From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY CULTURAL RESOURCES PROGRAM

Ref: See enclosure (1)

Encl: (1) References
      (2) Other Applicable Legislation, Regulations, Instructions, and Guidance
      (3) Definitions
      (4) Responsibilities

1. Purpose. To establish policy and assign responsibilities within the Department of the Navy (DON) for fulfilling requirements of references listed in enclosure (1) and applicable guidance in enclosure (2).

2. Cancellation. SECNAVINST 4000.35A.

3. Applicability. This instruction applies to all components of the DON with custody of or management responsibility for cultural resources.

4. Definitions. Definitions are provided in enclosure (3) to clarify terminology used in this instruction.

5. Policy

   a. The DON owns historic buildings, structures, districts, archaeological sites and artifacts, historic ships and aircraft, and other cultural resources. Protection of these components of the nation's heritage is an essential part of the defense mission; the DON is committed to responsible cultural resources stewardship. Ownership of archaeological and historic artifacts recovered on property under control of the DON remains the responsibility of the DON.
b. Preservation considerations should be incorporated into routine DON management of historic buildings, structures, districts, sites, ships, aircraft, and other cultural resources. Compliance with cultural resource protection requirements will be incorporated as appropriate into other DON planning processes, including but not limited to master planning, environmental planning, budgeting/programming, and facilities management. When functionally appropriate and economically prudent, DON will give preference to the rehabilitation or adaptive use of historic properties over new construction or leasing.

c. Whenever the DON conducts or supports any actions of the type that could adversely affect known or unknown resources listed or eligible for listing on the National Register of Historic Places, whether DON-owned or not, appropriate consultation will be initiated with the State Historic Preservation Officers (SHPO) or Tribal Historic Preservation Officers (THPO), Advisory Council on Historic Preservation (ACHP), Indian tribes, Native Hawaiian Organizations (NHOs), Alaska Natives, and other interested agencies and the public. Action proponents, commanders or commanding officers as appropriate are responsible for initiating timely consultation at the earliest planning stages of an undertaking before any final agency decisions are made, following procedures specified in reference (a). This is required by reference (b) and is an integral part of DON policy.

d. For commands in a foreign country consider the host country’s cultural resources regulations, section 307101(e) (previously referred to as Section 402) of reference (b), international agreements, Final Governing Standards or Overseas Environmental Baseline Guidance Document requirements, Admiralty Law and status of forces agreements.

e. The references cited in enclosures (1) and (2) impose specific legal obligations on the DON regarding its management of cultural resources. These requirements include, but are not limited to, establishing a program to locate and inventory all cultural resources under DON control and to evaluate them against National Register eligibility criteria for possible nomination to the National Register. Additional requirements include consultation with preservation agencies whenever a DON undertaking may affect eligible resources, and to ensure that eligible resources are not transferred, sold, demolished, substantially altered or allowed to deteriorate without first satisfying the requirements of reference (b).
f. Reference (c) was promulgated to reinforce DON cultural resources responsibilities and expectations. It prescribes core principles that must be incorporated into DON cultural resources programs such as command leadership involvement, consideration of mission impacts, the need to meet project timelines, working with additional consulting parties, early coordination with subject matter experts, investigation of alternative compliance strategies and making sound business decisions, among others. Commands should ensure the core principles cited in this reference are integrated into all planning considerations for projects or actions that have the potential to impact cultural resources.

g. Cultural resources management will take place at the lowest appropriate level of the chain of command. Exceptions to this include when there is a recommendation to formally terminate consultation and for nomination packages which are assigned to the DON Federal Preservation Officer (FPO). Agreement documents resulting from consultation may be signed at the lowest appropriate level of the chain of command in coordination with the undertaking proponent and land or property owner.

h. Archaeological sites under the control of DON should be excavated only to the extent required for evaluation and identification, or mitigation under a Section 106 agreement, unless scientific or programmatic considerations (including other planned uses of a site), or concerns about the integrity or security of a site, make more extensive excavation necessary or advisable. The use of noninvasive or minimally invasive identification and evaluation techniques is encouraged when practical. Archaeological site excavations must be supervised by professionally qualified personnel as defined in enclosure (3) paragraph 3.

i. Archaeological sites and materials will be protected from harm and disturbance by unauthorized persons. These protections may include, but are not limited to, maintaining confidentiality of site locations and providing for appropriate security of the sites.

