

APPENDIX E

ACHP'S RECOMMENDED APPROACH FOR CONSULTATION ON RECOVERY OF SIGNIFICANT INFORMATION FROM ARCHAEOLOGICAL SITES

Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites

Summary: In accordance with Secs. 800.5 and 800.6 of its revised regulations (36 CFR part 800, "Protection of Historic Properties," published [May 18, 1999]) implementing Section 106 of the National Historic Preservation Act of 1966, the Advisory Council on Historic Preservation is publishing a recommended approach for consultation by Federal agencies, State Historic Preservation Officers, Tribal Historic Preservation Officers, and others on the effects of Federal, federally assisted, and federally licensed or -permitted undertakings on archeological sites. ACHP has determined that issuance of this guidance is consistent with ACHP's revised regulations. The full text of the guidance is reproduced under the Supplementary Information section of this notice.

Dates: This guidance is effective on June 17, 1999.

Addresses: Those wishing to comment on this guidance should direct such comments to: Executive Director, Advisory Council on Historic Preservation, Old Post Office Building, 1100 Pennsylvania Ave., NW, #809, Washington, DC 20004; Fax (202) 606-8647; e-mail achp@achp.gov.

For further information, contact: Ronald D. Anzalone, Assistant to the Executive Director, Advisory Council on Historic Preservation, Old Post Office Building, 1100 Pennsylvania Ave., NW., # 809, Washington, DC 20004, (202) 606-8523.

Supplementary Information: The full text of the guidance, with the model Memorandum of Agreement, is reproduced below.

Background

Sections 800.5 and 800.6 of ACHP's revised regulations, "Protection of Historic Properties" (36 CFR part 800) detail the process by which Federal agencies determine whether their undertakings will adversely affect historic properties, and if they will, how they are to consult to avoid, minimize, or mitigate the adverse effects in order to meet the requirements of Section 106 to "take into account" the effects of their undertakings on historic properties.

One such category of historic properties is comprised of prehistoric or historic archeological resources. The National Register of Historic Places defines an archeological site as "the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains" (National Register Bulletin 36, "Guidelines for Evaluating and Registering Historical Archeological Sites and Districts," 1993, p. 2). Such properties may meet criteria for inclusion in the National Register of Historic Places for a variety of reasons, not the

least of which may be because "they have yielded, or may be likely to yield, information important to prehistory or history" (*National Register Criteria for Evaluation*, 36 CFR 60.4).

In the context of taking into account the effects of a proposed Federal or federally assisted undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register, potential impacts to archeological sites often need to be considered. Appropriate treatments for affected archeological sites, or portions of archeological sites, may include active preservation in place for future study or other use, recovery or partial recovery of archeological data, public interpretive display, or any combination of these and other measures.

Archeological Sites and Their Treatment

The nature and scope of treatments for such properties should be determined in consultation with other parties, but in ACHP's experience they generally need to be guided by certain basic principles:

- The pursuit of knowledge about the past is in the public interest.
- An archeological site may have important values for living communities and cultural descendants in addition to its significance as a resource for learning about the past; its appropriate treatment depends on its research significance, weighed against these other public values.
- Not all information about the past is equally important; therefore, not all archeological sites are equally important for research purposes.
- Methods for recovering information from archeological sites, particularly large-scale excavation, are by their nature destructive. The site is destroyed as it is excavated. Therefore management of archeological sites should be conducted in a spirit of stewardship for future generations, with full recognition of their non-renewable nature and their potential multiple uses and public values.
- Given the non-renewable nature of archeological sites, it follows that if an archeological site can be practically preserved in place for future study or other use, it usually should be (although there are exceptions). However, simple avoidance of a site is not the same as preservation.
- Recovery of significant archeological information through controlled excavation and other scientific recording methods, as well as destruction without data recovery, may both be appropriate treatments for certain archeological sites.
- Once a decision has been made to recover archeological information through the naturally destructive methods of excavation, a research design and data recovery plan based on firm background data, sound planning, and accepted archeological methods should be formulated and implemented. Data recovery and analysis should be accomplished in a thorough, efficient manner, using the most cost-effective techniques practicable. A responsible archeological data recovery plan should provide for reporting and dissemination of results, as well as interpretation of what has been learned so that it is understandable and accessible to the public. Appropriate arrangements for curation of

archeological materials and records should be made. Adequate time and funds should be budgeted for fulfillment of the overall plan.

