

***Caribbean Regional Response Team
Guidelines for the
Programmatic Agreement on Protection of
Historic Properties
During Emergency Response
Under the National Oil and Hazardous
Substances Pollution Contingency Plan***



Developed by the
Caribbean Regional Response Team
for Area Contingency Plan Development
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I. BACKGROUND AND PURPOSE.

A. Background.

1. As a result of the first U.S./U.S.S.R. oil spill exercise, which was held in 1988, the U.S. Department of the Interior, Alaska Office of Environmental Policy and Compliance (DOI-OEPC) and the Alaska Department of Natural Resources (ADNR) Office of History and Archeology (AOHA) began to work informally with Federal On-Scene Coordinators (OSC) to help ensure that historic properties protection is considered following an oil spill or hazardous substance release in Alaska. Because of this groundwork, steps were taken following the March 1989, T/V *Exxon Valdez* oil spill (EVOS) to minimize injury to Historic Properties during the multi-year EVOS response effort.
2. In July 1992, the Alaska Regional Response Team (RRT) established a Cultural Resources Working Group (CRWG) to develop written guidelines for OSCs to use to ensure that Historic Properties are taken into account following an oil spill or hazardous substance release. Members of the CRWG included representatives from two state and five federal entities and the oil industry¹. An approximate two-year effort ensued in which draft guidelines were prepared.
3. In September 1994, the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard (USCG) co-chairs of the Alaska CRRT sent a letter to the National Response Team (NRT) asking for guidance on questions that had arisen during the development of the Alaska guidelines.
4. As a result, the NRT formed an *ad hoc* committee on historic resources protection, which in turn, developed the *Programmatic Agreement on Protection of Historic Properties during Emergency Response under the National Oil and Hazardous Substances Pollution Contingency Plan (Programmatic Agreement)*. Chaired by the NRT representative from the U.S. Department of Justice, the committee included representatives from EPA, USCG, DOI (OEPC and the National Park Service), Department of Commerce (National Oceanic and Atmospheric Administration), U.S. Department of Agriculture (USDA), U.S. Department of Defense, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (SHPO). The committee, during a two year period, developed the national *Programmatic Agreement*. During this time, numerous drafts were reviewed by representatives of participating organizations. In addition, the public was afforded an opportunity to comment on the draft national *Programmatic Agreement* through a Federal Register Notice published in December 1996 by the ACHP.

¹ CRWG members included representatives from the U.S. Coast Guard; U.S. Environmental Protection Agency; U.S. Departments of Interior, Agriculture, and Commerce; the Alaska Departments of Natural Resources and Environmental Conservation; and the oil industry. Representatives of the Alaska Inter-Tribal Council and the U.S. Army Corps of Engineers were subsequently added.

After completing the public and agency review process, the *ad hoc* committee presented the national *Programmatic Agreement* to the NRT, which approved it in March 1997. In May 1997, the national *Programmatic Agreement* was signed by the first three of the ten signatories, USCG, EPA, and the National Conference of SHPOs. Six of the remaining signatories signed during the ensuing months, the latest in November 1997. The final party, the USDA, signed in August 1998. The national *Programmatic Agreement* became effective for each signatory agency 90 days after they signed the document.

5. In accordance with the national *Programmatic Agreement*, regional representatives of the *Programmatic Agreement's* signatories may choose to: (1) implement the national *Programmatic Agreement*, or (2) develop a regional programmatic agreement that includes the provisions of the national *Programmatic Agreement* as well as appropriate additional provisions responsive to regional concerns. Within the Caribbean region, the CRRT decided to implement the national *Programmatic Agreement*. These implementation guidelines are provided to assist Federal On-Scene Coordinators in their efforts to include guideline provisions in their planning, preparedness, and response efforts.

B. Purpose

1. These Implementation Guidelines complement the national *Programmatic Agreement* by providing regional-specific information to Federal OSCs to assist in planning for, and responding to, oil spills and hazardous substance releases within Caribbean. In addition, the Implementation Guidelines ensure consistent application and interpretation of the national *Programmatic Agreement* throughout the Caribbean region by USCG and EPA OSCs and representatives of supporting entities, including DOI, USDA, and SHPO.
2. The national *Programmatic Agreement* can be located through the National Response Team (NRT) web site at www.nrt.org. The Caribbean Implementation Guidelines will also be included on the CRRT web site, accessed through the above NRT homepage.

II. PRE-INCIDENT PLANNING

The national *Programmatic Agreement* outlines a number of steps to be taken during pre-incident planning. The discussion below reiterates each of those steps and then describes how each step may be addressed within the Caribbean region in accordance with the Implementation Guidelines.

