



National NAGPRA

	NAGPRA: Section 3	ARPA	NHPA: Section 106
Applicability	Intentional excavation or inadvertent discovery of Native American human remains and cultural items on Federal lands or tribal lands after November 16, 1990.	Archaeological resources and sites on public lands and Indian lands.	Federal or federally assisted undertakings in any State. Applies to State, local and private land; also Federal land (Section 110) and tribal lands.
Purpose	To determine “the ownership or control of Native American cultural items which are excavated or discovered on Federal tribal lands after November 16, 1990.” [25 U.S.C. 3002 (a)] and to facilitate disposition to owners.	“to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands...” [16 U.S.C. 470aa (b)]	“to take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.” [16 U.S.C. 470f]
Triggering Event	<p><i>Intentional Excavation:</i> The planned archeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (c) of the Act. [43 CFR 10.2 (g)(3)]</p> <p><i>Inadvertent Discovery:</i> The unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of Federal or tribal lands pursuant to section 3 (d) of NAGPRA. [43 CFR 10.2 (g)(4)]</p>	Excavation or removal of “any archaeological resource located on public lands or Indian lands” and “activities associated with such removal.” [16 U.S.C. 470cc (a)]	<p><i>Undertaking:</i> a project, activity, or program funded in whole or part under the direct or indirect jurisdiction of a Federal agency, including –</p> <ul style="list-style-type: none"> • Those carried out by or on behalf of the agency; • Those carried out with Federal financial assistance • Those requiring a Federal permit or license, or approval; and • Those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. [16 U.S.C. 470w (7)] <p>NOTE: The issuance of an ARPA permit does not constitute an undertaking under NHPA (see 43 CFR 7.12)</p>
What	<p><i>Native American cultural items:</i></p> <ul style="list-style-type: none"> • Human remains • Funerary objects • Sacred objects • Objects of cultural patrimony <p>[see 43 CFR 10.2 (d)]</p>	<p><i>Archaeological resources:</i> any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest [43 CFR 7.3 (a)]</p> <p><i>Material remains:</i> physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated. [43 CFR 7.3 (a)(2)]</p>	<p><i>Historic property/historic resource:</i> any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource. [16 U.S.C. 470w (5)]</p>

<p>Where</p>	<p><i>Federal lands:</i> Any land other than tribal lands that are controlled or owned by the United States Government, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act. United States "control" refers to those lands not owned by the United States but in which the United States has a legal interest sufficient to permit it to apply these regulations (43 CFR 10) without abrogating the otherwise existing legal rights of a person. [43 CFR 10.2 (f)(1)]</p>	<p><i>Public lands:</i></p> <ul style="list-style-type: none"> • Lands which are owned and administered by the United States as part of the national park system, the national wildlife refuge system, or the national forest system. • All other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution. [16 U.S.C. 1470bb (3)] <p><i>Site of religious or cultural importance [on public lands]:</i> a location which has traditionally been considered important by an Indian tribe because of a religious event which happened there; because it contains specific natural products which are of religious or cultural importance; because it is believed to be the dwelling place of, the embodiment of, or a place conducive to communication with spiritual beings; because it contains elements of life-cycle rituals, such as burials and associated materials; or because it has other specific and continuing significance in Indian religion or culture. [43 CFR 7.32 (a)]</p>	<p><i>State:</i> any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau. [16 U.S.C. 470w (2)]</p>
	<p><i>Tribal lands:</i> All lands which are within the exterior boundaries of any Indian reservation including, but not limited to, allotments held in trust or subject to a restriction on alienation by the United States; or comprise dependent Indian communities as recognized pursuant to 18 U.S.C. 1151; or are administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act of 1920 and section 4 of the Hawaiian Statehood Admission Act. Actions authorized or required under these regulations [43 CFR 10] will not apply to tribal lands to the extent that any action would result in a taking of property without compensation within the meaning of the Fifth Amendment of the United States Constitution. [43 CFR 10.2 (f)(2)]</p>	<p><i>Indian lands:</i> Lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or Indian individual. [16 U.S.C. 1470bb (4)]</p>	<p><i>Tribal lands:</i> all lands within the exterior boundaries of any Indian reservation; and all dependent Indian communities. [16 U.S.C. 470w (14)]</p>