- Archeological data recovery plans and their research designs should be grounded in and related to the priorities established in regional, state, and local historic preservation plans, the needs of land and resource managers, academic research interests, and other legitimate public interests.
- Human remains and funerary objects deserve respect and should be treated appropriately. The presence of human remains in an archeological site usually gives the site an added importance as a burial site or cemetery, and the values associated with burial sites need to be fully considered in the consultation process.
- Large-scale, long-term archeological identification and management programs require careful consideration of management needs, appreciation for the range of archeological values represented, periodic synthesis of research and other program results, and professional peer review and oversight.

Resolving Adverse Effects through Recovery of Significant Information from Archeological Sites

Under 36 CFR 800.5, archeological sites may be "adversely affected" when they are threatened with unavoidable physical destruction or damage. Based on the principles articulated above, ACHP recommends that the following issues be considered and addressed when archeological sites are so affected, and recovery of significant information from them through excavation and other scientific means is the most appropriate preservation outcome.

If this guidance is followed, it is highly unlikely that ACHP would decide to enter the consultation process under 36 CFR 800.6 or raise objections to the proposed resolution of adverse effects in a given case, unless it is informed of serious problems by a consulting party or a member of the public.

1. The archeological site should be significant and of value chiefly for the information on prehistory or history it is likely to yield through archeological, historical, and scientific methods of information recovery, including archeological excavation.
2. The archeological site should not contain or be likely to contain human remains, associated or unassociated funerary objects, sacred objects, or items of cultural patrimony as those terms are defined by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).
3. The archeological site should not have long-term preservation value, such as traditional cultural and religious importance to an Indian tribe or a Native Hawaiian organization.
4. The archeological site should not possess special significance to another ethnic group or community that historically ascribes cultural or symbolic value to the site and would object to the site's excavation and removal of its contents.
5. The archeological site should not be valuable for potential permanent in-situ display or public interpretation, although temporary public display and interpretation during the course of any excavations may be highly appropriate.

6. The Federal Agency Official should have prepared a data recovery plan with a research design in consultation with the SHPO/THPO* and other stakeholders that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, and the *Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook*. The plan should specify: (a) The results of previous research relevant to the project; (b) research problems or questions to be addressed with an explanation of their relevance and importance; (c) the field and laboratory analysis methods to be used with a justification of their cost-effectiveness and how they apply to this particular property and these research needs; (d) the methods to be used in artifact, data, and other records management; (e) explicit provisions for disseminating the research findings to professional peers in a timely manner; (f) arrangements for presenting what has been found and learned to the public, focusing particularly on the community or communities that may have interests in the results; (g) the curation of recovered materials and records resulting from the data recovery in accordance with 36 CFR part 79 (except in the case of unexpected discoveries that may need to be considered for repatriation pursuant to NAGPRA); and (h) procedures for evaluating and treating discoveries of unexpected remains or newly identified historic properties during the course of the project, including necessary consultation with other parties.
7. The Federal Agency Official should ensure that the data recovery plan is developed and will be implemented by or under the direct supervision of a person, or persons, meeting at a minimum the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738- 44739).
8. The Federal Agency Official should ensure that adequate time and money to carry out all aspects of the plan are provided, and should ensure that all parties consulted in the development of the plan are kept informed of the status of its implementation.
9. The Federal Agency Official should ensure that a final archeological report resulting from the data recovery will be provided to the SHPO/THPO*. The Federal Agency Official should ensure that the final report is responsive to professional standards, and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377-79).
10. Large, unusual, or complex projects should provide for special oversight, including professional peer review.
11. The Federal Agency Official should determine that there are no unresolved issues concerning the recovery of significant information with any Indian tribe or Native Hawaiian organization that may attach religious and cultural significance to the affected property.
12. Federal Agency Officials should incorporate the terms and conditions of this recommended approach into a Memorandum of Agreement or Programmatic Agreement, file a copy with ACHP per Sec. 800.6(b)(iv), and implement the agreed plan. The agency should retain a copy of the agreement and supporting documentation in the project files.

