

**54 USC Ch. 3125: PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA****From Title 54—NATIONAL PARK SERVICE AND RELATED PROGRAMS**

Subtitle III—National Preservation Programs

DIVISION B—ORGANIZATIONS AND PROGRAMS

**CHAPTER 3125—PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA**

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**§312501. Definition**

In this chapter, the term "State" includes a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3254.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 312501                 | 16 U.S.C. 469c–1.         | Pub. L. 86–523, §8, as added Pub. L. 96–205, title VI, §608(b)(2), Mar. 12, 1980, 94 Stat. 92. |

The words "the Trust Territory of the Pacific Islands" are omitted as obsolete. See note at 48 U.S.C. prec. 1681. For continued application of certain laws of the United States in certain cases, see the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1801 note), the Compact of Free Association between the Government of the United States of America and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1901 note), and the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note).

**§312502. Threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects**

(a) ACTIVITY OF FEDERAL AGENCY.—

(1) NOTIFICATION OF SECRETARY.—When 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, the agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity.

(2) **RECOVERY, PROTECTION, AND PRESERVATION OF DATA.**—The agency—

(A) may request the Secretary to undertake the recovery, protection, and preservation of the data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from the investigation); or

(B) may, with funds appropriated for the project, program, or activity, undertake those activities.

(3) **AVAILABILITY OF REPORTS.**—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) **ACTIVITY OF PRIVATE PERSON, ASSOCIATION, OR PUBLIC ENTITY.**—

(1) **RECOVERY BY SECRETARY.**—When any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if the Secretary determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may, with funds appropriated expressly for this purpose—

(A) conduct, with the consent of all persons, associations, or public entities having a legal interest in the property, a survey of the affected site; and

(B) undertake the recovery, protection, and preservation of the data (including analysis and publication).

(2) **COMPENSATION.**—The Secretary shall, unless otherwise 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 land.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3254.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 312502                 | 16 U.S.C. 469a–1.         | Pub. L. 86–523, §3, as added Pub. L. 93–291, §1(3), May 24, 1974, 88 Stat. 174. |

### §312503. Survey and recovery by Secretary

(a) **IN GENERAL.**—The Secretary, on notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data are being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if the Secretary determines that the data are significant and are being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing the project, activity, or program—

(1) conduct or cause to be conducted a survey and other investigation of the areas that are or may be affected; and

(2) recover and preserve the data (including analysis and publication) that, in the opinion of the Secretary, are not being, but should be, recovered and preserved in the public interest.

(b) **WHEN SURVEY OR RECOVERY NOT REQUIRED.**—No survey or recovery work shall be required pursuant to this section that, 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) **INITIATION OF SURVEY.**—The Secretary shall initiate the survey or recovery effort within—

(1) 60 days after notification pursuant to subsection (a); or

(2) such time as may be agreed on with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) **COMPENSATION BY SECRETARY.**—The Secretary shall, unless otherwise 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.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3255.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 312503                 | 16 U.S.C. 469a–2.         | Pub. L. 86–523, §4, as added Pub. L. 93–291, §1(3), May 24, 1974, 88 Stat. 174. |

**§312504. Progress reports by Secretary on surveys and work undertaken as result of surveys**

(a) **PROGRESS REPORTS TO FUNDING OR LICENSING AGENCY.**—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 this chapter or of any work undertaken as a result of a survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of the agency. The survey and recovery programs shall terminate at a time agreed on by the Secretary and the head of the agency unless extended by agreement.