A. Identification of Historic Properties

1. National *Programmatic Agreement*

- a. The national *Programmatic Agreement* calls for the identification of:
 - Historic Properties that have been listed in or determined eligible for inclusion in the National Register of Historic Places that might be affected by response to a release or spill; and
 - Unsurveyed areas where there is a high potential for the presence of Historic Properties.
- b. The national *Programmatic Agreement* calls for the identification of exclusions, which “...may be specific geographic areas or types of areas where, should a release or spill occur, Historic Properties are unlikely to be affected. This includes the specifics listed in Appendix I [of the national *Programmatic Agreement*] and any additional exclusions agreed on by the signatories to [the national *Programmatic Agreement*].”

2. Caribbean Implementation Guidelines

- a. The National Parks Service (NPS) and each state’s SHPO will have information pertaining to:
 - Historic Properties listed in or determined eligible for the National Register of Historic Places (National Register);
 - All known historic and archaeological sites and locations that may be eligible for the National Register; and
 - Areas that have been surveyed, even if no sites were found.
- b. Information held by the NPS and SHPO is submitted by federal, state, and local government agencies (including federal land-management agencies), tribal entities, and the general public. Access to the above information may be restricted to individuals with official business related to Historic Properties. Official business includes emergency responses to oil spills and hazardous substance releases. It is important to note that required Historic Properties - related reporting does not always occur in a timely manner. Therefore, there may be information regarding Historic Properties in an area affected by a spill or release that is not contained in the information held by the NPS or SHPO.
- c. Information on Historic Properties should be included in the applicable section of each Area Contingency Plan (ACP). The ACP should link the identification and protection of Historic Properties to implementation of the national *Programmatic Agreement*. The ACPs should also provide a relative ranking of the level of concern or priority for different types of Historic Properties. For example, National Historic Landmarks, burial sites, National

Register sites, and intertidal sites are considered to be of “Major Concern;” National Register-eligible sites and sites adjacent to shorelines are considered to be of “Moderate Concern;” and other Historic Properties are considered to be of “Lesser Concern.” Protection priorities can be assigned based on the concern level delineated within the ACP. Rankings and response priorities may also be done for many other types of resources and areas (e.g., seabird colonies, coastal habitat types, and commercial use areas).

- d. CRRT members have adopted the list of categorically excluded spills or releases contained in Appendix I of the national *Programmatic Agreement*, and have identified additional geographic areas. The expanded list is contained in Attachment 1 of the Implementation Guidelines.

B. Identification of Parties to Be Notified

1. National Programmatic Agreement The national *Programmatic Agreement* calls for the development of a “...list of parties that are to be notified in the event of an incident in a non-excluded area. This list should include the SHPO for the State in which the incident occurred, federal and Indian tribal land owners or land managers and Hawaiian Native organizations in the area where the incident occurred, if any.”
2. Caribbean Implementation Guidelines
 - a. In the event of an incident in a non-categorically excluded area, representatives of each of the following entities may need to be notified for the purposes of Historic Properties protection:
 - State Historic Preservation Officer (SHPO)
 - U.S. Department of the Interior (Office of Environmental Policy and Compliance; Bureau of Indian Affairs; National Park Service; Fish and Wildlife Service; Bureau of Land Management; Minerals Management Service)
 - U.S. Department of Agriculture (Forest Service)
 - U.S. Department of Defense
 - Municipalities and other local governments
 - Private land owners
 - b. As outlined below in Section III.B.2.d and e, the Federal OSC’s Historic Properties Specialist is responsible for:
 - Determining for each spill or incident, which of the above entities needs to be notified for Historic Properties protection, and

- Notifying appropriate representative(s) of those entities.
- c. Contact information is included in each ACP.

C. Identification of Emergency Response Strategies

1. National Programmatic Agreement The national *Programmatic Agreement* calls for the development of “...emergency response strategies that can be reasonably anticipated to protect Historic Properties. The Federal OSC shall ensure that response strategies, including personnel and equipment needed, are developed to protect or help protect Historic Properties at risk. This includes consideration of the sensitivity of Historic Properties to emergency response measures proposed in Area Contingency Plans (ACP) or other response plans, including chemical countermeasures and in-situ burning.”
2. Caribbean Implementation Guidelines
 - a. A list of potential emergency response strategies that can be “...reasonably anticipated to protect Historic Properties” is included in Attachment 2. It is possible that other response strategies for the protection of Historic Properties may be identified and used during an incident response in addition to those identified in Attachment 2.
 - b. Geographic Response Strategies (GRS) have been, and will continue to be, developed for many locations within Caribbean. GRS identify specific response actions that may be taken in a defined location following an oil spill or hazardous substance release that affects, or may affect, the GRS area. As GRS are developed for selected locations within an ACP. Federal OSCs shall ensure that GRS response strategies appropriately consider the protection of Historic Properties throughout the GRS-identification, development, and field testing processes. In addition, Federal OSCs will ensure that one of the following statements is included on each graphic depicting GRS response strategies:
 - Report any Historic Properties found during operations to the FOOSC Historic Properties Specialist;
 - FOOSC Historic Properties Specialist should inspect site prior to operations; or
 - FOOSC Historic Properties Specialist should monitor on-site operations.
 - c. Historic Properties Specialists from Federal and/or State agencies with management responsibility for the lands covered by each GRS--following consultation with appropriate private land owner representatives--will

recommend to the Federal OSC which of the above statements need to be included on each GRS.