OTHER TERMS AND CONDITIONS:

- Modification, amendment, or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.
- Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of ACHP to assist in resolving the dispute.
- This agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Agency Official:
date:

State Historic Preservation Officer:
date:

Tribal Historic Preservation Officer*: Official:
date:

Other Public or Private Entity:
date:
(as applicable)

[Attach Archeological Data Recovery Plan here]

Dated: May 7, 1999.
John M. Fowler,
Executive Director.
 [FR Doc. 99-12055 Filed 5-17-99; 8:45 am]

*** The regulations define the term "THPO" as those tribes that have assumed SHPO responsibilities on their tribal lands and have been certified pursuant to Section 101(d)(2) of the NHPA. Nevertheless, remember that tribes that have not been so certified have the same consultation and concurrence rights as THPOs when the undertaking takes place, or affects historic properties, on their tribal lands. The practical difference is that during such undertakings, THPOs would be consulted *in lieu of* the SHPO, while non-certified tribes would be consulted *in addition to* the SHPO.**

Updated April 26, 2002

APPENDIX F

STANDARD OPERATING PROCEDURES

STANDARD OPERATING PROCEDURES
REGARDING THE INADVERTENT DISCOVERY OF
HUMAN REMAINS ON GUAM

PURPOSE: This SOP provides uniform guidelines in the event that human remains are inadvertently discovered or disturbed during the course of any action, undertaking, or activity (including those caused by natural occurrences such as erosion) on DoD-retained lands on Guam. Inadvertent discovery refers to the unintentional excavation or discovery of human remains.

ETHICS: Any human remains regardless of ethnicity or time of deposition shall be treated with respect and dignity.

REFERENCE: National Historic Preservation Act, 36 CFR Part 800; Archaeological Resources Protection Act; Certain aspects of the Native American Graves Protection and Repatriation Act and the Guam Department of Parks and Recreation General Guidelines for Archaeological Burials were also incorporated into this SOP.

RESPONSIBILITY: Primary responsibility for carrying out this SOP lies with the cultural resource managers for each installation under Commander, Joint Region Marianas (CJRM). These procedures should be briefed to all on-site managers and supervisors who are carrying out work that could result in inadvertent discovery of remains on DoD property or during DoD sponsored projects.

STANDARD OPERATING PROCEDURES
REGARDING THE INADVERTENT DISCOVERY OF
HUMAN REMAINS ON GUAM

STEP I – INITIAL DISCOVERY

If human skeletal remains (or remains thought to be human) are found during a DoD project or on DoD retained lands on Guam, the following procedures shall be followed:

1. The remains shall be protected from the elements and the area around the discovery shall be secured. CJRM security personnel and cultural resource manager should be notified immediately.

2. If human remains were uncovered during a Navy construction project, then the contracting officer associated with the specific project shall be notified per the contract clause referencing these procedures. A stop work order for the area within the immediate vicinity of the find shall be issued by the contracting officer, if appropriate. The contracting officer shall be notified of all subsequent consultations regarding the remains

STEP II PRELIMINARY IDENTIFICATION

CJRM's cultural resource manager shall determine if the skeletal remains are animal or human. This shall be done through a professional trained in the identification of human remains (such as an archaeologist, physical anthropologist, forensic specialist) and such professional shall examine the remains and make a determination as to whether they are human. If the skeletal remains are identified as human, then proceed to Step III.

