

tional Forest System land under section 3053 of this title; or

(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—

(i) have a traditional and cultural purpose; and

(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.

(2) Limitations on disclosure

Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5 (commonly known as the “Freedom of Information Act”), concerning the identity, use, or specific location in the National Forest System of—

(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or

(B) any cultural items not covered under section 3053 of this title.

(b) Limited release of information

(1) Reburial

The Secretary may disclose information described in subsection (a)(1)(A)² if, before the disclosure, the Secretary—

(A) consults with an affected Indian tribe or lineal descendant;

(B) determines that disclosure of the information—

(i) would advance the purposes of this chapter; and

(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and

(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.

(2) Other information

The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—

(A) would advance the purposes of this chapter;

(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and

(C) would be consistent with other applicable laws.

(Pub. L. 110-234, title VIII, §8106, May 22, 2008, 122 Stat. 1288; Pub. L. 110-246, §4(a), title VIII, §8106, June 18, 2008, 122 Stat. 1664, 2050.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

²So in original. Probably should be “(a)(1)(A)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 3057. Severability and savings provisions

(a) Severability

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this chapter shall not be affected thereby.

(b) Savings

Nothing in this chapter—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

(Pub. L. 110-234, title VIII, §8107, May 22, 2008, 122 Stat. 1289; Pub. L. 110-246, §4(a), title VIII, §8107, June 18, 2008, 122 Stat. 1664, 2051.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

CHAPTER 32B—SAFEGUARD TRIBAL OBJECTS OF PATRIMONY

Sec.	
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§ 3071. Purposes

The purposes of this chapter are—

(1) to carry out the trust responsibility of the United States to Indian Tribes;

(2) to increase the maximum penalty for actions taken in violation of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, as added by that Act), in order to strengthen deterrence;

(3) to stop the export, and facilitate the international repatriation, of cultural items prohibited from being trafficked by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, as added by that Act) and archaeological resources prohibited from being trafficked by the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) by—

- (A) explicitly prohibiting the export;
- (B) creating an export certification system; and
- (C) confirming the authority of the President to request from foreign nations agreements or provisional measures to prevent irremediable damage to Native American cultural heritage;

(4) to establish a Federal framework in order to support the voluntary return by individuals and organizations of items of tangible cultural heritage, including items covered by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, as added by that Act) and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(5) to establish an interagency working group to ensure communication between Federal agencies to successfully implement this chapter, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(6) to establish a Native working group of Indian Tribes and Native Hawaiian organizations to assist in the implementation of this chapter, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(7) to exempt from disclosure under section 552 of title 5 (commonly known as the “Freedom of Information Act”)—

- (A) information submitted by Indian Tribes or Native Hawaiian organizations pursuant to this chapter; and
- (B) information relating to an Item Requiring Export Certification for which an export certification was denied pursuant to this chapter; and

(8) to encourage buyers to purchase legal contemporary art made by Native artists for commercial purposes.

(Pub. L. 117–258, § 2, Dec. 21, 2022, 136 Stat. 2372.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in the provision preceding par. (1) and in pars. (5) to (7), was in the original “this Act”, meaning Pub. L. 117–258, Dec. 21, 2022, 136 Stat. 2372, known as the Safeguard Tribal Objects of Patrimony Act of 2021, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Native American Graves Protection and Repatriation Act, referred to in pars. (2) to (6), is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Archaeological Resources Protection Act of 1979, referred to in pars. (3) to (6), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 117–258, § 1, Dec. 21, 2022, 136 Stat. 2372, provided that: “This Act [enacting this chapter and amending section 1170 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘Safeguard Tribal Objects of Patrimony Act of 2021’.”

§ 3072. Definitions

In this chapter:

(1) Archaeological resource

The term “archaeological resource” means an archaeological resource (as defined in section 470bb of title 16) that is Native American.

(2) Cultural affiliation

The term “cultural affiliation” means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian Tribe or Native Hawaiian organization and an identifiable earlier group.

(3) Cultural item

The term “cultural item” means any 1 or more cultural items (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(4) Indian Tribe

The term “Indian Tribe” has the meaning given the term “Indian tribe” in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(5) Item Prohibited from Exportation

The term “Item Prohibited from Exportation” means—

(A) a cultural item prohibited from being trafficked, including through sale, purchase, use for profit, or transport for sale or profit, by—

- (i) section 1170(b) of title 18, as added by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); or
- (ii) any other Federal law or treaty; and

(B) an archaeological resource prohibited from being trafficked, including through