

## AGENDA FOR INLAND AREA COMMITTEE MEETING

May 3, 2016

Rehoboth Beach, DE

8:30-8:40 (10 min) (Rich Fetzer) Welcome, Opening Remarks, and Introductions

8:40-9:15 (35 min) (Rich Fetzer) Status of Inland Area Contingency Plan (IACP) and Annual Review Process

Vol	Sub-Area	Lead OSC	Status
1	Region III	Fetzer/?	Promulgated 4/28/2014
2	Washington DC Extended	Fitzsimmons	Promulgated 4/28/2014
3	Southeast PA/DE	Towle	Promulgated 12/23/2014
4	Northeast PA	Ventura	Promulgated 4/28/2014
5	Southcentral PA	Ham	Promulgated 9/3/2014
6	Northcentral PA	DiDonato	Revisions to Marcellus Shale Section
7	Southwest PA/Wheeling WV	Lindsey	Promulgated 4/28/2014
8	Northwest PA	Zenone	Promulgated 12/23/2014
9	Huntingdon/Central WV	Matlock	Promulgated 3/17/2015
10	Shenandoah Valley	McLaughlin	Promulgated 9/3/2014 – briefly reviewed; no changes at this time; TDD for future detailed review.
11	Upper Chesapeake	Dennis	Promulgated 9/3/2014
12	Southeast VA	Wagner	In Progress
13	Southcentral VA	Bartos	Promulgated 2/29/2016
14	Northcentral VA	Sharma	Promulgated 9/3/2014 – under review; targeted to be completed by 5/31/16
15	Southwest VA/WV	Wenning	Promulgated 3/17/2015 – under review; targeted to be completed by 5/25/16

- Details on the Update Process (*see handout*)
- All Volumes except for 6, 12, and 13 were reviewed this year
- Review process began March 7, 2016.
- Requesting IAC member review and comments by May 20, 2016 before submitting significant changes for promulgation (specifically the following):
  - Volume I – Section 1.6 – Updating
  - Volume I – Multiple Sections – Consultation
  - Volume I – Sections 1.7, 1.9.2.7, 2.2.7.4, and 3D – the addition of VA Federally Recognized Tribe (Pamunkey)

9:15-9:30 (15 min) (Debbie Scholz) Changes to Consultation as Presented in Volume I

9:30-9:45 (15 min) (Debbie Scholz/Lindy Nelson) Addition of Federally Recognized Tribe (Virginia – Pamunkey Tribe)

9:45-10:00 (15 min) Break

10:00-11:00 (60 min) (Debbie Lindsey/Rich Fetzer) After Action Report for November 2015 IACP TTX

11:00-11:30 (30 min) (Rich Fetzer & FOSCs) FOSC Sub-Area Report Outs

11:30-12:00 (30 min) (Rich Fetzer & Billy Martin) Terra Clean Product Update and Addressing the Use of Regulated Products without OSC Approval

# **IACP Update Process**

## **1.6 UPDATING**

Section 311(j)(4)(C)(viii) of CWA requires that the IACP be updated periodically by the Area Committee. The IACP update process will include an annual review of all 15 volumes of this plan. The update portion of the review process will be handled on a scheduled basis dependent upon on the update needs identified during the review (e.g., easy updates will be incorporated immediately; while other, more complicated changes, may take several months to incorporate). Updates to the IACP hardcopies, electronic versions, and GIS data layers stored on the Region 3 OSC Dashboard, will be accessible by FOSCs, federal, state/commonwealth, and local agencies, industrial/trustee partners, and public users based on their respective security clearances.

It is anticipated that the users will continually provide feedback to update the plan as new information becomes available. An on-going process for this continual update will be established by the Region III Inland Area Committee.

Response equipment, notifications list, environmentally or economically sensitive area listings, and other data prepared by participants in the Region III sub-area contingency planning process may be updated more frequently at the discretion of the Sub-Area Committee or as policy changes require.

### **1.6.1 Time Line**

The typical timeline for the annual update process will occur as follows:

- Begin review process Feb 1;
- Complete by April 30;
- Distribute significant updates/changes to IAC members for review;
- Approvals completed by the May RRT-IAC meeting; and
- Updates promulgate significant changes.

Should the review process identify no significant changes to any or some of the volumes, the review will still be documented as described in subsection 1.6.4.

### **1.6.2 Checklist of Required Annual Review/Updates**

The following items will be reviewed annually for all 15 volumes of the IACP:

- Check all hyperlinks (in text and fact sheets); correct as necessary.
- Verify points of contact (POCs) information in both the text and fact sheets is current (POCs, phone numbers, addresses, facilities, etc.). Try to avoid duplication by removing any contact names listed in the text that are provided in the fact sheet (verify with OSC before removing POCs in text).
- Incorporate new points of contacts (e.g., new tribal THPOs) as identified during the year.

## **IACP Update Process**

- Verify figures for any changes to area of responsibility.
- Sub-Area specific documented sections (i.e., booming strategies, worst case scenarios, etc.).
- Check census information in SACPs against the census website to make sure we have the most current numbers (<http://quickfacts.census.gov/qfd/index.html>); update as necessary.
- Verify changes to SACPs against information provided in Volume I to avoid inconsistencies in information provided.
- Verify no sensitive information is included in the public copies of the volumes (hardcopy or electronic).

