

CHAPTER 12 HISTORIC AND CULTURAL RESOURCES

C12.1 SCOPE

This Chapter contains criteria for required plans and programs needed to ensure proper protection and management of cultural resources, such as properties included on the World Heritage List or on the host country's list equivalent to the U.S. National Register of Historic Places.

C12.2 TERMS AND DEFINITIONS

Adverse Effect. Changes that diminish the quality or significant value of historic or cultural resources.

Archeological Resource. Any material remains of prehistoric or historic human life or activities. Such resources include, but are not limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion of any of the foregoing items.

Cultural Mitigation. Specific steps designed to lessen the adverse effects of a DoD action on a historical or cultural resource, including:

- Limiting the magnitude of the action;
- Relocating the action in whole or in part;
- Repairing, rehabilitating, or restoring the affected resources, affected property; and
- Recovering and recording data from cultural properties that may be destroyed or substantially altered.

Historic and Cultural Resources Program. Identification, evaluation, documentation, curation, acquisition, protection, rehabilitation, restoration, management, stabilization, maintenance, recording, and reconstruction of historic and cultural resources and any combination of the foregoing.

Historic or Cultural Resource. Physical remains of any prehistoric or historic district, site, building, structure, or object significant in world, national or local history, architecture, archeology, engineering, or culture. The term includes artifacts, archeological resources, records, and material remains that are related to such a district, site, building, structure, or object. The term also includes any property listed on the World Heritage List or the host nation's equivalent of the National Register of Historic Places.

Inventory. To determine the location of historic and cultural resources that may have world, national or local significance.

Material Remains. Physical evidence of human habitation, occupation, use, or activity, including the site, loci, or context in which such evidence is situated including:

- surface or subsurface structures;
- surface or subsurface artifact concentrations or scatters;

- whole or fragmentary tools, implements, containers, weapons, clothing, and ornaments;
- by-products, waste products, or debris resulting from manufacture or use;
- organic waste;
- human remains;
- rock carvings, rock paintings, and intaglios;
- rock shelters and caves;
- all portions of shipwrecks; or
- any portion or piece of any of the foregoing.

Preservation. The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials. Preservation of cultural monuments encompasses all actions and measures with the aim to conserve cultural monuments, for example all actions with regard to immediate maintenance of cultural monuments as well as consulting with owners of cultural monuments (expert authorities).

Protection. The act or process of applying measures designed to affect the physical condition of a property by safeguarding it from deterioration, loss, attack, or alteration, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally temporary and anticipates future historic preservation treatment; in the case of archaeological sites, the protective measure may be temporary or permanent. Protection of cultural monuments also refers to all administrative measures with the aim to conserve cultural monuments, such as permitting, as well as requirements and prohibitions.

C12.3 REQUIREMENTS

- C12.3.1 Installation commanders shall take into account the effect of any action on any property listed on the World Heritage List or on the individual German states (i.e., Baden-Württemberg, Bayern, Hessen, Rheinland-Pfalz) inventories of registered historic and cultural resources for purposes of avoiding or mitigating any adverse effects.
- C12.3.2 Installations shall have access to the World Heritage List and the host nation's equivalent of the National Register of Historic Places.
- C12.3.3 Installation commanders shall ensure that personnel performing historic or cultural resource functions have the requisite expertise in world, national and local history and culture. This may be in-house, contract, or through consultation with another agency. Government personnel directing such functions must have training and expertise in historic or cultural resource management.

C12.3.3.1 Hessen

If required by the German Cultural Protection Authorities due to the uniqueness of the cultural resource characteristics, the installation commander will ensure that only cultural protection experts conduct permit-requiring measures.

C12.3.4 Installations shall, after coordination with the host nation installation commander or similar appropriate host nation authorities, and if financially and otherwise practical:

C12.3.4.1 Inventory historic and cultural resources in areas under DoD control. An inventory shall be developed from a records search and visual survey.

C12.3.4.2 Develop a plan for the protection and preservation of historic and cultural resources identified on the installation inventory and for mitigation of any adverse effects. Coordination with the German Cultural Protection Authorities is required for protection and preservation of historic and cultural resources.

C12.3.4.3 Establish measures sufficient to protect known historic or cultural resources until appropriate mitigation or preservation can be completed.

C12.3.4.3.1 Bayern, Hessen, and Rheinland-Pfalz

If such measures are not established and the resources become endangered, the installation is obligated to take the necessary measures to protect or restore the resource. The German Cultural Protection Authorities can themselves conduct the necessary measures.

C12.3.4.4 Establish measures sufficient to protect known archaeological resources until appropriate mitigation or preservation can be completed.

