

# FSH 2309.12 – HERITAGE PROGRAM HANDBOOK

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# HERITAGE PROGRAM MANAGEMENT

## 2309.05 - Definitions

-A-

Adaptive Reuse: restoration or rehabilitation of an historic property such that it may be used for purposes other than its original purpose. Adaptive reuse may necessitate alterations to allow for the new use, but such alterations will maintain the historic integrity of the features that make the property historically significant. Examples include a lookout tower that is now a recreation cabin rental or a FS guard station that is now a visitor center. Adaptive reuse is a good way to ensure the protection and maintenance of an historic property that is no longer necessary for its original purpose.

Adverse effect: Alteration to the characteristics that qualify a historic property for the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Also alteration to the conditions that allow the uses determined appropriate for a cultural resource in such a manner that those uses would no longer be possible. Advisory Council regulations at 36 FR 800 guide the determination of effect to historic properties.

Advisory Council on Historic Preservation (Advisory Council): the Advisory Council as established by Title II of the NHPA. The Advisory Council is an independent executive agency that reports to and advises the President and the Congress on historic preservation matters. It is headquartered in Washington, D.C.

Allocation: the process of assigning cultural resources to categories based on their values and potential uses. It is the culmination of the evaluation process and a means for prescribing standard protocols of protection and utilization.

Archaeological resource: a term with legal definition and application that means any material remains of human life or activities. For purposes of evaluating significance under the NHPA these materials must be, with certain exceptions, at least 50 years old (36 CFR 60.4). For compliance with the ARPA, materials must be at least 100 years of age, and of archaeological interest (43 CFR 7.3.)

Artifact: literally, human made, not natural; any object that shows evidence of human manufacture, modification, or use. In common usage "artifact" normally refers to portable prehistoric items such as implements made of stone, bone, pottery, or other durable material. Compare 43 CFR 7.3.

Avoidance: preventing a potential adverse effect from occurring to a cultural resource by the partial or complete redesign or relocation of a proposed land use

-C-

Collections: artifacts, objects, field samples, historic documents, photographs, maps, oral interviews and all associated records under the direct care, protection, maintenance and management of the Forest Service in an appropriate curatorial facility (see below).

Compliance: adherence to specific provisions of federal law, regulation, and policy. As historically applied to the Heritage Program, meeting agency responsibilities under Section 106 of NHPA. Compliance extends to all provisions of NHPA and other Federal historic preservation laws and regulations.

Consultation: The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in Heritage Program Management.

Corporate Database: the FS Integrated Data Management System (INFRA). The heritage program component includes all inventory and cultural resources in a records and spatial (GIS) format.

Cultural: of or pertaining to culture, the regularized, patterned, learned behavior shared by members of an interacting social group and passed from generation to generation, comprising the group's technology, economy, religion, arts, social organization, and more. A group's partly subconscious consensus on how things are done. Aspects of culture vary among contemporary groups and change through time. Culture may be viewed as a complex set of instrumental behaviors interposed between a group and its natural and social environment, and may be said to constitute the group's adaptation to its environment.

Cultural Resource Overview: a comprehensive forest planning document that identifies and defines the activities necessary to understand, preserve, protect, enhance, and develop cultural resources. The overview is subject to periodic revisions as new knowledge is acquired.

Curation: the long-term storage and maintenance of artifacts, objects, photographs and associated field and laboratory records (Collections, see above) in a stable condition within a secure space and curatorial facility.

— D —

Data Recovery: the professional application of archaeological techniques of controlled observation, collection, excavation and/or removal of physical remains, including analysis, interpretation, explanation, and preservation of recovered remains and associated records in an appropriate curatorial facility, used as a means of protection. Data recovery may sometimes employ professional collection of data such as oral histories, genealogies, folklore, and related information to portray the social significance of the affected resources.

— E —

Effect: Alteration to the characteristics that qualify a historic property for the National Register or to the qualities that contribute to the use(s) determined appropriate for a cultural resource. Advisory Council regulations at 36 FR 800 guide the determination of effect to historic properties.

Enhancement: A general term that in historic preservation means any activity that preserves, restores, or interprets an historic property for use and enjoyment by the public.

Evaluation: the process of determining the scientific, cultural, or historical value of a cultural resource and the application of the National Register eligibility criteria in 36 CFR 60.4. This is the basis for use allocation and assessment of project effect under 36 CFR 800.

— H —

Historic context: "an organizing structure for interpreting history that groups information about historic properties that share a common theme, common geographical area, and a common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties, based upon comparative historic significance" (*National Register Bulletin* No. 15, Glossary).

Historic preservation: "includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, reconstruction, or any combination of the foregoing activities" (National Historic Preservation Act, Section 301; Appendix 5) in relation to properties significant in American history, architecture, archaeology, or culture.

Historic Preservation Plan, HPP: a written plan prepared by FS heritage specialists, and approved by the Forest Supervisor or District Ranger, that guides the protection, conservation, maintenance, development, public use and overall management of a specific historic property or historic property type.

-I-

Infra: Abbreviation for infrastructure. FS Integrated Data Management System

Interpretation: The sharing of information with the public through brochures, signs, living history programs, presentations, or other communication media.

-K-

Keeper of the National Register: the individual who, under NHPA, has been delegated the authority by the National Park Service to list properties and determine their eligibility for the National Register. The Keeper may further delegate authority, as he or she deems appropriate.

-M-

Memorandum of Agreement: The document that records the terms and conditions agreed upon between the agency and the SHPO and Advisory Council to resolve the adverse effects of an undertaking upon historic properties.

Memorandum of Understanding: a written plan between the FS and other parties (partners) for carrying out their separate activities in a coordinated and mutually beneficial manner. An MOU is framework for cooperation and is not a fund-obligating document.

Mitigation: lessening the severity of a potential adverse effect by application of appropriate protection measures, recovery of archaeological data, or other means.

Monitoring: systematic and periodic assessment of the physical condition of cultural resources and any on-going or potential human-caused or environmental threats to them. It is the basis for implementing corrective actions where degradation is identified. Monitoring is also undertaken to evaluate the adequacy of protective treatments to cultural resources affected by FS undertakings and to review the accuracy of survey strategies and techniques.

-N-

National Association of Tribal Historic Preservation Officer is a national non-profit membership organization of Tribal government officials who implement Federal and tribal preservation laws and support Tribal Historic Preservation Programs to carry out the duties of the State Historic Preservation Officer on tribal lands [per NHPA Section 101(d)(2)] as acknowledged by the NPS.

National Conference of State Historic Preservation Officers is the professional association of the State government officials who carry out the national historic preservation program as delegates of the Secretary of the Interior pursuant to the NHPA of 1966, as amended.

National Register of Historic Places (National Register) The National Register is the Nation's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, section 101(a)(1)(A), the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources. Properties listed in the Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture. The Secretary's administrative responsibility for the National Register is delegated to the National Park Service.

