

## CHAPTER 23

### CULTURAL RESOURCES MANAGEMENT

#### 23-1 Scope

**23-1.1 General.** This chapter states Navy policy regarding the management of cultural resources and establishes Navy responsibilities under pertinent legislation. It conforms with reference (a), which provides policy and assigns responsibilities for the management of cultural resources under DON control.

**23-1.2 Applicability.** Cultural resources management requirements apply to all properties under the control of the Navy by ownership, lease, or similar instrument that are located in the United States, the District of Columbia, and the commonwealths, territories and possessions of the U.S. (reference (b)). Waters contiguous to land areas may contain archaeological resources and historic Navy properties or may be significant due to a historic event; therefore, this instruction applies to land and water areas under direct control of the Navy and to submerged historic properties owned by the Navy, and to undertakings financed by Navy funds regardless of whose land they affect. Activities in foreign countries shall manage their cultural resources per Chapter 18 and §23-6.7, below.

**23-1.3 References.** Relevant references are:

- a. SECNAVINST 4000.35A, Department of the Navy Cultural Resources Program (NOTAL);
- b. 36 CFR 800, Protection of Historic Properties;
- c. 32 CFR 229, Protection of Archaeological Resources: Uniform Regulations (DOD);
- d. 63 Federal Register 20496, The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act;
- e. 43 CFR 10, Native American Graves Protection and Repatriation Act Regulations;
- f. 36 CFR 79, Curation of Federally owned and Administered Archaeological Collections;
- g. OPNAVINST 5750.12H, Command Histories.
- h. DOD Instruction 4715.3 of 3 May 1996, Environmental Conservation Program (NOTAL).

#### 23-2 Legislation

**23-2.1 American Indian Religious Freedom Act (AIRFA).** Requires Federal agencies to consult with native traditional religious leaders and to consider, but not necessarily defer to, Native American religious values. Agencies should permit access to religious sites, when possible.

**23-2.2 Antiquities Act of 1906.** Requires the issuance of permits for study, removal, or excavation of any ruins, sites, structures, or objects of historical or scientific interest.

**23-2.3 Archeological Resources Protection Act (ARPA).** Requires the issuance of permits for authorized professional excavation or removal of archaeological resources. ARPA also imposes civil and criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources or attempts to perform such unauthorized acts. Additional requirements include scheduling Phase 1 archaeological surveys on 100 percent of Class I property to identify resources and scheduling Phase 2 investigations of resources with most scientific value. ARPA also requires Federal agencies to create public awareness programs promoting resource protection. See reference (c).

**23-2.4 National Historic Preservation Act (NHPA).** Established the National Register of Historic Places (National Register) and the Advisory Council on Historic Preservation (Advisory Council). Additionally, requires each Federal agency to designate a qualified Federal Preservation Officer who will coordinate that agency's activities under this Act. Section 106 of the Act requires Federal agencies to take into account the effects of their undertakings on historic properties. Federal agencies must also allow the Advisory Council an opportunity to comment whenever agency undertakings may affect historic properties or resources that are eligible for listing on the National Register. See reference (b). Section 110 of the Act requires Federal agencies to identify, evaluate, inventory, and protect historic properties (or resources that are eligible for listing on the National Register) on properties that they control. NHPA imposes no absolute preservation requirement, as long as the Navy follows and documents mandated procedures for any Navy decision regarding undertakings that affect cultural resources. See reference (d).

**23-2.4.1 The National Register of Historic Places.** NHPA authorizes the Secretary of the Interior to maintain a National Register that lists sites, districts, buildings, structures, and objects of significance in American history, architecture, archaeology, engineering, and culture. Historic properties may be of local, State, or national significance. The purpose of the National Register is to aid Federal agencies in project planning. Each Federal agency is authorized to include preservation costs of historic property as eligible project costs for all undertakings.