STEP III IDENTIFICATION - AGE OF DEPOSITION (TIME PERIOD) & ETHNICITY

If possible, the age of deposition (time period) and ethnicity of the remains shall be determined based on skeletal morphology, context, and associated artifacts by (or under the supervision of) an archaeologist meeting federal qualifications set forth in 36 CFR 61, Appendix A. This determination shall be made as soon as possible, taking into account specific circumstances

regarding the discovery of the remains. The following steps shall be undertaken during the identification phase:

Modern Remains

If the skeletal remains are found to be human and are modern, then CJRM security personnel and Naval Criminal Investigative Services (NCIS) will take over the investigation.

World War II Remains

If the skeletal remains are found to be human and are from World War II (WWII), then the following procedures shall be followed:

1. If there is reason to believe that the remains are from WWII and are of the indigenous origin (Chamorro) or of any other civilian present on Guam at the time, then the Community/Public Affairs office shall be notified and involved in the consultation process.
2. If there is reason to believe that the remains are of U.S. military personnel, then the Joint POW/MIA Accounting Command (JPAC) shall be notified and will take over the case.
3. If there is reason to believe that the remains are Japanese from World War II, the Consulate General of Japan (CGJ), Agana, Guam, shall be notified and consulted with as to the disposition of the remains.
4. A courtesy call will be made to the Guam [State] Historic Preservation Office (SHPO) to inform them that human skeletal remains from WWII time period were uncovered. However, human remains from this time period are usually not considered as archaeological in nature and other agencies such as JPAC or CGJ have jurisdiction over those matters.

Depending on the preliminary determination by the agencies as to whether the remains are of recent, historic, or pre-contact deposition, the following steps shall be taken:

Remains Older than WWII (Historic and Prehistoric)

If the skeletal remains are found to be human and older than 50 years (and are not associated with WWII), then following procedures shall be followed:

1. The cultural resource manager shall notify the SHPO within three working days of the identification that the skeletal remains are human and are historic or prehistoric in nature.
2. If requested, the CJRM cultural resource manager shall arrange for a site visit by a SHPO representative.

3. The cultural resource manager shall consult with the SHPO and follow Section II and III of the Policy Guidance in the Guam Department of Parks and Recreation General Guidelines for Archaeological Burials.
4. If any other organization or agency comes forward and expresses an interest in participating in the consultation process, they must submit a written request expressing their desire to participate in the consultation process and explain how they are culturally affiliated with the human remains. Their comments will be considered in the overall decision making process.
5. If the remains are encountered during project construction, CJRM shall determine the feasibility of project alternatives that will avoid disturbance of the remains or whether disinterment is necessary. If a mass burial is indicated, preservation in place shall be the preferred alternative. The results of the consultation shall be placed on file at CJRM environmental office and JPAC shall be notified.

Undetermined Remains

If a determination as to the age of deposition of the remains or the ethnicity of the remains cannot be determined, the procedures below shall be followed:

1. The SHPO will be notified and consulted with. Based on the consultation, a decision will be made to either preserve the remains *in situ* or to remove them for further analysis in hopes that the age of deposition and ethnicity can eventually be determined so that the appropriate protocols can be followed.
2. If it is determined that the skeletal remains and any associated artifacts will be exhumed, then the remains should be documented by (or under the supervision of) a qualified archaeologist.
3. Tests involving damage to the skeletal material are highly discouraged and will not be performed by the Navy. However, should it be necessary, performance of radiocarbon dating on any associated charcoal, midden, or artifacts may be conducted at the discretion of the Navy in consultation with the SHPO in order to determine age of deposition. The results of these tests, if any, shall be presented in the report by the recording professional. This report shall be submitted to the CJRM cultural resource manager and the SHPO as a record of the study.
4. If additional tests were conducted, another attempt to determine age of deposition and determine the ethnicity of the skeletal remains will be made based on the results. If a determination can be made on the age of deposition or ethnicity, then the disposition of the human remains will be conducted according to appropriate protocols outlined previously.
5. If a professional(s) not associated with the Navy, meeting the qualifications set forth in 36 CFR 61 Appendix A, seeks to analyze the skeletal remains they shall submit a written

