shall report back to Congress the results of his evaluation, including any changes\* which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

\*One of the changes in administrative policy and procedure was Executive Order 13007, Indian Sacred Sites.

# Archaeological Resources Protection Act

AS AMENDED

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This Act became law on October 31, 1979 (Public Law 96-95; 16 U.S.C. 470aa-mm), and has been amended four times. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the “Act” (meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code.

16 U.S.C. 470aa,  
Findings and purpose

## Section 2

(a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation’s heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for non-commercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979 [the date of the enactment of this Act].

16 U.S.C. 470bb,  
Definitions

## Section 3

As used in this Act—

(1) the term “**archaeological resource**” means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not

# Archaeological Resources Protection Act

be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term “**Federal land manager**” means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term “**Federal land manager**” means the Secretary of the Interior.

(3) The term “**public lands**” means—

(A) lands which are owned and administered by the United States as part of—

- (i) the national park system,
- (ii) the national wildlife refuge system, or
- (iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

# Archaeological Resources Protection Act

(4) The term “**Indian lands**” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term “**Indian tribe**” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601 et seq.).

(6) The term “**person**” means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term “**State**” means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

16 U.S.C. 470cc,  
Excavation and  
removal

## Section 4

16 U.S.C. 470cc(a),  
Application for permit

(a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

16 U.S.C. 470cc(b),  
Determinations by  
Federal land manager  
prerequisite to issuance  
of permit

(b) A permit may be issued pursuant to an application under subsection (a) of this section if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

# Archaeological Resources Protection Act

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

16 U.S.C. 470cc(c),  
Notification to Indian  
tribes of possible harm  
to or destruction of  
sites having religious  
or cultural importance

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9 of this Act.

16 U.S.C. 470cc(d),  
Terms and conditions  
of permit

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

16 U.S.C. 470cc(e),  
Identification of individuals responsible for  
complying with permit  
terms and conditions  
and other applicable  
laws

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

16 U.S.C. 470cc(f),  
Suspension or revocation of permits,  
grounds

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6 of this Act. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 of this Act against the permittee or upon the permittee's conviction under section 6 of this Act.

16 U.S.C. 470cc(g),  
Excavation or removal  
by Indian tribes or  
tribe members, excavation or removal of  
resources located on  
Indian lands

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain permit under this section.

# Archaeological Resources Protection Act

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

16 U.S.C. 470cc(h),  
Permits issued under  
Antiquities Act of 1906

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431-433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906 [16 U.S.C. 431-433], shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before October 31, 1979 [the date of the enactment of this Act] which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

16 U.S.C. 470cc(i),  
Compliance with  
provisions relating to  
undertakings on prop-  
erties listed in National  
Register not required

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the National Historic Preservation Act, as amended [16 U.S.C. 470f].

16 U.S.C. 470cc(j),  
Issuance of permits  
to State governors  
for archaeological  
activities on behalf of  
States or their educa-  
tional institutions

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

16 U.S.C. 470dd,  
Custody of archaeo-  
logical resources

## Section 5

The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

# Archaeological Resources Protection Act

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 [the Reservoir Salvage Act, as amended, also known as the Archeological and Historic Preservation Act of 1974 [16 U.S.C. 469-469c-1] or the Act of June 8, 1906 [the Antiquity Act of 1906, as amended, 16 U.S.C. 431-433].

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

16 U.S.C. 470ee,  
Prohibited acts and  
criminal penalties

16 U.S.C. 470 ee(a),  
Unauthorized excavation,  
removal, damage,  
alteration, or defacement  
of archaeological  
resources

16 U.S.C. 470ee(b),  
Trafficking in archaeological  
resources:  
Federal law

16 U.S.C. 470ee(c),  
Trafficking in illegal  
interstate or foreign  
commerce in archaeological  
resources:  
State or local law

## Section 6

(a) No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4 of this Act, a permit referred to in section 4(h)(2) of this Act, or the exemption contained in section 4(g)(1) of this Act.

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

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16 U.S.C. 470ee(d),  
Penalties

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$500, such person shall be fined not more than \$20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

16 U.S.C. 470ee(e),  
Effective date

(e) The prohibitions contained in this section shall take effect on October 31, 1979 [the date of the enactment of this Act].

16 U.S.C. 470ee(f),  
Prospective application

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to any archaeological resource which was in the lawful possession of such person prior to October 31, 1979.

16 U.S.C. 470ee(g),  
Removal of arrowheads located on ground surface

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

16 U.S.C. 470ff,  
Civil penalties

## Section 7

16 U.S.C. 470ff(a),  
Assessment by Federal land managers

(a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

# Archaeological Resources Protection Act

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed any amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

16 U.S.C. 470ff(b),  
Judicial review of  
assessed penalties,  
collection of unpaid  
assessments

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) of this section may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide

# Archaeological Resources Protection Act

any such action. In such action, the validity and amount of such penalty shall not be subject to review.

16 U.S.C. 470ff(c),  
Hearings

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) of this section shall be conducted in accordance with section 554 of title 5 [of the United States Code].

Subpoenas

The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths.

Witness fees

Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

16 U.S.C. 470gg,  
Enforcement

## Section 8

16 U.S.C. 470gg(a),  
Rewards

(a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under section 6 and 7 of this Act an amount equal to one-half of such penalty or fine, but not to exceed \$500, to any person who furnishes information which leads to the findings of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

# Archaeological Resources Protection Act

16 U.S.C. 470gg(b),  
Forfeitures

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 of this Act occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6 of this Act,

(2) assessment of a civil penalty against such person under section 7 of this Act with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

16 U.S.C. 470gg(c),  
Disposition of penalties collected and items forfeited in cases involving archaeological resources excavated or removed from Indian lands

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 of this Act involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 of this Act and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

16 U.S.C. 470hh,  
Confidentiality of information concerning nature and location of archaeological resources

## Section 9

(a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 [of the United States Code] or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this Act or the Act of June 27, 1960 [the Reservoir Salvage Act, as amended, 16 U.S.C. 469-469c-1] and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

16 U.S.C. 470hh(b),  
Request for disclosure by Governors

(b) Notwithstanding the provisions of subsection (a) of this section, upon the written request of the Governor of any State, which request shall state—

# Archaeological Resources Protection Act

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

16 U.S.C. 470ii,  
Rules and regulations,  
intergovernmental  
coordination

16 U.S.C. 470ii(a),  
Promulgation,  
effective date

Submittal to congressional committees

16 U.S.C. 470ii(b),  
Federal lands  
managers' rules

## Section 10

(a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat.469; 42 U.S.C. 1996 and 1996a).