j. Archaeological collections as defined by reference (f) will be properly curated, tracked and maintained. This can be accomplished using cooperative agreements with qualified institutions and experts. Information about archaeological sites and collections must be entered into the designated data
systems, and periodic command review should occur to ensure that data is accurate and current.

k. DON policy is to respect the interests and beliefs of federally recognized Indian tribes and NHOs, Alaska Natives, and to enter into consultation with them on matters that may affect those interests and beliefs in accordance with references (a) through (n) and other relevant DoD policy and guidance. DON will take effective measures to ensure that the location and existence of sacred sites and other matters of tribal concern will be protected in consultation with tribes as consistent with applicable law.

6. Responsibilities. Responsibilities of the Assistant Secretary of the Navy (Energy, Installations, and Environment), DON FPO, Chief of Naval Operations (CNO) and Commandant of the Marine Corps (CMC), Principal Technical Advisors for the DON, General Counsel and Judge Advocate General, Commanders and Commanding Officers, and Undertaking Proponents, and Cultural Resource Managers as they pertain to this instruction are delineated in enclosure (4).

a. Responsibility for the conduct of consultations with Federally recognized Indian tribes, NHOs, and Alaska Natives is delegated to the CNO and CMC and may be further delegated as appropriate.

b. Unless reserved otherwise, responsibilities of the CNO and CMC may be delegated in writing, with a copy for the record to the FPO.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page: https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local or higher-level Records Manager or the DRMD program office.
8. **Action.** The CNO and the CMC will issue implementing instructions within 120 days.

TODD C. MELLON  
Acting Assistant Secretary of the Navy (Energy, Installations & Environment)

Distribution:  
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REFERENCES

(a) 36 CFR 800, Protection of Historic Properties
(b) 54 U.S.C. §§300101 et seq., National Historic Preservation Act of 1966, as amended
(c) OASN(EI&E) Memorandum “National Historic Preservation Act Section 106 Compliance of 27 April 2018”
(d) 25 U.S.C. §§3001-3013, Native American Graves Protection and Repatriation Act
(e) 42 U.S.C. 1996 and 1996a, American Indian Religious Freedom Act
(f) 36 CFR 79, Curation of Federally-Owned and Administered Archeological Collections
(g) 16 U.S.C. §§470aa-mm, Archeological Resources Protection Act of 1979, as amended
(h) DoD Instruction 4715.16, Change 2, of 31 August 2018
(i) E.O. 13007, “Indian Sacred Sites”
(j) Memorandum for the Heads of Executive Departments and Agencies, 29 Apr 94, “Government-to-Government Relations with Native American Tribal Governments”
(k) E.O. 13175, “Consultation and Coordination with Indian Tribal Governments”
(l) DoD Instruction 4710.02 of 24 September 2018
(m) DoD Instruction 4710.03 of 25 October 2011
(n) SECNAVINST 11010.14B
(q) P.L. 108-375 §§1401-1408, Sunken Military Craft Act
(s) SECNAVINST 5210.8F
(t) SECNAVINST 5360.6
OTHER APPLICABLE LEGISLATION, REGULATIONS, INSTRUCTIONS, AND GUIDANCE

Legislation:


(3) 10 U.S.C. §2684, Cooperative Agreements for Management of Cultural Resources


Regulations:

(1) 32 CFR 229, “Protection of Archaeological Resources: Uniform Regulations, Department of Defense”

(2) 36 CFR 60, “National Register of Historic Places”

(3) 36 CFR 63, “Determinations of Eligibility for Inclusion in the National Register of Historic Places”

(4) 36 CFR 65, “National Historic Landmarks Program”

(5) 36 CFR 78, “Waiver of Federal Agency Responsibilities, Under Section 110 of the National Historic Preservation Act”

(6) 40 CFR 1500-1508, “Council on Environmental Quality, Regulations Implementing the National Environmental Policy Act”


(8) 43 CFR 10, “Department of the Interior, Native American Graves Protection and Repatriation Regulations”

(9) 32 CFR 767, “Guidelines for Permitting Archaeological Investigations And Other Activities At Sunken Military Craft And Terrestrial Military Craft Under The Jurisdiction Of The Department Of The Navy”
Executive Orders:

