

National Park Service | U.S. Department of the Interior

Cultural Resources, Partnerships and Science

National NAGPRA Program



Facilitating Respectful Return



43 CFR part 10

- Full revision of implementing regulations to clarify and simplify but similar to prior rule
- Applies to all museums (broadly defined) and all Federal agencies
- Two different regulatory processes for:
 - Protection on Federal or Tribal lands
 - Repatriation by museums or Federal agencies

Protection on Federal or Tribal Lands

- Applies to Federal agencies, the State of Hawai'i, Indian Tribes, and Native Hawaiian organizations
- Only on Federal or Tribal lands, as defined
- Native American human remains and cultural items belong, in the first instance, to lineal descendants, Indian Tribes, or Native Hawaiian organizations, not Federal land managers

43 CFR 10.4-10.7

<https://www.nps.gov/subjects/nagpra/protection-on-federal-or-tribal-lands.htm>

Protection on Federal or Tribal Lands

- 10.4 General
 - Appropriate official
 - Plan of action
 - Comprehensive agreement
 - Coordination with other laws
- 10.5 Discovery
 - Report
 - Stop activity
 - Respond
 - Plan of action
- 10.6 Excavation
 - On Tribal Lands
 - On Federal or Tribal Lands
- 10.7 Disposition
 - Priority for disposition
 - On Tribal Lands
 - On Federal or Tribal Lands
 - Unclaimed human remains or cultural items

General Requirements (10.4)

- Designate appropriate official(s)
- Coordinate with other laws like NHPA and AHPA
- Prepare a plan of action OR comprehensive agreement (Federal agency or DHHL)
 - *Step 1 - Initiate consultation.* Before a planned activity or after a discovery, the Federal agency or DHHL must identify consulting parties and invite the parties to consult.
 - *Step 2 - Consult on the plan of action.* The Federal agency or DHHL must consult on the plan of action and prepare a record of consultation that describes the concurrence, disagreement, or nonresponse of the consulting parties to the content of the plan of action.
 - *Step 3 - Approve and sign the plan of action.* The Federal agency or DHHL must approve and sign a plan of action and must provide a copy to all consulting parties.

Discovery and Excavation (10.5/6)

- Any person who knows or has reason to know of the discovery must inform the appropriate official and the additional point of contact.
- The appropriate official must respond to a discovery and, if applicable, certify when an activity may resume.
- Prior to any excavation of human remains or cultural items on Federal or Tribal lands, a written authorization (along with other permits) are required.
- Plan of action or comprehensive agreement is always required for Federal agencies and DHHL

Reporting a Discovery (10.5)

How do I report a discovery?