Each uniform rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a) of this section, as may be appropriate for the carrying out of his functions and authorities under this Act.

# Archaeological Resources Protection Act

16 U.S.C. 470ii(c),  
Federal land  
managers' public  
awareness program  
of archaeological  
resources

16 U.S.C. 470jj,  
Cooperation with  
private individuals

(c) Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources.

## Section 11

The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before October 31, 1979 [the date of the enactment of this Act], and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

16 U.S.C. 470kk,  
Savings provisions

16 U.S.C. 470kk(a),  
Mining, mineral leasing,  
reclamation, and  
other multiple uses

16 U.S.C. 470kk(b),  
Private collections

## Section 12

(a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1) of this Act.

# Archaeological Resources Protection Act

16 U.S.C. 470kk(c),  
Lands within Act

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

16 U.S.C. 470ll,  
Annual report to  
Congress

## Section 13

As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 17, 1960 [the Reservoir Salvage Act, as amended, 74 Stat. 220; 16 U.S.C. 469a-3(c)], the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

16 U.S.C. 470mm,  
Surveying of lands,  
reporting of violations

## Section 14

The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

- (a) develop plans for surveying lands under their control to determine the nature and extent of archaeological resources on those lands;
- (b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archaeological resources; and
- (c) develop documents for the reporting of suspected violations of this Act and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.

# Internal Revenue Code, Section 170(h)

## QUALIFIED CONSERVATION CONTRIBUTIONS, AS AMENDED

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This Act became law on December 17, 1980 (Public Law 96-541, 26 U.S.C. 170(h) and has been amended three times.

Qualified conservation contribution

26 U.S.C. 170(h)(1),  
In general

### Section 170(h)

(1) For purposes of subsection (f)(3)(B)(iii), the term **“qualified conservation contribution”** means a contribution—

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

26 U.S.C. 170(h)(2),  
Qualified real property interest

(2) For purposes of this subsection, the term **“qualified real property interest”** means any of the following interests in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

26 U.S.C. 170(h)(3),  
Qualified organization

(3) For the purposes of paragraph (1), the term **“qualified organization”** means an organization which—

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501(c)(3) and—
  - (i) meets the requirements of section 509(a)(2), or
  - (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

26 U.S.C. 170(h)(4),  
Conservation purpose defined, in general

(4)(A) For purposes of this subsection, the term **“conservation purposes”** means—

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is—
  - (I) for the scenic enjoyment of the general public, or

## Internal Revenue Code, Section 170(h)

(II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or

(iv) the preservation of a historically important land area or a certified historic structure.

Certified historic structure

(B) For purposes of subparagraph (A)(iv), the term “**certified historic structure**” means any building, structure, or land area which—

(i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in Section 47(c)(3)(B)) and is certified by the Secretary of the Interior to the Secretary [of the Treasury] as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on due date (including extensions) for filing the transferor’s return under this chapter for the taxable year in which the transfer is made.

26 U.S.C. 170(h)(5),  
Exclusively for conservation purposes

(5) For purposes of this subsection—

(A) A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

Conservation purpose must be protected

(B)(i) Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

No surface mining permitted

(ii) With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.

Special rule

(6) For purposes of this subsection, the term “**qualified mineral interest**” means—

26 U.S.C. 170(h)(6),  
Qualified mineral interest

(A) subsurface oil, gas, or other minerals, and

(B) the right to access to such minerals.

# Abandoned Shipwreck Act

---

This Act became law on April 28, 1988 (Public Law 100-298; 43 U.S.C. 2101-2106). It has not been amended. This description of the Act tracks the language of the United States Code except that (following common usage) we refer to the “Act” rather than to the “subchapter” or the “title” of the Code.

43 U.S.C. 2101,  
Findings

## Section 2

The Congress finds that—

- (a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and
- (b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

43 U.S.C. 2102,  
Definitions

## Section 3

For purposes of this Act—

- (a) the term “**embedded**” means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;
- (b) the term “**National Register**” means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act [16 U.S.C. 470a];
- (c) the terms “**public lands**”, “**Indian lands**”, and “**Indian tribe**” have the same meaning given the terms in the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470ll);
- (d) the term “**shipwreck**” means a vessel or wreck, its cargo, and other contents;
- (e) the term “**State**” means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and
- (f) the term “**submerged lands**” means the lands—
  - (1) that are “lands beneath navigable waters,” as defined in section 2 of the Submerged Lands Act [43 U.S.C. 1301];

# Abandoned Shipwreck Act

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended [48 U.S.C. 749];

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 [48 U.S.C. 1705]; and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

43 U.S.C. 2103,  
Rights of access

43 U.S.C. 2103(a),  
Access rights, historic  
preservation, environ-  
mental protection

## Section 4

(a) In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act [43 U.S.C. 2105];

it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

43 U.S.C. 2103(b),  
Parks and protected  
areas, grants

(b) In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act [16 U.S.C. 470 et seq.], for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

# Abandoned Shipwreck Act

43 U.S.C. 2104,  
Preparation of  
guidelines

43 U.S.C. 2104(a),  
Purpose of guidelines,  
Federal Register  
publication

43 U.S.C. 2104(b),  
Consultation in  
developing guidelines

43 U.S.C. 2104(c),  
Guidelines, regula-  
tions, and legislation

43 U.S.C. 2105,  
Rights of ownership

43 U.S.C. 2105(a),  
United States title

## Section 5

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after April 28, 1988, prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

## Section 6

(a) The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

# Abandoned Shipwreck Act

43 U.S.C. 2105(b),  
Public notice of  
shipwreck location,  
National Register  
eligibility

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under subsection (a)(3) of this section.