**23-2.5 Native American Graves Protection and Repatriation Act (NAGPRA).** Requires each Federal agency to summarize and inventory Native American cultural items in their collections; to identify lineal descendants and culturally affiliated Federally-recognized Indian tribes and Native Hawaiian organizations; and to repatriate the cultural items in consultation with the specified groups. Section 3 requires notification of and consultation with lineal descendants, Federally-recognized tribes and Native Hawaiian organizations prior to the intentional excavation of NAGPRA cultural items from archaeological sites or in case of their inadvertent discovery. See reference (e).

### **23-3 Terms and Definitions**

**23-3.1 Advisory Council on Historic Preservation.** An independent Federal agency charged with advising the President, Congress, and Federal agencies regarding the protection of historic properties. Plays a key role in the Section 106 review process.

**23-3.2 Archeological Resources.** Material remains of past human life that are capable of contributing to scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques. To qualify as "archaeological resources" under ARPA, the remains have to be at least 100 years old. Archaeological remains less than 100 years old may be eligible for listing in the National Register, and if so would be National Register resources for which NHPA compliance is required.

**23-3.3 Archaeological Survey.** Archaeological survey is the process of using explicitly specified methods to prospect for archaeological sites. Appropriate survey methods vary widely for different environments and archaeological resource types. The SHPO/THPO and other interested parties should be consulted about methods. When possible and appropriate, surveys should include National Register evaluation of the sites found.

**23-3.4 Architectural Survey.** A survey to determine which real properties, sites, buildings, structures, works of engineering, industrial facilities, fortifications, and landscapes, are eligible for the National Register of Historic Places.

**23-3.5 Cultural Resources.** A generic term commonly used to include buildings, structures, districts, archaeological sites, historic landscapes, cemeteries, Traditional Cultural Places, Indian sacred sites, and objects of significance in history, architecture, archaeology, engineering or culture. The term also includes associated documents and records.

**23-3.6 Cultural Resources Manager.** A staff person not necessarily qualified as a cultural resources professional who performs routine cultural resources compliance functions (often as a collateral duty), and contracts out for professional expertise as needed for specific projects.

**23-3.7 Cultural Resources Professional.** A person who meets the professional standards and qualifications established by the Secretary of the Interior in the fields of anthropology, archaeology, architecture, preservation architecture, architectural history, historic architecture, history, or preservation planning.

**23-3.8 Heritage Assets.** A category of Plant, Property, and Equipment (PP&E) items that are unique due to historical or natural significance, cultural, educational or artistic importance, or significant architectural characteristics. Heritage Assets include, but are not limited to, National Register listed or eligible buildings and structures, archaeological sites, and archaeological collections.

**23-3.9 Indian Tribe.** Any Tribe, band, nation, or other organized group or community, including any Alaska native village that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**23-3.10 Memorandum of Agreement (MOA).** Written product of Section 106 consultation, signed by the Navy, the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Office (THPO), other interested Federally-recognized Indian tribes, other interested groups and individuals, and under certain circumstances the Advisory Council, specifying how an undertaking will be carried out so as to avoid, minimize, or mitigate adverse effects.

**23-3.11 National Historic Landmark.** A historic property designated by the Secretary of the Interior as having exceptional significance in the nation's history and which is subject to the most stringent preservation requirements.

**23-3.12 Historic property.** Broad concept that includes all resources that meet National Register significance criteria, even if the resources have not yet been formally listed, identified or acknowledged as significant. National Register regulations set the criteria for definition of a historic property.

**23-3.13 Native Hawaiian.** Any descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

**23-3.14 Programmatic Agreement.** A legally binding agreement among the Navy; SHPO; THPO; culturally affiliated, Federally-recognized Indian tribes; other interested groups and individuals; and under some circumstances the Advisory Council; that streamlines Section 106 consultation requirements and stipulates how an entire program or class of undertakings repetitive in nature or similar in effect will be carried out so as to avoid, minimize, or mitigate adverse effects.

**23-3.15 Recordation.** Measured drawings, photographs and other techniques permanently recording historic properties that must be destroyed or substantially altered. Recordation normally must meet the standards of the Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER), as administered by the appropriate regional office of the National Park Service. Consultation may result in the use of other standards in lieu of HABS/HAER.