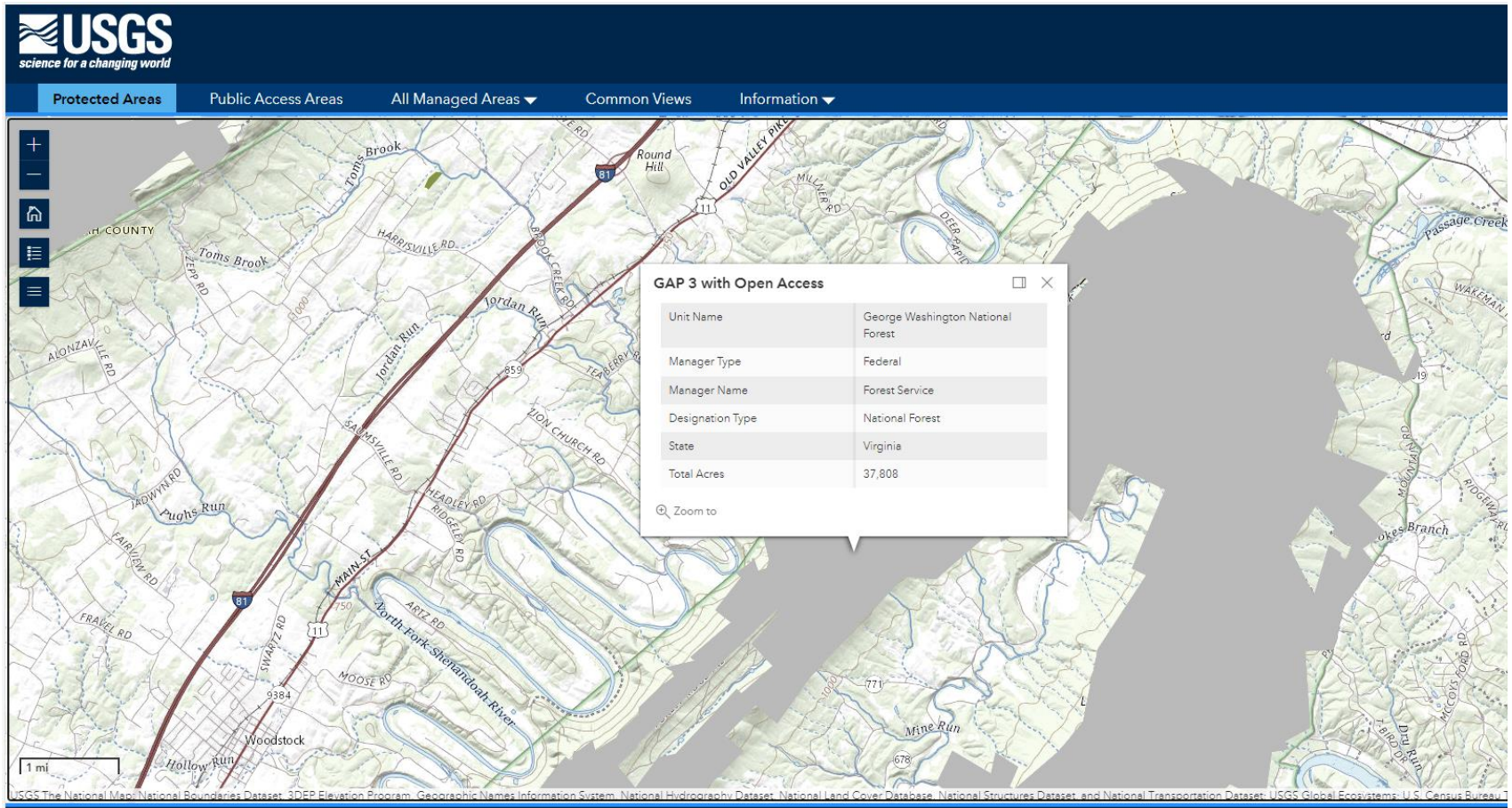
Any person who knows or has reason to know of a discovery of human remains or cultural items on Federal or Tribal lands must do the following three tasks:

1. Immediately report the discovery in person or by telephone to the appropriate official and any additional point of contact in the table below;
2. Make a reasonable effort to secure and protect the human remains or cultural items, including, as appropriate, stabilizing or covering the human remains or cultural items; and
3. No later than 24 hours after the discovery, send written documentation of the discovery to the appropriate official and the additional point of contact and identify the geographical location by county and State, the contents of the discovery, and the steps taken to secure and protect the human remains or cultural items.

Where the discovery is on . . .	the appropriate official is the representative for the . . .	and the additional point of contact is the . . .
Federal lands in the United States *	Federal agency with primary management authority	Any Indian Tribe or Native Hawaiian organization with potential cultural affiliation, if known.
Tribal lands in Alaska and the continental United States	Indian Tribe	Bureau of Indian Affairs or the Federal agency with primary management authority, if any.
Tribal lands in Hawai'i	State of Hawai'i Department of Hawaiian Homelands	Any Native Hawaiian organization with potential cultural affiliation, if known.
* Federal lands in Alaska selected but not yet conveyed under the Alaska Native Claims Settlement Act (ANCSA, 43 U.S.C. 1601)	Bureau of Land Management or Federal agency with primary management authority	Alaska Native Corporation organized under ANCSA.