43 U.S.C. 2105(c),  
Transfer of title to  
States

(c) The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

43 U.S.C. 2105(d),  
Shipwrecks on Federal  
or Indian land

(d) Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

43 U.S.C. 2105(e),  
Reservation of rights

(e) This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act [43 U.S.C. 1311, 1313, or 1314]; or

(2) section 19 or 20 of the Act of March 3, 1899 [33 U.S.C. 414 and 415].

43 U.S.C. 2106,  
Relationship to other  
laws

## Section 7

43 U.S.C. 2106(a),  
Law of salvage and  
the law of finds

(a) The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act [43 U.S.C. 2105] applies.

43 U.S.C. 2106(b),  
Laws of the United  
States

(b) This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

43 U.S.C. 2106(c),  
Effective date

(c) This Act shall not affect any legal proceeding brought prior to April 28, 1988 [the date of enactment of this Act].

# Internal Revenue Code, Section 47

## REHABILITATION CREDIT

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This Act became law on November 5, 1990 (Public Law 101-508; 26 U.S.C. 47). It is the current version of the certified rehabilitation section previously contained in Section 48(g) of the Internal Revenue Code of 1986 [26 U.S.C. 48(f)]. The Act has not been amended since the re-codification into Section 47. Public Law 95-600 (1978) and six amendments contributed to the development of the rehabilitation credit while it was codified in 26 U.S.C. 48(g).

### Rehabilitation credit

26 U.S.C. 47(a),  
Amount of credit

### Section 47

(a) For purposes of section 46, the rehabilitation credit for any taxable year is the sum of—

(1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and

(2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

26 U.S.C. 47(b),  
Correct timing for claiming credit, in general

(b)(1) Qualified rehabilitation expenditures with respect to any qualified rehabilitated building shall be taken into account for the taxable year in which such qualified rehabilitated building is placed in service.

Progress expenditure-related recapture, coordination with subsection (d)

(2) The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified rehabilitated building shall be reduced (but not below zero) by any amount of qualified rehabilitation expenditures taken into account under subsection (d) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

26 U.S.C. 47(c),  
Definitions

(c) For the purposes of this section—

Qualified rehabilitated building, in general

(1)(A) The term “**qualified rehabilitated building**” means any building (and its structural components) if—

(i) such building has been substantially rehabilitated,

(ii) such building was placed in service before the beginning of the rehabilitation,

(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

External wall test for non-certified historic structure

# Internal Revenue Code, Section 47

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

(iv) depreciation (or amortization in lieu of depreciation) is allowable with respect to such building.

Requirement for non-certified historic buildings

(B) In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

Substantial rehabilitation defined, in general

(C)(i) For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year exceed the greater of—

(I) the adjusted basis of such building (and its structural components), or

(II) \$5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

Special rule for phased rehabilitations

(ii) In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting “60-month period” for “24-month period.”

# Internal Revenue Code, Section 47

Provisions for lessees

(iii) The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

Reconstruction

(D) Rehabilitation includes reconstruction.

Qualified rehabilitation expenditures, in general

(2)(A) The term “**qualified rehabilitation expenditure**” means any amount properly chargeable to capital account—

(i) for property for which depreciation is allowable under section 168 and which is—

(I) nonresidential real property,

(II) residential rental property,

(III) real property which has a class life of more than 12.5 years, or

(IV) an addition or improvement to property described in subclause (I), (II), or (III), and

(ii) in connection with the rehabilitation of a qualified rehabilitated building.

Certain expenditures not included

(B) The term “**qualified rehabilitation expenditure**” does not include—

Straight-line depreciation

(i) Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

Cost of acquisition, enlargements

(ii) The cost of acquiring any building or interest therein.

(iii) Any expenditure attributable to the enlargement of an existing building.

Certified historic structure eligible only for historic tax credit

(iv) Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

(I) such building was not a certified historic structure,

# Internal Revenue Code, Section 47

(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

Tax-exempt use property, in general

(v)(I) Any expenditure in connection with the rehabilitation of a building which is allocable to the portion of such property which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

Clause not to apply for purposes of paragraph (1)(C)

(II) This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

Lessee provisions

(vi) Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

Certified rehabilitation

(C) For purposes of subparagraph (B), the term “**certified rehabilitation**” means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

Non-residential real property, residential rental property, and class life

(D) For purposes of subparagraph (A), the terms “**nonresidential real property**,” “**residential rental property**,” and “**class life**” have the respective meanings given such terms by section 168.

Certified historic structure defined, in general

(3)(A) The term “**certified historic structure**” means any building (and its structural components) which—

(i) is listed in the National Register, or

(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

Registered historic district

(B) The term “**registered historic district**” means—

# Internal Revenue Code, Section 47

- (i) any district listed in the National Register, and
- (ii) any district—

(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

26 U.S.C. 47(d),  
Progress expenditures,  
in general

(d)(1) In the case of any building to which this subsection applies, except as provided in paragraph (3)—

(A) if such building is self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year for which such expenditure is properly chargeable to capital account with respect to such building, and

(B) if such building is not self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year in which paid.

Property to which  
subsection applies,  
in general

(2)(A) This subsection shall apply to any building which is being rehabilitated by or for the taxpayer if—

(i) the normal rehabilitation period for such building is 2 years or more, and

(ii) it is reasonable to expect that such building will be a qualified rehabilitated building in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the rehabilitation begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

# Internal Revenue Code, Section 47

Normal rehabilitation period

(B) For purposes of subparagraph (A), the term “**normal rehabilitation period**” means the period reasonably expected to be required for the rehabilitation of the building—

(i) beginning with the date on which physical work on the rehabilitation begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

(ii) ending on the date on which it is expected that the property will be available for placing in service.

Special rules for applying paragraph (1)

(3) For purposes of paragraph (1)—

Component parts, etc.

(A) Property which is to be a component part of, or is otherwise to be included in, any building to which this subsection applies shall be taken into account.—

(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the building, and

(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such building.