-P-

Permit for Archaeological Investigation: a federal permit issued under the Organic Act for non-ground disturbing archaeological activities, particularly field survey, and ARPA for ground-disturbing uses such as extensive subsurface testing and excavation. Although referred to as an ARPA permit, the permit (FS-2700-32) may be issued under several different authorities.

Preservation: Either before or after restoration or rehabilitation, preservation is the application of measures to sustain the form and extent of a structure essentially in the existing state. Its intent is to halt further deterioration (arrested decay) and provide structural safety but does not contemplate significant rebuilding.

Program Alternatives: a number of options allowed by the Advisory Council for developing alternative processes for compliance with NHPA Section 106. These include: alternate procedures, programmatic agreements, exempted categories, standard treatments and program comments, per 36 CFR 800.14

Programmatic agreement: an agreement among the responsible agency official, the Advisory Council the appropriate SHPO or the National Conference of SHPOs, THPOs where tribal lands are involved, and others as invited, establishing alternative agency procedures to substitute for the procedures in 36 CFR 800 for complying with Section 106 of the NHPA. May be forest, state, regional, or national in scope.

— R —

Rehabilitation: The process of returning a structure to a state of efficiency by major repairs or alterations so that it will serve a useful purpose. It provides that portions of the structure (external, internal, or in combination), which are important in illustrating cultural values, are preserved or restored.

Repatriation: the return of certain Native American cultural items -- human remains, funerary objects, sacred objects, and objects of cultural patrimony - to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations. The Native American Graves Protection and Repatriation Act provides a process for museums and Federal agencies to repatriate items of cultural patrimony.

Restitution: reimbursement of loss or damage to a cultural resource under the civil or criminal penalty provisions of ARPA or other Federal legal laws that protect antiquities; restitution may cover all or part of the cost of restoration and repair to a damaged cultural resource.

Restoration: the process of accurately recovering, by the removal of later work and the replacing of missing original work, the form and details of a site, structure, or part of a structure, together with its setting, as it appeared at a particular period of time. Restoration may be full or partial and may be combined with rehabilitation.

— S —

Section 106: the section of the NHPA that requires Federal agency officials (1) to take into account the effects of their undertakings on historic properties eligible for or included in the National Register, and (2) to afford the Advisory Council a reasonable opportunity to comment on the undertaking. (36 CFR Part 800 implements section 106.)

Section 110: the section of NHPA that requires federal agencies to assume responsibility for developing historic preservation programs to preserve and use historic properties in consultation with others. This section is the basis for initiating stewardship actions that are usually unrelated to undertakings considered under Section 106.

Site: the location of human activities or events often used to mean the same as cultural resource. According to the Glossary of National Register Terms in *National Register Bulletin* No. 16A, site means "location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of any existing structure."

Stabilization: is the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present. To remove sources of deterioration such as erosion, or reinforce weakened features subject to collapse.

State Historic Preservation Officer (SHPO): NHPA established this position in 1966 to assist Federal agencies in carrying out their historic preservation responsibilities. The SHPO is a necessary player in the section 106 process and an important partner in the FS's Heritage Program.

Stewardship: The responsibility of Federal agencies to nominate historic properties to the National Register, and to maintain, protect, develop, interpret, and use historic properties for the public benefit.

Survey: the application of professional methods and techniques for field inventory, used to locate and identify cultural resources.

Treasure or treasure trove: generally taken to mean precious metals in coin, plate, or bullion, loose gemstones, or other monetarily valuable materials. The term and a presumption of associated legal rights derive from English common law.

Tribal Historic Preservation Officer, (THPO): The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of NHPA. When Federal actions occur on reservation lands, the agency consults the THPO rather than the SHPO.

Tribe, Federally Recognized: Indian or Alaskan native tribe, band, nation, pueblo, village, or community included in Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)

## 0.1 - QUALIFICATIONS AND TRAINING FOR FS HERITAGE PROGRAM PERSONNEL

Heritage Program personnel shall meet the core competencies of the position for which they are hired. See Exhibit ###. All Heritage Professionals must be qualified under the Secretary of the Interior's Standards and Guidelines. Heritage Professionals should receive continuing education and training as necessary to meet changing job demands and requirements. Paraprofessionals must receive all required training to participate in Heritage Program activities and must be supervised by Heritage Professionals when performing duties for the Heritage Program.

0.11 - Heritage Professionals. A Heritage Professional is a professionally qualified anthropologist, archaeologist, architectural historian, historian, historical architect, or similar professional who serves in a staff or advisory capacity and provides professional recommendations and services to assist managers in meeting their Heritage Program responsibilities. Appendix A to 36 CFR 61 – Professional Qualifications Standards (Appendix ##), define minimum education and experience required to perform identification, evaluation, and treatment activities. These standards require a graduate degree in archaeology, anthropology, history or closely related fields, and up to two years of full time professional experience or the equivalent.

The Operating Manual for Qualification Standards for General Schedule Positions, GS-190 anthropologist, GS-193 archaeologist, and GS-170 historian reflects these qualifications. FS professional heritage staff are GS-193-9 and above. Additional training and supervised experience beyond the minimum qualifications are necessary for most field positions. Heritage specialists carrying out official agency duties must meet the same professional qualifications as required of contractors in ARPA and 43 CFR 7. It is the responsibility of staff specialists to inform their supervisors when a proposed work assignment would exceed their capability. Only professional heritage specialists shall make management recommendations, and review and recommend approval of heritage work done by archaeological technicians, paraprofessionals, contractors, and volunteers.

0.12 - Archeological Technicians. Archeological technicians in the GS-102 series must have up to one year of specialized experience, academic study, or a combination of experience and study in archaeology, anthropology, history or closely related fields. Archeological Technicians are generally working toward undergraduate or graduate degrees in those respective fields. Technicians may conduct inventory, make recommendations for National Register eligibility and project effect, monitor, and conduct other heritage program duties such as data management under the direct supervision of GS-193 professional staff.

0.13 – Paraprofessionals. Paraprofessionals are FS employees who have completed an in-house training and certification program conducted by a Heritage Professional and including 40 hours of field training and 40 hours of supervised fieldwork. Certification must be renewed at a minimum of every two years. Paraprofessionals usually have primary work responsibilities in other FS resource programs and are assigned heritage program work as part time or as-needed collateral duties. The paraprofessional program is optional. **Certification needs to be standardized and included in this handbook. Also need to address authority - RF**

A professional GS-193 heritage specialist must assign specific duties, approve reports, and accept professional responsibility for the paraprofessionals' work. Paraprofessionals may

conduct heritage inventory under the direct supervision of a professional GS-193 heritage specialist or GS-102 Social Science technician. They may not evaluate cultural resources, make management recommendations, or implement stewardship projects.

Add regional forester establishes authority, qualifications and training for paras – dicks suggestion.