**23-3.16 State Historic Preservation Officer (SHPO).** Official appointed by the governor of each State and territory, responsible for administering cultural resources programs within a given jurisdiction. Plays a key role in the Section 106 review process. SHPO may assist the Navy in other cultural resource matters as well.

**23-3.17 Tribal Historic Preservation Officer (THPO).** Tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands. In this document, THPO also refers to the tribal official designated to represent the tribe in cultural resources consultation when the tribe has not assumed the duties of the SHPO; in the latter case, the tribal official has to be consulted in addition to (not in lieu of) the SHPO.

**23-3.18 Undertaking.** A 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 pursuant to a delegation or approval by a Federal agency. Undertakings that may affect historic properties are subject to NHPA Section 106 review.

**23-3.19 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 the Navy to agreements undertaken in compliance with cultural resources laws and regulations.

## **23-4 Requirements**

**23-4.1 Advisory Council Process; NHPA Section 106.** The following description of the Section 106 process is for information only. Refer to reference (b) for detailed instructions.

**23-4.1.1 General.** Prior to the approval of the expenditure of any Federal funds for an undertaking that may affect a National Register resource, the agency shall determine whether the proposed action is an undertaking as defined above, and whether it is the type of activity with potential to cause effects to National Register resources. If the action is determined to be the type of activity with potential to cause

effects, the agency shall initiate consultation appropriate to the scale of the undertaking with the State Historic Preservation Officer, Tribal Historic Preservation Officer if appropriate, other consulting parties, interested groups and individuals, and in certain circumstances the Advisory Council.

**23-4.1.2 Determination of No Adverse Effect.** The Federal agency, in consultation with the SHPO, may propose a finding of "no adverse effect" when the effects do not directly or indirectly alter any of the qualifying characteristics of the National Register resources, or by modifying the project, or by imposing certain conditions upon the project. The agency may proceed with the undertaking if the SHPO agrees with the finding or if the SHPO fails to object within 30 days from receipt of the finding. In the case of an NHL, if the "no adverse effect" determination is reached by resolution of potential effects by project modification or imposing certain conditions upon the project, the agency must request the Advisory Council to participate in any consultation to reach the resolution.

**23-4.1.3 Determination of Adverse Effect.** If the agency reaches an "adverse effect" determination, the agency shall consult with the SHPO and other consulting parties, interested groups and individuals to develop alternatives or modifications to the undertaking to avoid, minimize or mitigate adverse effects. The agency must notify the Advisory Council of an "adverse effect" finding.

**23-4.1.4 Failure to Agree.** After consulting to resolve adverse effects, a principle party to the consultation (agency, SHPO or Advisory Council when participating) may determine that further consultation will not be productive and terminate consultation. The decision that the Navy will terminate a consultation is reserved to the Secretary of the Navy. On termination, the agency will afford the Advisory Council an opportunity to comment. After taking the Advisory Council's comments into consideration, the Secretary of the Navy may then formally notify the Advisory Council that the undertaking will proceed, in the public interest, without agreement having been reached regarding alternative courses of action or mitigation measures to be taken.

## **23-4.2 Managing historic properties; NHPA Section 110**

**23-4.2.1 General.** Per the NHPA, each Federal agency must establish a preservation program for the identification, evaluation, nomination, and protection of historic properties. Federal agencies shall ensure that such resources are not inadvertently transferred, leased, sold, demolished, substantially altered, or allowed to deteriorate significantly. Agencies shall manage and maintain historic properties in a way that considers the possible preservation of their historic, archaeological, architectural and cultural values, in coordination with Section 106 and other preservation legislation. Agencies shall carry out related activities in consultation with other Federal, State and local agencies, Indian tribes, Native Hawaiian organizations engaged in historic preservation planning, and the private sector. Failure to identify resources that meet National Register criteria does not exempt an agency from any legal responsibilities.