Certain borrowing disregarded

(B) Any amount borrowed directly or indirectly by the taxpayer from the person rehabilitating the property for him shall not be treated as an amount expended for such rehabilitation.

Limitation for buildings which are not self-rehabilitated, in general

(C)(i) In the case of a building which is not self-rehabilitated, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to the portion of the rehabilitation which is completed during such taxable year.

Carryover of certain amounts

(ii) In the case of a building which is not a self-rehabilitated building, if for the taxable year—

# Internal Revenue Code, Section 47

(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

Determination of percentage of completion

(D) The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to rehabilitation completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the rehabilitation shall be deemed to be completed not more rapidly than ratably over the normal rehabilitation period.

No progress expenditures for certain prior periods

(E) No qualified rehabilitation expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

No progress expenditures for property for year it is placed in service, etc.

(F) In the case of any building, no qualified rehabilitation expenditures shall be taken into account under this subsection for the earlier of—

(i) the taxable year in which the building is placed in service, or

(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such property, or for any taxable year thereafter.

Self-rehabilitated building

(4) For purposes of this subsection, the term “**self-rehabilitated building**” means any building if it is reasonable to believe that more than half of the qualified rehabilitation expenditures for such building will be made directly by the taxpayer.

# Internal Revenue Code, Section 47

Election

(5) This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

# Native American Graves Protection and Repatriation Act

## AS AMENDED

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This Act became law on November 16, 1990 (Public Law 101-601; 25 U.S.C. 3001 et seq.) and has been amended twice. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

25 U.S.C. 3001,  
Definitions

## Section 2

For purposes of this Act, the term—

(1) "**burial site**" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

(2) "**cultural affiliation**" means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group.

(3) "**cultural items**" means human remains and—

(A) "**associated funerary objects**" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.

(B) "**unassociated funerary objects**" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

# Native American Graves Protection and Repatriation Act

(C) “**sacred objects**” which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) “**cultural patrimony**” which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

(4) “**Federal agency**” means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

(5) “**Federal lands**” means any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971 [43 U.S.C. 1601 et seq.].

(6) “**Hui Malama I Na Kupuna O Hawai’i Nei**” means the nonprofit, Native Hawaiian organization incorporated under the laws of the State of Hawaii by that name on April 17, 1989, for the purpose of providing guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues.

(7) “**Indian tribe**” means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

# Native American Graves Protection and Repatriation Act

(8) “**museum**” means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

(9) “**Native American**” means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(10) “**Native Hawaiian**” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(11) “**Native Hawaiian organization**” means any organization which—

(A) serves and represents the interests of Native Hawaiians,

(B) has as a primary and stated purpose the provision of services to Native Hawaiians, and

(C) has expertise in Native Hawaiian Affairs, and

shall include the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai’i Nei.

(12) “**Office of Hawaiian Affairs**” means the Office of Hawaiian Affairs established by the constitution of the State of Hawaii.

(13) “**right of possession**” means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as applied in section 7(c) of this Act [25 U.S.C. 3005(c)], result in a Fifth Amendment taking by the United States as determined by the United States Court of Federal Claims pursuant to

# Native American Graves Protection and Repatriation Act

28 U.S.C. 1491 in which event the “right of possession” shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the appropriate culturally affiliated Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.

(14) “**Secretary**” means the Secretary of the Interior.

(15) “**tribal land**” means—

(A) all lands within the exterior boundaries of any Indian reservation;

(B) all dependent Indian communities;

(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920 [42 Stat. 108], and section 4 of Public Law 86-3 [note preceding 48 U.S.C. 491].

25 U.S.C. 3002,  
Ownership

25 U.S.C. 3002(a),  
Native American  
human remains and  
objects

## Section 3

(a) The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after November 16, 1990, shall be (with priority given in the order listed)—

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony—

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

# Native American Graves Protection and Repatriation Act

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—

(1) [sic] in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) [sic] if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph (1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

25 U.S.C. 3002(b),  
Unclaimed Native  
American remains and  
objects

(b) Native American cultural items not claimed under subsection (a) of this section shall be disposed of in accordance with regulations promulgated by the Secretary in consultation with the review committee established under section 8 of this Act [25 U.S.C. 3006], Native American groups, representatives of museums and the scientific community.

25 U.S.C. 3002(c),  
Intentional excavation  
and removal of Native  
American human  
remains and objects

(c) The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if—

(1) such items are excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979, as amended, [16 U.S.C. 470cc] which shall be consistent with this Act;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b) of this section; and

(4) proof of consultation or consent under paragraph (2) is shown.

# Native American Graves Protection and Repatriation Act

25 U.S.C. 3002(d),  
Inadvertent discovery  
of Native American  
remains and objects

(d)(1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands after November 16, 1990, shall notify, in writing, the Secretary of the Department, or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971 [43 U.S.C. 1601 et seq.], the appropriate corporation or group. If the discovery occurred in connection with an activity, including (but not limited to) construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered before resuming such activity, and provide notice under this subsection. Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.

(2) The disposition of and control over any cultural items excavated or removed under this subsection shall be determined as provided for in this section.

(3) If the Secretary of the Interior consents, the responsibilities (in whole or in part) under paragraphs (1) and (2) of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary with respect to any land managed by such other Secretary or agency head.

25 U.S.C. 3002(e),  
Relinquishment

(e) Nothing in this section shall prevent the governing body of an Indian tribe or Native Hawaiian organization from expressly relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

# Native American Graves Protection and Repatriation Act

18 U.S.C. 1170,  
Illegal trafficking  
in Native American  
human remains and  
cultural items

## Section 4

(a) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

### Section 1170

“(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.”

“(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.”

(b) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

“1170, Illegal Trafficking in Native American Human Remains and Cultural Items.”

25 U.S.C. 3003,  
Inventory for human  
remains and associ-  
ated funerary objects

25 U.S.C. 3003(a),  
In general

25 U.S.C. 3003(b),  
Requirements

## Section 5

(a) Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item.