<https://www.nps.gov/subjects/nagpra/discovery-and-excavation.htm>

USGS Protected Areas Database



Stopping an Activity (10.5)

If related to an activity (including but not limited to construction, mining, logging, or agriculture):

- 1.Immediately stop any activity that could threaten the discovery;
- 2.Report the discovery as noted above; and
- 3.In the written documentation of the discovery include the related activity and any potential threats to the discovery and confirmation that all activity around the discovery has stopped and must not resume until the appropriate official issues a written certification.

Stop Work on Federal land

81. Comment: 14 comments requesting we extend the timeline or provide an indefinite timeline (i.e. 30 days is floor and no ceiling)

82. Comment: 8 comments objecting to any time beyond 30 days for ministerial task (3 days is floor and 30 days is ceiling)

DOI Response: 3 days is floor. 60 days is ceiling.

Depending on circumstances, as quickly as 3 day

Max is 30 days to evaluate circumstances and consult and
30 days to consult, evaluate, and carry out plan

Responding to a discovery

- Within 3 days, appropriate official must respond
- Within 30 days, approve and sign a plan of action
- Within 30 days, send written certification and include date on which activity may resume

Excavation (10.6)

When an excavation is needed, authorize the excavation in writing. A permit under Section 4 of ARPA ([16 U.S.C. 470cc](#)) may be required when the excavation is on certain Federal or Tribal lands.

On Tribal lands, before an excavation of human remains or cultural items may occur, the Indian Tribe or Native Hawaiian organization must consent in writing by providing a written authorization for the excavation.

On Federal or Tribal lands, when a Federal agency or DHHL has responsibility for an excavation on Federal or Tribal lands, a plan of action and a written authorization are required.

Disposition (10.7)

If removed from Federal or Tribal lands, disposition must be in the following priority order:

1. The known lineal descendant, if any, for human remains or associated funerary objects;
2. The Indian Tribe or Native Hawaiian organization from whose Tribal lands the human remains or cultural items were removed;
3. The Indian Tribe or Native Hawaiian organization with the closest cultural affiliation according to the priority order at § 10.3(e) of this part;
4. On Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian Tribe, the Indian Tribe with the strongest relationship to the human remains or cultural items, which is:
 - i. The Indian Tribe recognized as aboriginally occupying the geographical location where the human remains or cultural items were removed; or
 - ii. A different Indian Tribe who shows by a preponderance of the evidence a stronger relationship to the human remains or cultural items; or
5. Any Indian Tribe or Native Hawaiian organization that requests transfer of the human remains or cultural items as [unclaimed](#).

Disposition (10.7)

On Tribal lands, the Indian Tribe or Native Hawaiian organization from whose Tribal lands the human remains or cultural items were removed must identify the lineal descendant, Indian Tribe, or Native Hawaiian organization with priority for disposition and must complete and retain a written disposition statement.

On Federal or Tribal lands, when a Federal agency or DHHL has responsibility for disposition of human remains or cultural items from Federal or Tribal lands, the Federal agency or DHHL must complete the following five steps:

- *Step 1 - Inform consulting parties.* No later than six months after removal of human remains or cultural items, send a written document to consulting parties.
- *Step 2 - Submit a notice of intended disposition.* No later than six months after step 1, submit a notice to consulting parties and to nagpra_info@nps.gov for publication in the Federal Register.
- *Step 3 - Receive and consider a claim for disposition.* Within one year of notice publication, any lineal descendant, Indian Tribe, or Native Hawaiian organization may submit a claim for disposition.
- *Step 4 - Respond to a claim for disposition.* No later than 90 days after step 3, send a written response to claimant and any other party identified in the notice.
- *Step 5- Disposition of the human remains or cultural items.* No later than 90 days after step 4, send a written disposition statement to the claimant and a copy to nagpra_info@nps.gov.

Disposition (10.7)

What about human remains or cultural items removed from Federal or Tribal Lands between 1990 and 2024, whose disposition is not complete?

- Federal agency or DHHL must complete Step 1 by July 12, 2024, then continue with Step 2-5 to complete the disposition

Unclaimed (10.7)

What happens if no party can be identified or no claim is received?

