

HISTORICAL AND REVISION NOTES

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

§ 306113. Anticipatory demolition

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

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

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

§ 306114. Documentation of decisions respecting undertakings

With respect to any undertaking subject to section 306108 of this title that adversely affects any historic property for which a Federal agency has not entered into an agreement pursuant to regulations issued by the Council, the head of the agency shall document any decision made pursuant to section 306108 of this title. The head of the agency may not delegate the responsibility to document a decision pursuant to this section. Where an agreement pursuant to regulations issued by the Council has been executed with respect to an undertaking, the agreement shall govern the undertaking and all of its parts.

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

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

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

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

§ 306121. Lease or exchange

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

HISTORIC LEASE PROCESS SIMPLIFICATION

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

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

§ 306122. Contracts for management of historic property

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

interests of the United States and ensure adequate preservation of the historic property.
(Pub. L. 113-287, §3, Dec. 19, 2014, 128 Stat. 3228.)

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

SUBCHAPTER III—PROTECTION AND PRESERVATION OF RESOURCES

§ 306131. Standards and guidelines

(a) STANDARDS.—

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

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

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

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

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

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

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

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

(2) encourage owners to preserve historic property intact and in place and offer the own-

ers of historic property information on the tax and grant assistance available for the donation of the historic property or of a preservation easement of the historic property;

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

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

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

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

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

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

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

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

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

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

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

Editorial Notes

AMENDMENTS

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

SUBDIVISION 6—MISCELLANEOUS

CHAPTER 3071—MISCELLANEOUS

Sec.	
307101.	World Heritage Convention.
307102.	Effective date of regulations.
307103.	Access to information.
307104.	Inapplicability of division to White House, Supreme Court building, or United States Capitol.
307105.	Attorney’s fees and costs to prevailing parties in civil actions.
307106.	Authorization for expenditure of appropriated funds.