(b)(1) The inventories and identifications required under subsection (a) of this section shall be—

# Native American Graves Protection and Repatriation Act

(A) completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;

(B) completed by not later than the date that is 5 years after November 16, 1990, [the date of enactment of this Act], and

(C) made available both during the time they are being conducted and afterward to a review committee established under section 8 of this Act [25 U.S.C. 3006].

(2) Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, a museum or Federal agency shall supply additional available documentation to supplement the information required by subsection (a) of this section. The term “**documentation**” means a summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean, and this Act shall not be construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

25 U.S.C. 3003(c),  
Extension of time for  
inventory

(c) Any museum which has made a good faith effort to carry out an inventory and identification under this section, but which has been unable to complete the process, may appeal to the Secretary for an extension of the time requirements set forth in subsection (b)(1)(B) of this section. The Secretary may extend such time requirements for any such museum upon a finding of good faith effort. An indication of good faith shall include the development of a plan to carry out the inventory and identification process.

25 U.S.C. 3003(d),  
Notification

(d)(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.

# Native American Graves Protection and Repatriation Act

(2) The notice required by paragraph (1) shall include information—

(A) which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition;

(B) which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and

(C) which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

(3) A copy of each notice provided under paragraph (1) shall be sent to the Secretary who shall publish each notice in the Federal Register.

25 U.S.C. 3003(e),  
Definition of  
inventory

(e) For the purposes of this section, the term “inventory” means a simple itemized list that summarizes the information called for by this section.

25 U.S.C. 3004,  
Summary for unassociated  
funerary objects,  
sacred objects, and  
cultural patrimony

## Section 6

(a) Each Federal agency or museum which has possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony shall provide a written summary of such objects based upon available information held by such agency or museum. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.

25 U.S.C. 3004(a),  
In general

25 U.S.C. 3004(b),  
Requirements for the  
summary

(b)(1) The summary required under subsection (a) of this section shall be—

(A) in lieu of an object-by-object inventory;

(B) followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and

# Native American Graves Protection and Repatriation Act

(C) completed by not later than the date that is 3 years after November 16, 1990, [the date of enactment of this Act].

(2) Upon request, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

25 U.S.C. 3005,  
Repatriation

25 U.S.C. 3005(a),  
Repatriation of Native American human remains and objects possessed or controlled by Federal agencies and museums

## Section 7

(a)(1) If, pursuant to section 5 of this Act [25 U.S.C. 3003], the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects.

(2) If, pursuant to section 6 of this Act [25 U.S.C. 3004], the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the Federal agency or museum, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to subsections (b), (c) and (e) of this section, shall expeditiously return such objects.

(3) The return of cultural items covered by this Act shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

# Native American Graves Protection and Repatriation Act

(4) Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 5 of this Act [25 U.S.C. 3003], or the summary pursuant to section 6 of this Act [25 U.S.C. 3004], or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to subsections (b) and (e) of this section and, in the case of unassociated funerary objects, subsection (c) of this section, such Native American human remains and funerary objects shall be expeditiously returned where the requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion.

(5) Upon request and pursuant to subsections (b), (c) and (e) of this section, sacred objects and objects of cultural patrimony shall be expeditiously returned where—

(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

(B) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

(C) the requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object under this Act.

25 U.S.C. 3005(b),  
Scientific study

(b) If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal agency or museum shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.

# Native American Graves Protection and Repatriation Act

25 U.S.C. 3005(c),  
Standard for  
repatriation

(c) If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Federal agency or museum did not have the right of possession, then such agency or museum shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

25 U.S.C. 3005(d),  
Sharing of information  
by Federal agencies  
and museums

(d) Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under this section.

25 U.S.C. 3005(e),  
Competing claims

(e) Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this Act, the Federal agency or museum cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this Act or by a court of competent jurisdiction.

25 U.S.C. 3005(f),  
Museum obligation

(f) Any museum which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty, public trust, or violations of state law that are inconsistent with the provisions of this Act.

25 U.S.C. 3006,  
Review committee

## Section 8

25 U.S.C. 3006(a),  
Establishment

(a) Within 120 days after November 16, 1990, the Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7 of this Act [25 U.S.C. 3003, 3004, and 3005].

# Native American Graves Protection and Repatriation Act

25 U.S.C. 3006(b),  
Committee  
membership

(b)(1) The Committee established under subsection (a) of this section shall be composed of 7 members,

(A) 3 of whom shall be appointed by the Secretary from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;

(B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and

(C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the members appointed pursuant to subparagraphs (A) and (B).

(2) The Secretary may not appoint Federal officers or employees to the committee.

(3) In the event vacancies shall occur, such vacancies shall be filled by the Secretary in the same manner as the original appointment within 90 days of the occurrence of such vacancy.

(4) Members of the committee established under subsection (a) of this section shall serve without pay, but shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule for each day (including travel time) for which the member is actually engaged in committee business. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5 [United States Code].

25 U.S.C. 3006(c),  
Committee  
responsibilities

(c) The committee established under subsection a) of this section shall be responsible for—

(1) designating one of the members of the committee as chairman;

(2) monitoring the inventory and identification process conducted under sections 5 and 6 of this Act [25 U.S.C. 3003 and 3004] to ensure a fair, objective consideration and assessment of all available relevant information and evidence;

(3) upon the request of any affected party, reviewing and making findings related to—

# Native American Graves Protection and Repatriation Act

(A) the identity or cultural affiliation of cultural items, or

(B) the return of such items;

(4) facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;

(5) compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;

(6) consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;

(7) consulting with the Secretary in the development of regulations to carry out this Act;

(8) performing such other related functions as the Secretary may assign to the committee; and

(9) making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated.

25 U.S.C. 3006(d),  
Admissibility of  
records

(d) Any records and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this Act [25 U.S.C. 3013].

25 U.S.C. 3006(e),  
Recommendations  
and report

(e) The committee shall make the recommendations under paragraph (c)(5) of this section in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.