(b) **DISPOSITION OF RELICS AND SPECIMENS.**—The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, 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) **COORDINATION OF ACTIVITIES.**—The Secretary shall coordinate all Federal survey and recovery activities authorized under this chapter.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3255.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 312504                 | 16 U.S.C. 469a–3.         | Pub. L. 86–523, §5, formerly §2(c), (e), June 27, 1960, 74 Stat. 220, renumbered as §5 and amended Pub. L. 93–291, §1(4), (6), (7), May 24, 1974, 88 Stat. 175; Pub. L. 96–205, title VI, §608(b)(1), Mar. 12, 1980, 94 Stat. 92; Pub. L. 103–437, §6(d)(27), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104–333, div. I, title VIII, §814(d)(2)(B), Nov. 12, 1996, 110 Stat. 4196. |

**§312505. Notice of dam construction**

(a) **IN GENERAL.**—Before any Federal agency undertakes the construction of a dam, or issues a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if construction is undertaken.

(b) **DAMS WITH CERTAIN DETENTION CAPACITY OR RESERVOIR.**—With respect to any flood water retarding dam that provides fewer than 5,000 acre-feet of detention capacity, and with respect to any other type of dam that creates a reservoir of fewer than 40 surface acres, this section shall apply only when the constructing agency, in its preliminary surveys, finds or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3256.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 312505                 | 16 U.S.C. 469a.           | Pub. L. 86–523, §2, formerly §2(a), June 27, 1960, 74 Stat. 220, renumbered as §2 and amended Pub. L. 93–291, |

§1(2), (5), May 24, 1974, 88 Stat. 174, 175.

In subsection (a), the words "Federal agency" are substituted for "agency of the United States" for consistency in the revised title and with other titles of the United States Code.

### §312506. Administration

In the administration of this chapter, the Secretary may—

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

(2) obtain the services of experts and consultants or organizations of experts and consultants in accordance with section 3109 of title 5; and

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

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3256.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 312506                 | 16 U.S.C. 469b.           | Pub. L. 86–523, §6, formerly §3, June 27, 1960, 74 Stat. 221, renumbered as §6 and amended Pub. L. 93–291, §1(8), May 24, 1974, 88 Stat. 175. |

### §312507. Assistance to Secretary by Federal agencies responsible for construction projects

(a) ASSISTANCE OF FEDERAL AGENCIES.—To carry out this chapter, any Federal agency responsible for a construction project may assist the Secretary or may transfer to the Secretary funds as may be agreed on, but not more than 1 percent of the total amount authorized to be appropriated for the project, except that the 1 percent limitation under this section shall not apply if the cost of the project is \$50,000 or less. The costs of the survey, recovery, analysis, and publication shall be deemed nonreimbursable project costs.

(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated for purposes of this section shall remain available until expended.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3256.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>      | <i>Source (Statutes at Large)</i>   |
|------------------------|--------------------------------|---|
| 312507(a)              | 16 U.S.C. 469c(a) through (c). | Pub. L. 86–523, §7, formerly §4, June 27, 1960, 74 Stat. 221, renumbered as §7 and amended Pub. L. 93–291, §1(9), May 24, 1974, 88 Stat. 175; Pub. L. 95–625, title VI, §603, Nov. 10, 1978, 92 Stat. 3518. |
| 312507(b)              | 16 U.S.C. 469c(d).             |   |

In subsection (a), the text of 16 U.S.C. 469c(b) and (c) is omitted as obsolete. The words "cost of the" are added for clarity.

In subsection (b), the words "Beginning fiscal year 1979" are omitted as obsolete.

### §312508. Costs for identification, surveys, evaluation, and data recovery with respect to historic property

Notwithstanding section 312507(a) of this title or any other provision of law—

(1) identification, surveys, and evaluation carried out with respect to historic property 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 property within project areas may be charged to Federal licensees and permittees as a condition to the issuance of the license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, may waive, in appropriate cases, the 1 percent limitation under section 312507(a) of this title.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3256.)

HISTORICAL AND REVISION NOTES

| <i>Revised<br/>Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|----------------------------|---------------------------|---|
| 312508                     | 16 U.S.C. 469c–2.         | Pub. L. 96–515, title II, §208, Dec. 12, 1980, 94 Stat. 2997; Pub. L. 103–437, §6(d)(28), Nov. 2, 1994, 108 Stat. 4584. |