(1) E.O. 11593, “Protection and Enhancement of the Cultural Environment”

(2) E.O. 13006, “Locating Federal Facilities on Historic Properties in Our Nation's Central Cities”

(3) E.O. 13175, “Consultation and Coordination with Indian Tribal Governments”

Guidance:


(2) 36 CFR 68, “The Secretary of the Interior's Standards for the Treatment of Historic Properties”

(3) 48 FR 22716, “The Secretary of the Interior's Professional Qualification Standards”

(4) 62 FR 33708, “The Secretary of the Interior's Historic Preservation Professional Qualification Standards”

(5) FC 4-760-10N, “Facilities Criteria: Navy Museums and Historic Resource Facilities”
DEFINITIONS

1. Advisory Council on Historic Preservation (ACHP). The independent Federal agency charged by Congress to advise the President, Congress and federal agencies regarding historic preservation and to administer reference (b). Reference (a) provides ACHP procedures for compliance with reference (b).

2. Cultural Resources. Buildings, structures, sites, districts, and objects eligible for or included in the National Register of Historic Places; “cultural items” as defined in reference (d); American Indian, Eskimo, Aleut, or Native Hawaiian sacred sites for which access is protected under reference (e); “archaeological artifact collections and associated records” defined under reference (f); and “archaeological resources” as defined by reference (g).

3. Cultural Resources Professional. A person who meets professional qualifications in anthropology, archaeology, history, architecture, preservation planning or other preservation specialties set forth in reference (b) and the Secretary of the Interior's Professional Qualifications Standards.

4. Cultural Resources Manager. A person appointed by a commander or commanding officer, on a primary or collateral duty basis, and provided with appropriate training to manage the command's cultural resources program.

5. Department of the Navy Federal Preservation Officer (DON FPO). An official appointed by the Secretary of the Navy in accordance with (IAW) reference (a) to direct the DON Cultural Resources Program. The DON FPO is supervised and supported by the Assistant Secretary of the Navy (Energy, Installations and Environment).

6. Deputy Federal Preservation Officer (DFPO). Individuals designated by the FPO to ensure that DON cultural resources programs are managed consistent with FPO direction. The DFPO is a qualified cultural resources professional, consistent with the definition of Cultural Resources Professional.

7. Integrated Cultural Resources Management Plan (ICRMP). A plan that defines the process for the management of cultural resources on DoD installations - required of all DoD installations by reference (h).
8. National Register of Historic Places (National Register). The Federal government's official list of buildings, structures, districts, sites and objects that are significant in American history, architecture, archaeology, engineering, or culture, and are thereby worthy of consideration for preservation. Significance may be local, State, or national in scope. The Secretary of the Interior maintains the National Register.

9. National Register Resource or Historic Property. Any resource that meets eligibility criteria for the National Register of Historic Places, whether or not it has been formally registered, identified or acknowledged as "eligible." "Historic property" is used synonymously with "National Register resource."

10. Native Hawaiian Organization (NHO). An organization which serves and represents the interests of Native Hawaiians, has as a primary and stated purpose the provision of services to Native Hawaiians, and has demonstrated expertise in Native Hawaiians affairs. The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai‘i Nei, an organization incorporated under the laws of the State of Hawaii.

11. Principal Technical Advisor. A commander or director who has been assigned department-wide cultural resources advisory responsibilities. See enclosure (4) for more detail.

12. State Historic Preservation Officer (SHPO). The official appointed by the Governor in each state and territory IAW reference (b) to administer the State Historic Preservation Program. SHPO duties include providing advice and assistance to federal agencies in carrying out their historic preservation responsibilities.

13. Tribal Historic Preservation Officer (THPO). The official appointed by a federally recognized Indian tribe IAW reference (b) to administer the Tribal Historic Preservation Program and assume the duties and functions of the State Historic Preservation Officer on tribal lands.

14. Undertaking. Any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a
Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to state or local regulation administered under a delegation or approval by a Federal agency.

15. **Undertaking Proponent.** The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for an undertaking, who has command and control authority over the undertaking once it is authorized, and who has the legal and financial authority to commit DON to agreements undertaken in compliance with cultural resources laws and regulations.
RESPONSIBILITIES

1. The Assistant Secretary of the Navy (Energy, Installations and Environment) will:
   a. Serve as the DON Senior Policy Official (SPO);
   b. Provide policy direction and oversight for DON cultural resources programs, the DON FPO, and the Principal Technical Advisors; and
   c. Serve as proponent for DON cultural programs.

