

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

December 19, 2000

Dear Federal Preservation Officer:

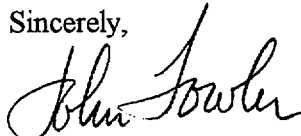
The Council has entered into an agreement with the Narragansett Indian Tribe to substitute the Tribe's historic preservation procedures for the Council's regulations on tribal lands in Rhode Island. This is the first such agreement, authorized under Section 101(d)(5) of the National Historic Preservation Act.

Section 101(d)(5) provides that the Council may enter into an agreement with an Indian tribe to permit undertakings on tribal lands to be reviewed under tribal historic preservation regulations in place of review under the Council's regulations. In order to take place, the Council, after consultation with the Tribe and appropriate State Historic Preservation Officers, must determine that the tribal preservation regulations will afford historic properties consideration equivalent to that afforded by the Council's regulations.

On November 17, 2000, at the Council's business meeting in Alexandria, Virginia, the Members approved the agreement. Following the meeting, the agreement was executed by the Council and the Narragansett Tribal Historic Preservation Officer on November 27. Accordingly, as of November 27, all Federal undertakings proposed within the exterior boundaries of the Narragansett Indian reservation will be reviewed pursuant to the Narragansett Indian Tribe's *Procedures and Rules for the Registration and Protection of Tribal Properties*. Additionally, the agreement requires Federal agencies to consult with other parties, seek a determination of eligibility from the Keeper of the National Register when there is a dispute between the Federal agency and Tribe, and to seek the comments of the Council when there is a failure to agree.

We have enclosed a copy of the agreement and tribal regulations for your information and distribution to appropriate agency staff. If you have any questions, please contact Valerie Hauser, Native American Program Coordinator, at (202) 606-8530 or vhauser@achp.gov. Should you wish to speak with the Narragansett Indian Tribal Historic Preservation Officer, Mr. John Brown, he may be reached at (401) 364-3977.

Sincerely,



John M. Fowler
Executive Director

Enclosure

ODP 006 Implate
RIDS Dist. SP02

**AGREEMENT BETWEEN
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND THE NARRAGANSETT INDIAN TRIBE
PURSUANT TO SECTION 101(D)(5) OF
THE NATIONAL HISTORIC PRESERVATION ACT (16 U.S.C.470)**

WHEREAS, the Narragansett Indian Tribe is a sovereign nation recognized and acknowledged under treaties and laws of the United States; and,

WHEREAS, this agreement is executed between two sovereign governments, the government of the Narragansett Indian Tribe, acting by and through the Narragansett Indian Tribal Historic Preservation Office, and the United States, acting by and through the Advisory Council on Historic Preservation; and,

WHEREAS, the Narragansett Indian Tribe is uniquely suited to insure the integrity of historic properties on their tribal lands; and,

WHEREAS, enhancing the role of Indian Tribes in the national historic preservation partnership will result in a stronger and better national effort to identify and protect historic and cultural resources for future generations; and,

WHEREAS, Section 101(d)(5) of the NHPA provides that the Advisory Council on Historic Preservation (hereinafter the Council or Council) may enter into agreement with an Indian Tribe to permit undertakings on tribal lands to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council, "Protection of Historic Properties" (36 CFR Part 800); and,

WHEREAS, for the purposes of this Assumption of Responsibilities Agreement (hereinafter Agreement), tribal lands, as defined by Section 301(14) of the NHPA, means all lands within the exterior boundaries of the Narragansett Indian Reservation and all dependent Indian communities; and,

WHEREAS, the Narragansett Indian Tribe has assumed those functions of the State Historic Preservation Officer (hereinafter SHPO) with respect to its tribal lands under Section 101(d)(2) of the NHPA; and,

WHEREAS, in accordance with Section 101(d)(2)(B) of the NHPA, the Narragansett Indian Tribe has designated a tribal preservation official to serve as Tribal Historic Preservation Officer (hereinafter THPO) and to administer the tribal historic preservation program; and,

WHEREAS, in accordance with Section 101(d)(2)(C) of the NHPA, the Tribe has provided to the Secretary of the Interior the Narragansett Indian Tribe's plan that describes how the tribal preservation official's function will be carried out; and,

WHEREAS, Narragansett tribal lands have been surveyed and historic properties have been identified and evaluated pursuant to the Tribal and National Registers; and,

WHEREAS, the Council has the unique responsibility under Section 101(d)(5) of the NHPA to review proposed substitute regulations and to ensure that they afford historic properties equivalent consideration to that provided under the Council's regulations; and,

WHEREAS, the Council has consulted with the Rhode Island SHPO in the development of this agreement as required by Section 101(d)(5) of the NHPA; and,

WHEREAS, the Council has determined that the Narragansett Indian Tribe's Procedures and Rules for the Registration and Protection of Tribal Properties, January 7, 1999 (hereinafter Tribal Historic Preservation Regulations), along with the Stipulations of this Agreement, will afford historic properties consideration equivalent to those afforded by the Council's regulations; and

WHEREAS, the Council urges the Narragansett THPO, the applicable SHPOs and Federal agencies to work in partnership to identify and protect historic properties of significance to the Narragansett Indian Tribes that are not located on tribal lands, and that they do so in a manner respectful of Narragansett traditional cultural practices and their special knowledge of their history; now, therefore,

**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION AND THE
NARRAGANSETT INDIAN TRIBE DO HEREBY AGREE AS FOLLOWS:**

1. The Narragansett Indian Tribe assumes responsibility pursuant to Section 101(d)(5) of the NHPA for reviewing undertakings on Narragansett tribal lands, as defined by Section 301(14) of the NHPA, under its Tribal Historic Preservation Regulations in place of review under regulations promulgated by the Council to govern compliance with Section 106 of the NHPA (36 CFR Part 800).
2. The provisions of Section 101(d)(2)(D)(iii) of the NHPA apply.
3. Nothing in this agreement is meant to abridge the rights and authority afforded the Narragansett Indian Tribe under other authorities.
4. If, after exhausting the Tribal Historic Preservation Regulations, there remains a dispute among consulting parties as to the National Register eligibility of a historic property, the Federal agency shall seek a determination of eligibility from the Keeper of the National Register.
5. The Narragansett Indian Tribe agrees to afford equivalent review and consideration to historic properties on tribal lands that are eligible for the National Historic Register whether they are or are not of significance to the Tribe. The Narragansett Indian Tribe may turn to other parties, including the relevant SHPO to assist in reviewing and protecting properties of no

significance to the Tribe.

