
Hawaii Area Contingency Plan (HACP)

Hawaii State Historic Preservation Division (HSHPD) Notification, Coordination and Consultation (Federal/State of Hawaii Guidance)

Updated April 2024

Background

The National Historic Preservation Act (NHPA), Section 106 requires all "Federal agencies take into account the effects of their undertakings/actions on historic properties. The responsible Federal agency must consult with appropriate State and local officials, Indian tribes, applicants for Federal assistance, and members of the public and consider their views and concerns about historic preservation issues when making final project decisions and provide the Advisory Council on Historic Preservation (ACHP) with a reasonable opportunity to comment on such undertakings." Additionally, it requires that the Federal agency involved "consult on the Section 106 process with State Historic Preservation Office (SHPO)" (36 CFR 800).

Section 106 applies when two thresholds are met:

- 1) There is a Federal or federally licensed action, including grants, licenses, and permits; and
- 2) That action has the potential to affect properties listed in or eligible for listing in the National Register of Historic Places.

Historic property: "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register"; such term includes artifacts, records, and remains which are related to such district, site, building, structure, or object.

NHPA Exclusion List:

Releases/Spills onto (which stay on):

- Gravel pads
- Roads (gravel or paved, not including the undeveloped right-of-way)
- Parking areas (graded or paved)
- Dock staging areas less than 50 years old
- Gravel causeways
- Artificial gravel islands
- Drilling mats, pads, and/or berms
- Airport runways (improved gravel strips and/or paved runways)

Releases/Spills into (that stay in):

- Lined pits (e.g. drilling mud pits and reserve pits)
- Water bodies where the release/spill will not:
 - 1) Reach land/submerged land and
 - 2) Include "will not" Emergency response activities with land/submerged land-disturbing components
- Borrow pits
- Concrete containment areas

Releases/Spills of:

- Gases

Action

When a discharge or release occurs, the Federal On-Scene Coordinator (FOSC), or their

representative, shall contact the SHPO of the location of the actual spill and/or potential actions associated with the response, and other parties pre-identified in the ACP, if:

- 1) The spill is not in a categorically excluded location,
- 2) The location of the spill changes from excluded to non-excluded location,
- 3) The spill is more than 100,000 gallons; or
- 4) Previously unidentified historic properties are discovered during emergency response.

The SHPO will make the determination whether these actions threaten any historic or prehistoric properties and whether there is a necessity for formal consultation.

If the SHPO determines that no known properties exist, or there is minimal risk:

The SHPO will provide their determination in the form of an email, back through the FOSC, or their representative. This documentation will be conveyed by the SHPO, to the USCG representative and documented. 36 CFR 800.11(d) lists the documentation requirements for the decision, "Finding of no historic properties affected".

If the SHPO determines that the described activities may potentially, or in fact will impact any historic properties:

The SHPO will immediately notify the FOSC or their representative and the FOSC will initiate formal consultation per 36 CFR 800.

Additionally, Section 101(d)(6)(B) of the Act requires the FOSC to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. This requirement applies regardless of the location of the historic property.

- [Native Hawaiian Organizations | U.S. Department of the Interior \(doi.gov\)](#)
- [Consultation with Native Hawaiian Organizations in the Section 106 Review Process: A Handbook | Advisory Council on Historic Preservation \(achp.gov\)](#).

If time and emergent circumstances permit, the FOSC, or their representative, shall officially submit a formal consultation request in accordance with 36 CFR 800 at <https://shpd.hawaii.gov/hicris/landing>. However, the FOSC may have to make emergency response decisions that adversely affect historic properties due to public health and safety priorities. (Review 36 CFR 800.12 for requirements related to emergency projects.)

Coast Guard units shall forward all consultations within 30 days of completion to Commandant (CG-47). (Review 36 CFR 800.11(e) to ensure documentation requirements are completed related to the decision "Finding of no adverse effect or adverse effect".)

GOVERNMENT AGENCIES

Organization:	Point of Contact:	Email:	Phone Number:
Department of Interior's Office of Hawaiian Relations (DOI-ONHR)	Summer Sylva FEMA Cultural Protocol Task Force Senior Advisor	summer_sylva@ios.doi.gov	(202) 531-6241
Hawaii State Historic Preservation Division (SHPD)	Jessica L. Puff Architecture Branch Chief	jessica.puff@hawaii.gov	(808) 462-3083
Office of Hawaiian Affairs (OHA)	Kamakana C. Ferreira, M.A.	kamakanaf@oha.org	(808) 594-0227

NATIVE HAWAIIAN ORGANIZATIONS

Organization:	Point of Contact:	Email:	Phone Number:
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'Ohana Keohokālole	Emma Emalia Keohokalole Secretary - Treasurer	ckeala@hotmail.com eek4@hawaii.edu	(808) 371-3398
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