### **1.6.3 Specifically Targeted Update Topics**

Specifically targeted update topics would come from current hot topics being discussed by the RRT, deficiencies identified during a response effort or a training exercise, and new or modified regulations requiring a review of existing planning procedures. Examples include (but are not limited to):

- Addressing consultation process at all levels of response.
- Product use preauthorization.
- USEPA Region 3 OSC Planning Dashboard (Webpage changes or updates)

### **1.6.4 Document Control (Review/Updates)**

As briefly discussed in subsection 1.6.1, the review process will occur annually and will be documented on the Document Control Sheet regardless if any changes or updates are made to the document.

Document Control Sheets will be located after the promulgation page at the beginning of each volume. Volume I will contain the Document Control Sheets for all volumes of the IACP. Each SACP Volume will contain a copy of the Document Control Sheet for Volume I and the respective Sub-Area.

The following information will be recorded on the Document Control Sheets:

- Review Date,
- Revision Date (if applicable),
- The reason for the review or revisions, and
- Names of document reviewers (typically Sub-Area FOSCs).

<p><b>NOTE: All other SACP Volumes</b> will need to update their SACP update process language to correspond, or refer back to Volume I of the IACP for the revised language.</p>
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**Document Control Page**

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<b>Document Review/Change History</b>			
<b>Volume I – Region III – Inland Area Contingency Plan, Introduction (Federal and State/Commonwealth Response for USEPA Region III)</b>			
<i>Promulgation Date:</i>			
<b>Review Date</b>	<b>Revision Date</b>	<b>Outcome of Review / Nature of Revision</b>	<b>Document Reviewers</b>

**NOTE: All other SACP Volumes** will have a similar Document Control Pages for their respective SACP volumes.



## DATE

Dear **[Tribal Representative – ATTENTION HISTORIC PRESERVATION]**,

As the lead federal agencies under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), the U.S. Coast Guard (USCG) and the U.S. Environmental Protection Agency (EPA) work with partner agencies and stakeholders to continuously improve oil spill and hazardous substance release contingency planning in the region. The Region 3 Regional Response Team (RRT 3), which is co-chaired by USCG and EPA, conducts pre-planning for oil spills and hazardous materials and provides support to on-scene coordinators during incidents. We recognize the need to better integrate interests of federally recognized tribes into our contingency planning process, including those that have historic presence in the region.

We are writing to request your response to provide information on your tribal interests and resources to improve our plans and emergency consultation process for incidents where a release of oil, hazardous substances, pollutants, or contaminants to the environment requires response actions that have the potential to affect your tribe's interests or resources. In the event of a release of one of these federally regulated products into the environment, the NCP designates a USCG Federal On-Scene Coordinator (FOSC) in the coastal zone or EPA On-Scene Coordinator (OSC) in the inland zone as the Federal Authorized Official. The USCG FOSC or EPA OSC is the individual that would engage in government-to-government consultation with a tribe, as required by Executive Order 13175, in the event of an incident that could impact tribal resources.

*Under the NCP, EPA's pre-designated OSCs are the federal officials responsible for monitoring or directing responses to all oil spills and hazardous substance releases reported to the federal government for spills and releases to inland areas and waters. For more information on this role of the EPA, go to: <http://www2.epa.gov/emergency-response>*

*Under the NCP, USCG Captain-of-the-Ports are the pre-designated FOSC for oil and hazardous substance incidents in all coastal and some inland areas. The FOSC is the President's designated on-scene representative and, as such, is responsible for coordinating effective response operations among a diverse group of government and commercial entities in emotion-charged and often dangerous emergency situations. For more information on this role of the USCG, go to: <http://www.uscg.mil/top/missions/MaritimeStewardship.asp>*

RRT 3, led by EPA and Coast Guard, coordinates oil spill and hazmat planning and preparedness under the NCP in the Mid-Atlantic region of the United States. EPA Region 3 covers the states of Pennsylvania,

Maryland, Delaware, Virginia, West Virginia and the District of Columbia. These also include USCG Sectors Sector Delaware Bay (which also includes southern New Jersey), Sector Baltimore and Sector Hampton Roads.

We know that we do not currently have the specific knowledge of your tribe's resources in our region, nor do we have your tribe's preferences for emergency consultation outlined in the RRT 3 Regional Contingency Plan. We are requesting your input to address these gaps in our plan. The current RRT 3 Regional Contingency Plan is posted online at the following link:

<http://athena.sraprod.com/production/NRT/RRT3.nsf/AllPages/index.htm>

We are writing to request your response to provide information on: (1) your tribe's geographic areas of interest in our region (at the state, county or other geographic scale); (2) your tribe's preferences for who, how and when to be contacted to initiate emergency consultation with an USCG FOSCs or EPA OSCs in the event of an incident that could impact your tribe's resources; (3) the types of resources and interests your tribe has in the region; and (4) any other information your tribe would like to provide for input into the RRT 3 Regional Contingency Plan.

We have attached a checklist to facilitate an expedited response to provide this information and welcome additional detail and alternative formats for your response. We can use additional detail on your tribal interests in Area and Sub-Area Contingency Plans to address more local geographic areas throughout the region. We are also available to meet over phone, teleconference or webinar to receive your input on these plans and processes.