0.14 – Core Competencies. The following table shows the skills heritage specialists must have at different grade levels and courses available to attain and renew skills. Skills and course recommendations are cumulative, i.e. at the GS-11-12 level, it is assumed the employee has skills and training of the lower grades. The following list is a general picture of topics commonly available through a variety of venues, including most commonly the Advisory Council and the National Preservation Institute. These are recommendations only and should be used to develop training plans, upgrade skills, and inform potential new-hires of job expectations.

<b>GRADE</b>	<b>SKILL NEEDED</b>	<b>TRAINING TOPICS</b>
<b>GS-193 11-12</b>	Participate in Forest Planning	Forest Service planning NEPA Compliance and Cultural Resources
	Prepare & implement Historic Preservation Plans	Historic Landscapes: Planning, Management, and Cultural Landscape Reports Historic Preservation Planning
	Consult with SHPO, THPO, and Advisory Council	NHPA Section 106 Compliance
	Develop thematic studies and programmatic approaches	Section 106: How to Negotiate and Write Agreements Agreement documentation preparation
	Consult and coordinate with Indian tribes	Native American Consultation Consultation and Protection of Native American sacred Lands NAGPRA and ARPA: Applications and Requirements Native American Cultural Property Law Indian and Alaska Native Relations
	Provide technical advice to law enforcement regarding ARPA investigations	Archaeological Crime Investigation Federal Protection Officer Training
	Serve as expert witness in ARPA cases	Archaeological Crime Investigation
	Participate in fire suppression and post suppression activities	Standards for Survival – fire qualification Burned Area Emergency Rehabilitation and related wildfire recovery training.
	Serve as COR on heritage contracts & agreements	Federal government contracting, Forest Service contracting, COR training
	Work with the media	Aglearn Integrating the Past: Public Programming and CRM

<b>GRADE</b>	<b>SKILL NEEDED</b>	<b>TRAINING</b>
<b>GS-193 9</b>	Prepare documentation for consultation with SHPO/Advisory Council including eligibility determinations and mitigation plans	Cultural resource management law FS, ACHP, NPS NHPA-Section 106 training
	Implement Heritage Preservation Plans	Historic preservation planning
	Provide technical advice to law enforcement re. ARPA investigations	Archaeological law enforcement
	Conduct damage assessments for ARPA cases	Archaeological damage assessment preparation
	Provide technical assistance to GIS coordinators	Practical Applications for Cultural Resource Projects FS internal training
	Coordinate with law enforcement to monitor and protect sites	Federal Protection Officer training
	Serve as COR and contract inspectors on heritage contracts	COR training
	Participate in fire suppression and post suppression activities	Standards for Survival – fire qualification Burned Area Emergency Rehabilitation and related wildfire recovery training.
	Participate in project level Inter Disciplinary Teams	FS 1901 training NEPA Compliance and Cultural Resources

<b>GRADE</b>	<b>SKILL NEEDED</b>	<b>AVAILABLE TRAINING</b>
<b>GS-102 7</b>	Conduct heritage inventory	Section 106 Compliance
	Make recommendations for eligibility to the National Register and project effect	Section 106 Compliance
	Manage information, including INFRA and collections	FS I-Web
	Input data into GIS	FS internal training University courses, continuing education

An alternative way to display the above information

<b>Training topics</b>	<b>Skill/activity</b>	<b>Prof.</b>	<b>Tech.</b>	<b>Para</b>
NHPA Section 106: How to Negotiate and write Agreements Agreement documentation preparation	Develop thematic studies and programmatic approaches	X		
Tribal Consultation Sacred Sites and TCPs NAGPRA and ARPA: Applications and Requirements Indian and Alaska Native Relations	Consult and coordinate with Indian tribes	X		
FS 1901 training NEPA compliance and cultural resources	Participate in forest planning	X		
FS 1901 training NEPA compliance and cultural resources	Participate in project level interdisciplinary teams	X		
Historic Landscapes: Planning, Management, and Cultural Landscape reports	Prepare and Implement Historic Preservation Plans	X		
Burned Area Emergency Rehabilitation and related wildfire recovery training	Participate in fire suppression and post fire suppression activities	X	X	
Academic Field School On the job training	Conduct heritage inventory, including field inventory	X	X	X
National Register NHPA Section 106 and 110 training	Make recommendations for National Register eligibility and allocation to management categories.	X	X	
NHPA Section 106 compliance	Consult with SHPOs, THPOs, and Advisory Council	X		
COR training	Serve as COR on heritage contracts and agreements.	X		
COR training	Serve as Contract Inspector on heritage contracts		X	
Archaeological Law Enforcement	Serve as expert witness in ARPA cases	X		
Archaeological Crime Investigation Federal Protection Officer training	Provide technical advice to Law Enforcement regarding ARPA investigations	X		

<b>Training topics</b>	<b>Skill/activity</b>	<b>Prof.</b>	<b>Tech.</b>	<b>Para</b>
Archaeological Crime Investigation Federal Protection Officer training	Coordinate with Law Enforcement to monitor and protect cultural resources	X		
Archaeological Damage Assessment	Conduct damage assessments for ARPA cases	X	X	
Academic courses Historic restoration HABS HAER training	Conduct or supervise archaeological excavation or historic structure recordation.	X		
Historic restoration and maintenance	Restore and maintain historic buildings	X		
Interpretive Services training	Provide heritage interpretive services	X	X	
FS internal training University courses, continuing education	Provide technical assistance to GIS coordinators	X		
In-house training Infra training	Prepare heritage accomplishment reports	X		
Infra Collections Management	Manage information including Infra and collections	X		
Infra training	Input heritage data in Infra	X	X	
GIS training	Input data into GIS	X	X	

## **CHAPTER 1 CONSULTATION AND COORDINATION**

- 01 - Authority – See FSM 2360.1
- 02 - Objectives – See FSM 2361.02
- 03 - Policy – See FSM 2361.03
- 04 – Responsibility – See FSM 2361

### 1.1 – COORDINATION AND CONSULTATION UNDER NEPA AND SECTION 106.

Consultation requirements for NEPA and Section 106 of NHPA are separate but parallel processes that, upon completion of both, lead to a decision to implement a FS or FS-permitted undertaking. Consultation with tribes, state and local governments, and other interested parties is a requirement of each legal process.

The regulations in 36 CFR 800.8 implementing the NHPA Section 106 review process encourage the use of the NEPA process to fulfill the agency's compliance responsibilities. The Forest Supervisor may elect to use NEPA to fulfill both processes or coordinate completion of the two processes separately. In either case timing for completion of consultation and project implantation is critical. The following Exhibit summarizes the parallel consultation stages of NEPA and NHPA. The NEPA planning process is described in FSM 1900. A full description of the Section 106 compliance process is found in FSH 2309.4.1.