- d. Federal OSCs will ensure that other emergency response strategies, including pre-approvals of chemical countermeasures, that are included in the ACP include the consideration of Historic Properties. This will be accomplished by Federal OSCs ensuring that State and Federal agencies with Historic Properties management responsibility for lands covered by each ACP are included in the development of response strategies.

D. Identification of Who Will Provide Historic Properties Expertise to the Federal On-Scene Coordinator (OSC)

1. National Programmatic Agreement The national *Programmatic Agreement* calls for the identification of "...who will be responsible for providing expertise on Historic Property matters to the Federal OSC during emergency response. Depending on the size and complexity of the incident, a Federal OSC Historic Properties Specialist or a Historic Properties technical advisory group convened by the specialist may be the most effective mechanism."
2. Caribbean Implementation Guidelines
 - a. Federal OSCs are responsible for identifying individuals who may serve as the Federal OSC's Historic Properties Specialist. Section IV.C.2 of the national *Programmatic Agreement* states that "A federal OSC may obtain Historic Properties expertise and support in any one of several ways. These include implementing an agreement with State or federal agencies that have Historic Properties Specialists on staff (see IV.B.2), executing a contract with experts identified in ACPs or hiring Historic Properties Specialists on staff."
 - b. Attachment 3 contains Historic Properties Specialist personnel standards developed by State and Federal cultural resource specialists for use by Federal OSCs in identifying qualified archaeologists who could contract with Federal OSCs to serve as the Federal OSC's Historic Properties Specialist. In addition, a current listing of "Individuals/Firms Interested in Doing Archaeological Contracting" may be obtained from the NPS or SHPO. State and Federal cultural resource specialists are available to provide technical assistance to Federal OSCs for the preparation of solicitations for, and reviewing responses received from, individuals interested in serving as the Federal OSC's Historic Properties Specialist. Requests for technical assistance may be made through DOI-NPS or the SHPO.
 - c. In the event that pre-identified individuals are not available to serve as the Historic Properties Specialist for a given incident, the Federal OSCs may contact DOI-NPS and/or SHPO representatives for assistance in identifying an

individual who could serve as the Historic Properties Specialist.

- d. It should be noted that for oil spills and/or hazardous substance releases that remain solely on land managed by a single Federal land manager (e.g., a national park, national forest, or national wildlife refuge), the Federal land managing agency whose land is affected may assist the Federal OSC by providing a specialist from their agency to fill the role of Historic Properties Specialist.
- e. It should also be noted that the actions listed below are not considered as implementation of the national *Programmatic Agreement*:
 - Federal OSC reliance only on information obtained from the SHPO. As stated above, the SHPO database may be incomplete. In addition, in accordance with Section VI.C.1. of the national *Programmatic Agreement*, all appropriate entities with potential Historic Properties information about the area need to be consulted. The SHPO is only one of several entities that need to be consulted. Moreover, in accordance with Section IV.C.2. of the national *Programmatic Agreement*, there must be an agreement between the SHPO and Federal OSCs for SHPO representatives to serve as the Historic Properties Specialist.
 - Federal OSC reliance on an individual (e.g., a local resident, even if that individual is a trained or amateur archaeologist) who has not been pre-identified to serve as a Historic Properties Specialist to provide “Historic Properties” input to the Federal OSC in lieu of a pre-identified Historic Properties Specialist. In accordance with Section V.B.1. of the national *Programmatic Agreement*, Historic Properties Specialists need to be identified as part of pre-incident planning and provided information on appropriate training. In addition, Section IV.C.2.a. requires that Historic Properties Specialists meet certain qualifications as outlined in Appendix II of the national *Programmatic Agreement*.
 - Federal OSC reliance on a Responsible Party’s Historic Properties Specialist who is not under contract to the Federal OSC. In accordance with Section IV.C.2. of the national *Programmatic Agreement*, experts who serve as the Historic Properties Specialist--who are not State or Federal employees--must be under contract to the Federal OSC. It is important to note that the Responsible Party is encouraged to provide Historic Properties input and assistance to the Federal OSC’s Historic Properties Specialist.

- f. The Federal OSC's Historic Properties Specialist may recommend, depending on the characteristics of the incident, if it is appropriate to convene an Historic Properties technical advisory group to conduct emergency historic property protection response activities. Upon approval by the Federal OSC, the Historic Properties Specialist is responsible for identifying individuals who would serve on the group and for serving as the chairperson for the group.