We request that you send us your response by mail to:

**INSERT ONE MAILING ADDRESS**

For response by email or fax or if you have questions, please contact USCG NAME (PHONE, EMAIL, FAX) or EPA NAME (PHONE, EMAIL, FAX).

Thank you for your attention,

**USCG RRT 3 CO-CHAIR**

**EPA RRT 3 CO-CHAIR**

## Tribal Consultation Preferences for DOI Region III

Name of Tribe: \_\_\_\_\_

Address:

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States with Tribal Interest and/or Resources:

- Pennsylvania
- Delaware
- Maryland
- District of Columbia
- Virginia
- West Virginia
- County-level or other geographic areas of interest included as an attachment
- Please send us invitations to meetings/calls regarding emergency response and recovery planning for the selected states.
- Please inform us if archaeological sites are discovered during projects related to emergency response and recovery for the selected states:
- Please inform us if other items that may be of interest to your tribe if discovered during federal actions related to emergency response or recovery. Please specify these types of tribal resources:
- Please do not include us on emergency response and recovery planning activities in RRT III.

Position and Name of Tribal Point-of-Contact: \_\_\_\_\_

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Phone, fax and/or email: \_\_\_\_\_

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## REGION 3 COMPLIANCE GUIDE FOR NATIONAL HISTORIC PRESERVATION ACT DURING EMERGENCY RESPONSE (ER)

The purpose of this guide is to facilitate implementation of the National Programmatic Agreement (PA) on the Protection of Historic Properties during Emergency Response (ER) Under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

### Section 106 Steps FOSCs Must Take During an ER

1. Determine if the ER is categorically excluded from Section 106. See Attachment 1.
  - If yes, Email/fax Attachment 1 and No Further Action Is Necessary.
2. Notify each state's State Historic Preservation Officers (SHPO)/Tribal Historic Preservation Officer and the National Park Service (NPS) for consultation because of overriding factors to the Exclusions in Step 1, or if the FOSC or THPO/SHPO determine(s) there are historic properties or cultural resources that need to be considered.

Additionally, if a response to Attachment 1 is received from SHPO and potentially-affected resource managers/trustees, proceed to next step

3. In accordance with the PA, activate a qualified Historic Properties Specialist (HPS) and develop protective measures for historic properties or cultural resources if determined by consultation.

See also Attachment 4, HPS Personnel Standards; Attachment 2, which contains a checklist of parties that may need to be notified and consulted with, and actions that may be taken for the purposes of historic property protection in the event of an incident in a non-excluded area; and Attachments 6, 7 and 8 for documentation of response actions that did not affect, did not *adversely* affect, have an adverse affect on historic properties. Please also refer to the PA at Section IV.C. Emergency Response Support/Coordination.

If possible, the consultation process will, if possible, be completed within the operational period that a response strategy is developed (e.g., shoreline treatment recommendation), or prior to the operational period that a strategy will need to be implemented.

4. Notify the SHPO/THPO when the emergency response has formally concluded.

### Important Concepts about Section 106 for the FOSC

- Information on Historic Properties should be included in the applicable section of each Area Contingency Plan (ACP). The ACPs should also identify, prioritize, and develop strategies for Historic/Cultural sites. See also the PA, Section V. Pre-Incident Planning, for additional preparedness needs.
- NHPA Section 106 obligations apply to FOSC response actions and not to impacts caused by the spill or release.



- Historic properties can be adversely<sup>1</sup> impacted by all facets of cleanup and monitoring, such as access, staging, excavation, waste removal and decontamination, deployment and demobilization of equipment,
- The FOSC may have to make an ER decision that adversely affects historic properties and cultural resources. However, the ER decision must be an informed decision and the determination documented in Attachment 8.
- An informed decision is one in which the FOSC has:
  - o Consulted (notified and taken into account professional comments) with SHPO, Federal land-managing agencies, Tribes, native Hawaiian organizations or other interested parties
  - o Determined if the exclusions apply
  - o If activated, consulted with an Historic Properties Specialist
  - o Consulted the GRPs or similar other sensitive environments sources
  - o If ICS is activated, consulted with the Environmental Unit
- Attachment 8 provides the required documentation of actions taken that resulted in unavoidable injury to historic properties or cultural resources to the SHPO for and potentially affected resource trustees.
- The FOSC must conduct formal consultation with SHPO/THPO and other appropriate parties on newly discovered or unanticipated potential historic properties or cultural resources encountered and on adverse impacts due to the response on those properties or resources. This is an inherently governmental responsibility that must be done by the FOSC or his/her representative, which may include the *FOSC's* HPS.
- Consultation with the THPO is not intended to meet government to government consultation required by Executive Order 13175.

### **Determination of factors that may call for the presence of HPS:**

- If a spill or release does not meet the characteristics of an excluded spill or release (Attachment 1.)
- Uncertainty on applicability of the spill categories in Attachment 1. excluded from additional Section 106 NHPA compliance
- SHPO or resource manager/trustee responds to determination (Attachment 1.) that a Historic Property or Cultural Resource is at risk

### **Integrating Section 106 Obligations into ICS**

Not all ERs will require a formal ICS structure. However, the need to recognize the protection of historic properties as a response objective, the development and communication of instructions for operational elements that may impact historic resources, and documentation outlined in the points below, remain.