6. In carrying out the requirements of the Tribal Historic Preservation Regulations, Federal Agencies shall involve consulting parties, as defined in 36 CFR Part 800, in findings and determinations and, where appropriate, provide notification to the public.

7. In the event that questions are raised by a consulting party regarding the interpretation of the Tribal Historic Preservation Regulations, the consulting party raising the objection shall exhaust all tribal administrative and judicial remedies. If, after pursuing a resolution through tribal administrative and judicial procedures the matter cannot be resolved, the matter may be brought for de novo review before the Federal district court.

8. In the event that consultation between the Federal agency and the THPO ends in a failure to agree, the Federal agency shall, in addition to meeting any other the obligations arising from its government-to-government relationship with the Tribe, seek the comments of the Council pursuant to Section 800.7 of the Council's regulations.


9. The Narragansett Indian Tribe, acting by and through the THPO, may terminate this Agreement for any reason by providing the Council sixty days written notice of such termination. The Council may terminate this Agreement upon determining that the Narragansett Indian Tribe has not carried out its responsibilities in accordance with the Agreement, the NHPA, or any other applicable federal statute or regulation. Upon termination, Federal agencies shall again follow the Council's regulations governing compliance with Section 106 of the NHPA, as codified at 36 C.F.R. Part 800, for undertakings carried out on the tribal lands of the Narragansett Indian Tribe.

10. This Agreement may be amended by the mutual consent of the Narragansett Indian Tribe, acting by and through the THPO, and the Council.

11. This Agreement shall become effective upon signature by the Executive Director of the Council or his designee, whose signature shall not occur until after the THPO of the Narragansett Indian Tribe has signed the Agreement.



John M. Fowler, Executive Director
Advisory Council on Historic Preservation



John B. Brown III, Tribal Historic
Preservation Officer
Narragansett Indian Tribe

Date: 11/27/00

Date: 24 NOV. 00

PROCEDURES AND RULES FOR THE REGISTRATION AND PROTECTION OF TRIBAL
PROPERTIES

of the

Narragansett Indian Archaeological/Anthropological Committee

Final Adoption - November 04, 1994; and modified January 07, 1999.

I. Authorities, Purposes and Participants

a. Authorities - In 1985, the Tribal Assembly passed enabling legislation to create the Narragansett Indian Archaeology/Anthropology Committee (TA 90-35 NILWRC/NIAAC). The Committee is an independent agency within the Executive Department and is charged with the responsibility to identify and protect historic properties. Included in this responsibility is the Committee's duty to compile a Tribal Register of historic properties and to advise, instruct and regulate the Tribe and Tribal government regarding their activities which may affect historic properties and to issue antiquities, and historic preservation permits. These procedures are promulgated in order to establish a uniform process for compliance with TA 90-35 NILWRC/NIAAC, and Oral Tribal Law. Furthermore nothing in these rules or regulations will be construed or interpreted as superceding Organic Oral Tribal Law.

1. Tribal Register and Undertaking Review Authority, General Laws of the Narragansett Indian Tribe - This section authorizes the Committee to establish criteria for evaluating historical, architectural, or cultural sites, buildings, places, landmarks, or areas; and to compile, maintain and publish a Tribal register of historical, architectural, and cultural sites, buildings, places, landmarks and areas. The Tribe shall not undertake, fund, or license any activity which will encroach upon, damage or destroy, physically, visually, or environmentally, any site, building, place, landmark, or area included in the Tribal register, without first obtaining, the advice, instruction and permit(s) from the NIAAC or THPO. For the purpose of these regulations the Committee has developed a streamlined procedure for determining whether properties meet the criteria for listing in the Tribal Register of Historic Places. Properties which the Committee has determined to meet the criteria for listing are considered to be listed in the Tribal Register for the purposes of review. Nothing in this section prevents the Committee from placing any properties it deems necessary, that meet the Tribal qualification of the Register

eligible, from being placed on the National Register and for all intensive purposes are to be considered the same

2. Catalog of Tribal-owned Historic Properties, TA 90-35 NILWRC/NIAAC, Authorizes the Committee to establish a catalog of buildings, sites, objects, and artifacts of historical, architectural or archaeological interest which are within the custody or jurisdiction of the departments and agencies of Tribal government. Tribal departments and agencies must afford the Committee a reasonable opportunity to issue an advisory on undertakings which will affect properties listed in the catalog and those properties determined to be eligible to be listed on the Tribal and National Register.
3. Executive Order No. 35, November 15, 1972 - This executive order directs all executive agencies of Tribal government to assist the Committee to prepare the catalog and to consult with the Committee concerning the preservation or display of all items entered in the catalog.
4. The Tribal Antiquities Act, TA 90-35 NILWRC/NIAAC, The Tribal Antiquities Act authorizes the Committee to prescribe rules for the identification, preservation, excavation, study and exhibition of the Tribe's archaeological resources. Before conducting field investigations on any land owned or controlled by the Tribe, its agencies, departments, or institutions, or on the bottoms of navigable waters within the Tribe's jurisdiction in the territorial ponds, or on any property designated as a Tribal Archaeological Landmark, parties must secure an antiquities or historic preservation permit from the Committee or THPO. In addition when the Tribe or Tribal agency undertaking may effect an archaeological property and archaeological survey or data recovery is required, an antiquities or historic preservation permit must be issued as part of the Committee's and THPO's advisory, instruction and regulatory responsibility.
The process as delineated above shall apply in all Archeological Resource Protection Act 16 U.S.C. 470aa et seq, cases and the investigator of Tribal Lands must be also permitted from the Federal Land manager.