E. Identification of Appropriate Training for Specialists

1. National Programmatic Agreement The national *Programmatic Agreement* calls for "...providing information on availability of appropriate training for historic property specialists to participate in emergency response, e.g., Hazardous Waste Operations and Emergency Response (HAZWOPER) training, familiarity with all relevant contingency plans and response management systems."
2. Caribbean Implementation Guidelines
 - a. Training requirements for Historic Properties Specialists are included in the personnel standards identified in Attachment 3. Information on the availability of HAZWOPER and incident command system training and information on opportunities for participating in oil spill and/or hazardous substance release exercise will be provided to Historic Properties Specialists by Federal OSCs.
 - b. Information on CRRT meetings and other CRRT-related activities will be provided to Historic Properties Specialists by the CRRT Coordinator(s).
 - c. State and Federal cultural resource specialists are available to provide training to Historic Properties Specialists and Federal OSCs on the national *Programmatic Agreement* and implementation of the national *Programmatic Agreement* within an incident command system. Requests for training assistance may be made through DOI.

F. Development of Historic Properties Information for Response Personnel

1. National Programmatic Agreement The national *Programmatic Agreement* calls for Federal OSCs to work with appropriate parties "...to obtain information for response personnel on laws protecting and activities that may potentially affect historic properties."
2. Caribbean Implementation Guidelines. Attachment 4 contains an example of information on the protection of historic properties for response personnel. Other information on the protection of Historic Properties may be identified and used during an incident response in addition to the example in this attachment.

III. EMERGENCY RESPONSE

The national *Programmatic Agreement* outlines a number of steps to be taken during emergency response. The discussion below reiterates each of those steps and then describes how each step is addressed in Caribbean.

A. Determination of Whether Categorical Exclusions Apply

1. National Programmatic Agreement

- a. The national *Programmatic Agreement* states that the “...Federal OSC shall determine whether the exclusions described in section V.A.1.b. of the national *Programmatic Agreement* apply. If the incident affects only excluded areas, no further actions are necessary under this Programmatic Agreement, unless:
 - (1) Previously unidentified historic properties are discovered during emergency response; or
 - (2) The SHPO (or appropriate federal, Indian, or Hawaiian Native organizations) notifies the Federal OSC that a categorically excluded release or spill may have the potential to affect a significant historic property.”
- b. The national *Programmatic Agreement* further states that “...If the area where a release or spill occurs has not been excluded, in the cases specified in Section VI.A.1.a or b of the national *Programmatic Agreement*, if the Federal OSC is unsure whether an exclusion applies, or if the specifics of the incident change so that it no longer fits into one of the exclusions, the remaining steps in this Section of the national *Programmatic Agreement* shall be followed.”

2. Caribbean Implementation Guidelines

- a. Attachment 5 outlines a two-step process for Federal OSCs to use in determining:
 - (1) When a spill or release is categorically excluded from further Section 106 consideration; and
 - (2) When a spill or release is not categorically excluded and a Historic Properties Specialist shall be activated.

B. Activation of a Historic Properties Historic Properties Specialist

1. National Programmatic Agreement If it has been determined that a spill or release is not categorically excluded, the national *Programmatic Agreement*

specifies that the Federal OSC shall “...activate the agreed-upon mechanism for addressing historic properties, including notification of the parties identified pursuant to Section V.A.2. of the national *Programmatic Agreement*, and consultation with these parties concerning the identification of historic properties that may be affected, assessing the potential effects of the emergency response, and developing and implementing emergency response activities. These requirements for notification and consultation shall be satisfied if the Federal OSC makes reasonable and timely efforts to notify and consult the parties listed in this Section of the national *Programmatic Agreement*. Thereafter there shall be additional consultation to the extent practicable.”