**23-4.2.2 Phased Compliance.** A cultural resources professional will survey all military land holdings to locate historic properties. Phase 1 is a historic structures overview and archaeological survey of an entire installation or complex to delineate probable areas, if any, for the existence of cultural resources. Phase 2, usually carried out as part of Section 106 compliance, consists of detailed surveys to determine National Register eligibility of resources that might be affected by an agency undertaking. Finally, as funds become available, complete detailed National Register nomination forms in coordination with the SHPO, and nominate resources to the Keeper of the National Register (via the appropriate Navy chain of command).

**23-4.2.3 Use of Historic Structures.** Federal agencies will use available historic buildings, when feasible, prior to new construction, lease, or any acquisition of a building for the purpose of carrying out its responsibilities.

### **23-4.3 National Historic Landmarks**

**23-4.3.1 General.** NHPA Section 101(a)(1)(B) provides for inclusion of National Historic Landmarks (NHLs) in the National Register. Section 110(f) affords NHLs more stringent protection than other historic properties. Federal regulations outline procedures for consultation with the SHPO and the Advisory Council, and possible National Park Service (NPS) review, in order to minimize harm to NHLs from Federal agency undertakings.

**23-4.3.2 Monitoring of National Historic Landmarks.** The NPS maintains a continuing relationship with owners of National Historic Landmarks. Agencies will cooperate in periodic visits or contacts with SHPOs and other appropriate means that the NPS uses to compile its annual report to Congress on threats to the integrity of NHLs, to advise agencies concerning accepted preservation standards, and to update administrative records on NHL properties. The Department of the Interior provides an annual report to Congress on damaged or threatened NHLs.

**23-4.3.3 Landmark Designation Actions.** Although property owners and SHPOs may nominate National Historic Landmarks, designation ordinarily occurs after a study by the NPS. Preservation is not absolutely required, as long as mandated procedures are followed and documented in any decision not to preserve.

**23-4.4 Consultation with Native American Tribes.** Navy commands are required to consult with Federally-recognized Indian tribes on a government-to-government basis about their undertakings. In most cases, this requirement also extends to Native Hawaiian organizations. There are three different ways in which consultation may take place. If the tribe has assumed the responsibilities of the SHPO for tribal lands, then the Navy will consult with the tribe's THPO in lieu of the SHPO for undertakings affecting Indian lands. If the tribe has not assumed the duties of the SHPO, then the Navy will consult with both the designated tribal official and the SHPO for undertakings potentially affecting Indian lands. For undertakings that do not affect tribal lands, the Navy will consult with officials of tribes that may have an interest in sacred sites, traditional cultural places, or archaeological resources in the area of the undertaking.

**23-4.5 Archaeological Permits.** Any person proposing to study, remove, and/or excavate archeological resources from Navy lands will request a permit under ARPA and the Antiquities Act. Permit requests must explicitly address and ensure professional curation of all remains, samples, and documentation in accordance with 36 CFR 79 (reference (f)). Commanders and commanding officers, in consultation with affected commands, COMNAVFACENGCOM and concerned Indian Tribes, are delegated the authority to issue permits for archeological work on Navy lands. Regional commanders may align permit-issuing authority in their regions as necessary for greater compliance efficiency.

a. All requests for archeological permits must be reviewed by professional archeologists to ensure that they meet the requirements of ARPA, the uniform regulations at 32 CFR Part 229, and the Antiquities Act. The reviewers must possess the qualifications for professional archeologists described in the proposed Secretary of the Interior Professional Qualifications Standards published at 62 FR 33708-33723. Because the Standards are intended to be minimum requirements, it is expected that the standards will commonly be exceeded, rather than merely met. The reviewers may be Navy employees of the installation, region, or COMNAVFACENGCOM, or they may be contractors providing services to the Navy. The professional archeologist will evaluate the permit application to determine if it meets the requirements of the ARPA Uniform Regulations at 32 CFR 229 Sections 7.6 and 7.8. In deciding whether

to grant a permit, the reviewer will also scrutinize the research design, goals, and methods of the proposed research in light of the Navy's management plan for cultural resources on the property in question. Commanders and commanding officers will be responsible for notifying Indian Tribes of permit applications as required by 32 CFR 229 Section 7.7 and for any related coordination with Indian Tribes required by other laws and regulations.

b. In cases where the Navy contracts with an archaeologist (or a Navy contractor subcontracts with an archaeologist) to perform archaeological work for the Navy, consider a brief compliance statement in the contract or subcontract as the equivalent of a permit. In cases where employees of the Navy perform archaeology on Navy lands, satisfy legal permitting requirements by ensuring that such employees are professionally qualified archaeologists (as defined by current Federal regulations).