5. Tribal Administrative Procedures - TA 90-35 NILWRC/NIAAC Pursuant to this authority, the Committee hereby prescribes rules of practice and procedure in fulfilling its review and advisory duties. Such changes and amendments to these rules and regulations will be made from time to time, as in the Committee's opinion, are necessary.
6. Pursuant to Section 101(d)(5) of the National Historic Preservation Act, as amended in 1992, the Tribe has hereby adopted its' own (these) procedures and Rules as listed above, in place of the Advisory Councils Regulations, any Federal Land Manager, State or Federal agency, conducting an undertaking on tribal land shall do so in accordance with these regulations and rules.
- b. Purposes of the Tribal Register - The Tribal Register is an authoritative guide to be used by Tribal government, Tribal Agencies, private groups, and Tribal members to identify the Tribe's historical, architectural, and cultural resources which are significant and worthy of being preserved on Tribal lands.
- c. Purposes of the advisory process - The Committee seeks through the process to accommodate historic preservation concerns with the needs of Tribal undertakings. The process is designed to identify potential conflicts between the two and to help solve such conflicts in the Tribal member's interest. The Committee encourages accommodation of project needs and historic preservation through consultation among the Agency Official, the Tribal Historic Preservation Officer and other interested persons during the early stages of project planning. The Committee regards the consultation process as an effective means for reconciling the interests of the consulting parties.

Integration of the advisory process into the normal administrative process used by agencies for project planning ensures early, systematic consideration of historic preservation issues. To this end, the Committee encourages agencies to examine their administrative processes to see that they provide adequately for the efficient identification and consideration of historic properties, that they provide for participation by the Committee and others interested in historic preservation, that they provide for timely requests for Committee comment and that they promote cost-effective

implementation of the process. When impediments are found to exist in the agency's administrative process, the agency is encouraged to consult with the Committee to develop special procedures suited to the agency's needs.

d. Participants in the process

1. Consulting parties - Consulting parties are the primary participants in the process whose responsibilities are defined by these regulations. Consulting parties may include--

- (i) Agency Official - The official representative of an agency with jurisdiction over an undertaking has legal responsibility for complying with the Tribal Law and its regulations.

The agency is responsible for conducting studies and providing information necessary to adequately identify and evaluate affected historic properties and to consider modifications or alterations to the proposed undertaking that could avoid, minimize, or mitigate adverse effects to historic properties. An agency may involve its grantees, licensees, or other parties of interest in the process including providing necessary information; however, an agency may not delegate its responsibilities to comply with the act and these regulations.

If a project requires the approval of two or more Tribal Officials, representatives from each agency shall meet with the Tribal Historic Preservation Officer, and the Tribal Historic Preservation Officer may designate one agency to act as the lead agency under these regulations. The lead agency shall take all actions necessary to comply with these regulations.

- (ii) Tribal Historic Preservation Officer - The THPO of the Committee coordinates participation in the implementation of the Law and is a key participant in the review process. The role of the THPO is to consult with and assist the Agency when identifying and evaluating historic properties, assessing effects upon them and considering alternatives to avoid, reduce or mitigate those effects. The THPO makes information already collected by the Committee available to the Agency Official in order to reduce the need for special studies. The THPO reflects the

interests of the Tribe and its members in the preservation of cultural heritage and helps the Agency identify those persons interested in an undertaking and its effects upon historic properties.

- (iii) NIAAC - The Committee is responsible for commenting to the Agency Official on any undertaking that may affect historic properties. The THPO is the official authorized to carry out the Committee's responsibilities in most cases. However, as outlined below, the Committee may become an active party if the Agency Official and the THPO cannot reach agreement or if the Committee makes a timely objection to the agreement.

- 2. Interested Persons - Interested persons are those organizations and individuals that are concerned with the effects of an undertaking on historic properties. Certain provisions in these regulations provide the opportunity for particular interested persons to be invited to become consulting parties under certain circumstances. In addition, whenever the Agency Official and the THPO agree that active participation of an interested person will advance the objectives of the review process, they may invite that person to become a consulting party. Interested persons may include-

- (i) Tribal Government - Tribal Council members are encouraged to take an active role in the review process when undertakings affect historic properties. The extent of Tribal Council participation is at the discretion of Tribal Council members and the THPO. The Tribal Ethno-Historian within Tribal government whose historic preservation program has been certified pursuant to the Committee's certified Ethno-Historian regulation is particularly encouraged to participate in the consultation process and may be delegated responsibilities as may be mutually agreed upon.

- (ii) Applicants for Assistance, Permits and Licenses. When the undertaking subject to review is proposed by an applicant for assistance, a permit or license, the applicant may participate in the process at the request of the Agency Official, including providing necessary information. An applicant may also request to participate in the process in the manner prescribed in these regulations.

- (iii) Tribal Members - The Committee values the views of tribal members on historic preservation questions and encourages Tribal participation in the process. The Agency Official and the THPO should seek and consider the views of the Narragansett Indian Tribal Body when taking steps to identify historic properties, evaluate effects and develop alternatives.

Tribal member participation in the review process may be fully coordinated with and satisfied by Tribal member participation programs carried out by Agency Officials under the authority of other statutes and regulations. Notice to the Tribal Body should adequately inform the members of preservation issues in order to elicit member views on such issues that can then be considered and resolved, when possible, in decision-making. Members of the Tribe with interests in an undertaking and its effects on historic properties should be given a reasonable opportunity to receive information and present their views.

- (iv) Rhode Island Historical Preservation and Heritage Commission- The State entity responsible for historic preservation of State, local, and private lands in the State of Rhode Island

II. Definitions

As used in these rules and regulations:

- a. "Advisory" means the written statement of the Committee's comments and recommendations regarding an undertaking's effect on an historic property. When an undertaking may affect archaeological resources, the Committee may require an antiquities permit.
- b. "Agency" the agency, department, or instrumentality of Tribal government, a Tribal member/family, which is responsible for the undertaking or which has jurisdiction over the historic property.
- c. "Agency Official" means the individual who is authorized to act on behalf of the agency. Agency Official shall also mean any person who is authorized to act on behalf of the Federal or State government, agency or any political subdivision thereof.