- The HPS serves in the Environmental Unit as the Historical/Cultural Resources Technical Specialist (see Attachment 2).

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<sup>1</sup> Adverse effects can include destruction, damage, or alteration of the property; or isolation from, alteration of, or introduction of conditions out of character with its setting. See the PA at Section VI.D.1, or 36 CFR 800.5(a)(1).

- In a unified command ICS situation with a PRP-lead cleanup, it is appropriate for the PRP to acquire the HPS. However, it should be clear among the Incident Commanders (ICs) that the relationship of the HPS to the FOOSC is unique among the command staff. The HPS is responsible for helping the FOOSC meet his or her Section 106 legal obligations, which do not apply to the other ICs.
- Include in the Incident Objective (ICS-202) a statement on protection of historic properties or cultural resources as the case may be.
- Provide to the workers any special instructions to ensure protection of historical properties and cultural resources via the Assignment List (ICS -204) for each Branch involved in actions potentially disturbing ground or structures (e.g., On Water Removal, Shore Line Removal, DECON).
- Ensure that information on historic properties/cultural resources are included in the Resources at Risk Summary (ICS 232) prepared by the Environmental Unit.
- Document in the Unit Log (ICS-214) Attachment 6. for “did not affect” historic properties and/or Attachments 7 and 8 for any actions taken could have or did result in adverse impacts to historic properties or cultural resources.

## Provide Documentation of Actions Taken/Adverse Effects

1. Did Not Affect. In accordance with the National Programmatic Agreement, the FOOSC should document actions taken that did not affect Historic Properties (Attachment 6). No further action is needed unless a response back from one of the listed SHPO and potentially-affected resource managers and trustees is received indicating that the spill or release may have the potential to affect a historic property. If a response to Attachment 6. is received indicating that a historic property is at risk, initiate the consultation process (Step 2 of the Guidelines) and activate an HPS. See also Attachment 5, suggested information to be provided to the HPS upon activation.
2. Did Not Adversely Affect. See Attachment 7, for use in documenting situations where historic properties may be present or the exclusions in Attachment 1 did not apply, and the response actions undertaken did not result in an Adverse Effect.
3. Adverse Effect. If there are adverse effects to historic/cultural resources, the determination shall be documented in writing (Attachment 8) and provided to the SHPO and potentially-affected resource managers and trustees.

## Other Relevant Authorities

As with the PA (see Section II.B.), these guidelines do not specifically address the Archaeological Resources Protection Act (ARPA), the Antiquities Act, the National Marine Sanctuaries Act, or the Native American Graves Protection and Repatriation Act (NAGPRA).<sup>2</sup> However, given the importance, please also see, for reference purposes, Appendix 8 for the

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<sup>2</sup> For a comparison of Section 106, NAGPRA, and ARPA, see [www.nps.gov/nagpra/TRAINING/NAGPRA-ARPA-106](http://www.nps.gov/nagpra/TRAINING/NAGPRA-ARPA-106).

NAGPRA process model used for National Park Service lands. In addition, the PA at Section II.C. recognizes the relevance of State policies.

**Attachments:**

Attachment 1 - Spill or Release Categories Excluded from the Historic Preservation Act

Attachment 2 - HPS Checklist of Steps to Assess and Address Potential Affects on Historic Properties/Cultural Resources

Attachment 3 - Notice of Response Personnel of Required Actions After Discovery of Cultural Resources

Attachment 4 - Historic Property Specialists Personnel Standards

Attachment 5 - Information To Be Provided to the HPS Upon Activation

Attachment 6 - Documentation of Actions Taken that Did Not Affect Historic Properties

Attachment 7 - Documentation of Actions Taken that Did Not Result in an Adverse Effect on Historic Properties

Attachment 8 - Documentation of Actions Taken that Adversely Effect Historic Properties or Cultural Resources

Attachment 9 – NAGPRA Process Model



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**ATTACHMENT 1  
SPILLS OR RELEASES EXCLUDED  
FROM ADDITIONAL NHPA SECTION 106 COMPLIANCE**

<p><b>Threatened spills/releases:</b> Response activities related to threatened spills or releases that include the removal of fuel, and which will not include land/submerged land-disturbing activities*.</p>
<p><b>Spills/releases onto (which stay on):</b></p> <ul style="list-style-type: none"><li>• Gravel pads</li><li>• Roads (gavel or paved, not including the undeveloped right-of-way).</li><li>• Parking areas (graded or paved)</li><li>• Dock staging areas less than 50 years old</li><li>• Gravel causeways</li><li>• Artificial gravel islands</li><li>• Drilling mats, pads, and/or berms</li><li>• Airport runways (improved gravel strips and/or paved runways)</li></ul>
<p><b>Spills/releases into (that stay in):</b></p> <ul style="list-style-type: none"><li>• Water bodies where the spill or release: (1) <u>will not</u> reach land/submerged land; and (2) Will not include emergency response activities with land/submerged land-disturbing components</li><li>• Water bodies where the spill or release: (1) <u>will</u> reach land/submerged land; and (2) will not include emergency response activities with land/submerged land-disturbing components.</li><li>• Lined pits (e.g., drilling mud pits and reserve pits).</li><li>• Borrow pits</li><li>• Concrete containment areas.</li><li>• Tidal shorelines exposed to aggressive wave action resulting in erosion and sediment reworking</li><li>• Existing paths, roads, and public use areas that are improved, marked and mapped, or worn bare and have no proscription against walking, providing no soil is disturbed. Excludes concrete containment areas</li></ul>
<p><b>Spills/releases of:</b> Gases (e.g., chlorine gas)</p>