2. Caribbean Implementation Guidelines

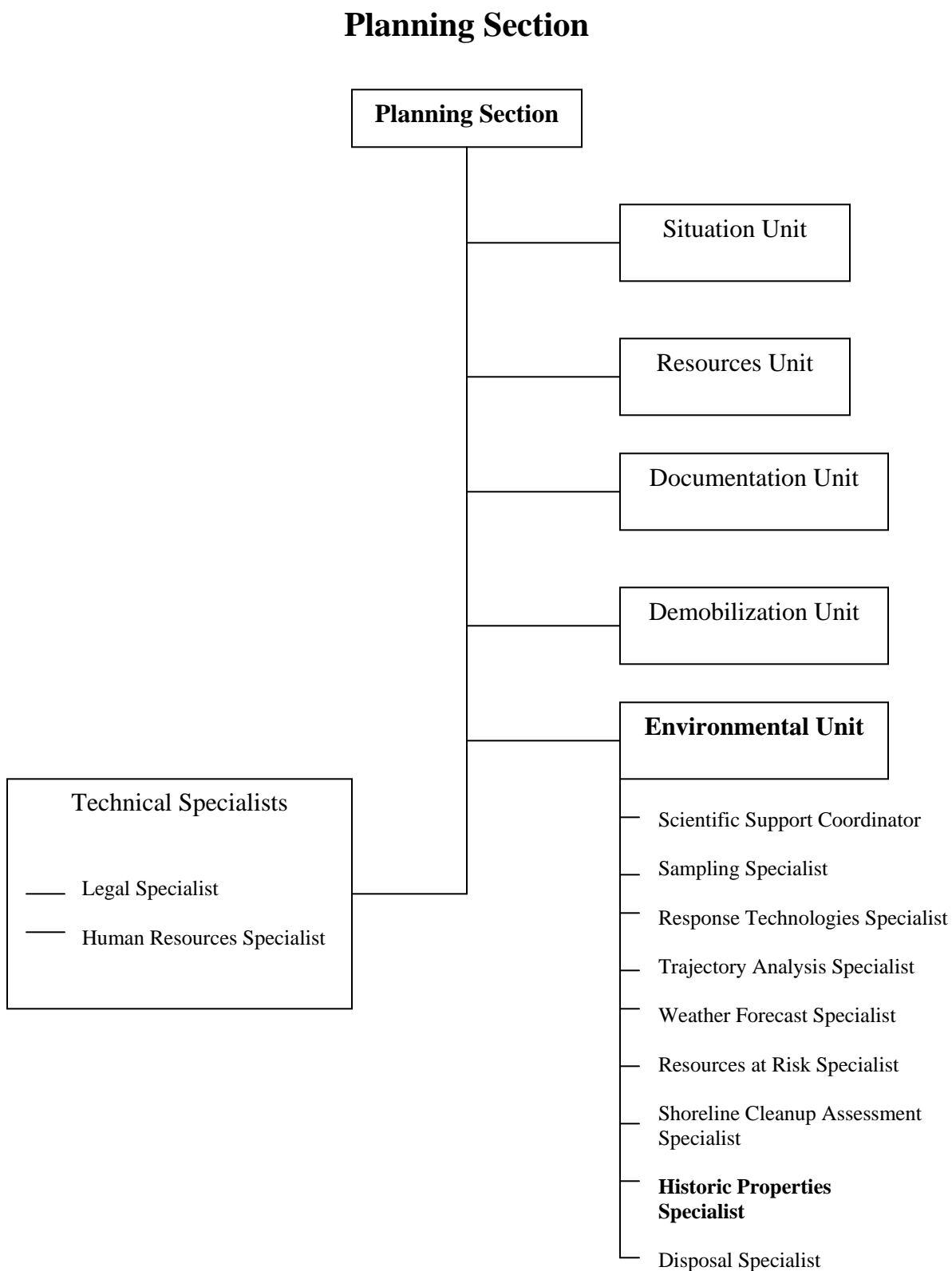
- a. Attachment 5 outlines the procedures that Federal OSCs shall follow to activate a Historic Properties Specialist when a spill or release is not categorically excluded from additional Section 106 consideration. The activation of a Historic Properties Specialist is time-critical and shall occur in a reasonable and timely manner to ensure that the Historic Properties Specialist may provide meaningful input into the earliest phases of emergency response. This activation shall occur regardless of the time of the year or the time of day the spill or release occurs; weather conditions at the spill or release location; the ability of the Federal OSC or the Federal OSC’s representative(s) to travel to the spill or release site; the financial means of the Responsible Party; or any other factors. As stated within the intent of the *Programmatic Agreement*, if critical operations are emergent, response actions will not be delayed if the Historic Properties Specialist fails to respond.
- b. Activation of a Historic Properties Specialist ensures that appropriate Historic Properties consultations and notifications are conducted and information on historic properties in the spill or release area is provided to the Federal OSC. This allows the Federal OSC to take historic properties into account even in situations where the Federal OSC subsequently makes a determination that no response is necessary or feasible.
- c. Attachment 6 contains a list of suggested information to be provided to a Historic Properties Specialist at the time of his/her activation by the Federal OSC.
- d. Following activation of an Historic Properties Specialist, it is the responsibility of the Historic Properties Specialist to:
 - Identify, notify, and consult with all appropriate parties on the identification of historic properties that have been or may be negatively affected by the spill or release;

- To assess the potential of emergency response activities to negatively affect those historic properties;
- To provide input to the Federal OSC on ways to avoid or reduce negative effects of emergency response activities on historic properties; and
- To provide recommendations on additional response strategies that could further protect historic properties.

Specific information on how those responsibilities will be accomplished is outlined below in Section III.C. through Section III.F.

- e. A Historic Properties Specialist functional checklist delineating basic responsibilities and tasks is contained within Attachment 9. This position within the Incident Command System management structure is identified within Figure 1.

Figure 1



C. Identification of Historic Properties

1. National Programmatic Agreement

- a. The national *Programmatic Agreement* calls for consultation “...with the SHPO, landowners and/or land managers, appropriate Indian tribes and Native Hawaiian organizations, and other interested parties identified in pre-incident planning to verify the location of Historic Properties identified during the planning process and determine if other historic properties exist in areas identified in V.A.1.a.2. of the national *Programmatic Agreement* that might be affected by the incident or the emergency response.”
- b. The national *Programmatic Agreement* further states that “...If newly discovered or unanticipated potential Historic Properties are encountered during emergency response actions, the Federal OSC shall either:
 - Consult with the SHPO (or appropriate Federal, Indian, or Hawaiian Native organizations) to determine if the properties are eligible for inclusion in the National Register; or
 - Treat the properties as eligible.”