- d. "Tribal Antiquities Act" means TA 90-35 NILWRC/NIAAC
- e. "Tribal Antiquities Permit" means the certificate issued by the Committee to a qualified individual which authorizes excavation, curation, storage, use, or display of archaeological specimens or artifacts.
- f. "Applicant" means any body, individual or entity whose proposal is the subject of an undertaking or who seeks an antiquities permit.
- g. "Area of the Undertaking's Potential Effects" means the geographic area within which an undertaking may reasonably be expected to cause changes in the character or use of historic properties, if any such properties exist. The boundaries of such area should be determined by the agency official and the THPO as early as possible in the planning of the undertaking.
- h. "Chairman" means the Chairman of the Committee, as authorized by the General Tribal Laws, or a designee authorized to act for the Chairman.
- i. "Committee" means the NIAAC as established by the General and Oral Tribal Laws of the Narragansett Indian Tribe.
- j. "Tribal Historic Preservation Officer" means the THPO of the Committee as appointed pursuant to the General and Oral Tribal Law of the Narragansett Indian Tribe, or a designee authorized by the Committee, to act in behalf of the THPO in his/her absence.
- k. "Historic Property" means:
 - 1. any district, site, building, structure, or object listed or eligible to be listed in the Tribal Register. Properties may be listed in the Tribal Register through concurrent listing in the National Register of Historic Places or alternatively for the purposes of these regulations the Committee may determine that properties meet the criteria for registration.
 - 2. any building, site, object or artifact of historical, architectural, or archaeological interest listed in the catalog of Tribal-owned historic properties; or
 - 3. any archaeological resource, including specimens, sites, and underwater resources subject to Committee permits or advisories pursuant to Tribal Law, TA 90-35.

- l. "Indian lands" means all lands under the jurisdiction or control of the tribe.
- m. "Interested person" means any Tribal individual or organization that is concerned with the effects of an undertaking on historic properties. This will also include the Rhode Island Historical Preservation and Heritage Commission.
- n. "Tribal Body/Members" means any persons with documented Narragansett Indian heritage.
- o. "Tribal Register" means any district, site, building, structure, or object listed in the register compiled by the Committee in accordance with TA 90-35 NILWRC/NIAAC. Properties are listed in the Tribal register in accordance with Section III of these regulations.
- p. "Tribal Register Criteria" means the criteria established by the Committee for use in evaluating the eligibility of properties for the Tribal Register.
- q. "Undertaking" means any action which may affect an historic property which (is):
 1. proposed, authorized, licensed, sanctioned, carried out or funded by the Tribe or any instrumentality or subdivision of Tribal government; or
 2. involves an historic property owned, in part or in whole, by the Tribe, or
 3. involves archaeological excavation on lands or under waters specifically owned and controlled by the Tribe, its agencies or political subdivisions or on any historic or archaeological properties listed on the Tribal register or designated as a Tribal Archaeological Landmark as well as the curation, storage, use or display of archaeological specimens or artifacts recovered from lands or under waters specifically owned and under the jurisdiction of the Tribe, and
 4. Any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of the agency; those carried out with the Federal

Financial assistance; those requiring a Federal permit, license, or approval; and those subject to state or local Regulation administered pursuant to a delegation or approval by a Federal agency

- r. "Federal Land Manager"- Federal Land Manager means that Federal agency which has jurisdiction over the federal or Tribal land(s) in question
- s. "Federal or State Agency" - The agency, department, or instrumentality of the Federal or State government.
- t. "Federal or State Agency Official" - Mean the individual(s) who are authorized to act on behalf of the Federal or State agency, department, or instrumentality.
- u. " National Register" - Any properties considered to be eligible for the Tribal Register may also be considered eligible for the National Register

III. The Tribal Register

- a. Criteria for evaluation for Tribal Register Nomination -
The criteria for listing on the Tribal Register are the same as the criteria developed by the National Park Service for listing on the National Register of Historic Places. The following criteria shall be used in evaluating properties for nomination to the Tribal Register:
 - 1. The quality of significance in Tribal history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of national and Tribal importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and
 - (i) that are associated with events that have made a significant contribution to the broad patterns of history, or
 - (ii) that are associated with the lives of persons significant in our past; or
 - (iii) that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high

artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(iv) that have yielded, or may be likely to yield, information in pre-history or history.

2. Criteria Considerations - Ordinarily cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the Tribal Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- (i) A religious property deriving primary significance from architectural or artistic distinction or historical importance.
- (ii) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historical person or event.
- (iii) A birthplace or grave of an historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life.
- (iv) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features or from association with historic events.
- (v) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.
- (vi) A property primarily commemorative in interest if design, age, tradition, or symbolic value has

invested it with its own historical significance.

- (vii) A property achieving significance within the past fifty years if it is of exceptional importance.

b. Nomination Procedures

1. Nominations are prepared under the supervision of the THPO and the Committee, and documentation of nominations is reviewed for technical and substantive adequacy and completeness.
2. Upon receipt of an adequate and complete nomination the THPO will forward such nomination to the Chairman of the Tribal Review Board who will schedule its review at a meeting of the Tribal Review Board. Upon receipt of a request for determination of National Register eligibility or National Historic Landmark nomination the THPO shall act thereon as prescribed in Tribal and federal regulations.
3. Inclusion in the Tribal Register - A Tribal property is included in the Tribal Register when it is entered on the National Register of Historic Places (in accordance with 36 CFR 60); when the National Park Service, Department of the Interior, determines that the property is eligible for inclusion in the National Register of Historic Places (in accordance with 36 CFR 63); when it is designated by the Secretary of the Interior as a National Historic Landmark (in accordance with 36 CFR 65); or when it is designated a Tribal Archaeological Landmark by the Committee. The Committee already participates in the above referenced federal processes through the Committee's Tribal Review Board and through the THPO.

The procedures for nomination of properties to the Tribal Register shall be the procedures adopted by the National Park Service as appropriate. Those procedures provide requirements for:

- (i) Documentation of the historic resource to include a description of the property (including an inventory of individual properties included in a historic district nomination), a statement of significance of the property, and appropriate graphic documentation.
- (ii) Notice to owners of the property, interested parties, and appropriate Tribal officials, as well as, an

invitation to comment on the nomination of the Tribe's proposed action.

- (iii) Approval or disapproval of the nomination by the Review Board.
 - (iv) Appeal of decisions by the Review Board to nominate or not to nominate a property.
- c. Publication of the Tribal Register - The Committee shall publish the Tribal Register by maintaining an up-to-date listing of register entries available for Tribal members inspection at the Committee's office and by providing a listing of register entries to the Tribal Council updated not less often than every two (2) years. The precise location of registered archaeological sites or any other property for which information about its precise location may endanger its preservation shall be withheld from public inspection, except as the Committee determines the information may be released.
- d. Any historic property which is listed or is eligible for listing on the National Register, but is not associated with Tribal history, when applicable, shall be governed by the review process in Section IV or the alternative method in Section XIII.

