

## CULTURAL RESOURCE MANAGEMENT

1. **REASON FOR ISSUE.** This Department of Veterans Affairs (VA) Directive establishes policy for conducting VA projects and programs in compliance with historic preservation and other cultural resource management legal requirements.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES.** This Directive prescribes the requirements of cultural resource legal authorities, as well as management policies and responsibilities conducting VA projects and programs. The main update to VA directive 7545 is designation of the Office of Construction & Facilities Management (CFM) Executive Director as VA Senior Policy Official (SPO) pursuant to EO 13287 and official representative to the Advisory Council on Historic Preservation (ACHP).
3. **RESPONSIBLE OFFICE.** Office of Acquisition, Logistics and Construction, (OALC) (003), Office of Construction & Facilities Management (CFM) (003C), Office of Historic Preservation (003C2)
4. **RELATED HANDBOOKS.** [VA Handbook 7545](#), Cultural Resource Management Procedures.
5. **RESCISSION.** VA Directive 7545, Cultural Resource Management, dated December 5, 2011.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

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## CULTURAL RESOURCE MANAGEMENT

1. **PURPOSE.** This VA Directive hereby updates VA policy previously outlined in VA Directive 7545, Cultural Resource Management, to reflect changes in legal references and VA organizational responsibilities.
2. **POLICY.**
  - a. It is Federal policy to manage cultural resources in a spirit of stewardship for the inspiration and benefit of present and future generations as part of the overall human environment (Appendix A). Numerous laws direct Federal agency actions related to cultural resource management, with the primary ones being the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) (Appendix A).
  - b. It is VA policy to ensure that all Federal cultural resource legal requirements are met promptly and efficiently that benefits both Veterans and the human environment. The major implications of this policy are that:
    - (1) Cultural resources must be considered early in the planning process in developing and implementing management and development plans for lands and buildings under VA control, including but not limited to medical centers and clinics, national cemeteries and administration and staff offices.
    - (2) Direct, indirect and cumulative impacts on cultural resources of all kinds (e.g., effects on historic properties) must be addressed under NHPA and when considering the environmental impacts of VA activities under NEPA, beginning at the earliest possible time when planning any VA action. Impacts on cultural resources may constitute extraordinary circumstances requiring a special review of actions that would otherwise be categorically excluded from extensive NEPA review. Impacts on cultural resources may be, but are not necessarily, significant enough impacts on the quality of the human environment to require the preparation of environmental impact statements under NEPA.
    - (3) When an initial environmental review is done on a proposed VA project, impacts on cultural resources must be among the circumstances considered in judging whether a categorical exclusion, an environmental assessment (EA), or environmental impact statement (EIS) must be prepared. Adverse effects on cultural resources are not necessarily sufficient to require preparation of an EA or EIS but may be sufficient depending on the severity of the effects, the character and number of resources involved, the level and kind of public concern about the resources or effects and similar factors.
    - (4) In preparing an initial environmental review, VA employees must consider potential impacts on both previously known and unknown cultural

resources. Compliance with Section 106 of NHPA and Section 3 of NAGPRA must be undertaken in coordination with the review pursuant to VA Directive 0067, VA National Environmental Policy Act Implementation and VA's NEPA Implementing Regulations (38 CFR Part 26).

- (5) The impacts of proposed actions on cultural resources will be considered when planning and in decision-making at all levels within VA, with reference to the legal authorities listed in Appendix A and the national policies outlined in Appendix B.
  - (6) VA officials responsible for compliance with NEPA, the NHPA and other cultural resource legal requirements will ensure that other Government agencies, Indian tribes, organizations, and members of the public who may be concerned about impacts on cultural resources are fully and fairly consulted when planning any VA action.
- c. Consultation with Federally-recognized Indian tribes about cultural resource-related matters will be guided by this Directive and VA Directive 8603, Consultation and Communication with Federally Recognized Indian Tribes.

### 3. RESPONSIBILITIES.

- a. **The Executive Director, Office of Construction and Facilities Management (CFM)** is VA's SPO responsible for policy interpretation, guidance and the development of training with regard to cultural resources and cultural resource legal requirements. CFM maintains the VA HPO, which oversees and coordinates VA's compliance with cultural resource management legal requirements, including, but not limited to, matters relating strictly to historic preservation. The HPO issues guidance regarding requirements, provides training and consults with other VA offices to assist them in meeting VA's cultural resource management responsibilities.
- b. **Under Secretaries, Assistant Secretaries and Other Key Officials** shall ensure its employees receive training and are resourced to comply with Federal cultural resource legal requirements, as required for its mission. [CFM HPO](#) is available to assist with compliance with 31 CFR Part 61.

