

Appendix Ten

United States Acts dealing with Heritage Conservation

a. Antiquities Act (16 U.S.C. 431-433).

This Act authorises the scientific investigation of antiquities on Federal land, subject to the stipulations outlined in permits issued to recognised educational, scientific, and other institutions for the purposes of systematically gathering data. The Act provides that objects taken or collected without a permit may result in a fine and imprisonment of the convicted person.

b. Historic Sites, Buildings and Antiquities Act (16 U.S.C. 461-467).

This Act establishes as national policy the preservation of nationally significant historic and archaeological properties through the National Historic Landmarks program.

c. National Historic Preservation Act of 1966, as amended (16 U.S.C. 470-470t).

This Act establishes as policy that the Federal Government is to provide leadership in the preservation of the Nation's prehistoric and historic resources. Historic preservation is defined in the Act as the protection, rehabilitation, restoration, and reconstruction of sites, buildings, structures, and objects significant in American history, architecture, engineering, and archaeology.

Sections 106 and 110 of the Act define the primary requirements for Federal agencies to follow in identifying, evaluating, and protecting significant cultural resources.

d. National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347).

This Act establishes the Federal policy of protecting important historic, cultural, and biophysical aspects of our national heritage during Federal project planning and obligates Federal agencies to consider the environmental consequences and costs of their projects and programs as part of the planning process. All Federal or federally assisted projects requiring action pursuant to Section 102 of the Act must take into account the effects on cultural resources.

e. Archaeological and Historic Preservation Act (16 U.S.C. 469-469c).

This Act directs the preservation of historic and archaeological data in Federal construction projects. The Act authorises Federal agencies to seek future appropriations, to obligate available funding, or to reprogram existing appropriations to provide for the identification and preservation of data.

f. American Indian Religious Freedom Act (P.L. 95-341).

This joint resolution of Congress establishes as the policy of the United States the protection and preservation for American Indians of their inherent right of freedom to believe, express, and practice their traditional religions. The Act directs agencies to consult with native

traditional religious leaders to determine appropriate policy changes necessary to protect and preserve Native American religious cultural rights and practices.

g. Archaeological Resources Protection Act, as amended (16 U.S.C. 470aa-470mm).

This Act protects materials of archaeological interest that are greater than 100 years old on public and Indian lands from unauthorised removal or destruction and requires that Federal managers develop plans and schedules to locate the most scientifically important archaeological sites. The Act allows the Federal land manager to issue permits for the excavation or recovery of archaeological resources. Individuals who destroy, deface, or remove archaeological resources from Federal lands are subject to severe penalties and fines under the Act's provisions.

h. Native American Graves Protection and Repatriation Act (25 U.S.C. 3001-3013).

This Act requires Federal agencies and museums to inventory, determine ownership of, and repatriate cultural items under their control or possession, as determined by the Act and its implementing regulations. Federal agencies are required to determine the cultural affiliation of cultural items in their possession or under their control and return those items to the appropriate tribe, organisation, or individual, upon request. The Act's requirements address the repatriation of cultural items under the control of or in the possession of the Federal agency and those inadvertently discovered by construction activities on lands managed by the agency.

i. Protection of Historic and Cultural Properties (36 CFR 800).

These regulations establish procedures for the identification and protection of historic properties under Section 106 of the National Historic Preservation Act, as amended. The process requires that Federal agencies consider appropriate alternatives to avoid or mitigate adverse effects on National Register listed or eligible properties during the planning of undertakings.

j. Curation of Federally-Owned and Administered Archaeological Collections (36 CFR 79). These regulations require that archaeological materials collected by or in the possession of Federal agencies under the Antiquities Act, the Archaeological Resources Protection Act, and the National Historic Preservation Act be adequately curated and protected.

k. Protection of Archaeological Resources (43 CFR 7).

These regulations require the authorisation of the appropriate Federal manager to excavate or remove archaeological resources from Federal and Indian lands, and also require that collected archaeological resources be curated in a suitable facility that meets professional standards for long-term care.