Who	<p><i>Federal agency:</i> Any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution. [25 USC 3001 (4)]</p> <p><i>Federal agency official:</i> Any individual authorized by delegation of authority within a Federal agency to perform the duties relating to these regulations (43 CFR 10). [43 CFR 10.2 (a)(2)]</p>	<p><i>Federal land manager:</i></p> <ul style="list-style-type: none"> • With respect to public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. • In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. [16 U.S.C. 1470bb (2)] 	<p><i>The head of any Federal agency</i> having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and <i>the head of any Federal department or independent agency</i> having authority to license any undertaking. [16 U.S.C. 470f]</p>
			<p><i>State Historic Preservation Officer</i> <i>Tribal Historic Preservation Officer</i> <i>State historic preservation review board</i></p>
	<p><i>Indian tribe:</i> Any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. [25 USC 3001 (7)]</p>	<p><i>Indian tribe:</i> any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act. [16 U.S.C. 470bb (5)] In order to clarify this statutory definition for purposes of this part, "Indian tribe" means:</p> <p>(1) Any tribal entity which is included in the annual list of recognized tribes published in the Federal Register by the Secretary of the Interior pursuant to 25 CFR part 54;</p> <p>(2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR part 54 since the most recent publication of the annual list; and</p> <p>(3) Any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and any Alaska Native village or tribe which is recognized by the Secretary of the Interior as eligible for services provided by the Bureau of Indian Affairs. [43 CFR 7.3 (f)]</p>	<p><i>Indian tribe:</i> an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. [16 U.S.C. 470w (4)]</p>

	<p><i>Indian tribe official:</i> The principal leader of an Indian Tribe or Native Hawaiian organization or the individual officially designated by the governing body of an Indian tribe or Native Hawaiian organization or as otherwise provided by tribal code, policy, or established procedure as responsible for matters relating to these regulations (43 CFR 10). [43 CFR 10.2 (b)(4)]</p> <p><i>Traditional Native American religious leader/Traditional religious leader:</i> A person who is recognized by members of an Indian tribe or Native Hawaiian organization as: 1) being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe or Native Hawaiian organization, or 2) exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe or organization's cultural, ceremonial, or religious practices. [43 CFR 10.2 (d)(3)]</p>	<p>"Notice by the Federal land manager to any Indian tribe shall be sent to <i>the chief executive officer or other designated official of the tribe</i>. Indian tribes are encouraged to designate a tribal official to be the focal point for any notification and discussion between the tribe and the Federal land manager." [43 CFR 7.7 (a)(1)]</p>	<p>"For a tribe that has assumed the responsibilities of the SHPO for section 106 on tribal lands under section 101(d)(2) of the act, <i>the tribal historic preservation officer (THPO) appointed or designated in accordance with the act is the official representative</i> for the purposes of section 106. The agency official shall consult with the THPO in lieu of the SHPO regarding undertakings occurring on or affecting historic properties on tribal lands." [36 CFR 800.2 (c)(2)(i)(A)]</p> <p>"When an Indian tribe has not assumed the responsibilities of the SHPO for section 106 on tribal lands under section 101(d)(2) of the act, the agency official shall consult with a <i>representative designated by such Indian tribe</i> in addition to the SHPO regarding undertakings occurring on or affecting historic properties on its tribal lands." [36 CFR 800.2 (c)(2)(i)(B)]</p>
Agreements	Comprehensive agreement [43 CFR 10.5 (f)]	Federal agencies issue permits for study on Federal lands and on Indian lands in the absence of tribal law. [16 U.S.C. 470bb]	<ul style="list-style-type: none"> • Memorandum of agreement [36 CFR 800.6 (c)] • Programmatic agreement [36 CFR 800.14 (b)] • Agreements between and Indian tribe or Native Hawaiian organization and an agency official regarding consultation on historic properties of significance to Indian tribes and Native Hawaiian organizations [36 CFR 800.2 (c)(2)(ii)(E)]