4. **REFERENCES.** Public Laws, Executive Orders and Regulations informing cultural resource management activities are listed in [Appendix A](#).

### 5. DEFINITIONS.

- a. **Cultural resource.** The term "cultural resource" is used here to include all aspects of the human environment that have historical, architectural, archaeological, or cultural (e.g., traditional and religious) significance, including, but not limited to, historic properties, archaeological resources and data, Native American ancestral remains and cultural items, religious places and practices, historical objects and artifacts, historical documents and community identity.

- b. **Historic property.** A historic property is any district, site, building, structure, or object included in, or eligible for, the National Register of Historic Places and hence entitled to consideration under NHPA.

## APPENDIX A

### CULTURAL RESOURCE LEGAL AUTHORITIES

#### 1. FEDERAL LAWS.

- a. **American Indian Religious Freedom Act (AIRFA)** [42 U.S.C. § 1996](#). This law establishes U.S. Government policy respecting the inherent right of American Indians, Alaska Natives and Native Hawaiians to practice their traditional religions. AIRFA has been interpreted by the courts to require Federal agencies to consult with Indian tribes and other Native Americans about agency actions that may affect religious practices, places and sacred objects used in religious practices.
- b. **Archaeological and Historic Preservation Act (AHPA)** [54 U.S.C. § 312501-312508](#). Also called the Archaeological Data Preservation Act. This law requires Federal agencies to recover archaeological, historical and scientific data that may be threatened by construction projects and other related actions they undertake, assist, or license.
- c. **Archaeological Resources Protection Act (ARPA)** [16 U.S.C. § 470 aa-mm](#). This law prohibits the excavation or removal of archaeological resources from Federal and Indian tribal land without a permit issued by the responsible land management agency in accordance with regulations issued jointly by the Departments of Agriculture, Defense and Interior and the Tennessee Valley Authority.
- d. **Federal Records Act (FRA)** [44 U.S.C. § 3101-07](#). This law and its extensive regulations require Federal agencies to manage documents and other records under their jurisdiction and control in accordance with procedures approved by the National Archives and Records Administration (NARA) that are designed to preserve the historical value of such records.
- e. **National Environmental Policy Act (NEPA)** [42 U.S.C. § 4321](#) and [§ 4331-4335](#). This law articulates U.S. Government policy favoring protection and responsible use of the human environment (see Appendix B). Together with regulations ([40 C.F.R. § 1500-1508](#)) issued by the Council on Environmental Quality (CEQ), NEPA requires Federal agencies to consider the environmental impacts of actions they propose to undertake, assist, or license. VA NEPA procedures can be found at [38 C.F.R. pt. 26](#).
- f. **National Historic Preservation Act of 1966 (NHPA)** [54 U.S.C. § 300101](#) et seq. Establishes Governmentwide policy favoring responsible use of historic properties (see Appendix B), places included in or eligible for the National Register of Historic Places and creates a national historic preservation program. The following sections provide specific directions relevant to VA:

- (1) **Section 106** ([54 U.S.C. § 306108](#)): Requires agencies to consider the effects of actions they propose to undertake, assist, permit, license, or approve on historic properties. Implementing regulations ([36 C.F.R. pt. 800](#)) by the ACHP outline how agencies are to consult with State and Tribal Historic Preservation Officers, local Governments and other interested parties, identify historic properties and resolve adverse effects.
  - (2) **Section 110** ([54 U.S.C. § 306101, et seq.](#)): Requires agencies to identify and manage historic properties under their jurisdiction and control, encourage the preservation of non-Federally owned historic properties, discourage the anticipatory destruction of historic properties, record historic properties that must be destroyed or damaged, maintain historic preservation offices, respond to comments by the ACHP and consult with preservation authorities, Indian tribes and others in carrying out their historic preservation activities. Authorizes inclusion of historic preservation costs as eligible project costs of Federal and Federally assisted projects.
  - (3) **Section 111** ([54 U.S.C. § 306121-306122](#)): Requires agencies to seek adaptive uses of historic properties under their jurisdiction or control that can no longer be used for agency purposes, authorizes leases as a means of effecting adaptive use and authorizes agencies to retain proceeds from such transactions to support preservation activities.
  - (4) **Section 112** ([54 U.S.C. § 306131](#)): Requires agencies to use qualified personnel, including contractors, to carry out historic preservation work and maintain records of such work in perpetuity.
- g. **Native American Graves Protection and Repatriation Act (NAGPRA)** [25 U.S.C. Ch. 32](#). Requires Federal agencies and museums receiving Federal assistance to identify Native American cultural items (i.e., Native American human remains, funerary objects, sacred objects and objects of cultural patrimony) under their control and repatriate such items to culturally affiliated tribes having the right to receive them. Also requires work stoppage and various forms of coordination and documentation when such items are unearthed on Federal or Indian tribal lands. Regulations issued by the National Park Service (NPS) ([43 C.F.R. pt. 10](#)) require that anyone, including Federal agencies, whose actions may disturb such items on Federal or Indian tribal lands must consult with culturally affiliated tribes and develop and implement action plans.
- h. **Religious Freedom Restoration Act (RFRA)** [42 U.S.C. § 21B](#). Prohibits Federal agencies from substantially burdening any person's practice of religion unless doing so is required to meet a compelling Government interest and the means of doing so is the least restrictive means of meeting that interest.