**Overriding Factors:** (1) If you are not sure whether a spill or release fits into one of the categories listed above; (2) if at any time, the specifics of a spill or release change so it no longer fits into one of the categories listed above; (3) if the spill is greater than 100,000 gallons; and/or (4) if the \_\_\_\_\_ State Historic Preservation Officer or the representative of a Federally-recognized tribe notifies you that a categorically-excluded spill or release may have the potential to affect a historic property, then an Historic Properties Specialist needs to be activated in accordance with the Nationwide Programmatic Agreement.<sup>3</sup>

<sup>3</sup> Reference the National Programmatic Agreement Sections VI.A.1 and VI.A.2.

## ATTACHMENT 2

### HISTORIC PROPERTIES SPECIALIST CHECKLIST TO ASSESS AND ADDRESS POTENTIAL AFFECTS ON HISTORIC PROPERTIES/CULTURAL RESOURCES\*<sup>4</sup>

<b>THE FOLLOWING STEPS NEED TO BE TAKEN AS APPROPRIATE BY THE FEDERAL ON-SCENE COORDINATOR'S HISTORIC PROPERTIES SPECIALIST FOLLOWING ACTIVATION:</b>	
<input type="checkbox"/>	Understand and implement the Area Contingency Plan. If the spill/release occurs in an area where Geographic Response Strategies or Plans (GRS or GRP) have been developed, check the historic properties note on the GRS/GRP and discuss appropriate actions with the Federal OSC.
<input type="checkbox"/>	Identify the (1) locations(s) of known historic properties affected or potentially-affected by the spill or release; and/or, (2) potential for undocumented historic properties to be affected or potentially-affected by the spill or release.
<input type="checkbox"/>	<i>Notify/consult with the _____ State Historic Preservation Office.</i>
<input type="checkbox"/>	<i>Notify/consult with the Bureau of Indian Affairs.</i>
<input type="checkbox"/>	<i>Notify/consult with all appropriate Federal, State, local, and/or private landowner(s)</i>
<input type="checkbox"/>	<i>Notify/consult with appropriate Federally-recognized Tribes:</i> <ul style="list-style-type: none"> <li>• _____</li> <li>• _____</li> <li>• _____</li> </ul>
<input type="checkbox"/>	<i>Consult with archaeologists/historians/local residents knowledgeable about the area.</i>
<input type="checkbox"/>	<i>Consult with Responsible Party's Historic Properties Specialist (if identified).</i>
<input type="checkbox"/>	<i>Review (if available) aerial photos or other documentation of the area affected or potentially-affected by the spill or release (this could include digital photographs/videos).</i>
<input type="checkbox"/>	<i>If necessary, conduct on-site inspection to determine presence of historic properties and prioritize.</i>
<input type="checkbox"/>	Document effect of spill or release on historic properties or cultural resources.
<input type="checkbox"/>	Assess whether emergency response strategies have the potential to affect historic properties.
<input type="checkbox"/>	Establish an historic properties policy for all spill-related field personnel.
<input type="checkbox"/>	If ICS is in place, implement policy through the Unified Command (e.g., Federal OSC, Safety Officer, or other appropriate individuals). Provide specific instructions on the ICS -204 to ensure protection of historic properties and cultural resources. Additionally, provide input to the ICS-232 Resources at risk summary on Historic Properties/cultural resources.
<input type="checkbox"/>	Help identify, prioritize, and develop strategies to protect historic properties.
<input type="checkbox"/>	Provide information on response activities that have the potential to negatively affect historic properties.

<sup>4</sup> Reference the National Programmatic Agreement Section III.

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\*It should be noted that additional steps may be required in more complex incident.

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**ATTACHMENT 2, HISTORIC PROPERTIES SPECIALIST  
CHECKLIST, CONT.**

<b>ONE OR MORE OF THE FOLLOWING STEPS NEED TO BE TAKEN AS APPROPRIATE, AT THE RECOMMENDATION OF THE HISTORIC PROPERTIES SPECIALIST FOLLOWING APPROVAL BY THE FEDERAL ON-SCENE COORDINATOR:</b>	
<input type="checkbox"/>	Travel to the spill or release site to inspect or monitor on-site activities to minimize or eliminate potential historic properties impacts resulting from response-related activities.
<input type="checkbox"/>	Provide information on response activities that have the potential to negatively affect historic properties.
<input type="checkbox"/>	Conduct field survey(s) to provide recommendations to the Federal OSC on areas that need protection.
<input type="checkbox"/>	Participate in assessment teams that survey oiled shorelines and adjacent lands.
<input type="checkbox"/>	Create a Historic Properties Technical Advisory Group to review proposed cleanup strategies for shorelines and adjacent lands.
<input type="checkbox"/>	Provide on-site monitoring of cleanup crews.
<input type="checkbox"/>	Conduct archeological and/or historic recovery at an oiled site.
<input type="checkbox"/>	Arrange for appropriate permits.
<input type="checkbox"/>	Arrange for disposition of records and collected materials.
<input type="checkbox"/>	Ensure the confidentiality of site location information for all activities identified above. <sup>5</sup>
<input type="checkbox"/>	Report any actual or suspected artifact theft to the Federal OSC, State Historic Preservation Officer, appropriate law enforcement officials and the landowner and/or land manager.
<input type="checkbox"/>	Ensure compliance with applicable Federal/state regulations.