25 U.S.C. 3006(f),  
Committee access

(f) The Secretary shall ensure that the committee established under subsection (a) of this section and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

# Native American Graves Protection and Repatriation Act

25 U.S.C. 3006(g),  
Duties of the  
Secretary, regulations,  
and administrative  
support

(g) The Secretary shall—

(1) establish such rules and regulations for the committee as may be necessary, and

(2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

25 U.S.C. 3006(h),  
Annual report to  
Congress

(h) The committee established under subsection (a) of this section shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

25 U.S.C. 3006(i),  
Committee  
termination

(i) The committee established under subsection (a) of this section shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

25 U.S.C. 3007,  
Penalty assessment,  
museums

## Section 9

(a) Any museum that fails to comply with the requirements of this Act may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

25 U.S.C. 3007(a),  
Penalty

25 U.S.C. 3007(b),  
Amount of penalty

(b) The amount of a penalty assessed under subsection (a) of this section shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(1) the archaeological, historical, or commercial value of the item involved;

(2) the damages suffered, both economic and noneconomic, by an aggrieved party, and

(3) the number of violations that have occurred.

# Native American Graves Protection and Repatriation Act

25 U.S.C. 3007(c),  
Legal actions to  
recover penalties

(c) If any museum fails to pay an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) of this section and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

25 U.S.C. 3007(d),  
Authority to issue  
subpoenas

(d) In hearings held pursuant to subsection (a) of this section, subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

25 U.S.C. 3008,  
Grants

## Section 10

25 U.S.C. 3008(a),  
Grants to Indian tribes  
and Native Hawaiian  
organizations

(a) The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

25 U.S.C. 3008(b),  
Grants to museums

(b) The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 5 and 6 of this Act [25 U.S.C. 3003 and 3004].

25 U.S.C. 3009,  
Limitations on apply-  
ing the Act

## Section 11

Nothing in this Act shall be construed to—

(1) limit the authority of any Federal agency or museum to—

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this Act;

(2) delay actions on repatriation requests that are pending on November 16, 1990;

(3) deny or otherwise affect access to any court;

# Native American Graves Protection and Repatriation Act

(4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) limit the application of any State or Federal law pertaining to theft or stolen property.

25 U.S.C. 3010,  
Special relationship  
between the Federal  
Government and  
Indian tribes and  
Native Hawaiian  
organizations

## Section 12

This Act reflects the unique relationship between the Federal Government and Indian tribes and Native Hawaiian organizations and should not be construed to establish a precedent with respect to any other individual, organization or foreign government.

25 U.S.C. 3011,  
Regulations

## Section 13

The Secretary shall promulgate regulations to carry out this Act within 12 months of November 16, 1990.

25 U.S.C. 3012,  
Authorization of  
appropriations

## Section 14

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

25 U.S.C. 3013,  
Judicial jurisdiction  
and enforcement

## Section 15

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.

# Intermodal Surface Transportation Efficiency Act (ISTEA), PORTIONS, AS AMENDED

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This Act became law on December 18, 1991 (Public Law 102-240; 23 U.S.C. 101(a)(35) [Transportation Enhancement Activities]; 23 U.S.C. 101 (note) [Scenic Byways Program]; 23 U.S.C. 109(b), (c), and (p) [National Highway System, Scenic and Historic Values]. It was amended by Public Law 105-178 (1998) [Transportation Equity Act for the 21st Century, TEA 21]. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code."

23 U.S.C. 101,  
Definitions and  
declaration of policy

23 U.S.C. 101(a),  
Definitions

Transportation  
enhancement  
activities defined

## Section 101

(a) In this title, the following definitions apply:

(Definitions (1) through (34) omitted)

(35) The term "**transportation enhancement activities**" means, with respect to any project or the area to be served by the project, any of the following activities if such activity relates to surface transportation: provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs (including the provision of tourist and welcome center facilities), landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity, and establishment of transportation museums.

(Remainder of Section 101 and Section 102  
through Section 1016(e) omitted)

23 U.S.C. 109,  
Federal-aid highways,  
standards

23 U.S.C. 109(p),  
Scenic and historic  
values

## Section 1016 (f)(1)(A)

(Sections 1016(f)(A)(a) through (o) omitted)

(p) Notwithstanding subsections (b) and (c) [of 23 U.S.C. 109], the Secretary may approve a project for the National Highway System if the project is designed to—

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

# Intermodal Surface Transportation Efficiency Act

(3) comply with subsection (a) [of 23 U.S.C. 109].

(Remainder of Section 1016 and  
Section 1017 through Section 1046 omitted)

23 U.S.C. 101 note,  
Scenic Byways  
Program and Scenic  
Byways Advisory  
Committee

Establishment

Membership

## Section 1047

(a)(1) Not later than 180 days after December 18, 1991, the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

(2) The advisory committee established under this section shall be composed of 17 members as follows:

(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

# Intermodal Surface Transportation Efficiency Act

(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

Functions of advisory committee

(3) The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

# Intermodal Surface Transportation Efficiency Act

(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

(D) Standards for maintaining highway safety on the scenic byway system.

(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

(G) Such other matters as the advisory committee may deem appropriate.

(H) Such other matters for which the Secretary may request recommendations.

(Remainder of Subsection 1047(a) and Subsections (b) through (f) omitted)

## Limitation

(g) The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, displays, or device.

# American Battlefield Protection Act

AS AMENDED

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This Act became law on November 12 (Public Law 104-333, 16 U.S.C. 469 k). It has been amended once. See 16 U.S.C. 469k notes for the Congressional findings and purposes associated with the establishment of Section (d), the Battlefield acquisition grant program. The description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than the "subchapter" or the "title" of the Code.

16 U.S.C. 469k,  
American Battlefield  
Protection Program

## Section 604

(Paragraph (a) omitted)

Purpose

(b) The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

Preservation  
assistance

(c)(1) Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

Financial assistance

(2) To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

Authorization of  
appropriations

(3) There are authorized to be appropriated \$3,000,000 annually to carry out this subsection, to remain available until expended.

Battlefield acquisition  
grant program

(d)(1) In this subsection:

Definitions

(A) The term "**Battlefield Report**" means the document entitled "Report on the Nation's Civil War Battlefields," prepared by the Civil War Sites Advisory Commission, and dated July 1993.