2. Caribbean Implementation Guidelines Attachment 7 includes a checklist of steps Historic Properties Specialists should take to identify historic properties that may be affected by an incident or emergency response activities resulting from the incident.

D. Assessment of Potential Effects of Emergency Response Strategies on Historic Properties.

- a. National Programmatic Agreement The national *Programmatic Agreement* calls for “...an assessment of potential effects of emergency response strategies on historic properties. Such assessment shall be done in consultation with the parties listed in Section V.A. of the national *Programmatic Agreement*.”
- b. Caribbean Implementation Guidelines Attachment 7 includes a checklist of steps Historic Properties Specialist should take to assess whether potential emergency response activities will negatively affect historic properties. This assessment will be based on consultation with appropriate entities and, if possible, a review of aerial photography or other documentation of the area affected or potentially-affected by the spill or release.

E. Implementation of Decisions about Appropriate Emergency Response Actions

1. National Programmatic Agreement

- a. The national *Programmatic Agreement* states that the “...Federal OSC shall take into account professional comments received from the parties listed in Section V.A. in the national *Programmatic Agreement* in making decisions that might affect historic properties. Emergency response strategies delineated in plans may need to be reviewed based on information available at the time of an actual incident. The purpose of this review is to evaluate whether implementation of the strategies in the plan might, for the emergency response action that is underway, adversely affect historic properties and, if so, how such effects might be avoided or reduced.”
- b. The national *Programmatic Agreement* also calls for the Federal OSC to “...make arrangements for suspected artifact theft to be reported to the SHPO, law enforcement officials, and the landowner/manager; arrange for disposition of records and collected materials; and ensure the confidentiality of historic property site location information, consistent with applicable laws, so as to minimize opportunities for vandalism or theft.”

2. Caribbean Implementation Guidelines

- a. Attachment 7 includes the requirement that the Historic Properties Specialists:
 - Report suspected artifact theft to the Federal OSC, SHPO, law enforcement officials, and the landowner and/or land manager;
 - Arrange for disposition of records and collected materials; and
 - Ensure the confidentiality of historic property site location information, consistent with applicable laws, to minimize opportunities for vandalism or theft.
- b. Section I.B. of the national *Programmatic Agreement* states that “...an “emergency” shall be deemed to exist whenever circumstances dictate that a response action to a release or spill must be taken so expeditiously that normal consideration of the Section 106 process is not reasonably practicable.” However, Section 106 is not restricted to initial actions. In order for the Federal OSC to obtain the benefit of the NHPA regulation that provides that compliance with an approved programmatic agreement satisfies the Agency’s Section 106 responsibilities, the Federal OSC must act consistently with the provisions of a programmatic agreement throughout the response. Therefore, once the national *Programmatic Agreement* is implemented, the Federal OSC is responsible for ensuring continued Section 106 compliance until the Federal OSC closes the case.

F. Determination that National *Programmatic Agreement* Cannot Be Satisfied

1. National *Programmatic Agreement*

- a. The national *Programmatic Agreement* states in Section VI.F. that “Whenever the Federal OSC determines the requirements of this Section cannot be satisfied concurrently with the paramount requirement of protecting public health and safety, the determination shall be documented in writing including:

- The name and title of the person who made the determination;
- The date of determination; and
- A brief description of the competing values between public health and safety and carrying on the provisions of this Section.

Notwithstanding such a determination, if conditions subsequently permit, the federal OSC shall endeavor to comply with the requirements of this Section to the extent reasonably practicable.”

2. Caribbean Implementation Guidelines If the Federal OSC determines the emergency response requirements of the national *Programmatic Agreement* cannot be satisfied concurrently with the paramount requirement of protecting public health and safety, the Federal OSC may use the form in Attachment 8 to provide the required documentation to the SHPO and potentially-affected resource managers and trustees.

IV. REVISIONS TO CARIBBEAN IMPLEMENTATION GUIDELINES

Revisions to the Caribbean Implementation Guidelines may be made if and when improvements and enhancements are identified to the CRRT membership.

ATTACHMENT 1

SPILLS OR RELEASES CATEGORICALLY EXCLUDED FROM ADDITIONAL NATIONAL HISTORIC PRESERVATION ACT SECTION 106 COMPLIANCE

Spills/releases 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)

Spills/releases into (that stay in):

- Water bodies where the spill or release: (1) will not reach land/submerged land; and (2) will not include emergency response activities with land/submerged land-disturbing components
- Lined pits (e.g., drilling mud pits and reserve pits)
- Borrow pits
- Concrete containment areas

Spills/releases of:

- Gases (e.g., chlorine gas)

IMPORTANT NOTE TO FEDERAL ON-SCENE COORDINATORS: (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 significant historic property, then you must activate a Historic Specialist in accordance with the Nationwide Programmatic Agreement and the Caribbean Implementation Guidelines.