**23-4.6 Interagency Exchange of Information.** Every Federal land manager, when requested by State and Federal preservation agencies, is to supply such information as is necessary concerning programs and projects for cultural resources management. Keep records to facilitate responses to such requests for information. Note that ARPA and NHPA mandate caution, and in some cases confidentiality, regarding cultural resources information about archaeological sites.

**23-4.7 Public Exchange of Information.** ARPA and NHPA authorize public officials to withhold disclosure of information from the public regarding the location and character of a historic or archaeological resource if disclosure could mean risk of potential harm to the resource. The Freedom of Information Act (FOIA) Exemption b (3) (NHPA 16 U.S.C. 470w-3) permits the restriction of such information. The release or distribution of precise or exact site location data or information must be limited to the absolute minimum number of individuals who need to know. Access to such information in databases and geographic information systems should be limited to cultural resource managers and professionals and others with a substantial need to know. In the Navy, the Federal Land Manager's authority to determine when potentially sensitive cultural resources information should be disclosed is delegated to local commanders and commanding officers.

**23-4.8 Professional Standards and Qualifications; NHPA Section 112.** Each Federal agency will ensure that all preservation actions meet professional standards in archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Agencies will ensure that agency personnel and contractors responsible for cultural resources meet professional standards and qualifications established by the Secretary of the Interior and professional societies of the disciplines involved.

## **23-5 Navy Policy**

### **23-5.1 Navy Policy is:**

a. Incorporate preservation considerations into routine Navy management of historic buildings, districts, sites, ships, aircraft, and other cultural resources. The Navy shall use preservation-specific materials and techniques to achieve cost-effective cultural resources stewardship.

b. Initiate timely consultation with SHPO/THPOs, the Advisory Council on Historic Preservation, American Indian Tribes, Native Hawaiians, other interested agencies, and the public whenever the DON conducts or supports undertakings that may affect historic properties. The Navy retains ultimate authority over treatment and use of its historic properties.



## **23-5.2 Recordkeeping**

**23-5.2.1 Integrated Cultural Resource Management Plan (ICRMP) Implementation.** An ICRMP is a plan that defines the process for the management of cultural resources on Navy installations. Shore installations shall implement ICRMPs that:

- a. Identify the areas of probability for historic properties, based on overviews and surveys performed by cultural resources professionals.
- b. Contain an inventory and evaluation of installation cultural resources, and/or a strategy for phased inventory and evaluation of unevaluated areas or resources.
- c. Recommend treatment categories and management priorities as appropriate, and describe applicable legal compliance strategies that avoid potential conflicts between Navy mission and preservation considerations.
- d. Recommend compliance actions to be taken if Navy undertakings affect historic properties.

**23-5.2.2 Development of ICRMP.** Shore installations shall:

- a. Develop plans consistent with State and Federal preservation programs, culturally affiliated or interested Indian tribes, and other Navy planning documents and processes. ICRMPs are revised every five years, or more often if required.
- b. Secure endorsement of draft and final ICRMP by the major claimant's environmental office via the chain of command.
- c. After endorsement by the major claimant environmental office, secure at a minimum the signatures of the installation commander and the supporting Engineering Field Division (EFD) on the final ICRMP.
- d. Forward a copy of the finalized signed ICRMP to the major claimant environmental office and to the Deputy Federal Preservation Officer (DFPO) for the Navy at CNO (N46). In addition, provide a copy as an enclosure to the next submission of the installation command history provided in accordance with reference (g).