Battlefield report

Eligible entity

(B) The term "**eligible entity**" means a State or local government.

# American Battlefield Protection Act

Eligible site	(C) The term “ <b>eligible site</b> ” means a site— (i) that is not within the exterior boundaries of a unit of the National Park System; and (ii) that is identified in the Battlefield Report.
Secretary	(D) The term “ <b>Secretary</b> ” means the Secretary of the Interior, acting through the American Battlefield Protection Program.
Establishment	(2) The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.
Nonprofit partners	(3) An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.
Non-federal share	(4) The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.
Limitations on land use	(5) An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 [as amended 16 U.S.C. 4601-8(f)(3)].
Reports, In general	(6) (A) Not later than 5 years after December 17, 2002, the Secretary shall submit to Congress a report on the activities carried out under this subsection.
Update of battlefield report	(B) Not later than 2 years after December 17, 2002, the Secretary shall submit to Congress a report that updates the Battlefield Report to reflect— (i) preservation activities carried out at the 384 battlefields during the period between publication of the Battlefield Report and the update; (ii) changes in the condition of the battlefields during that period; and (iii) any other relevant developments relating to the battlefields during that period.

# American Battlefield Protection Act

Authorization of appropriations, Battlefield acquisitions

(7)(A) There are authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection \$10,000,000 for each of fiscal years 2004 through 2008.

Appropriation authorization, Update of battlefield report

(B) There are authorized to be appropriated to the Secretary to carry out paragraph (6)(B), \$500,000.

Repeal

(e)(1) This section is repealed on September 30, 2008.

No effect on general authority

(2) The Secretary may continue to conduct battlefield studies and provide battlefield acquisition grants in accordance with other authorities available to the Secretary.

Unobligated funds, after September 30, 2008

(3) Any funds made available under this section that remain unobligated shall be credited to the general fund of the Treasury.

# Sunken Military Craft Act

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This portion (Division A, Title XIV) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, is commonly known as the Sunken Military Craft Act. It became law on October 28, 2004 (Public Law 108-375, 10 U.S.C. 113 Note and 118 Stat. 2094-2098) This description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than to the "subchapter" or the "title" of the code.

10 U.S.C. 113 Note, Preservation of title to sunken military craft and associated contents

## Title XIV, Sunken Military Craft

### Section 1401

Right, title, and interest of the United States in and to any United States sunken military craft—

(1) shall not be extinguished except by an express divestiture of title by the United States; and

(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

Prohibitions

### Section 1402

Unauthorized activities directed at sunken military craft

(a) No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this Act;

(2) as authorized by regulations issued under this Act; or

(3) as otherwise authorized by law.

Possession of sunken military craft; possession, disturbance, removal, injury prohibited

(b) No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

Limitations

(c) Limitations on Application—

Actions by United States

(1) This section shall not apply to actions taken by, or at the direction of, the United States.

Foreign persons

(2) This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

# Sunken Military Craft Act

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

Loan of sunken military craft

(3) This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

Permits

## Section 1403

Permit exceptions to Section 1402

(a) The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

Consistency with other laws

(b) The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

Consultation

(c) In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

Application to foreign craft

(d) At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

# Sunken Military Craft Act

## Penalties

### Section 1404

#### Civil penalty liability

(a) Any person who violates this Act, or any regulation or permit issued under this Act, shall be liable to the United States for a civil penalty under this section.

#### Assessment and amount

(b) The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than \$100,000 for each violation.

#### Continuing violations

(c) Each day of a continued violation of this Act or a regulation or permit issued under this Act shall constitute a separate violation for purposes of this section.

#### In rem liability

(d) A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

#### Other relief

(e) If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

#### Limitations

(f) An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

# Sunken Military Craft Act

Liability for damages	<b>Section 1405</b>
Reimbursement of enforcement costs and damages	(a) Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this Act that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.
Included damages	(b) Damages referred to in subsection (a) may include—  (1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this Act; and  (2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.
Relationship to other laws	<b>Section 1406</b>
Limitation of Act's application	(a) Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this Act, nothing in this Act is intended to affect—  (1) any activity that is not directed at a sunken military craft; or  (2) the traditional high seas freedoms of navigation, including—  (A) the laying of submarine cables and pipelines;  (B) operation of vessels;  (C) fishing; or  (D) other internationally lawful uses of the sea related to such freedoms.
International law	(b) This Act and any regulations implementing this Act shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

# Sunken Military Craft Act

Law of finds	(c) The law of finds shall not apply to— <ol style="list-style-type: none"><li>(1) any United States sunken military craft, wherever located; or</li><li>(2) any foreign sunken military craft located in United States waters.</li></ol>
Law of salvage	(d) No salvage rights or awards shall be granted with respect to— <ol style="list-style-type: none"><li>(1) any United States sunken military craft without the express permission of the United States; or</li><li>(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.</li></ol>
Law of capture or prize	(e) Nothing in this Act is intended to alter the international law of capture or prize with respect to sunken military craft.
Liability not limited by the Harter Act and related statutes	(f) Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.
Authorities of the Commandant of the Coast Guard	(g) Nothing in this Act is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.
Prior Delegations, Authorizations, and Relation Regulations	(h) Nothing in this Act shall invalidate any prior delegation, authorization, or related regulation that is consistent with this Act.
Criminal law	(i) Nothing in this Act is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.
Encouragement of agreements with foreign countries	<b>Section 1407</b> The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this Act.

# Sunken Military Craft Act

## Definitions

## Section 1408

### In this Act:

## Associated contents

(1) The term “**associated contents**” means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

## Secretary concerned

(2) The term “**Secretary concerned**” means—

(A) subject to subparagraph (B), the Secretary of a military department; and

(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

## Sunken military craft

(3) The term “**sunken military craft**” means all or any portion of—

(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

(C) the associated contents of a craft referred to in subparagraph (A) or (B), if title thereto has not been abandoned or transferred by the government concerned.

## United States contiguous zone

(4) The term “**United States contiguous zone**” means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.