IV. The Review Process

a. General

1. Scope - The procedure in this sub-part guides the Agency Official, Committee, and the Tribal Historic Preservation Officer in the conduct of the review process. Upon the determination of the THPO or when necessary the Committee Chairman an alternative method of meeting the obligations of the advisory process is found in section XIII when an agency has established its own procedures for the protection of historic properties or when an undertaking is subject to the provisions of Section 106 of the National Historic Preservation Act.
2. Flexible application - The Committee, and the Tribal Historic Preservation Officer recognizes that the procedures for the Agency Official set forth in these regulations may be implemented by the Agency Official in a flexible manner reflecting differing program requirements, so long as the purposes of Tribal Law, Tribal Antiquities Act, the National Antiquities Act, the

National Historic Preservation Act, the Archaeological Resource Protection Act and these regulations are met.

3. Timing - The Agency Official is required to complete the advisory process prior to the approval of the expenditure of any funds on the undertaking or prior to the issuance of any license or permit. The Committee does not interpret this requirement to bar any Agency Official from expending funds on or authorizing non-destructive planning activities preparatory to an undertaking before complying with these regulations, nor to prohibit phased compliance at different stages in planning. The Agency Official should ensure that the advisory process is initiated early in the planning stages of the undertaking, when the widest feasible range of alternatives is open for consideration.

The Agency Official should establish a schedule for completing the advisory process that is consistent with the planning and approval schedule for the undertaking. If the THPO declines to participate in reviewing an undertaking, or if the THPO does not respond within thirty (30) days to a written request for participation, the Agency Official may conclude that the undertaking will have no effect on historic properties.

b. Identifying Historic Properties

1. Assessing information needs - Following a determination by the Agency Official that a proposed project, activity or program constitutes an undertaking and after establishing the undertaking's area of potential effects, the Agency Official shall--
 - (i) inform the THPO about the undertaking and request the THPO to review existing information on historic properties potentially affected by the undertaking, including any data concerning the likelihood that unidentified historic properties exist in the area of potential effects; and recommend further actions needed to identify historic properties that may be affected; and
 - (ii) seek information in accordance with agency planning processes from Tribal government, if applicable, Tribal members/families, and other parties likely to have knowledge of or concerns with historic properties in the area, as appropriate.

2. Locating Historic Properties - The Agency Official and the THPO shall determine any need for further actions such as field surveys and predictive modeling to identify historic properties. In consultation with the THPO, the Agency Official shall make a reasonable and good faith effort to identify historic properties that may be affected by the undertaking and gather sufficient information to determine whether these properties meet the criteria for listing on the Tribal Register. Efforts to identify historic properties should follow the Secretary of the Interior's standards and guidelines for archaeological and historic preservation. Archaeological investigations may require a permit from the Committee pursuant to the Tribal Antiquities Act and Archeological Resource Protection Act.

c. Evaluating Historical Significance

1. In consultation with the Agency Official, the THPO shall apply the Tribal Register Criteria to properties that may be affected by the undertaking and that have not been previously evaluated for Tribal Register listing. The passage of time, physical changes, or changing perceptions of significance may justify reevaluation of properties that were previously evaluated. Interested person may be called, as necessary, during this evaluation process.
 2. If the Agency Official and the THPO agree that the criteria are not met, the property shall be considered not eligible.
 3. If the Agency Official and the THPO agree that a property meets the criteria, the property shall be considered listed in the Tribal Register for the purpose of the review process.
 4. If the Agency Official and the THPO do not agree, or if the Committee so requests, the Committee shall determine whether the property meets the criteria of the Tribal Register.
 5. If the THPO does not provide views within 30 days, then the THPO is presumed to agree with the Agency Official's determination for the purpose of this subsection.
- d. When no historic properties are found - If the THPO and the

Agency Official agree that there are no historic properties that may be affected by the undertaking, the Agency Official and the THPO shall document the finding and notify the Committee and any interested persons who have made their concerns known at least thirty (30) days prior to proceeding with the project. If an objection is made within thirty (30) days, the THPO and the Agency Official shall review the determination and advise the objector of their finding.

e. Assessing effects when historic properties are found

1. Applying the Criteria of Effect - If there are historic properties that the undertaking may affect, the THPO and Agency Official shall apply the Criteria of Effect (section IX) to historic properties that may be affected, giving consideration to the views, if any, of interested persons.
2. No Effect - If the THPO and the Agency Official find the undertaking will have no effect on historic properties, they shall document the finding and notify the Chairman and any interested persons who have made their concerns known at least fifteen (15) days prior to proceeding with the project.
If an objection is made within 15 days the THPO and the Agency Official shall review the Determination of No Effect and advise the objector of their findings.
3. When an effect is found - If an effect on historic properties is found, the THPO and the Agency Official shall apply the Criteria of Adverse Effect (section ix) to determine whether the effect of the undertaking should be considered adverse.
4. Determination of No Adverse Effect - If the THPO and the Agency Official find the effect on historical, architectural, archaeological or cultural characteristics of the property not to be adverse they shall document the finding and notify the Chairman and interested persons who have made their concerns known at least 15 days prior to proceeding with the project. In reaching a finding of no adverse effect, the THPO and Agency Official may stipulate changes to the project or conditions which will avoid potential adverse effects. If an objection is made within 15 days the THPO and Agency Official will review the determination and inform the objector of their finding. If the Chairman objects, and the Agency Official does not agree with changes proposed by the Chairman, then the effect shall be considered as adverse.