## **23-5.3 Training**

Commanders and commanding officers with cultural resources compliance responsibilities shall ensure every person preparing, implementing, supervising, and managing cultural and historic resource programs receives comprehensive cultural resources training specific to his or her job assignment as outlined in the Navy Training Plan and Chapter 24 of this instruction, and is familiar with the provisions of this chapter.

## **23-6 Responsibilities**

**23-6.1 Deputy Chief of Naval Operations (DCNO) (Logistics) (N4) shall:**

- a. Provide guidance for cultural resources programs at Navy shore installations, historic ships in the inactive fleet, and cultural resources aspects of Navy environmental programs (reference (h)). As resource sponsor, the DCNO (Logistics) provides fiscal support for qualified cultural resources staffing, training, surveys, plans, and other management requirements to achieve compliance with applicable statutes, regulations, and instructions.
- b. Establish a Navy-wide cultural resource management program.
- c. Designate a qualified staff person to oversee and coordinate the Navy's cultural resources programs. This person will serve as the Deputy Federal Preservation Officer (Deputy FPO) for the Navy if so appointed by the DON Federal Preservation Officer (DON FPO).
- d. Identify Navy-wide priorities for cultural resources surveys and other stewardship actions so as to achieve compatibility with Navy missions and budgets.
- e. Provide guidance on implementation of cultural resources policy and advise all levels of command regarding compliance with cultural resources legislation, regulations, and professional standards.
- f. Review interagency cultural resources compliance agreements and National Register nominations, as recommended by subordinate commands, and prepare nominations for DON FPO signature.
- g. Coordinate interagency consultation concerning cultural resources and Indian tribes at shore installations, in the inactive fleet, underwater, or affected by Navy programs.
- h. Ensure full coordination with Marine Corps and other military services to avoid duplication of effort.
- i. Coordinate response(s) to Congressional inquiries and requests for cultural resources information from Federal, State or private interests.

**23-6.2 COMNAVFACENGCOM shall:**

- a. Act as principal advisor for the Navy in matters related to historic buildings, structures (except ships, shipwrecks, and aircraft), sites, districts, terrestrial archaeological sites, Traditional Cultural Properties, Indian sacred sites, disposition of archaeological collections, and other cultural resources.
- b. Designate and train cultural resources professional staff at headquarters and field activities to perform cultural resources management functions.
- c. Maintain a list of the Navy's historic properties.
- d. Provide technical assistance to identify, evaluate, inventory, nominate, plan, maintain, and protect cultural resources under Navy control.
- e. Cooperate with SHPOs and other preservation officials in their regions so as to expedite Navy projects and programs affecting cultural resources.

- f. Assist installations in negotiating MOAs and Programmatic Agreements that protect, preserve, and manage cultural resources and facilitate Navy projects and programs.
- g. Provide technical and legal support in resolving questions related to cultural resource management legal requirements, as requested.
- h. Provide preservation training opportunities and guidance concerning appropriate cultural resource management procedures, techniques and material.

**23-6.3 COMNAVSEASYSKOM shall:**

- a. Manage certain shore installations, historic ships afloat, and historic ships in the inactive fleet, and coordinate with other commands.
- b. Fully comply with the NHPA and other legislation applicable to stewardship of cultural resources under COMNAVSEASYSKOM control.
- c. Coordinate with the Naval Historical Center for the protection, preservation, and management of historic ships afloat and historic ships in the inactive fleet and other historic artifacts under COMNAVSEASYSKOM control.
- d. Designate and train qualified staff responsible for compliance actions regarding cultural resources.

**23-6.4 Regional Commanders shall:**

- a. Coordinate among subordinate and tenant activities to achieve maximum efficiency regarding compliance with cultural resources management requirements within the region. This includes developing and implementing regional ICRMPs and compliance agreements when appropriate.
- b. Fulfill those requirements of paragraph 23-6.8 that for particular installations have been consolidated to the regional commander.