<sup>5</sup> See PA at section VI.E.4., and the Section 106 regulations at 36 CFR 800.11(c)(1)



## ATTACHMENT 3

### NOTICE TO RESPONSE PERSONNEL REQUIRED ACTIONS AFTER DISCOVERY OF CULTURAL RESOURCES

The Unified Command is required to comply with State and Federal laws that protect cultural resources from injury. The Historic/Cultural Resource Specialist helps the Unified Command and Federal On-Scene Coordinator ensure that cultural resources are appropriately considered during emergency response activities. Response personnel including contractors, sub-contractors, emergency responders, cleanup workers, and field crews play a crucial role in this process since they, by the nature of their work, are the people most likely to encounter cultural resources while in the field.

During an incident response it is possible that you, as a person involved in the response, may discover cultural resources. In the course of your work if you find an item that you believe or suspect is cultural or historic, you must:

1. Stop work immediately at, near, and surrounding the area where you discovered the object, item, or artifact.
2. Leave the suspected cultural item in place, undisturbed, exactly where it was discovered. Do not pick the item up, touch it, or work around it.
3. If possible, mark the location where you discovered the item but do not disturb penetrate the soil with any object or tool. There may be other artifacts under the soil that could be damaged by your actions.
4. Inform your field supervisor of the discovery as soon as possible.

After these initial actions, your field supervisor will immediately notify the Planning Section's Environmental Unit and the Historic/Cultural Resource Specialist. Further direction on how to proceed will be provided by the Unified Command. If you are unsure of something discovered being culturally sensitive, consider it to be sensitive and follow the steps listed above so that the Unified Command can be notified and, ultimately, make a determination on the items historic significance and the actions needed to protect it.

Compliance with these procedures is mandatory. They must be followed by all response personnel. Failure to comply with these procedures by excavating, removing, damaging, altering, or defacing any archaeological resource is a violation of multiple State and Federal laws and may result in fines/penalties, criminal prosecution, and imprisonment. For more information on actions related to the discovery of cultural resources, consult with your supervisor or contact the Historic/Cultural Resource Specialist.

For the purpose of this guidance, the term "cultural resource" includes but is not limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens may also be considered cultural resources, depending greatly on the context in which they were discovered.<sup>6</sup>

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<sup>6</sup> Reference the National Programmatic Agreement Section II.F.1

## ATTACHMENT 4

### HISTORIC PROPERTIES SPECIALISTS PERSONNEL STANDARDS

These standards apply to individuals contracted to provide technical services to Federal On-Scene Coordinators as Historic Properties Specialists. Standards for individuals performing field Historic Properties duties in a spill response (such as Shoreline Cleanup Assessment Team [SCAT] Archaeologists), either for the responsible party or for the government, may be different.<sup>7</sup>

1. The individual must meet the Secretary of Interior's Historic Preservation Professional Qualification Standards for either Prehistoric or Historical Archeology. In general, these require a graduate degree in Anthropology (or a closely related field), with a specialization in Archeology, and two and one-half years of professional experience. These standards can be found on-line at <http://www.cr.nps.gov/local-law/gis/html/quals.html>.
2. The individual must have demonstrated familiarity with the archaeology and environment of the area in question.
3. The individual must be fully familiar with Federal and State laws and regulations governing historic preservation, and with the operation of the State Historic Preservation Officer/Office (SHPO).
4. The individual must have, or must acquire training in compliance with the standards found in 29 CFR 1910, and should be familiar with the basic principles of the Incident Command System. Additionally, the individual should have familiarity with the *National Oil and Hazardous Substances Pollution Contingency Plan (NCP)*; the applicable Area Contingency Plan (ACP); the *Programmatic Agreement on the Protection of Historic Properties during Emergency Response under the NCP (Programmatic Agreement)* and the Region 1 Implementation Guidelines for Federal On-Scene Coordinators; and specific procedures such as the SCAT process.

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<sup>7</sup> Reference the National Programmatic Agreement Sections II.D.1 and II.E.1

**ATTACHMENT5**

**SUGGESTED INFORMATION TO BE PROVIDED TO THE HISTORIC PROPERTIES SPECIALISTS UPON ACTIVATION**

**STEP 3:        Activation of the Federal On-Scene Coordinator’s Historic Properties Specialist (HPS) in Accordance with the National Programmatic Agreement<sup>8</sup>**

*NOTE: Activation of the HPS must be accomplished in a “reasonable and timely” manner.*

Suggested information to be provided to HPS upon activation.