Must be reported as [unclaimed](#) when:

1. One year after discovery or excavation, the Federal agency or DHHH cannot identify any lineal descendant, Indian Tribe, or Native Hawaiian organization with priority for disposition, or
2. One year after publishing a notice of intended disposition, no lineal descendant, Indian Tribe, or Native Hawaiian organization has submitted a claim for disposition.

Unclaimed (10.7)

- Reporting of unclaimed human remains or cultural items is required by January 13, 2025, and then updates on December 31 each year.
- Transfer or reinterment of unclaimed is at the discretion of the Federal agency or DHHL
- Requires notice of proposed transfer or reinterment (NOT) be published in the Federal Register

Final Rule

A. General Comments

B. Section 10.1 Introduction.

C. Section 10.2 Definitions for this part.

D. Section 10.3 Determining cultural affiliation.

E. Subparts B and C

F. Section 10.4 General.

G. Section 10.5 Discovery.

H. Section 10.6 Excavation.

I. Section 10.7 Disposition.

J. Subpart C

K. Section 10.8 General.

L. Section 10.9 Repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony.

M. Section 10.10 Repatriation of human remains or associated funerary objects.

N. Section 10.11 Civil Penalties.

O. Section 10.12 Review Committee.

Comments 64 - 67

Comments 68 - 72

Comments 73 - 82

Comments 83 - 85

Comments 86 - 91

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Protection on Federal or Tribal Lands

Federal agencies, the State of Hawai'i, Indian Tribes, and Native Hawaiian organizations must protect Native American human remains or cultural items on Federal or Tribal lands. This requirement took effect with the passage of NAGPRA on November 16, 1990, and the related process only applies to Federal or Tribal lands. Native American human remains and other cultural items removed from Federal or Tribal lands belong, in the first instance, to lineal descendants, Indian Tribes, or Native Hawaiian organizations.

For a more in-depth look at the entire process, read [Subpart B of the regulations \(43 CFR Part 10\)](#).

What must be done?

Any person who knows or has reason to know of a discovery of human remains or cultural items on Federal or Tribal lands must [immediately report the discovery](#) to the responsible appropriate official. Any activity on Federal or Tribal land that is near the discovery must immediately stop until the activity is certified to resume.

When a Federal agency or the State of Hawaii Department of Hawaiian Homelands (DHHL) has responsibility for a [discovery or excavation](#) on Federal or Tribal lands, a plan of action is required. A plan of action is not required when an Indian Tribe or Native Hawaiian organization has responsibility for a discovery or excavation on Tribal lands. A plan of action requires the following steps:

Step 1 - Initiate consultation. Before a planned activity or after a discovery, the Federal agency or DHHL must identify consulting parties and invite the parties to consult.

Step 2 - Consult on the plan of action. The Federal agency or DHHL must consult on the plan of action and prepare a record of consultation that describes the concurrence,



NPS Photo.

Native American Graves Protection and Repatriation Act

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Templates

NAGPRA requires Federal agencies, museums, Indian Tribes, and Native Hawaiian organizations to complete certain documents as a part of protection or repatriation of human remains and cultural items. Templates in MS Word are provided to assist with these requirements. If you need assistance with these templates or the available templates do not fit your needs, please contact nagpra_info@nps.gov.

Generally applicable templates

- Cultural affiliation record (forthcoming)
- [Consultation record](#)
- Determination of most appropriate claimant/requestor (forthcoming)

Protection on Federal or Tribal Lands

- [Plan of action](#)
- [Comprehensive agreement](#)
- [Certification after a discovery](#)
- [Authorization for an excavation](#)
- Disposition statement on Tribal lands (forthcoming)
- Step 1 - Inform consulting parties (forthcoming)
- Step 2 - [Submit a Notice of Intended Disposition \(NID\)](#)
- Step 3 - Submit a claim for disposition (forthcoming)
- Step 4 - Respond to a claim for disposition (forthcoming)
- Step 5- Disposition statement on Federal or Tribal lands (forthcoming)
- List of unclaimed human remains or cultural items (forthcoming)
- Notice of Proposed Transfer or Reinterment-Federal or Tribal lands (forthcoming)
- Transfer or reinterment statement-Federal or Tribal lands (forthcoming)

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