Exhibit 1. Coordination of NEPA and NHPA Section 106 Requirements

NEPA STAGE	NEPA ACTION	NHPA SECTION 106- 36 CFR 800 DIRECTION
Project Initiation	<p>Prepare the Proposed Action.</p> <p>Review against the Forest Plan, regulations, etc.</p> <p>Prepare a Project Initiation Letter</p>	<p>Initiate the Section 106 compliance process:</p> <p>Define APE and potential effects</p> <p>Determine if the proposed action is an undertaking.</p> <p>Determine if the Proposed Action is categorically excluded under a programmatic agreement</p>
Public Scoping	<p>Initiate scoping through letter, meetings, field trips and personal contact with all prospective consulting parties.</p> <p>Public Notice of Intent in the Federal Register for EIS</p>	<p>Participate in the Interdisciplinary Team (IDT) process for review and analysis of the proposed action/undertaking.</p> <p>Notify SHPO and ACHP regarding agency intent to use the NEPA process to comply with Section 106 or alternative PA procedures.</p> <p>Seek initial comments from SHPO, tribes and other interested and knowledgeable parties.</p>
Alternatives & Affected Environment	<p>Identify resources potentially affected by the Proposed Action and its Alternatives.</p> <p>Analyze and describe the Affected Environment-Existing Condition</p>	<p>Inventory cultural resources in APE, including properties of religious and cultural significance to tribes and other groups. Submit inventory report to the SHPO for review and comment.</p> <p>Determine the eligibility of cultural resources for listing in the National Register. Seek consensus from the SHPO and/or Keeper of the Register, as appropriate.</p>
Environmental Consequences	<p>Analyze and document the direct, indirect and cumulative effects of the Proposed Action and any Alternatives on cultural resources.</p> <p>Identify proposed measures to mitigate adverse impacts to cultural resources.</p>	<p>Determine the effects of the undertaking on identified historic properties.</p> <p>Develop, in consultation with SHPO and consulting parties, proposed treatment measures and alternatives that avoid, minimize or mitigate any adverse effects of the undertaking on historic properties.</p>
Preparation of Environmental Documents	<p>Prepare a cultural resource specialist report describing affected environment, project alternatives, mitigation-treatments.</p>	<p>Describe the direct, indirect and cumulative effect of the proposed undertaking and its alternatives on cultural resources.</p> <p>Describe proposed treatment measures to mitigate the adverse effect of the project on cultural resources.</p> <p>Describe issues of special cultural resource concern, such as TCP.</p>
Decision EA/DN-FONSI EIS/ROD	<p>Include the effects of action on cultural resources, and mitigation-treatments, in decision documents</p> <p>Ensure confidentiality of site location and site sensitive information.</p> <p>Monitor mitigation measures and treatments.</p>	<p>Prepare a Memorandum of Agreement to document mitigation of adverse effect and compliance with Section 106, for EA/DN-FONSI. The ROD may serve as the binding agreement if an EIS was prepared.</p> <p>Notify the SHPO, ACHP, tribes and all consulting parties if a revised environmental document will be prepared to comply with NEPA if the project is modified after the decision.</p>

1.2 – TRIBAL COORDINATION AND CONSULTATION. The FS is responsible for consulting with American Indian and Alaska Native tribes, groups, organizations and individuals about agency land management practices and resource management, including cultural resources. The overall agency responsibilities for government-to-government are the responsibility of the American Indian and Alaskan Native Relations Program, described in FSM 1563.

The ancestors of American Indian people and Alaska natives created the majority of archaeological properties now found on National Forest System lands throughout the United States. Forest landscapes contain places of deep cultural, traditional and sacred value to contemporary indigenous peoples. The focus here is therefore on cultural resource management consultation. In this context, tribal consultation is the active, affirmative process of:

1. Identifying and seeking input from appropriate tribal governments, community groups, and individuals on a variety of topics related to cultural resource management.
2. Considering their interests as a necessary and integral part of the agency land use planning and decision-making process. Consultation should identify issues of concern and define a range of acceptable management options.

1.21 - Consultation Process. The purpose of consultation is to establish meaningful dialogue and collaboration with tribal leaders and cultural resource specialists to assist the FS in the wise management cultural resources. This specifically includes dialogue that assures consideration and protection of places of traditional cultural or religious significance. It also means considering the views of American Indians and Alaska Natives concerning the daily management of a wide range of cultural resources, including ancient camps and villages, tool stone quarries, rock art (pictographs, petroglyphs) locations, trail networks, and other places that were part of their ancestral lifeways.

1.21a - When to Consult. The Agency Official should initiate consultation with potentially interested American Indians as early as possible during the initial stages of forest-grassland or (NEPA) project planning. Consultation should be implemented as a continuous process beginning with the identification and discussion of a management opportunity to the assessment of project outcomes through monitoring.

1.21b - Preparing for Consultation. The first step is to identify a clear purpose for consultation, followed by a review what is already known about the relevant interests of American Indians and Alaska Natives. Reference material can include:

1. public participation records for land use plans
2. minutes of public meetings and transcripts of public hearings
3. pertinent correspondence and documentation of previous consultation
4. documentation of previous consultation

5. ethnographic information in cultural resource overviews, inventory reports and related heritage program data.

This review will help to identify critical tribal issues and document known or potential areas of traditional religious or cultural importance, as well as any traditional uses that are closely associated with lands or resources. The review may also identify places that tribes are likely to perceive as culturally sensitive in contemporary traditional cultural practice (human burial sites, shrines, prayer sites, rock art, natural features traditionally used for religious purposes, etc.).

1.21c - Initiating Tribal Contacts. The Agency Official, with the assistance of the Heritage Professional, must make reasonable and good faith efforts to elicit information and views directly from affected Tribes concerning cultural resources within the planning area. Recommended consultation procedures include:

1. An initial contact should be made to all potentially interested tribal governments by letter and telephone requesting their direct participation and participation in the planning process.
2. The initial point of contact should be the chief executives of tribes that may be expected to have an interest in the proposed action.
3. Contacts should include tribes and groups that live near and/or use the lands in question, and those that are known to have historical ties to the lands but now live elsewhere.
4. Through initial contact with the tribal government seek to identify and contact cultural or religious leaders and practitioners who are not tribal government officials.
5. Document contacts, interviews, formal and informal meetings with tribal leaders, or attempts made to contact them to establish that a good faith effort was made to consult with tribes.
6. Notices of public meetings and announcements of opportunities to review environmental documents should be provided to all tribal governments who have been identified as having, or may reasonably be expected to have an interest in a proposed undertaking. (This level of notice should not be construed to meet a legal requirement to notify potentially affected Tribes).