2. The DON FPO will:
   a. Convene and chair a standing DON Historic Preservation Board representing Navy and Marine Corps offices with cultural resources responsibilities. This Board will meet as needed to consider common problems, seek to avoid duplication of effort, and identify measures to improve DON's management of its cultural resources;
   b. At his or her discretion, designate deputy FPOs if desired for more effective management of the cultural resources program. The DON FPO may delegate any of the FPO's authority or responsibilities that are not fixed elsewhere by law, regulation or policy to Deputy FPOs;
   c. Develop DON cultural resources policy consistent with cultural resources legislation and DON operations;
   d. Provide guidance on implementation of cultural resources policy and advise all levels of the DON regarding compliance with cultural resources legislation and its applicability to DON programs;
   e. Monitor DON compliance with cultural resources legislation;
   f. Direct DON cultural resources awareness and training programs;
   g. Coordinate policy and procedures for complying with reference (o) as it relates to cultural resources;
h. Maintain liaison with the Office of Legislative Affairs (OLA) to coordinate with Congress concerning legislative initiatives that may affect DON cultural resources policy;

i. Maintain liaison and encourage cultural resources program cooperation with other DON agencies whose missions involve Navy and Marine Corps history or heritage;

j. Represent DON interests on DoD and inter-service bodies that may affect cultural resources;

k. Be the DON point-of-contact to represent Navy and Marine Corps interests in cultural resource matters with the Department of the Interior, the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, other Department of Defense components, Federal and State agencies, Native American groups, and private preservation interest groups, as appropriate;

l. Have exclusive signature authority for nominations to the National Register, and for terminations of consultation IAW reference (a), on behalf of the Secretary of the Navy.

m. Have exclusive authority to exempt an installation commander from the requirement to prepare ICRMPs, where appropriate;

n. Represent the Secretary in cultural resource compliance agreements among the DON, States, Federal agencies, Indian tribes, NHOs, and Alaska Natives. This authority is delegated to the Chief of Naval Operations and Commandant of the Marine Corps, and may be further delegated to undertaking proponents, commanders, and commanding officers as required. Undertaking proponents, commanders or commanding officers contemplating agreements of service-wide or nationwide scope will keep the DON FPO informed on the progress of consultation;

o. Provide leadership and direction to DON cultural resources programs at all levels of command;

p. Actively encourage full and appropriate use and treatment of DON's cultural resources;

q. Serve as the department's Federal Land Manager for purposes of reference (g) and issue archaeological permits IAW
references (g), (h) and (s). These responsibilities are delegated to the Chief of Naval Operations and the Commandant of the Marine Corps, and may be further delegated to commanders or commanding officers as required;

r. Periodically review the cultural resources program with the ASN (EI&E) or designee and the DON Historic Preservation Board.

3. The Chief of Naval Operations and the Commandant of the Marine Corps will:

   a. Be responsible for compliance with cultural resources legal and policy requirements within their respective services, and issue specific instructions and orders to implement cultural resources programs;

   b. Designate a cultural resources professional to coordinate their respective cultural resources programs;

   c. Ensure that resources are programmed and budgeted for qualified personnel, surveys, plans and other requirements for proper management and statutory compliance;

   d. Provide cultural resources awareness and/or technical training for all levels of command;

   e. Maintain current information about cultural resources under their control or affected by their undertakings;

   f. Ensure that, prior to acquiring, constructing or leasing buildings for purposes of carrying out DON responsibilities, historic properties available to the DON are used to the maximum extent feasible;

   g. Provide, maintain and develop qualified cultural resources managers at all appropriate levels of command;

   h. Engage in joint planning and coordination of cultural resource matters that affect components of both the Navy and the Marine Corps;

   i. Enter into cooperative agreements for the curation of archaeological artifacts, consistent with guidance from the Department of Defense; and
j. Administer the issuance of archaeological permits under reference (g) and delegate authority to issue such permits as appropriate.

k. For commands in a foreign country consider the host country’s cultural resources regulations, section 307101(e) (previously referred to as Section 402) of reference (b), international agreements, Final Governing Standards or Overseas Environmental Baseline Guidance Document requirements, Admiralty Law and status of forces agreements.