request to the CJRM cultural resource manager. The CJRM cultural resource manager shall notify the SHPO of the request and will follow the procedures outlined in the Research Guidelines section of the Guam Department of Parks and Recreation General Guidelines for Archaeological Burials. The applicant shall be notified within 30 days of submission of the Research Design whether it has been accepted or rejected. The cost of the tests and report preparation shall be borne by the applicant. A copy of the results and findings shall be provided to the Navy and the SHPO within six months after the tests are conducted. The remains shall be curated at the laboratory of the researcher until plans for reburial have been made.

6. If the age of deposition or ethnicity of the human remains cannot be determined, then the CJRM cultural resource manager, in consultation with the SHPO, shall curate the remains and any associated artifacts in the event that further information may come to light or rebury the remains. A record of the consultation process shall be placed on file at CJRM environmental office and at the SHPO.

STEP IV DISPOSITION

CJRM shall follow Sections II and III of the Policy Guidance in the Guam Department of Parks and Recreation General Guidelines for Archaeological Burials when dealing with the disposition of human remains older than WWII. Reiterated below are procedures tailored specifically to burials found on Navy property on Guam using the Department of Parks and Recreation General Guidelines for Archaeological Burials as a general guideline.

1. If the remains are found eroding out of the soil, the Navy, in consultation with the SHPO, shall decide whether the remains can be preserved in place or whether the remains would be severely damaged by leaving them *in situ*. The results of the decision-making process shall be placed on file at the CJRM environmental office.
2. If the remains are exposed during a project, and the project can be redesigned to avoid the remains, or the remains can be left in place then the following steps shall be taken: The remains and any associated artifacts shall be recorded *in situ* by an individual meeting the qualifications set forth in 36 CFR 61.9 using standard archeological procedures set forth in 48 CFR 44720. Every effort shall be made to determine the number of individuals and the age, sex, and ethnicity of the remains. The documentation and a record of the location of the remains shall be kept on file at CJRM environmental office. A copy shall be provided to the SHPO.
3. If the project cannot be redesigned to avoid disturbing the remains the following steps shall be followed:
 - (a) The remains and any associated artifacts shall be removed by an archeologist meeting the professional qualifications set forth in 36 CFR 61.9, using standard archeological procedures set forth in 48 CFR 44720.

(b) A report of the excavation techniques and findings, along with a photographic record shall be submitted to CJRM within 30 days of disinterment. The documentation shall be kept on file at CJRM and a copy provided to the HPO; any associated artifacts shall be temporarily curated at the contractor's laboratory until the final disposition of the remains is determined.

4. If remains have to be moved, then through consultation with the SHPO it will be determined by CJRM that the human remains may be reburied elsewhere. COMAVMARIANAS will follow Section IV(A)(1, 3-4) or Section IV(B) of the Guam Department of Parks and Recreation General Guidelines for Archaeological Burials if determined appropriate and funds are available. Re-burial shall occur within two years of the identification of the remains. If circumstances prevent this date from being met, then CRNM shall notify the SHPO and continue to work on reaching an agreement on re-burial. The documentation and a record of the location of the remains shall be kept on file at the CJRM environmental office. A copy shall be provided to the SHPO.

**STANDARD OPERATING PROCEDURE
FOR THE INADVERTENT DISCOVERY OF HUMAN REMAINS
WITHIN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

PURPOSE: This Standard Operating Procedure (SOP) provides uniform guidelines in the event that human remains are inadvertently discovered during the course of any Navy action, undertaking, or activity (including those caused by natural occurrences such as erosion) or on Navy property or Department of Defense (DoD) leased lands within the Commonwealth of the Northern Mariana Islands (CNMI).