Name of incident: _____
Date/time of incident: _____
Spill/release location: land ___; water ___; land/water ___ If on land, estimate number of acres contaminated: _____
Spill/release coordinates: _____ latitude; _____ longitude If on land, _____ township; _____ range; _____ section
Distance to nearest water body, if on land: _____ km/mi
Distance to nearest land, if in water: _____ km/mi
Product released: Gasoline ___; Diesel #2 ___; Light or Heavy Crude ___; #6 Oil/Bunkers ___; JP4 ___; Other _____
Estimated volume of product released: _____ gals/bbls
Release status: Stopped ___; Continuing ___; Unknown ___
Is spill/release: Contained ___; Spreading ___; Unknown ___
Estimated volume of product potentially released: _____ gals/bbls/other measure
Have Geographic Response Strategies been approved for the area affected or potentially-affected by the spill/release? Yes ___; No ___
Describe any response actions proposed or taken that include ground- or structure-disturbing activities:

<sup>8</sup> Reference the National Programmatic Agreement Section III.B.1

**ATTACHMENT 6.**  
**DOCUMENTATION OF ACTIONS TAKEN THAT DID NOT AFFECT HISTORIC  
PROPERTIES/CULTURAL RESOURCE**

*This form should be completed and submitted, along with any additional supporting documentation, in a reasonable and timely manner to the appropriate entities listed below:*

<p>Name of incident:</p> <p>Date/time of incident:</p> <p>Location of incident:</p>
<p>Brief description of response action approved (including the date) by Federal On-Scene Coordinator (OSC) :</p> <p><input type="checkbox"/> The Exclusions listed in Attachment 1 apply to this spill or release, and there are no known "Overriding Factors"<sup>9</sup></p> <p>Federal OSC Name and Title:</p> <p>Federal OSC Signature:</p> <p>Date of Signature:</p> <p>Email or fax this form to the consulting parties/individuals listed below, consistent with the Checklist in Attachment 2. No further action is needed unless a response from one of the listed individuals/agencies is received indicating that the spill or release may have the potential to affect a historic property.</p> <p>If a response to this statement is received indicating <u>that a historic property is at risk</u>, initiate the consultation process (Step 2 of the Guidelines) and activate an HPS. <b>Note:</b> <i>Activation of the HPS must be accomplished in a "reasonable and timely" manner.</i></p>
<p>Emailed or Faxed to:</p> <p><input type="checkbox"/> _____, State Historic Preservation Officer (____-____-____ fax)</p> <p><input type="checkbox"/> (Name and fax number of potentially-affected resource managers/trustees):</p> <p><input type="checkbox"/> (Name and fax number of potentially-affected resource managers/trustees):</p> <p><input type="checkbox"/> (Name and fax number of potentially-affected resource managers/trustees):</p>

<sup>9</sup> Reference the National Programmatic Agreement Sections VI.A.1 and VI.A.2.

ATTACHMENT 7

**DOCUMENTATION OF ACTIONS TAKEN THAT DID NOT RESULT IN AN ADVERSE AFFECT ON HISTORIC PROPERTIES/CULTURAL RESOURCES/CULTURAL RESOURCES**

*This form, or other record format with similar information, can be used when the Exclusions listed in Attachment I.B.do not apply, where there are “Overriding Factors,” or when, through consultation with appropriate parties, historic properties/cultural resources may be present in the area subject to Federal response actions.<sup>10</sup>*

Name of incident:	Date/time of incident:
Location of incident:	
<a href="#">Brief description of response action approved (including the date) by Federal On-Scene Coordinator (OSC):</a>	
Describe how Adverse Effects were avoided, reduced, or mitigated:	
_____ FOSC Signature and Date	_____ Printed Name and Title:
_____ SHPO Signature and Date	_____ Printed Name and Title:
_____ THPO Signature and Date	_____ Printed Name and Title:
_____ Resource Manager/Trustee Signature and Date	_____ Printed Name and Title:
_____ Resource Manager/Trustee Signature and Date	_____ Printed Name and Title:

<sup>10</sup> This may include any facet of the response actions, from access and staging, to deployment of equipment, demobilization, decontamination, or monitoring, where the action may impact historic properties/cultural resources.

**ATTACHMENT 8**

**DOCUMENTATION OF EMERGENCY RESPONSE  
DECISION THAT ADVERSELY AFFECTS HISTORIC PROPERTIES  
OR CULTURAL RESOURCE<sup>11</sup>**

*This form should be completed and submitted, along with any additional supporting documentation, in a reasonable and timely manner to the appropriate entities listed below:*

Name of incident:	
Date/time of incident:	
Location of incident:	
<b>Response Action, Impact, and Decision</b> [Describe response action and adverse impacts to historic properties or cultural resources. Explain why protecting historic properties/cultural resources and public health/safety could not all be met concurrently. Include information that would support this as an informed decision and the date of the decision. Describe any mitigative actions taken.]	
_____ FOSC Signature and Date	_____ Printed Name and Title:
_____ SHPO Signature and Date	_____ Printed Name and Title:
_____ THPO Signature and Date	_____ Printed Name and Title:
_____ Resource Manager/Trustee Signature and Date	_____ Printed Name and Title:

