

eral Services concerning its activities under this chapter and shall provide the Secretary and the Administrator of General Services with such other information as the Secretary may consider necessary or advisable.

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
305505	16 U.S.C. 470w-5(e).	Pub. L. 89-665, title III, §306(e), as added Pub. L. 96-515, title V, §501, Dec. 12, 1980, 94 Stat. 3003.

SUBDIVISION 5—FEDERAL AGENCY HISTORIC PRESERVATION RESPONSIBILITIES

CHAPTER 3061—PROGRAM RESPONSIBILITIES AND AUTHORITIES

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SUBCHAPTER I—IN GENERAL

§ 306101. Assumption of responsibility for preservation of historic property

(a) IN GENERAL.—

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

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

(3) NECESSARY PRESERVATION.—Each Federal agency shall undertake, consistent with the preservation of historic property, the mission

of the agency, and the professional standards established pursuant to subsection (c), any preservation as may be necessary to carry out this chapter.

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

(c) PROFESSIONAL STANDARDS FOR PRESERVATION OF FEDERALLY OWNED OR CONTROLLED HISTORIC PROPERTY.—The Secretary shall establish, in consultation with the Secretary of Agriculture, the Secretary of Defense, the Smithsonian Institution, and the Administrator of General Services, professional standards for the preservation of historic property in Federal ownership or control.

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

HISTORICAL AND REVISION NOTES

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

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

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

Executive Documents

EX. ORD. NO. 13287. PRESERVE AMERICA

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

SECTION 1. *Statement of Policy.* It is the policy of the Federal Government to provide leadership in preserving America’s heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency mis-

sions while contributing to the vitality and economic well-being of the Nation's communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies ("agency" or "agencies") shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

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

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

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

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Fed-

eral Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

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

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organization. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA [see 54 U.S.C. 306104]. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

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

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

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

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

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

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

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

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use

historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

SEC. 6. National and Homeland Security Considerations.

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

SEC. 7. Definitions. For the purposes of this order, the term “historic property” means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA ([former] 16 U.S.C. 470w(5)) [see 54 U.S.C. 300308]. The term “heritage tourism” means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale’s history, landscape (including trail systems), and culture. The terms “Federally owned” and “in Federal ownership,” and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

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

GEORGE W. BUSH.

§ 306102. Preservation program

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

§ 306104. Agency Preservation Officer

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

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