ETHICS: Any human remains regardless of ethnicity or time of deposition shall be treated with respect and dignity.

REFERENCES: National Historic Preservation Act, 36 CFR Part 800; Archaeological Resources Protection Act; Native American Graves Protection and Repatriation Act and the CNMI Historic Preservation Office's (HPO) Procedures for the Treatment of Human Remains in the Commonwealth of the Northern Mariana Islands (May 2000) were also incorporated into this SOP.

DEFINITIONS: In this SOP, human remains are defined as whole or partial human skeletal remains including dentition. Human skeletal remains that have been transformed or utilized as artifacts (tools, implements, decoration, jewelry, etc.) are excluded from this definition. These items shall be treated as artifacts. The term "inadvertent discovery" refers to the unintentional excavation or discovery of human remains.

**STANDARD OPERATING PROCEDURES
FOR THE INADVERTENT DISCOVERY OF HUMAN REMAINS
WITHIN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

STEP I – INITIAL DISCOVERY

If human skeletal remains (or remains thought to be human) are found during a Navy project or on Navy-retained or DoD leased lands within CNMI, the procedures below shall be followed:

1. The remains shall be protected from the elements and the area around the discovery shall be secured. Security personnel and the Navy's cultural resource manager (CRM) should be notified immediately.
2. If the remains are found during a Navy sponsored construction project or on Navy retained-lands or DoD leased land, then work in the immediate vicinity shall be halted until the situation is properly evaluated. If this project is tied to a construction project, then the contracting officer associated with the specific project shall be notified per the contract clause referencing these procedures. A stop work order for the area within the immediate vicinity of the find shall be issued by the contracting officer, if appropriate. The contracting officer shall be notified of all subsequent consultations regarding the remains.

STEP II PRELIMINARY IDENTIFICATION

The CRM shall determine if the skeletal remains are animal or human. If the CRM does not have a background or training in osteology, the identification should be done through a professional trained in the identification of human remains (such as an archaeologist, physical anthropologist, forensic specialist, medical examiner, or M.D.) and such professional shall examine the remains and make a determination as to whether they are human. If the skeletal remains are identified as human, then proceed to Step III.

STEP III IDENTIFICATION - AGE OF DEPOSITION (TIME PERIOD) & ETHNICITY

If possible, the age of deposition (time period) and ethnicity of the remains shall be determined based on skeletal morphology, burial context, and associated artifacts. This identification should be conducted by (or under the supervision of) an archaeologist that meets the federal qualifications set forth by the Secretary of the Interior in 36 CFR 61, Appendix A. This determination shall be made as soon as possible, taking into account specific circumstances regarding the discovery of the remains.

The following steps shall be undertaken during the identification phase:

Modern Remains

If the skeletal remains are found to be human and are modern, then Navy security personnel and the Naval Criminal Investigative Service will take over the investigation.

World War II Remains

If the skeletal remains are found to be human and are from World War II (WWII), then the following procedures shall be followed:

1. In all cases of WWII period human remains, the Navy's Community/Public Affairs office shall be notified.
2. If there is reason to believe that the human remains are of Chamorro descent and from WWII, then the CNMI HPO will be notified since the CNMI Department of Culture and Community Affairs has designated the CNMI HPO as the agency that handles civilian remains from WWII discovered within CNMI. The CNMI HPO will be consulted with as to how the remains will be repatriated.
3. If there is reason to believe that the remains are from WWII and are civilians of Carolinian descent, then the Carolinian Affairs (CA) office will be notified and will be consulted with as to how the remains will be repatriated.
4. If there is reason to believe that the remains are of U.S. military personnel from WWII, then the Joint POW/MIA Accounting Command (JPAC) shall be notified and will take over the investigation.
5. If there is reason to believe that the remains are Japanese civilians from WWII, the Saipan Consular Office of Japan (COJ) shall be notified and will be consulted with as to how the remains will be repatriated.
6. If there is reason to believe that the remains are Korean civilians from WWII, the Republic of Korea Consulate General (ROKCG) in Guam shall be notified and will be consulted with as to how the remains will be repatriated.
7. The CNMI HPO will be notified (in the form of a phone call) to inform them that human skeletal remains were discovered and are believed to be from the WWII time period. The CNMI HPO is the keeper of records regarding all human remains disinterred in CNMI from WWII. However, since human remains from this time period are under the jurisdiction of other agencies such as CA office, JPAC, COJ, ROKCG, the Navy will put these agencies in touch with the CNMI HPO. If the agencies mentioned above decide to that they want the human remains exhumed, a record of the context, associated objects, and photograph and sketch the remains will be submitted to the HPO SHPO after the remains are disinterred.