ATTACHMENT 2

POTENTIAL EMERGENCY RESPONSE STRATEGIES FOR HISTORIC PROPERTY PROTECTION*

RESPONSE STRATEGY
Mechanical recovery (e.g., use of skimmers, booms, sorbents)
In situ burning
Dispersant use
Protective or diversionary booming
Covering site with protective material
Construction of berms or trenches to divert product away from sites/areas
On-scene inspections by the Federal OSC Historic Properties Specialist or individual(s) authorized by the Federal OSC Historic Properties Specialist
On-scene monitoring by the Federal OSC Historic Properties Specialist or individual(s) authorized by the Federal OSC Historic Properties Specialist
Participation in Shoreline Cleanup Assessment Teams by the Federal OSC Historic Properties Specialist or individual(s) authorized by the Federal OSC Historic Properties Specialist
Participation in Shoreline Cleanup Teams by the Federal OSC Historic Properties Specialist or individual(s) authorized by the Federal OSC Historic Properties Specialist
Provision of information on historic properties protection to response personnel
Provision of information to the Federal OSC on historic properties protection for areas/locations proposed for emergency-response-related support activities (e.g., helipads and staging areas)

*** It is important to note that these response strategies are not listed in any priority order. In addition, other response strategies for the protection of Historic Properties may be identified and recommended to the Federal OSC for use during an incident response.**

ATTACHMENT 3

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.

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 Caribbean Implementation Guidelines for Federal On-Scene Coordinators; and specific procedures such as the SCAT process.

ATTACHMENT 4

HISTORIC PROPERTY PROTECTION INFORMATION FOR EMERGENCY RESPONSE PERSONNEL: EXAMPLE

Tanker XYZ Cleanup Cultural Resource Policy

The Caribbean Regional Response Team (CRRT) supports the following policy regarding historic properties:

to preserve and protect the historic, prehistoric and archaeological resources from loss, desecration and destruction so that the scientific historic heritage embodied in these resources may pass undiminished to future generations.

The Unified Command of the Tanker XYZ cleanup strongly supports this policy, and will ensure compliance with State and Federal laws protecting Historic Properties. On behalf of the FOSC and within the Unified Command structure, the FOSC's Historic Properties Specialist will ensure that historic properties are appropriately considered during oil spill response activities. Response personnel play a key role in this program by being aware of their responsibilities under State and Federal law, and by dealing with sites properly when they are encountered. Whenever personnel encounter or discover an archaeological site or artifact, they are required to:

- Leave historic materials in place at the site of discovery, and mark its location.
- Stop cleanup work in the vicinity surrounding the site unless there is an immediate threat to health and welfare.
- Immediately inform the field supervisor, who in turn, should immediately inform the FOSC's Historic Properties Specialist.

State and various Federal laws and regulations prohibit collecting or tampering with protected historic resources, including artifacts, fossils, human skeletal remains, and other items of antiquity, and violation of the act is a crime. In addition, violation of Federal laws protecting historic resources may result in fines and imprisonment.

All oil spill response personnel (employees and their contractors) must comply with this Historic Resource Policy:

Anyone found vandalizing, moving, or taking away historic materials will be subject to disciplinary actions up to and including immediate dismissal from their work, and an incident report may be filed with law enforcement authorities, requesting prosecution under applicable law.

Federal On-Scene Coordinator

State On-Scene Coordinator

By, for, and on behalf of (Responsible Party)

ATTACHMENT 5

**FEDERAL ON-SCENE COORDINATOR
PROCEDURE FOR DETERMINING WHEN TO ACTIVATE
AN HISTORIC PROPERTIES SPECIALIST**

STEP 1: Receive Notification of Oil Spill or Hazardous Substance Release

STEP 2: Determine if Historic Properties Need to Be Considered

Does the spill or release fall into one of the following categories listed in Attachment 1?

- ☐ Yes
- ☐ No

If the answer is "YES," no other actions regarding Historic Properties protection are required.

If the answer is "NO," proceed to Step 3.

STEP 3: Activate Federal On-Scene Coordinator's Historic Properties Specialist

See Federal OSC's list of pre-identified Historic Properties Specialists.

See Attachment 6 for suggested information to provide to the Historic Properties Specialist upon activation.

NOTE: Activation of a Historic Properties Specialist must be accomplished in a "reasonable and timely" manner. See Section III of the Caribbean Implementation Guidelines for more detailed information.