1.21d – Telephone and Written Communication. Whether written correspondence is meant to serve as notification or as a written precursor or supplement to direct, person-to-person consultation with Tribes, the following correspondence guidelines apply:

1. document, sign and include in the project file all telephone conversations..
2. identify the purpose of the letter (i.e., the action being proposed and the specific legal/regulatory basis for writing);

3. identify a Forest Service contact person and how to reach them (if for consultation, note that a call or visit will follow);
4. specifically request the kind of tribal input needed (such as identification of potential cultural resource concerns);
5. provide an opportunity for a meeting;
6. solicit the names and addresses of other persons who should be notified or consulted.
7. if a letter is returned as undeliverable, include the canceled, unopened letter in the official file and begin additional, more direct, and documented attempts to carry out the notification or consultation.
8. Some additional clauses, which may be appropriate under certain circumstances, include the following:
  - a. referrals: "If you are not the appropriate individual to receive this request, please advise whom we should contact."
  - b. flexible meeting proposals: "If this time and location are not appropriate, please contact [\_\_\_\_\_] within [ ] days prior to the scheduled meeting to make alternative meeting arrangements."
  - c. documentation requests: "Please indicate on the enclosed map, if possible, areas of specific concern," or "Please provide or refer us to any available information that would help us to understand the significance and nature of traditional cultural concerns in the [area of proposed action] for the [proposed action] for the [group or tribe name]."

1.21e - Consultation Meetings. Meetings with tribal officials, traditional cultural or religious leaders, or cultural resource staff may be scheduled following initial mail and telephone contact. Such meetings provide the most effective forum for obtaining the advice or opinion of Indian tribes and Native Hawaiian organizations. Meetings should not be held in places where it will be difficult for tribal members to attend.

Consultation and coordination meetings should generally be narrowly focused on the proposed Forest Service action, or the planning area involved, with the goal of developing:

1. A specific description of the places and/or values at issue;
2. Potential management options to avoid or minimize any negative consequences to tribal cultural and religious value and practices;
3. Optional methods to identify sacred sites and locations that will avoid tribal concerns over the use of documents and maps as information gathering techniques.

It is sometimes essential that traditional leaders, who hold valuable information, must participate in setting the pace and direction for a meeting. Sensitive information cannot be shared without the development of a relationship in which information can be shared is based on mutual respect and trust. The presentation of presentation of context and historical background, usually provided orally, is necessary and may take time.

1.21f – Cultural Sensitivity. Several factors need to be considered when planning consultation meetings.

1. The complexity of some issues during consultation makes it unlikely that discussions will be completed with a single meeting. Initial meetings generally provide an opportunity for the participants to get acquainted and review legal requirements. Subsequent meetings usually build on this foundation to address the more substantive and often more sensitive issues.

2. Some Indian tribes and Native Hawaiian organizations have their own meeting protocol that should be taken into account when planning consultation meetings, including:

- A. Tribal representatives may be uncomfortable discussing the repatriation or disposition of human remains, funerary objects, sacred objects, and objects of cultural patrimony without first opening the meeting with prayer.
- B. Some topics may require comment from more than one individual. Discussions of other topics may be limited to specific individuals, with others being precluded from even hearing some sensitive information.
- C. The individuals representing the Indian tribe or Native Hawaiian organization may change from meeting to meeting.
- D. Some information may only be communicated at certain times of the year.
- E. Tribal representatives who participate in consultation meetings may have to relate the details of those meetings to their community governing officials, traditional religious leaders, and other community members before decisions are made and actions authorized.

With these situations in mind, heritage professionals and agency officials should not set unrealistic expectations or project time frames when requesting tribes to provide sensitive information. Consult with tribes early in the planning process to develop realistic expectations and time frames mutually acceptable to the consulting parties. This is a significant aspect of “good faith” consultation.

1.21fg – Sufficiency of Consultation Efforts. There is no simple measure of sufficiency of tribal consultation efforts. This should be evaluated on a case-by-case basis by the heritage professional and agency official and consider:

- 1. potential harm or disruption a proposed action could cause

2. completeness and appropriateness of the list of Tribes, groups and individuals consulted
3. nature of the issues
4. intensity of concern expressed
5. relative productivity of consultation
6. need for further consultation
7. assessment of the amount or preponderance of information gathered

All such judgments should be well documented to assure a complete record of the line officers' good faith efforts to identify, contact, consult, and respond tribal concerns before reaching a decision.

1.21h – Confidentiality. One barrier to open consultation is a reluctance to discuss information about places that are considered to have a sacred character, or practices that are of a sacred or private nature. In some instances, reluctance to speak of such matters is strong enough to prevent information sharing altogether. Heritage professionals and agency officials should therefore understand and follow existing legal direction to prohibit or limit disclosure of cultural sensitive information in NHPA (Section 304[a], ARPA (Section 9), and FIOA (5 USC 552 [b][3]). (See FSM 2368.1, Exhibit 01).

1.22 - Common Issues. Issues that frequently surface in consultation are briefly discussed here to provide practical direction regarding the relationship of potential tribal concerns to Forest FS land and resource management decisions.

1.22a – Access. Access to areas of traditional cultural use may create conflicts with other management obligations. For example, age, infirmity, and distance often combine to make motorized vehicle access the only practical means for some American Indians or Alaska Natives to reach locations of religious importance. Agency decisions that may limit or close access to traditionally-used locations include temporary road and area closures; special area designations (i.e., Wilderness), and closures for resource, public health and safety, or other administrative reasons.

Depending upon the situation, there are different kinds of access decisions to consider.

1. No access — where it is not practicable, permitted, or inconsistent with essential agency functions, access to traditionally significant locations may not be possible. Closures for the purpose of public health and safety or for the protection of a resource may be issued that would preclude access to a sacred site. A decision to close access to traditionally significant locations for one of these reasons must be documented and the affected Tribe(s) notified that access could not be accommodated.

2. Restricted access — The Forest Service cannot close an area of NFS land in order to facilitate tribal religious observances because such a closure may violate the establishment clause of the Constitution. Keep in mind that:
  - a. Requesting the public to honor a voluntary closure of reasonable size and duration is one way to accommodate tribal religious interests. An educational and public outreach effort to explain the reasons for requesting a temporary and voluntary closure could be critical to its success.
  - b. Each traditionally significant location has a specific audience. Tribes should be responsible for determining the appropriate individuals who would have access to a site.
  - c. Tribes would have to request a temporary voluntary closure and indicate who will be accessing the site. The Forest Service has no authority to enforce any temporary voluntary closure, and would need to rely on the good will of the public to honor the tribe's request.

In the case of Wilderness designation, access to traditionally significant locations can be restricted by the ban on motorized access, and by limiting visitation to the smallest number for the shortest period feasible in keeping with Wilderness values.

In situations where preservation of traditionally significant locations is not possible, the Forest Service will notify Tribes and provide the reasons why access or protection cannot be granted. Tribes may appeal this ruling through the Forest Service's appeal procedure.