## 2. EXECUTIVE ORDERS.

- a. **12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** [60 Fed. Reg. 7795](#). Requires that agencies avoid having disproportionate adverse environmental impacts on low-income populations and minority communities; impacts may include effects on the cultural environments of such populations and communities.
- b. **13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities** [61 Fed. Reg. 26071](#). Requires that in meeting their needs for space in which to conduct their missions, agencies give priority to the use of historic buildings and structures in historic districts within central business areas.
- c. **13007, Indian Sacred Sites** [61 Fed. Reg. 26771](#). Requires that agencies seek to avoid adverse effects on Indian tribal sacred sites located on Federal or tribal land and tribal access to such sites.
- d. **13287, Preserve America** [68 Fed. Reg. 10635](#). Underscores many of the requirements of NHPA Sections 110 and 111 regarding identification, management, use and re-use of historic properties and requires that agencies report periodically on progress in meeting NHPA compliance.

## 3. GOVERNMENTWIDE REGULATIONS.

- a. [36 C.F.R. pt. 61](#), **Professional Qualifications Standards**. Regulations issued by NPS pursuant to NHPA establishing minimum education and experience levels to perform NHPA-related work.
- b. [36 C.F.R. pt. 79](#), **Curation of Federally Owned and Administered Archaeological Collections**. Regulations issued by NPS pursuant to ARPA, NHPA and other authorities, governing the maintenance of archaeological collections.
- c. [36 C.F.R. pt. 800](#), **Protection of Historic Properties**. Regulations issued by ACHP governing NHPA Section 106 implementation.
- d. [36 C.F.R. pt. 1220](#), **Federal Records; General**. Regulations issued by NARA governing FRA implementation.
- e. [40 C.F.R. § 1500-1508](#), **Council on Environmental Quality**. Regulations issued by CEQ governing NEPA implementation.
- f. [43 C.F.R. pt. 10](#), **Native American Graves Protection and Repatriation Act Regulations**. Regulations issued by NPS governing NAGPRA implementation.

**APPENDIX B****U.S. GOVERNMENT CULTURAL RESOURCE MANAGEMENT POLICIES**

1. Congress has established that it is the policy of the U.S. Government to:
  - a. Create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations of Americans (NEPA Sec. 101(a));
  - b. Serve as the trustee of the environment for succeeding generations (NEPA Sec. 101(b)(1));
  - c. Assure for all Americans aesthetically and culturally pleasing surroundings (NEPA Sec. 101(b)(2));
  - d. Preserve important historical, cultural and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice (NEPA Sec. 101(b)(4));
  - e. Utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making that may have an impact on man's environment (NEPA Sec. 102(a)(1)(A));
  - f. Ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations (NEPA Sec. 102(a)(1)(B));
  - g. Use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations (NHPA Sec. 2(1));
  - h. Provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with states, Indian tribes, Native Hawaiians and local Governments (NHPA Sec. 2(2));
  - i. Administer Federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations (NHPA Sec. 2(3));
  - j. Contribute to the preservation of non-Federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means (NHPA Sec. 2(4));

- k. Encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment (NHPA Sec. 2(5));
- l. Assist state and local Governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities (NHPA Sec. 2(6));
- m. Protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects and the freedom to worship through ceremonials and traditional rites (AIRFA);
- n. Not substantially burden religious exercise without compelling justification (RFRA Sec. 1(a)(3)); and
- o. Secure for the present and future benefit of the American people, the protection of archaeological resources and sites that are on public lands and Indian lands (ARPA Sec. 2(4)(b))
- p. Do all the above in cooperation with other Nations and in partnership with states, local governments, Indian tribes and private organizations and individuals (NHPA Sec. 2);