ATTACHMENT 6

**SUGGESTED INFORMATION TO BE PROVIDED TO HISTORIC
PROPERTIES SPECIALISTS 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-disturbing activities:

ATTACHMENT 7

HISTORIC PROPERTIES SPECIALIST CHECKLIST*

THE FOLLOWING STEPS SHOULD BE TAKEN AS APPROPRIATE BY THE FEDERAL ON-SCENE COORDINATOR'S HISTORIC PROPERTIES SPECIALIST FOLLOWING ACTIVATION:		
<input type="checkbox"/>	If the spill/release occurs in an area where Geographic Response Strategies (GRS) have been developed, check the historic properties note on the GRS and discuss appropriate actions with the Federal OSC.	
<input type="checkbox"/>	Identify the (1) location(s) of known historic properties affected or potentially-affected by the spill or release; and/or (2) potential for undocumented s 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 all appropriate Federal, State, local, and/or private landowner(s) and/or land manager(s).</i>
	<input type="checkbox"/>	<i>Notify/consult with appropriate local interest groups..</i>
	<input type="checkbox"/>	<i>Consult with archaeologists/historians knowledgeable about the area.</i>
	<input type="checkbox"/>	<i>Consult with Responsible Party's Historic Properties Specialist (if identified).</i>
	<input type="checkbox"/>	<i>Consult with local residents.</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 taken by on-scene representatives).</i>
<input type="checkbox"/>	Assess whether emergency response strategies have the potential to affect historic properties.	
<input type="checkbox"/>	Establish a Historic Properties policy for all spill-related field personnel.	
	<input type="checkbox"/>	Implement policy through the Unified Command (e.g., Federal OSC, Safety Officer, or other appropriate individuals.)
<input type="checkbox"/>	Help identify strategies (see Attachment 2) to protect historic properties.	
	<input type="checkbox"/>	Provide information on response activities that have the potential to negatively affect historic properties.

***It should be noted that additional steps may be required in more complex incidents. In addition, the identified tasks may require additional qualified individuals working under the direction/oversight of the Federal OSC's Historic Properties Specialist. Qualified individuals may include historic resources specialists working for the Responsible Party.**

ATTACHMENT 7, CONT.

HISTORIC PROPERTIES SPECIALIST CHECKLIST, CONT.,

ONE OR MORE OF THE FOLLOWING STEPS SHOULD BE TAKEN AS APPROPRIATE, AT THE RECOMMENDATION OF THE HISTORIC PROPERTIES SPECIALIST FOLLOWING APPROVAL BY THE FEDERAL ON-SCENE COORDINATOR:		
<input type="checkbox"/>	Travel to the spill or release site to inspect or monitor on-site activities to minimize or eliminate potential historic property 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 input 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 Property 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 archaeological and/or historical 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.	
<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"/>	Provide input to Unified Command on how to prevent additional artifact theft.

ATTACHMENT 8

**DOCUMENTATION OF ACTIONS TAKEN THAT RESULTED IN
UNAVOIDABLE INJURY TO HISTORIC PROPERTIES**

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:

Brief description of response action approved (including the date) by Federal On-Scene Coordinator (OSC) where protecting public health and safety was in conflict with protecting historic properties:
Brief description of why protecting public health and safety could not be accomplished while also protecting historic properties:

Federal OSC Name and Title:

Federal OSC Signature:

Date of Signature:

Faxed to:

- ☐ _____, State Historic Preservation Officer (____-____-____ fax)
- ☐ (Name and fax number of potentially-affected resource managers/trustees):
- ☐ (Name and fax number of potentially-affected resource managers/trustees):
- ☐ (Name and fax number of potentially-affected resource managers/trustees):

ATTACHMENT 9

Historic Properties Specialist ICS Functional Checklist

The Historic Properties Specialist is responsible for identifying and resolving issues related to any historic sites that are threatened or impacted during an incident. The Specialist must understand and be able to implement a “Programmatic Agreement on Protection of Historic Properties” and consult with State Historic Preservation Officers (SHPO), land management agencies, appropriate native tribes and organizations, and other concerned parties. The Historic Properties Specialist must identify historic property sites and develop strategies for protection and cleanup of those sites in order to minimize damage. The Historic Properties Specialist should:

- ☐ Review Common Responsibilities.
- ☐ Implement Programmatic Agreement (PA) for the FOSC.
- ☐ If PA is not used, coordinate Section 106 consultations with the SHPO.
- ☐ Consult and reach consensus with concerned parties on affected historic property sites and response strategies.
- ☐ Identify and prioritize threatened or impacted historic property sites.
- ☐ Develop response strategies to protect historic property sites.
- ☐ Participate in the testing and evaluation of clean up techniques used on historic property sites.
- ☐ Monitor and provide guidance on the cleanup of historic property sites to reduce or eliminate response-related impacts.
- ☐ Identify, notify, and consult with all appropriate parties on the identification of historic properties that have been or may be negatively affected by the spill or release.
- ☐ To assess the potential of emergency response activities to negatively affect those historic properties.
- ☐ To provide input to the Federal OSC on ways to avoid or reduce negative effects of emergency response activities on historic properties.
- ☐ To provide recommendations on additional response strategies that could further protect historic properties.
- ☐ Ensure compliance with applicable Federal/state regulations.
- ☐ Maintain Unit/Activity Log (ICS 214).