C12.3.5 Installation commanders shall establish measures to prevent DoD personnel from disturbing or removing historic or cultural resources without permission of the host nation. Any measures to disturb or remove historic or cultural resources will be conducted in accordance with a permit issued by the German Cultural Protection Authorities. Procedures for obtaining permits or other authorizations are addressed in Chapter 1, Overview.

C12.3.6 Installation commanders shall ensure that planning for major actions includes consideration of possible effects on historic or cultural resources.

C12.3.7 If potential historic or cultural resources not previously inventoried are discovered in the course of a DoD action, the newly discovered items will be preserved and protected pending a decision on final disposition by the installation commander. The installation commander will make the decision regarding final disposition after coordination with the host nation installation commander or similar appropriate host nation authorities.

C12.3.8 Immediate notification to the German Cultural Protection Authorities is required if protected monuments are damaged and the damage could endanger their historical value.

C12.3.8.1 Baden-Württemberg

The German Cultural Protection Authorities must be notified if a registered cultural resource of major significance is damaged.

C12.3.8.2 Bayern

The German Cultural Protection Authorities must be notified immediately if a protected monument is damaged.

C12.3.8.3 Hessen

The German Cultural Protection Authorities must be notified immediately if a protected monument is damaged.

C12.3.8.4 Rheinland-Pfalz

The German Cultural Protection Authorities must be notified immediately if a protected monument is damaged.

C12.3.9 Any modifications to a protected historic or cultural resource requires the issuance of a permit from the German Cultural Protection Authorities if cultural resources or parts thereof are planned to be:

- demolished, dismantled, or removed;
- transformed, restored, repaired, or modified;
- removed from its location or depository.

A permit is also required to erect, modify, or remove structural installations in the surroundings that would seriously affect the appearance of protected cultural resources.

Investigations, especially excavations, with the aim to discover cultural resources or monuments require the permission of the German Cultural Protection Authorities. In areas designated by Germany as protected excavation areas, work by which concealed cultural resources could be discovered or endangered has to be performed only with the permission of the German Cultural Protection Authorities.

A permit issued by the German Cultural Protection Authorities does not substitute for permits required by other legislation. For instance, permits required for construction include provisions also found in permits issued to protect historical monuments.

Procedures for obtaining permits or other authorizations are addressed in Chapter 1, Overview.

C12.3.9.1 Baden-Württemberg

A permit is also required if a registered cultural resource of major significance is:

- transformed, restored, repaired, or modified;

- altered from its historical appearance;
- altered with additions, superstructures, inscriptions or advertisements.

Additionally, a permit is required in order to remove single items from a collection belonging to a cultural resource.

C12.3.9.2 Bayern

A permit is also required to remove pieces belonging to cultural resources (e.g. furniture).

If activities requiring a permit are conducted without the required permit, or not according to the instructions in the permit, those persons conducting such activities are obligated by order of the responsible authorities to restore the historical monument in its original condition, or as determined by the authorities.

C12.3.9.3 Hessen

A permit is also required if any cultural resource or parts thereof, is planned to be:

- altered from its historical appearance;
- altered with additions, superstructures, inscriptions or advertisements.

A permit expires if the permitted measures are not initiated within 2 years after the permit was granted, or if the execution of these measures is stopped for a period of 1 year.

If activities requiring a permit are conducted without the required permit, or not according to the instructions in the permit, those persons conducting such activities are obligated, by order of the responsible authorities, to restore the historical monument in its original condition, or as determined by the authorities.

C12.3.9.4 Rheinland-Pfalz

A permit is also required if any cultural resource or parts thereof, is planned to be:

- altered from its historical appearance;
- If pieces belonging to cultural resources are removed (e.g. furniture).

The permit becomes effective if no objections are made within 6 months.

If activities requiring a permit are conducted without the required permit, or not according to the instructions in the permit, those persons conducting such activities are obligated, by order of the responsible authorities, to restore the historical monument in its original condition, or as determined by the authorities.

- C12.3.10 The installation commander as the owners, holders, or authorized agent of cultural resources are obligated to provide all information necessary to the German Cultural Protection Authorities to perform the tasks of the protection of cultural resources, and no relevant information may be withheld.
- C12.3.11 The German Cultural Protection Authorities, or their agents are entitled to enter properties and also habitations, in order to avert immediate danger, and to investigate, inspect, and assess cultural resources, as necessary to protect cultural resources. In all cases, access shall be subject to considerations of military security, and the installation and German authorities shall arrange access in such a way that neither the safeguarding of German interests nor military exercises which are in progress or about to start are unreasonably prejudiced.
- C12.3.12 **Bayern and Hessen**
- Monuments should be utilized in their original manner as much as possible. If that cannot be achieved, only activities that permanently guarantee the greatest possible preservation shall be performed.