5. Determination of Adverse Effect - If the THPO and the Agency Official find the effect on the historical, architectural, archaeological or cultural characteristics of historic properties is adverse, they shall initiate the consultation process.

f. Consultation Process

1. Parties to the consultation process - The THPO and the Agency Official shall consider alternatives to the project that could avoid, minimize or mitigate adverse effects on historic property. They may invite others to become consulting parties including:
 - (i) The head of a Tribal government if applicable when the undertaking may effect historic properties within the Tribal Council's jurisdiction;
 - (ii) A representative of the Tribal body.
 - (iii) Applicants or holders of grants, permits, or licenses, and owners of affected lands, and
 - (iv) Other interested persons (including the Rhode Island Historical Preservation and Heritage Commission) when jointly determined appropriate by the THPO and the Agency Official, the Federal or State Agency Official.
 - (v) Other Tribes that demonstrate, through a reasonable showing, that they attach religious and cultural significance to historic properties that may be affected by the undertaking.
 - (vi) The Advisory Council on Historic Preservation when deemed necessary.
 - (vii) Interested parties shall become involved in the Consultation Process as directed in Part (d)(2), age 4 of this document.
2. Consideration of Public Views - The THPO shall ensure that the views of the public are sought and considered in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in those effects, and the relationship of the federal involvement to the undertaking.

The THPO shall ensure that notice and information is provided to the public, subject to confidentiality procedures adopted by the Narragansett Indian Tribe (Committee/THPO) consistent with Section 304 of NHPA, that is designed to make the public aware of the proposed action and its potential adverse effects on historic properties and enable them to make informed and timely comments on those effects and alternatives under consideration to resolve them.

3. Documentation - The Agency Official shall provide each of the consulting parties with the documentation set forth in Section VIII and such other documentation as may be developed in the course of consultation.

- (i) On-Site Inspection. At the request of any of the consulting parties, the Agency Official shall allow an on-site inspection.

4. Informing the Tribal Body - The Agency Official shall provide an adequate opportunity for members of the Tribe to receive information and express their views. The Agency Official is encouraged to use existing Tribal member involvement procedures to provide this opportunity. The Agency Official or the THPO may meet with interested members of the Tribal body or conduct a Tribal information meeting for this purpose.
5. Consideration of Alternatives - The THPO and the Agency Official shall consider prudent and feasible alternatives to the proposed project which could avoid, minimize or mitigate the adverse effect. The Agency Official shall provide to the THPO all data and information necessary to identify and evaluate such alternatives.

The THPO and the Agency Official shall maintain a record, including a record of sources of information consulted, which documents all alternatives considered during the consultation process.

6. Agreement on Avoidance or Satisfactory Mitigation of Adverse Effect - After a thorough review of the alternatives, the THPO and the Agency Official may agree that there is a prudent and feasible alternative that avoids, minimizes or mitigates the adverse effect of the project. Upon such agreement, the THPO shall prepare a Memorandum of Agreement describing such alternative and submit the Memorandum to the Agency Official.

If the Agency Official signs the Memorandum agreeing that the agency will comply with the measures to eliminate, minimize or mitigate the adverse effect, then the Memorandum shall be signed by the THPO and it shall be the Committee's directive. As appropriate, the Agency Official and the THPO may agree to invite other consulting parties to sign the Memorandum also.

7. Acceptance of Adverse Effect - After a thorough review of the alternatives, the THPO and the Agency Official may determine that there are no prudent or feasible alternatives to avoid, minimize, or mitigate the adverse effect.

Upon such decision, the THPO shall prepare an Advisory report of Acceptance of the Adverse Effect and submit such Advisory to the Agency Official.

8. Notice of Agreement provided to the Chairman and interested persons - The THPO shall notify the Chairman and any interested persons (which shall include the Rhode Island Historical Preservation and Heritage Commission) who have made their concerns known regarding the Memorandum of Agreement or Acceptance of Adverse Effect.

If no objection is made within 15 days, the Agency may proceed with the project. If an objection is made by an interested person, the THPO and the Agency Official will review their agreement and inform the objector of their finding. If an objection is made by the Chairman, the matter will be scheduled for consideration by the Committee.

g. Consideration of an undertaking by the Committee

1. When the Committee will comment - The Committee will review an undertaking and issue a directive if the THPO and the Agency Official fail to agree or if the Chairman objects within 15 days to an agreement reached by the THPO and the Agency Official. The Chairman shall provide prompt notice to the Agency Official of the Committee's intention to review an undertaking. The Committee shall conduct its review within thirty (30) days of notifying the Agency Official, unless otherwise mutually agreed upon. In reviewing the proposed undertaking, the Committee shall review the information which has already been collected by the THPO and the Agency Official in accordance with the requirements of Section VIII and any additional information submitted by the Agency Official, the THPO, other consulting parties or by interested

persons.

New information must be submitted to the Committee at least seven (7) days prior to the meeting at which the proposed undertaking will be reviewed, unless a shorter time period is approved by the Committee.

The Agency Official shall be invited to attend and participate in the scheduled Committee meeting. Other consulting parties and interested persons (including the Rhode Island Historical Preservation and Heritage Commission) and the Advisory Council, shall be notified and may make oral remarks to the Committee at the discretion of the Chairman.

2. Comments of the Committee - No later than forty - five (45) days after the Committee meeting, the Committee shall issue its directive. If there is a consensus, the Committee and the Agency will sign a Memorandum of Agreement.

If the Committee and the Agency sign a Memorandum of Agreement or Acceptance of Adverse Effect, then the Agency may proceed with the undertaking under the terms of the Memorandum. If the Committee and the Agency do not reach agreement, or if the Committee determines that actions by the Agency have precluded meaningful comment and provided no opportunity to consider measures to avoid, minimize, or mitigate adverse effects to historic resources, then the Committee shall issue its advisory to the Tribal Council, and provide a copy to the Agency, stating that the Agency has failed to comply with these regulations and is in violation of TA 90-35.

V. Appeal to the Tribal Council

Decisions and recommendations issued by the Committee in accordance with these procedures shall be followed by the Agency unless there are compelling reasons for not doing so. If the Agency does not agree to comply with the Committee's Determination and Advisory, the Agency shall prepare a detailed response explaining such reasons and submit its response, together with a copy of the Committee's Determination and Advisory, to the Tribal Council for final determination. The Agency shall submit a copy of such response to the Committee. The Agency may not proceed with the proposed undertaking until a final determination is issued by the Tribal Council. If so requested, the Agency and the Committee shall provide the Tribal

Council with additional information. Appeal to the Tribal Council is an administrative remedy and is in addition to any other legal appeal which may be authorized by Federal statute. All administrative and judicial will be exhausted within in the Tribal Structure and Tribal Law, before a party takes any other administrative or legal by any other federal statute(s) are taken.