1.22b – Traditional Use. One of the more tangible issues with potential for resource conflict is American Indian and Alaska Native collection and use of plants and animals for traditional religious and cultural purposes. Some species regulated under the Endangered Species Act may have religious or cultural significance. Collection of other resources, such as plant products, minerals, and gemstones, may be regulated under other statutory authority and Forest Service policy.

The responsible official should consult with Tribes and traditional leaders to identify potential conflicts between traditional use and protective laws and regulations. If potential conflicts are identified use these opportunities to define mutually beneficial desired future conditions, and implement collaborate projects to move toward those conditions.

1.22c – Sacredness. American Indian and Alaska Native attribution of sacredness to large land areas is an issue for line officers to reconcile with other management responsibilities. Practitioners might perceive any secular use or development in such a place to be injurious to its exceptional sacred qualities or a sacrilege and therefore unacceptable from their view. In addition to direct ground disturbing activities, potential adverse effects could include visual or auditory impacts from management activities.

Tribes should be consulted to identify all of the cultural values associated with a location or landscape. This effort can result in a greater ability to anticipate and mitigate potential adverse effects.

1.22d - Mitigation of Adverse Effect under NHPA. Where tribal cultural and religious concerns are involved, conventional methods of mitigation, such as data recovery may not be appropriate in certain cases or locations. Tribes should be consulted to identify appropriate and inappropriate methods or forms of mitigation. Tribes may suggest “off-site” or other unconventional mitigation proposals.

In many cases mitigation as a concept may be unacceptable to tribes. In the case of infringement of religious freedom adverse effects cannot be mitigated by the application of methods devised to reduce impacts and effects to natural resources and historic properties.

1.3 – CONSULTATION PROCEDURES UNIQUE TO SPECIFIC LAWS. Consultation procedures for specific laws pertaining to cultural resources are summarized in this section.

1.31 - American Indian Religious Freedom Act. Consultation with Tribes on cultural resource matters pursuant to AIRFA should involve:

1. Complete a review existing records and documentary sources to identify any previously recorded properties of traditional religious or cultural importance and traditional life-way values that are associated with the lands in question.
2. Make reasonable efforts to elicit information and views directly from the tribes whose interests would be affected.

It must be clear that the purpose of the request is to learn about places of traditional religious or cultural importance that cannot be identified without direct Tribal assistance, so the Forest Service may know to protect the places from unintended harm and to provide for appropriate American Indian or Alaska Native access.

Meetings may follow initial contacts with tribal leaders if there is any reason to expect that places of religious significance to the tribe or group are likely to be affected by Forest Service actions. The meeting should seek mutually acceptable ways to avoid or minimize disturbance of traditional religious places or disruption of traditional religious practices.

Specific requests to obtain and consider information during planning or decision making must be thoroughly documented, both as part of the administrative record and as a basis for determining if further inventory or consultation will be needed.

1.32 - Archaeological Resources Protection Act. The Agency Official must notify the appropriate Tribes before approving and issuing a *Permit for Archaeological Investigations* for the excavation and scientific study of archaeological resources more than 100 years old.

If the response to the notification is a request for consultation, then consultation should be expeditiously undertaken consistent with the procedural requirements and timeframes contained

in 43 CFR 7.7(a)(3). When documented efforts to notify and consult with appropriate Tribes prove unsuccessful, a detailed record of these efforts is included in the permit file. This documentation will serve as evidence of notification and consultation.

1.33 - National Historic Preservation Act (NHPA) requires the identification and consideration of potential adverse effects on cultural resources and traditional cultural properties. The procedures outlined above for AIRFA, NHPA, and NPS and FS guidance documents provide sufficient direction for identifying "traditional cultural properties" and places of "religious and cultural value". Consultation is required when data recovery is being considered as a means to mitigate a proposed undertaking's adverse effects to a property with ascribed religious and cultural significance, as well as scientific importance. This process is described in FSM 2364.1 and FSH 2309xx.

Tribes may participate in the management of historic properties where they have traditional cultural interests. Tribal views should be incorporated into Historic Property Plans being prepared for archaeological or traditional cultural properties.

1.34 - Native American Graves Protection and Repatriation Act (NAGPRA) NAGPRA address the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony.

NAGPRA requires federal agencies and institutions that receive federal funds to provide information about American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony held in collections to lineal descendants, Indian tribes, and Native Hawaiian organizations and, upon presentation of a valid request, dispose of or repatriate these objects to them. The trafficking provisions of the statute may also require cooperation with officials of the Department of Justice regarding illegal excavations on National Forest System lands.

Forest Supervisors are responsible for:

1. notifying and consulting with lineal descendants, Indian tribes, and Native Hawaiian organizations regarding planned excavations and inadvertent discoveries on National Forest System lands.
2. completing of inventories and summaries of American Indian collections in their control that might include unassociated funerary objects, sacred objects, and objects of cultural patrimony and inventories of human remains and associated funerary objects. The summaries and inventories included both objects in Forest Service collections and those from National Forest System lands that are currently held in other repositories.
3. making decisions about the disposition or repatriation of American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony under Forest Service control.

1.34a - American Indian Objects Covered. The regulations apply to four types of items. An object may fit into one or more category:

1. Human Remains are the physical remains of a body of a person of American Indian ancestry [43 CFR 10.2(d)(1)]. The term has been interpreted to include bones, teeth, hair, ashes, or mummified or otherwise preserved soft tissues. The regulations make no distinction between fully articulated burials and isolated remains. The term applies equally to recent and ancient American Indian human remains. The term does not include remains, or portions of remains, freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets.

For the purposes of determining cultural affiliation, human remains incorporated into funerary objects, sacred objects, or objects of cultural patrimony are considered part of that object. This provision is intended to prevent the destruction of a funerary object, sacred object, or object of cultural patrimony that is affiliated with one Indian tribe but incorporates human remains affiliated with another Indian tribe. Human remains that have been repatriated under NAGPRA to lineal descendants, Indian tribes, and Native Hawaiian organizations include complete and partial skeletons, isolated bones, teeth, scalps, and ashes.

2. Funerary Objects are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be defined by:
  - A. A preponderance of evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or Native Hawaiian organization
  - B. Or as being related to specific individuals or families or to known human remains.

Items made exclusively for burial purposes are considered funerary objects even if there are no associated human remains. Items that inadvertently came into contact with human remains are not considered to be funerary objects.

The regulations distinguish between “associated funerary objects”—for which the human remains and funerary objects are in the possession or control of a federal agency or museum—and “unassociated funerary objects,” for which the human remains are not in the possession or control of a federal agency or museum.

Associated and unassociated funerary objects that have been repatriated under NAGPRA to lineal descendants, Indian tribes, and Native Hawaiian organizations include many beads of various types; pottery jars, bowls, and sherds; tools and implements of wood, stone, bone, and metal; trade silver and other goods; weapons of many types, including rifles and revolvers; and articles or fragments of clothing.

3. Sacred objects are defined as specific ceremonial objects needed by traditional American Indian religious leaders for the practice of traditional American Indian religions by their present-day adherents.