Depending on the preliminary determination as to whether the remains are of recent, historic, or pre-contact deposition, the following steps shall be taken:

Remains Older than WWII (Historic and Prehistoric)

If the skeletal remains are found to be human and older than 50 years (and are not associated with WWII), then following procedures shall be followed:

1. CRM shall notify the CNMI HPO within five working days of the identification that the skeletal remains are human and are historic or prehistoric in nature.
2. If requested, the CRM shall arrange for a site visit by a CNMI HPO representative.
3. If possible, the CRM should identify the ethnic affiliation (Chamorro or Carolinian) of the human remains in consultation with the CNMI HPO.¹
4. If any other organization or agency comes forward and expresses an interest in participating in the consultation process, they must submit a written request expressing their desire to participate in the consultation process and explain how they are culturally affiliated with the human remains. The CRM will assess this request along with the CNMI HPO. Their comments will be considered in the overall decision making process.
5. If the remains are encountered during project construction, CRM shall determine the feasibility of project alternatives that will avoid disturbance of the remains or whether disinterment is necessary. If a mass burial is indicated, preservation is the preferred alternative. The results of the consultation shall be placed on file at CJRM environmental office

Undetermined Remains

If a determination as to the age of deposition of the remains or the ethnicity of the remains cannot be determined, the following procedures shall be followed:

1. The CNMI HPO will be notified and consulted with. Based on the consultation, a decision will be made to either preserve the remains *in situ* or to remove them for further analysis in hopes that the age of deposition and ethnicity can eventually be determined so that the appropriate protocols can be followed.
2. If it is determined that the skeletal remains and any associated artifacts will be excavated, then they should be documented by (or under the supervision of) a qualified archaeologist.
3. Tests involving damage to the skeletal material are highly discouraged and will not be performed by the Navy. However, should it be necessary, performance of radiocarbon dating on any associated charcoal, midden, or artifacts may be conducted at the discretion of the Navy in consultation with the CNMI HPO in order to determine age of deposition. The results of these tests, if any, shall be presented in the report by the recording professional. This report shall be submitted to the CJRM environmental office and the CNMI HPO as a record of the study.
4. If additional studies are conducted, another attempt to determine age of deposition and determine ethnicity of the skeletal remains will be made based on the results. If a determination can be made on the age of deposition or ethnicity, then the disposition of the human remains will be conducted according to appropriate protocols outlined previously.

5. Although not likely, but if Native American, Native Alaskan, or Native Hawaiian remains are encountered, then CJRM shall follow the procedures outlined in the Native American Graves Protection and Repatriation Act.
6. If a professional(s) not associated with the Navy, meeting the qualifications set forth in 36 CFR 61 Appendix A, seeks to analyze the skeletal remains they shall submit a written request to the CRM. The CRM shall notify the CNMI HPO of the request. A research design acceptable to both the CRM and the CNMI HPO will be required in order to conduct analyses on human remains recovered from Navy managed lands. In addition, the applicant shall fill out and submit to the CNMI HPO, a curation agreement form. The applicant shall be notified within 30 days of submission of the Research Design whether it has been accepted or rejected. The cost of the tests and report preparation shall be borne by the applicant. A copy of the results and findings shall be provided to the CRM and CNMI HPO within six months after the tests are conducted. The remains shall be curated at the laboratory of the researcher until plans for reburial have been made.
7. If the age of deposition or ethnicity of the remains cannot be determined and exhumation is necessary, then the Navy in consultation with the HPO shall curate the remains and any associated artifacts in the event that further information may come to light or rebury the remains. A record of the consultation process shall be placed on file at CJRM environmental office and at the CNMI HPO.