VI. Fulfillment of Terms of a Memorandum of Agreement

When a Memorandum of Agreement, other Committee Advisory or Final Determination by the Tribal Council becomes final, the Agency shall carry out the undertaking in accordance with the terms in order to fulfill the Agency responsibilities under TA 90-35 and Section 106.

Failure to carry out the terms requires the Agency to resubmit the undertaking to the Committee for comment in accordance with Section IV.

VII. Tribal Body Request to the Committee

When requested by any person or interested party, the THPO shall consider an Agency's activity to determine whether it is an undertaking subject to review in accordance with these regulations. The THPO shall advise the person or interested party making the request, and the Agency if appropriate, of his finding.

Agencies should consider the concerns of the Tribal body; however, an inquiry to the Committee does not suspend action on an undertaking.

If the THPO finds that the activity is an undertaking subject to review by the Committee, the THPO and the Agency Official shall immediately initiate review in accordance with these regulations, and the Agency shall stop any actions which would preclude the Committee's opportunity to issue its advisory.

VIII. Documentation Requirements

The following documentation requirements provide guidance to the THPO and the Agency Official in reviewing an undertaking, and they should document their findings and agreements in writing to the extent appropriate. Complete, written documentation should be provided to the Committee by any person, agency, department, or instrumentality whether it be Tribal, Federal, State or others, when an undertaking is reviewed by the Committee in accordance with Section IV (g). In the event of an appeal to the Tribal Council, copies of this documentation will be provided for the

Tribal Council's review.

- a. Finding of no adverse effect - The purpose of this documentation is to provide sufficient information to explain how the Agency reached the finding of no adverse effect. The required documentation is:
 1. A description of the undertaking, including photographs, maps and drawings, as necessary
 2. A description of the efforts used to identify historic properties;
 3. A description of historic properties that may be affected by the undertaking;
 4. A statement of how and why the criteria of adverse effect were found inapplicable;
 5. The views of affected Tribal government, Tribal members, and, Federal agencies, if any were provided, as well as a description of the means employed to solicit those views.
- b. Finding of Adverse Effect - The required documentation is:
 1. A description of the undertaking, including photographs, maps and drawings, as necessary;
 2. A description of the efforts to identify historic properties;
 3. A description of the historic properties, affected by the undertaking;
 4. A description of the undertaking's effects on historic properties.
 5. The views of affected Tribal government, Tribal members, Federal Agencies, and interested parties if any were provided, as well as, a description of the means employed to solicit those views.
 6. Alternatives or measures which were considered to avoid, minimize, or mitigate adverse effects to historic properties and the reasons why any rejected alternatives or measures were considered not to be prudent and feasible.

- c. Requests for Committee Advisory when there is a failure to agree - The purpose of this documentation is to provide the Committee with sufficient information to make an independent review of the undertaking's effects on historic properties as the basis for informed and meaningful comments to the Agency Official. The required documentation is the same as that required for a finding of adverse effect, and in addition:
1. Documentation of consultation with the THPO regarding the identification and evaluation of historic properties, assessment of effect and any consideration of alternatives or mitigation measures;
 2. The planning and approval schedule for the undertaking; and
 3. Copies or summaries of any written views submitted to the Agency Official by other consulting parties or interested persons concerning the effects of the undertaking on historic properties and alternatives to reduce or avoid those effects.

IX. Criteria of Effect and Adverse Effect

- a. Criteria of Effect - An undertaking has an effect on a historic property when the undertaking may alter characteristics of the property that may qualify the property for inclusion in the Tribal Register. For the purpose of determining effect, alteration to features of the property's location, setting, or use may be relevant depending on the property's significant characteristics, and should be considered. Effects may be direct or indirect.
- b. Criteria of Adverse Effect - An undertaking is considered to have an adverse effect when the effect on a historic property may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association. Adverse effects on historic properties include, but are not limited to--
1. Physical destruction, damage, or alteration of all or part of the property;
 2. Isolation of the property from its setting or alteration of the character of the property's setting when that character contributes to the property's qualification for the Tribal Register;
 3. Introduction of visual, audible or atmospheric elements

that are out of character with the property or alter its setting;

4. Neglect of a property resulting in its deterioration or destruction; and
 5. Transfer, lease, or sale of the property, without adequate provision for its continued preservation.
- c. Exceptions - Effects of an undertaking that would otherwise be found to be adverse may be considered as being not adverse for the purpose of these regulations--
1. When the undertaking is limited to the rehabilitation of buildings and structures and is conducted in a manner that preserves the historical and architectural value of affected historic property through conformance with the Secretary of the Interior's standards and guidelines for rehabilitation, or
 2. When the undertaking is limited to the transfer, lease or sale of a historic property, and adequate restrictions or conditions are included to ensure preservation of the property's significant historic features.

X. Properties Discovered During Implementation of an Undertaking

- a. Planning for Discoveries - When the Agency Official's identification efforts in accordance with Section IV (b) and (c) indicate that historic properties are likely to be discovered during implementation of an undertaking, the Agency Official should develop a plan for the treatment of such properties if discovered and include this plan as a condition of the undertaking. Implementing the plan in the event of a discovery will satisfy the requirements of these regulations.
- b. When a Discovery Occurs - During implementation of an undertaking and a plan has not been prepared, the Agency Official and the THPO shall immediately consult and:
 1. Determine whether the property meets the criteria for inclusion in the Tribal Register; and
 2. If the property meets the criteria, they shall consult to seek ways to avoid, minimize, or mitigate adverse effects to the property.

These regulations do not require the Agency to stop work on the undertaking. However, the Agency should make

reasonable efforts to avoid or minimize harm to the property until the requirements of this section are met.

XI. Programmatic Agreements

- a. Application - At the request of an Agency, the Committee shall consider execution of a Programmatic Memorandum of Agreement to fulfill the agency's responsibilities under TA 90-35 NILWRC/NIAAC and Section 106 for a particular program or class of projects that would otherwise require numerous individual project reviews under these regulations. The Programmatic Memorandum of Agreement may specify categories of projects that shall be exempt from further review or categories of projects where review could be best accomplished on a program-wide rather than individual project basis. Programmatic agreements may be appropriate for programs or projects:
1. When effects on historic properties are similar and repetitive;
 2. When effects on historic properties cannot be fully determined prior to approval;
 3. When non-Tribal agencies are delegated major decision-making responsibilities; or
 4. That involve routine management activities at Tribal agencies.
- b. Consultation Process - The Agency and the THPO shall consult to develop a Programmatic Memorandum of Agreement. They may invite others to be consulting parties or to participate as appropriate and shall provide for adequate public participation. This invitation will also extend , when necessary, to the Rhode Island Historical Preservation and Heritage Commission. Upon agreement, the THPO shall draft a Programmatic Memorandum of Agreement describing the classes of action exempt from further review under these regulations and outlining procedures for review of programs of the Agency under these regulations.