## United States internal waters

(5) The term “**United States internal waters**” means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

## United States territorial sea

(6) The term “**United States territorial sea**” means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

# Sunken Military Craft Act

United States waters (7) The term “United States waters” means United States internal waters, the United States territorial sea, and the United States contiguous zone.

## Appendix

### SELECTED REGULATIONS FROM THE CODE OF FEDERAL REGULATIONS (CFR), SELECTED EXECUTIVE ORDERS (EO), AND SELECTED STANDARDS RELATED TO HISTORIC PRESERVATION

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All regulations, executive orders, and standards are officially published in the Code of Federal Regulations, the United States Code, or the Federal Register. All three sources can be accessed via the home page for the Government Printing Office, Access GPO

**<http://www.access.gpo.gov>**. The site and the accompanying search engines can be challenging to use. Most of the government websites listed below are more direct and they contain the pertinent information regarding the preservation laws in question. The official government sites guarantee the official language and the most current information. Those interested in finding the most recent iterations of the documents should use Access GPO. The National Park Service posts many documents, laws, regulations, and standards at its "Links to the Past" site: **[www.cr.nps.gov](http://www.cr.nps.gov)**.

**23 CFR Part 771**, Environmental Impact and Related Procedures (Department of Transportation, Federal Highway Administration)

**<http://www.fhwa.dot.gov/hep/23cfr771.htm>**

**26 CFR Parts 1 and 602**, Income Tax: Investment Tax Credit for Qualified Rehabilitation Expenditures (Internal Revenue Service)

**<http://www2.cr.nps.gov/tps/tax/IRS.htm>**

**26 CFR Parts 1, 20, 25 and 602**, Income Tax: Qualified Conservation Contributions (Internal Revenue Service)

**<http://www2.cr.nps.gov/tps/tax/IRS.htm>**

**30 CFR Part 700 to the End**, Office of Surface Mining Reclamation and Enforcement (Department of the Interior)

**<http://www.osmre.gov/regindex.htm>**

**36 CFR Part 60**, National Register of Historic Places

**<http://www.cr.nps.gov/linklaws.htm#regs>** [scroll down and select 36 CFR 60]

**36 CFR Part 61**, Procedures for State, Tribal, and Local Government Historic Preservation Programs

**<http://www2.cr.nps.gov/laws/36CFR61.htm>** [can also be reached through same address as 36 CFR 60]

**36 CFR Part 63**, Determinations of Eligibility for Inclusion in the National Register of Historic Places

**<http://www.cr.nps.gov/linklaws.htm#regs>** [scroll down and select 36 CFR 63]

**36 CFR Part 65**, National Historic Landmarks Program

**<http://www2.cr.nps.gov/laws/Landmarks.htm>** [can also be reached through the same address as 36 CFR 60]

**36 CFR Part 67**, Historic Preservation Tax Incentive Certifications

**<http://www2.cr.nps.gov/tps/tax/taxregs.htm>** [can also be reached through same address as 36 CFR 60]

# Appendix

**36 CFR Part 68**, The Secretary of the Interior's Standards for the Treatment of Historic Properties

<http://www2.cr.nps.gov/tps/secstan1.htm>

**36 CFR Part 73**, World Heritage Convention

<http://www.access.gpo.gov>

**36 CFR Part 78**, Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act

<http://www.access.gpo.gov>

**36 CFR Part 79**, Curation of Federally Owned and Administered Archaeological Collections

<http://www.cr.nps.gov/aad/tools/36cfr79.htm> [can also be reached through same address as 36 CFR 60]

**36 CFR Part 800**, Protection of Historic Properties (Advisory Council on Historic Preservation)

<http://www.achp.gov/regs.html>

**40 CFR Parts 1500–1517**, Regulations of the Council on Environmental Quality

<http://www.epa.gov/epacfr40/chapt-V.info/chv-toc.htm>

**41 CFR Part 101–17**, Assignment and Utilization of Space (General Services Administration, Public Buildings Survey)

<http://www.gsa.gov> [select “Policy.” Then, select “Federal Regulation Policy.” Then, select “Code of Federal Regulations.”]

**41 CFR Part 101–20**, Management of Buildings and Grounds (General Services Administration, Public Buildings Service) <http://www.gsa.gov> [select “Policy.” Then, select “Federal Regulation Policy.” Then, select “Code of Federal Regulations.”]

**43 CFR Part 3**, Preservation of American Antiquities

<http://www.cr.nps.gov/linklaws.htm#regs> [scroll down and select 43 CFR 3]

**43 CFR Part 7**, Protection of Archaeological Resources

<http://www.cr.nps.gov/local-law/43cfr7.htm> [can also be reached through the same address as 36 CFR 60]

**43 CFR Part 10**, Native American Graves Protection and Repatriation Act

<http://www.cr.nps.gov/linklaws.htm#regs> [scroll down and select 43 CFR 10]

**Executive Order 11593**, Protection and Enhancement of the Cultural Environment (1971)

<http://www.cr.nps.gov/linklaws.htm#execords> [scroll down and select E.O. 11593]

## Appendix

**Executive Order 13006**, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (1996)

<http://www.cr.nps.gov/local-law/eo13006.htm> [can also be reached through the same address as E.O. 11593]

**Executive Order 13007**, Indian Sacred Sites (1996)

<http://www.cr.nps.gov/local-law/eo13007.htm> [can also be reached through the same address as E.O. 11593]

**Executive Order 13287**, *Preserve America* (2003)

<http://www.achp.gov/news-preserveamericaEO.html>

**The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act**

<http://www.cr.nps.gov/linklaws.htm#standards> [scroll down to select these standards and guidelines]

**Abandoned Shipwreck Act Guidelines**

<http://www.cr.nps.gov/linklaws.htm#standards> [scroll down to select these guidelines]

**The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.** This includes Standards and Guidelines for Preservation Planning, Identification, Evaluation, Registration, Historical Documentation, Architectural and Engineering Documentation, Archeological Documentation, Historic Preservation Projects (Treatment Standards), and Professional Qualifications.

<http://www.cr.nps.gov/linklaws.htm#standards> [scroll down to select these standards and guidelines]

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