4. **Commander, Navy Installations Command, Marine Corps Installations Command, and their associated Regions will:**

   a. Ensure installations under their command comply with cultural resources legal and policy requirements;

   b. Ensure that resources are programmed and budgeted for qualified personnel, and cultural resources surveys, plans and other requirements;

   c. Ensure cultural resources professionals at installations under their command have proper training to ensure compliance with legal and policy requirements;

   d. Participate in installation cultural resources consultations, as appropriate.

5. The principal technical advisors for the DON are: Commander, Naval Facilities Engineering Command and Commander, Marine Corps Installations Command for matters related to historic buildings, structures, sites, districts, Indian tribes, NHOs, Alaska Natives and terrestrial archaeology; Director, Naval History and Heritage Command, for matters related to historic naval vessels and aircraft, shipwrecks and aircraft wrecks (including issuance of permits under reference (r) and associated coordination) underwater archaeology, and Navy archives; and Director, Marine Corps History and Museums Division for matters related to historic Marine Corps aircraft and other vehicles, and Marine Corps archives. They will:

   a. Support the DON FPO and the DON Cultural Resources Program as required;
b. Maintain technical currency through training and assignments in the management and protection of the resources for which they are the advisors;

c. Provide technical advice to commanders, commanding officers and Cultural Resources Managers at all levels of command as required;

d. Assist CNO and CMC in data management and reporting as appropriate; and

e. Participate in the proceedings of the DON Historic Preservation Board.

6. The General Counsel and Judge Advocate General will provide legal advice and counsel as appropriate.

7. Commanders and commanding officers responsible for cultural resources will:

a. Ensure cost-effective stewardship of cultural resources under their control. Commanders and commanding officers may arrange for other commands or organizations to perform particular cultural resources tasks but retain ultimate responsibility for successful compliance, except to the extent relieved from such responsibility by higher authority;

b. Prepare, maintain and execute installation-specific ICRMPs IAW reference (h) and applicable DON planning guidelines;

c. Plan, program and budget for compliance with cultural resources requirements;

d. Issue archaeological permits as per reference (g), if delegated the authority to do so, prior to excavation of sites or removal of artifacts; and

e. Consult with cultural resources stakeholders as appropriate, in coordination with the cultural resource manager.

8. Undertaking proponents will:

a. Plan, program and budget for compliance with required cultural resources legislation in project development for undertakings;
b. Comply with cultural resources planning and consultation requirements when executing undertakings. In coordination with the appropriate land-owning commander, undertaking proponents may arrange for other commands or organizations to perform particular cultural resources tasks but retain ultimate responsibility for successful compliance, except to the extent relieved from such responsibility by higher authority.

9. Cultural Resources Managers will:

a. Provide sound professional advice to DON decision makers and associated staff on compliance, stewardship, and best practices for cultural resources;

b. Maintain training and awareness of cultural resources requirements, professional practices, and management strategies;

c. Locate, inventory, evaluate and recommend preservation measures for historic buildings, structures, districts, archaeological sites, ships, aircraft and other cultural resources IAW reference (b) and DON policy;

d. Prepare or supervise the preparation of installation-specific ICRMPs IAW reference (h) and applicable DON planning guidelines;

e. Manage cultural resources and the cultural resources program consistent with professional standards gained through cultural resources training, and provide technical oversight for contractors engaged in cultural resources activities on behalf of DON;

f. Formulate preservation alternatives for consideration when cultural resources are proposed for demolition, deactivation, reactivation, rehabilitation, transfer or disposal;

g. Perform timely consultation and compliance with reference (a) whenever a DON funded, licensed, permitted or assisted undertaking may affect historic properties;

h. Disseminate technical guidance regarding maintenance, storage and protection of cultural resources and proper procedures for interagency consultation;
i. Maintain cultural resource records, with data retrieval capabilities, to assure that accurate information regarding DON cultural resources can be provided to Congress, the DON FPO and other interested parties when required;

j. Submit National Register nominations, as appropriate, through the chain of command for final review by the DON FPO; and

k. Provide copies of executed compliance agreement documents and implemented ICRMPs to the DON FPO, or to a repository designated by the DON FPO.