If the Agency signs such Programmatic Memorandum agreeing that it will comply with the measures specified to avoid, minimize or mitigate adverse effects to Tribal Register Properties, then the THPO shall place the proposed Programmatic Memorandum of Agreement on the agenda of a Committee meeting to be held within thirty (30) days and shall notify the Agency and any interested persons who have

been identified.

- c. Consideration of the Proposed Programmatic Memorandum of Agreement - The Committee shall review the proposed Programmatic Memorandum of Agreement, and shall also consider any additional information submitted by the THPO, the Agency, or by the Tribal body. No later than twenty (20) days after the meeting, the Committee shall direct the THPO to either sign and execute the Programmatic Memorandum of Agreement on behalf of the Committee, or to revise the Programmatic Memorandum of Agreement in accordance with the recommendations of the Committee and to consult with the Agency in order to develop a revised Programmatic Memorandum of Agreement. If the terms of a programmatic agreement are not carried out or if the agreement is terminated, the Agency Official shall comply with these regulations on a project by project basis.

XII. Emergency Provisions

When compliance with these regulations would pose a serious threat to public safety, the THPO may waive compliance to the extent necessary to protect the public. The THPO will promptly inform the Committee of taking an action under this section, and if the Committee objects within three (3) days, such emergency action is rescinded.

XIII. Coordination with other Authorities

- a. To the extent feasible, Agency Officials, the THPO, and the Committee should encourage coordination of implementation of these regulations with the steps taken to satisfy other historic preservation and environmental authorities by integrating compliance with these regulations with the processes of environmental review carried out pursuant to other Tribal and municipal statutes and regulations and coordinating any studies needed to comply with these regulations with studies of related natural and social aspects.
- b. The Committee may participate in review and advisory procedures established by other agencies under separate authority, if in the Committee's judgment participation in other review processes is substantively equivalent to review under these regulations, the Committee may issue its opinions, decisions, and directives to said agencies, when they deem that an independent review is not necessary.

- c. Upon the determination of the THPO when an undertaking involves federal government participation and is subject to review under Section 106 of the National Historic Preservation Act, review of the undertaking in accordance with the Procedures of the Advisory Council on Historic Preservation (36 CFR 800) may satisfy the requirements of these regulations and constitute compliance with the TA 90-35 NILWRC/NIAAC.

XIV. Tribal Antiquities Act of The Narragansett Indian Tribe

- a. Applicability - The NIAAC is authorized under this act to issue permits for archaeological field investigations conducted on Tribal land. Permits are issued under three general circumstances:
 - 1. When archaeological investigations are associated with an undertaking of a government agency as defined in these regulations, the permit may be issued as part of an advisory.
 - 2. When an archaeological investigation is conducted on land owned or controlled by the Tribe, its agencies, departments, or institutions, or on the bottoms of navigable waters within the Tribe's jurisdiction in the territorial ponds.
 - 3. When an archaeological investigation is conducted on a Tribal archaeological landmark.
- b. Applications for permits - Each application for a permit to conduct field investigations shall be filed with the Committee in writing on the standard application form provided by the Committee.
- c. Granting of permits - Permits may be granted by the Committee to persons, organizations, institutions or agencies that are qualified by experience and training, are financially able and are adequately equipped to carry out the proposed field investigations. These field investigations shall be carried out according to the Committee's Standards for Archaeological Survey. A copy of the permit shall be kept at each site or in the general area of investigation in the possession of a duly authorized representative of the permittee.
- d. Denying Permits - Permits will not be issued to applicants who do not meet the requirements of these regulations. A decision by the THPO not to issue a permit may be appealed in the manner described in Section IX. g. and Section V of these

regulation's.

e. Ownership and disposition of artifacts - All specimens collected from Tribal-owned lands or submerged bottoms under jurisdiction of the Tribe shall be the property of the Tribe and under the custody of the Committee. All other specimens collected through field or underwater investigations conducted under permit as provided in these regulations shall be under the custody of the Committee until they are claimed by the owner. The Committee may approve loans and exhibitions, on a short or long term basis of any Tribal-owned historic property to institutions within or outside the Tribe.

f. Restrictions on permits

1. No permit shall be granted to any applicant for a larger area than can be reasonably expected to be adequately investigated within the time limits and other terms of the permit.
2. No objects recovered under the authority of any permit shall be disposed of by gift, sale, discard or in any other way unless the Committee determines that such action is in the interest of the Tribe.
3. Failure to begin work under the terms of the permit within the first third of the life of that permit, or failure to diligently prosecute such work after it has started, or to faithfully comply with any of the provisions of the application or the permit, or of these rules and regulations shall be reason for revocation of the permit and any permit may be revoked for cause at the discretion of the Committee.
4. No permit shall be issued for the disturbance or removal of any antiquities which are, in the opinion of the Committee, part of an archaeological site where the Tribe may be expected to conduct archaeological research except in relation to and as part of that archaeological research.

g. Supervision by the Tribe

1. To afford adequate protection for the interests of the Tribe, it shall be the policy of the Committee to limit the number of permits to be granted to those that can be properly supervised and administered by the duly authorized agents of the Tribe.

2. The Committee by its designated agent may at any and all times visit and be present at any or all field investigation including diving operations, or any other phase of the operation for which a permit has been granted.
3. All permittees shall be required to comply with all reasonable requests or directives addressed to them by the Committee or its designated agent with respect to the operations authorized by said permits.
4. At all times there shall be one person designated by and acting for the permittee in attendance at any site, or present at any phase of the operation being conducted under the permit who shall be responsible for the work and who shall be familiar with the rules, regulations, and directives concerning the work and who shall be responsible for compliance with rules, regulations and directives to insure the preservation of archaeological and historical data.