**23-6.5 Major claimants, through subordinate commands, as applicable, shall:**

- a. Program, budget, and allocate funds for qualified staffing, training, surveys, plans, and studies to facilitate the identification, evaluation, inventory, planning, maintenance, and protection of historic properties and other cultural resources at installations under their cognizance.
- b. Revise instructions and other appropriate documents, if necessary, to reflect requirements of this chapter.
- c. Ensure subordinate commands and shore installations, as applicable, designate and train a cultural resources manager responsible for compliance with applicable cultural resources laws, regulations and policy.

- d. Cooperate with regional commanders on developing regional approaches to cultural resources compliance, including regional ICRMPs and compliance agreements when appropriate.

**23-6.6 Director, Naval Historical Center shall:**

- a. Act as principal advisor for the Navy in matters related to historic naval ships, shipwrecks, and aircraft.
- b. Designate a qualified professional to oversee and coordinate the Navy's cultural resources programs related to historic ships, shipwrecks, and aircraft.
- c. Designate and train qualified staff responsible for compliance actions regarding cultural resources.
- d. Identify priorities for historic ship and aircraft surveys, inventories, and other stewardship actions so as to achieve compatibility with missions and budgets.
- e. Advise all levels of commands having historic ships and aircraft regarding compliance with cultural resources legislation, regulations, and professional standards.
- f. Review interagency compliance agreements and National Register nominations of historic ships, shipwrecks, and aircraft as recommended by subordinate commands, and prepare nominations for DON FPO signature.
- g. Negotiate MOAs and Programmatic Agreements that protect, preserve, and manage naval shipwrecks and aircraft wrecks as historic properties or archaeological resources.
- h. Process applications for and issue research permits for the professional study and excavation of Navy ship and aircraft wrecks in compliance with 32 CFR 767.

**23.6-7 Undertaking proponents shall:**

- a. Plan, program, and budget for adequate compliance with cultural resources management legislation in project development for undertakings.
- b. Coordinate as required with other commands and organizations to perform particular cultural resources management activities associated with their undertakings.

**23-6.8 Commanding officers of shore installations shall:**

- a. Program and budget for adequate compliance with cultural resources management legislation that applies to resources under their control.
- b. When warranted by the existence of cultural resources, designate and train a staff person to serve as cultural resources manager.
- c. Provide cultural resources training to all staff persons who deal with cultural resources.
- d. Provide for the professional identification, evaluation, inventory, nomination, and protection of resources under their control that appear to be eligible for the National Register.

- e. Follow all legally mandated procedures if historic properties under their control are to be transferred, leased, sold, demolished, or substantially altered.
- f. Develop, implement, and integrate an ICRMP plan with other planning documents and routine procedures applicable to activity projects and programs.
- g. Consult with the SHPO and other consulting parties, interested groups and individuals when undertakings are the type of activity that has the potential to cause effects on historic properties, and when required enter into agreements regarding resolution of adverse effects.
- h. Consult with Native American tribes prior to any Navy action that may impact Native American interests as defined by applicable laws and regulations, including NAGPRA's planned excavation and inadvertent discovery provisions.
- i. Ensure that inadvertently discovered archaeological resources are protected at the site of discovery. Within 24 hours of discovery, notify the cognizant COMNAVFACENGCOM Cultural Resource Professional for appropriate action and simultaneously notify the Deputy FPO for the Navy.
- j. Use historic buildings when available and practical instead of new acquisition(s), construction, or leasing to satisfy mission requirements.
- k. Process applications for and issue ARPA permits authorizing professional excavation and removal of archaeological resources, as appropriate.
- l. Provide for storage and professional curation of archaeological collections, including samples and associated records.
- m. Provide for storage of records that might accrue in carrying out legal compliance actions.
- n. Determine whether to disclose potentially sensitive cultural resources information that may be protected from release under ARPA and NHPA. (see Section 23-4.7).

**23-6.9 OCONUS Navy commands, installations and other components shall:**

- a. Take into account the effect of any Federal undertaking outside the United States that may directly or adversely affect a property that is on the World Heritage List or on the applicable country's equivalent of the National Register.
- b. Take into account applicable provisions of status of forces agreements, international agreements, and Admiralty law.