

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302505 .....	16 U.S.C. 470a(c)(3).	Pub. L. 89-665, title I, §101(c)(3), Oct. 15, 1966, 80 Stat. 915; Pub. L. 91-383, §11, as added Pub. L. 94-458, §2, Oct. 7, 1976, 90 Stat. 1942; Pub. L. 93-54, §1(d), July 1, 1973, 87 Stat. 139; Pub. L. 96-205, title VI, §608(a)(1), (2), Mar. 12, 1980, 94 Stat. 92; Pub. L. 96-515, title II, §201(a), Dec. 12, 1980, 94 Stat. 2992.

The words “or which is making efforts to become so certified” are omitted in paragraph (1) for consistency with section 302902(c)(4) of the new title.

### CHAPTER 3027—HISTORIC PRESERVATION PROGRAMS AND AUTHORITIES FOR INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS

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#### § 302701. Program to assist Indian tribes in preserving historic property

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their historic property.

(b) COMMUNICATION AND COOPERATION.—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—

(1) ensure that all types of historic property and all public interests in historic property are given due consideration; and

(2) 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 property.

(c) TRIBAL VALUES.—The program under subsection (a) shall be developed in a manner to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this subdivision to conform to the cultural setting of tribal heritage preservation goals and objectives.

(d) SCOPE OF TRIBAL PROGRAMS.—The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each Indian tribe’s chief governing authority.

(e) CONSULTATION.—The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservations<sup>1</sup> Officers, and other interested parties concerning the program under subsection (a).

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3199.)

<sup>1</sup> So in original. Probably should be “Preservation”.

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302701 .....	16 U.S.C. 470a(d)(1).	Pub. L. 89-665, title I, §101(d)(1), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4755.

In subsection (e), the words “and initiate the program under subparagraph (A) by not later than October 1, 1994” are omitted as obsolete.

#### § 302702. Indian tribe to assume functions of State Historic Preservation Officer

An Indian tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with sections 302302 and 302303 of this title, with respect to tribal land, as those responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

(1) the Indian tribe’s chief governing authority so requests;

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

(3) 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;

(4) the Secretary determines, after consulting with the Indian tribe, the appropriate State Historic Preservation Officer, the Council (if the Indian tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 306108 of this title), and other Indian tribes, if any, whose tribal or aboriginal land may be affected by conduct of the tribal preservation program, that—

(A) the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under paragraph (3);

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

(C) the plan provides, with respect to properties neither owned by a member of the Indian tribe nor held in trust by the Secretary for the benefit of the Indian tribe, at the request of the owner of the properties, that the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with sections 302302 and 302303 of this title; and

(5) based on satisfaction of the conditions stated in paragraphs (1), (2), (3), and (4), the Secretary approves the plan.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3199.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302702 .....	16 U.S.C. 470a(d)(2)	Pub. L. 89-665, title I, §101(d)(2), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4756; Pub. L. 106-208, §5(a)(1), May 26, 2000, 114 Stat. 318.

§ 302703. Apportionment of grant funds

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 302902(c)(1)(A) of this title with respect to tribal programs that assume responsibilities under section 302702 of this title.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3200.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302703 .....	16 U.S.C. 470a(d)(3).	Pub. L. 89-665, title I, §101(d)(3), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4756.

§ 302704. Contracts and cooperative agreements

At the request of an Indian tribe whose preservation program has been approved to assume functions and responsibilities pursuant to section 302702 of this title, the Secretary shall enter into a contract or cooperative agreement with the Indian tribe permitting the assumption by the Indian tribe of any part of the responsibilities described in section 302304(b) of this title on tribal land, if—

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

(2) 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 division; and

(3) 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—

(A) the Indian tribe’s traditional cultural authorities;

(B) representatives of other Indian tribes whose traditional land is under the jurisdiction of the Indian tribe assuming responsibilities; and

(C) the interested public.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3200.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302704 .....	16 U.S.C. 470a(d)(4).	Pub. L. 89-665, title I, §101(d)(4), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4757.

§ 302705. Agreement for review under tribal historic preservation regulations

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 306108 of this title, if the Council, after consultation with the Indian tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic property consideration equivalent to that afforded by the Council’s regulations.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3201.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302705 .....	16 U.S.C. 470a(d)(5).	Pub. L. 89-665, title I, §101(d)(5), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4757.

§ 302706. Eligibility for inclusion on National Register

(a) IN GENERAL.—Property 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) CONSULTATION.—In carrying out its responsibilities under section 306108 of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to property described in subsection (a).

(c) HAWAII.—In carrying out responsibilities under section 302303 of this title, the State Historic Preservation Officer for Hawaii shall—

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

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

(3) 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 the property to the National Register and to carry out the cultural component of the preservation program or plan.

(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3201.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
302706 .....	16 U.S.C. 470a(d)(6).	Pub. L. 89-665, title I, §101(d)(6), as added Pub. L. 102-575, title XL, §4006(a)(2), Oct. 30, 1992, 106 Stat. 4757.

CHAPTER 3029—GRANTS

Sec. 302901. Awarding of grants and availability of grant funds.