Traditional religious leaders are individuals recognized by members of an Indian tribe or Native Hawaiian organization as being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe or Native Hawaiian organization, or exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe's or organization's cultural, ceremonial, or religious practices.

While many items, from ancient pottery sherds to arrowheads, might be imbued with sacredness in the eyes of an individual, this definition is specifically limited to objects that were devoted to a traditional American Indian religious ceremony or ritual and that have religious significance or function in the continued observance or renewal of such ceremony [43 CFR 10.2(d)(30)]. Sacred objects that have been repatriated under NAGPRA to lineal descendants, Indian tribes, and Native Hawaiian organizations include medicine bundles, prayer sticks, pipes, effigies and fetishes, basketry, rattles, and a birch bark scroll.

4. Objects of cultural patrimony are defined as items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal member. Such objects must have been considered inalienable by the affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group [43 CFR 10.2(d)(40)].

Objects of cultural patrimony that have been repatriated under NAGPRA to Indian tribes and Native Hawaiian organizations include a wolf-head headdress, a clan hat, several medicine bundles, and ceremonial masks of varying types.

An item may be considered an object of cultural patrimony as well as a sacred object. Items fitting both categories that have been repatriated under NAGPRA to Indian tribes and Native Hawaiian organizations include Zuni War Gods, a Sun Dance wheel, ceremonial masks of several types and functions, and a tortoise shell rattle.

1.34b - Required Activities. Activities outlined NAGPRA bring together federal agencies and museums that receive federal funds with lineal descendants, Indian tribes, and Native Hawaiian organizations to resolve the complex issues surrounding custody of American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony. The activities for dealing with excavations or discoveries on federal or tribal lands differ from those for dealing with museum and federal agency collections (see Exhibit 1).

1.34c - Excavations and Discoveries. Intentional excavations and inadvertent discoveries on federal and tribal lands require specific Forest Service actions. Intentional excavation means the

planned archaeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on federal or tribal lands. Forest Supervisors are required to take reasonable steps:

1. To determine whether a planned activity may result in the excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony.
2. To see that any human remains, funerary objects, sacred objects, or objects of cultural patrimony are excavated in accordance with the requirements of the Archaeological Resources Protection Act (ARPA) and its implementing regulations. This means that scientific methods and techniques must be used for the physical removal and recording.
3. To prepare a descriptive and interpretive report of the excavation and curation of the non-NAGPRA related items.
4. To consult with the appropriate Indian tribes and Native Hawaiian organizations.

In the case of tribal lands, intentional excavation of human remains, funerary objects, sacred objects, and objects of cultural patrimony can only proceed with the consent of the appropriate Indian tribe or Native Hawaiian organization or other official responsible for the issuance of the required permit. Regulatory requirements for intentional excavations are described at 43 CFR 10.3.

1.34d - Inadvertent Discovery. The unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on federal or tribal lands.

Any person who knows or has reason to believe that he or she has inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony on a National Forest or Grassland after November 16, 1990, must provide immediate telephone notification of the inadvertent discovery, with written confirmation, to the Forest Supervisor. Inadvertent discoveries on tribal lands must be reported immediately to the responsible Indian tribe official.

1.34e - Discovery During Project Activity. If an inadvertent discovery occurs in connection with an ongoing activity, the responsible official must:

1. Stop the activity in the area of the inadvertent discovery and make a reasonable effort to protect the human remains, funerary objects, sacred objects, or objects of cultural patrimony.
2. As soon as possible, but not later than three working days after receipt of the written confirmation of notification, the Forest Supervisor must notify the appropriate Indian tribes or Native Hawaiian organizations and begin consultation about the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony.

3. The activity that resulted in the inadvertent discovery may resume 30 days after the Forest Supervisor certifies receipt of the written confirmation of notification.
4. The activity may also resume in less than 30 days if a written, binding agreement is executed between the Forest Service and the affiliated Indian tribe or Native Hawaiian organization that adopts a recovery plan for the excavation or removal of the human remains, funerary objects, sacred objects, or objects of cultural patrimony.

As with planned excavations, removal and recording must be carried out in a manner consistent with the requirements of ARPA. The disposition of all human remains, funerary objects, sacred objects, and objects of cultural patrimony must be carried out according to the priority listing in the statute. Regulatory requirements for inadvertent discoveries are described at 43 CFR 10.4.

1.34f - Collections. The statute also requires federal agencies and museums to inform Indian tribes and Native Hawaiian organizations of human remains, funerary objects, sacred objects, and objects of cultural patrimony in their collections. Distribution of this information is achieved through two types of documents: summaries and inventories.

1.34g – Inventories and Summaries. The statute requires written item-by-item description of human remains and associated human remains and a summary description of collections that may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony. Summaries serve as a simple notification to each Indian tribe and Native Hawaiian organization of the nature of the collections held by the Forest or a museum on behalf of the Forest.

Regulatory requirements for inventories are described in 43 CFR 10.9. Forest Supervisors should periodically review their inventory submissions to make sure they are accurate and updated to reflect new acquisitions and newly recognized Indian tribes. Regulatory requirements for summaries are described at 43 CFR 10.8. A section has been reserved in the regulations to outline the continuing responsibilities of federal agencies and museums [43 CFR 10.13]. Pending promulgation of that section, Forest Supervisors should periodically review their summary submissions to make sure they are accurate and updated to reflect new acquisitions and newly recognized Indian tribes

1.34h – Consultation. The regulations require consultation before planned excavations and the completion of inventories and after inadvertent discoveries and the completion of summaries. The term is not defined in statute or regulation, but the procedures outlined in FSM 2365 should be followed.

The statutory consultation requirement is premised upon Congress' explicit recognition of the special information and expertise available from Indian tribes, Native Hawaiian organizations, traditional American Indian religious leaders, and lineal descendants. Consultation with these Tribes, groups, and individuals takes the form of a dialogue in which information is shared.

The administrative burden and public nature of federal advisory committees sometimes makes them an inappropriate vehicle for some types of consultation, especially when particularly sensitive issues are being discussed. The first step in any consultation effort must be to identify

the appropriate consulting partners. This step is particularly critical when an inadvertent discovery occurs on federal land. Upon notification of the discovery, the Forest Supervisor has only three working days to contact the appropriate lineal descendants, Indian tribes, or Native Hawaiian organizations [43 CFR 10.4(d)(1)]. It is therefore imperative to have already developed a list of contacts. A current list of the 763 federally recognized Indian tribes—including Alaska Native villages and corporations—and several Native Hawaiian organizations is available from the BIA.