<sup>11</sup> Reference the National Programmatic Agreement Section III.F.1

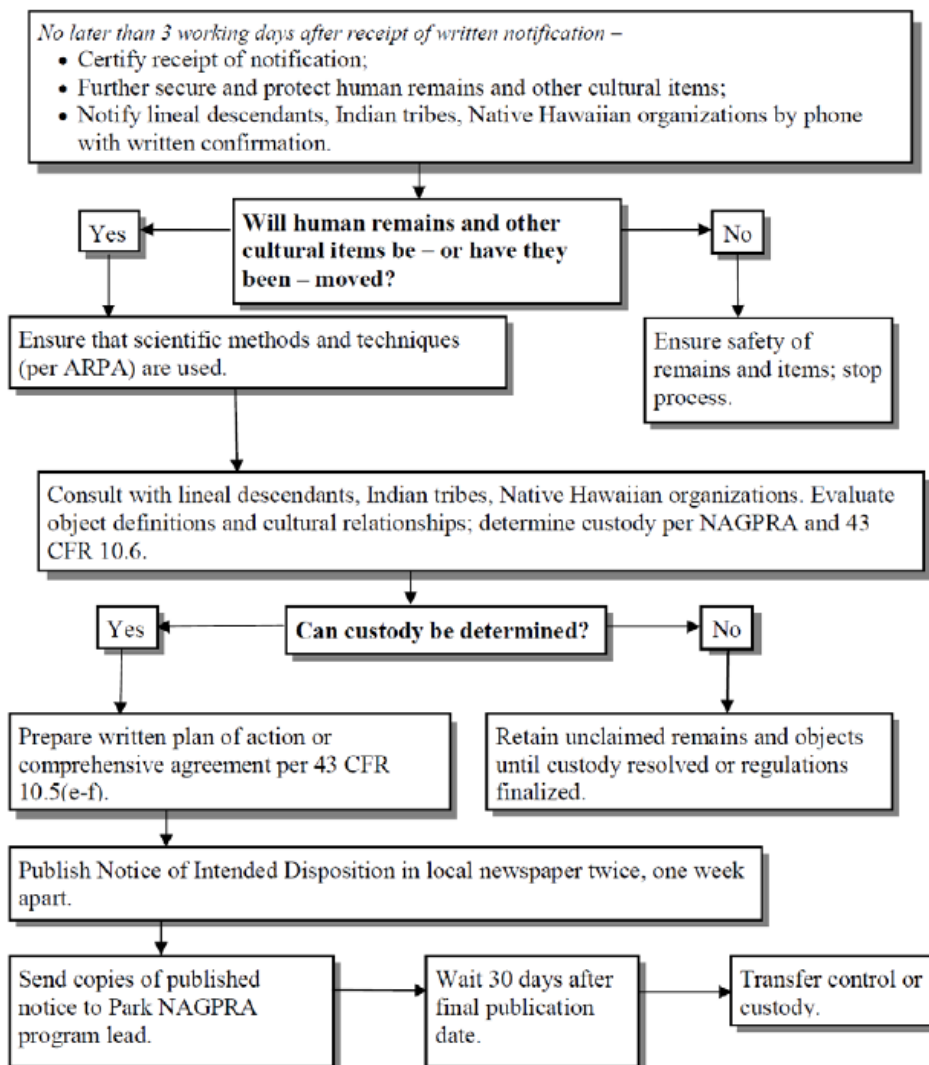
## ATTACHMENT 9

### EXAMPLE FEDERAL LANDS NAGPRA PROCESS MODEL

**Figure 1. NAGPRA Process Model**

NOTE: The first step is to determine whether discovered human remains are Native American. If the remains are not Native American or if it is unclear whether the remains are Native American, law enforcement should be notified. If the remains are Native American, follow the process below.

- Notify land manager immediately by phone with written confirmation.
- Cease ongoing activity. (May resume after 30 days or when binding agreement executed.)
- Make reasonable effort to protect human remains and other cultural items.



## ATTACHMENT \_TBD\_ PREPAREDNESS

The PA states that the FOSC is responsible for ensuring that historic properties are appropriately considered in planning and during emergency response. During *pre-spill planning* activities, the PA calls for the development of an "agreed-upon mechanism" or response process that includes the following elements:

- identification of historic properties listed in or determined eligible for listing in the National Register of Historic Properties that might be affected by the *response* to a release or spill **and** areas not yet surveyed where there is a high potential for the presence of historic properties;
- identification of geographic areas or types of areas where historic properties are unlikely to be affected;
- identification of parties that are to be notified and consulted in the event of a spill in a non-excluded area;
- development of emergency response strategies to help protect historic properties;
- assessment of potential effects of the emergency response on the historic property;
- documentation, if applicable, of actions resulting in unavoidable injury to historic properties when the FOSC has determined that the requirements of the PA cannot be satisfied concurrently with the paramount requirement of protecting public health and the environment; and,
- identification of the Historic Properties Specialist responsible for providing expertise on historic properties to the FOSC during emergency response; e.g., through agreements between the involved Federal response agency and State or other Federal agencies having historic properties specialists on staff; contracts between the Federal response agency and expert(s) identified in the ACP; or historic properties specialist(s) on the Federal response agencies' staff. The PA specifies the professional qualifications and standards that the Historic Properties Specialist must meet.