STEP IV DISPOSITION

Reiterated below are procedures tailored specifically to disposition of human remains found on Navy property or DoD leased land within CNMI using the Section V (Class I and II) of the CNMI HPO's Procedures for the Treatment of Human Remains in the Commonwealth of the Northern Mariana Islands (May 2000) as a general guideline. These procedures apply to prehistoric and historic human remains. The disposition of human remains from WWII or modern origin will be primarily handled by other entities and agencies as mentioned in STEP III. Disposition of pre-historic and historic human remains:

1. If human remains are discovered eroding out of sediments, then the Navy, in consultation with the CNMI HPO, shall decide whether the remains can be preserved in place or whether the remains should be removed. The results of the decision-making process shall be placed on file at CJRM environmental office. The CRM shall carry out the procedures agreed upon during the consultation process.
2. If the remains are exposed during a project, and the project can be redesigned to avoid the remains, or the remains can be left *in situ* without impacts to the project, then the following steps shall be taken:
 - a. The location and description of the remains and any associated artifacts shall be recorded *in situ* by an individual meeting the qualifications set forth in 36 CFR 61.9 using standard archeological procedures set forth in 48 CFR 44720.

- b. Every effort shall be made to determine the number of individuals and the age, sex, and ethnicity of the remains. The documentation and a record of the location of the remains shall be kept on file at CJRM environmental office. A copy shall be provided to the CNMI HPO.
3. If the project cannot be redesigned to avoid disturbing the remains the following steps shall be followed:
 - a. The remains and any associated artifacts shall be removed by an archeologist meeting the professional qualifications set forth in 36 CFR 61.9, Appendix A, using standard archeological procedures set forth in 48 CFR 44720. If the Navy or contractor seeks to curate the artifacts for a short time before turning over the artifacts to the CNMI HPO, then an artifact loan agreement form needs to be filled out and submitted to the CNMI HPO.
 - b. A report of the excavation techniques and findings, along with a photographic record and sketches shall be submitted to CRM within 180 days of disinterment. The documentation shall be kept on file at CJRM environmental office and a copy will be provided to the HPO; any associated artifacts shall be temporarily curated at the contractor's laboratory until the final disposition of the remains is determined.
4. If remains have to be moved, then through consultation with the CNMI HPO it will be determined by CRM that the human remains may be reburied elsewhere. The CRM will consult with the CNMI HPO as to the appropriate location. The documentation and a record of the location of the remains shall be kept on file at CJRM environmental office a copy shall be provided to the CNMI HPO.

STEP V. CULTURAL ACCESS

Any requests for access to the burial sites should be submitted to CRM in writing. The agency or organization must show how their organization is culturally associated with the remains in order for their request to be considered a legitimate cultural access request. If the Navy determines that the agency or organization has a legitimate cultural access request, then they Navy will arrange a date and time for them to access the site taking into account current Navy security and training schedules. Site visit protocols require the visitors be escorted by a Navy representative at all times, that the visitors conduct themselves in a respectable manner, and follow all Navy rules and regulations while on the installation. Any behavior otherwise, and the individual(s) will be escorted off the installation or even restricted from entering again. Persons may be denied access if they do not pass the Navy's security clearance procedures. However, every effort will be made to accommodate legitimate cultural access requests. Access requests shall be placed on file at CJRM environmental office will be reported to the CNMI HPO on a yearly basis.