The implementing regulations (43 CFR 10.5(a), 10.8(d), and 10.9(b)) stipulate that all of the following individuals, Indian tribes, and Native Hawaiian organizations must be consulted:

1. Known lineal descendants. These individuals may have already contacted the Forest Service or been identified by the appropriate Indian tribe or Native Hawaiian organization. In cases where the identity of the individual whose remains or cultural objects are being discussed is known, it may be appropriate to publish a notice in a newspaper of general circulation in the area in which the affiliated Indian tribes or Native Hawaiian organizations now reside to ensure that all potential lineal descendants have been identified;
2. Indian tribes and Native Hawaiian organizations from whose tribal lands the human remains, funerary objects, sacred objects, or objects of cultural patrimony originated. The appropriate land-owning Indian tribe or Native Hawaiian organization should also be consulted regarding human remains, funerary objects, sacred objects, or objects of cultural patrimony that were originally collected from tribal land but are currently in Forest Service collections.
3. Indian tribes and Native Hawaiian organizations that are or are likely to be culturally affiliated with the human remains, funerary objects, sacred objects, or objects of cultural patrimony. Cultural affiliation means a relationship of shared group identity that can reasonably be traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. It is essential to consider geographic, kinship, biological, archaeological, linguistic, folklore, oral tradition, historic evidence, and other information or expert opinion in identifying Indian tribes and Native Hawaiian organizations that are likely to be culturally affiliated.
4. Indian tribes on whose aboriginal land the human remains, funerary objects, sacred objects or objects of cultural patrimony were or are expected to be found. The 1978 final report of the Indian Claims Commission included a map of those lands determined to be the aboriginal territory of particular Indian tribes. A copy of this map is available from the U.S. Geological Survey. Congress has made additional determinations of tribal aboriginal lands, as has the U.S. COURT of Claims (now the U.S. COURT of Federal Claims).

5. Indian tribes and Native Hawaiian organizations that have a demonstrated cultural relationship with the human remains, funerary objects, sacred objects, or objects of cultural patrimony.

Depending on circumstances, initial contact with all the appropriate lineal descendants, Indian tribes, and Native Hawaiian organizations can take several forms. Written correspondence is essential in documenting the consultation process for the administrative record. However, initiating consultation with a telephone call, with written confirmation, has proved to be an extremely effective way to avoid misunderstandings that could result from exclusive use of written means of communication.

Inadvertent discoveries require telephone notification with written confirmation. Fax transmission of written correspondence also expedites the consultation process. No matter what form is used, initial contact should outline the nature of the situation to be discussed, identify who will represent the Forest Service, request information on the appropriate tribal representatives to contact, and propose a time for additional consultation.

The most effective initial contact is short and to the point. In light of the government-to-government relationship between Indian tribes and the United States, initial contact by Forest Service units should originate with the Forest Supervisor and be directed to the tribal chair, governor, or president. Subsequent consultation may be delegated to professional staff if appropriate.

Follow-up is critical to successful consultation. Indian tribe and Native Hawaiian organization officials may be busy and not respond to the initial letter or telephone call in a timely fashion. If a response to the initial communication is not received within two weeks, the Forest Supervisor or other appropriate staff should call the appropriate Indian tribe or Native Hawaiian organization official directly to verify that they received the communication.

1.34i - Proof of Consultation. Proof of consultation before removing or excavating human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal land is required in 43 CFR 10.3(b)(4). The consultation record should document discussions of the human remains, funerary object, sacred object, or object of cultural patrimony under consideration and include copies of all written correspondence between the parties involved, a log of all telephone conversations, and summaries or transcripts of all consultation meetings. Verbatim transcripts of meetings satisfy the highest standard for proof of consultation, particularly when the transcripts are circulated to all participants for comment before finalization.

The protocol for recording consultation meetings, including when the recorder should be turned off, should be negotiated with all parties before the meeting.

In situations where the preparation of verbatim transcripts is not possible, consultation-meeting notes should be prepared as soon as possible after the meeting and circulated to all participants before finalization.

Generally, summaries or transcripts of consultation meetings are not exempt from requests filed under the Freedom of Information Act.

1.34j - Cost of Consultation under NAGPRA. The cost of consultation is another issue that must be considered. The Forest Service is required to consult with the representatives of Indian tribes and Native Hawaiian organizations before reaching decisions regarding the repatriation or disposition of human remains, funerary objects, sacred objects, and objects of cultural patrimony under agency control.

It is important to structure this required consultation in such a manner as to facilitate consultation by making it as easy as possible for tribal representatives to participate. Holding meetings in tribal communities and traveling to meet with tribal representatives is appropriate in reducing the costs of consultation to the tribe (see direction on paying for tribal comments on FS proposals in FSM 2362 above).

It is not appropriate to pay for travel costs, per diem costs, and consulting fees for any non-federal officials to attend general public meetings or hearings.

1.34k - Evaluating a Request for Repatriation. Upon the request of a lineal descendant, Indian tribe, or Native Hawaiian organization, the Forest Service must expeditiously return human remains, funerary objects, sacred objects, or objects of cultural patrimony if all the following criteria apply:

1. the claimant has standing
2. the claimed object conforms to a class of objects covered by the statute
3. lineal descent or cultural affiliation can be established between the claimant and an object in Forest Service control before November 16, 1990. For objects excavated or discovered on National Forest System land after November 16, 1990, claims may be based on lineal descent, tribal land status, cultural affiliation, aboriginal territory, or other cultural relationship
4. none of the regulatory exemptions apply

1.34l - Determination of Standing. The NAGPRA provides certain individuals and organizations the opportunity to request American Indian human remains and cultural items. Lineal descendants, Indian tribes, and Native Hawaiian organizations may request American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony. The criteria needed to identify that has standing to make a request are outlined below.

1.34m - Determining Relationship. An individual, Indian tribe or Native Hawaiian organization with standing must establish one of five possible relationships with the human remains, funerary object, sacred object, or object of cultural patrimony being claimed:

1. Lineal descent

2. Tribal land ownership
3. Cultural affiliation
4. Aboriginal occupation, or
5. Other cultural relationship.

Only lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations have standing to request the repatriation of objects that were part of Forest Service collections on November 16, 1990. All five categories of parties have standing to request the disposition of objects excavated or discovered on National Forest System land after that date.

1. Lineal Descendant. The individual has first priority determining the custody of human remains, funerary objects, and sacred objects.
  - a. An individual claiming lineal descent should be asked to document his or her ancestry from the individual whose remains, funerary objects, or sacred objects are being claimed.
  - b. The line of descent must be direct and without interruption according to the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descent.
  - c. An Indian tribe or Native Hawaiian organization can often provide information on its traditional kinship system to assist in verifying claims of lineal descent.
  - d. Lineal descendants have priority in requesting human remains, funerary objects, and sacred objects in Forest Service collections as well as those excavated or discovered on National Forest System lands.
2. Tribal Land Ownership. The land-owning Indian tribe is second in priority in determining the custody of human remains, funerary objects, and sacred objects, and first in priority for objects of cultural patrimony, that are excavated or discovered on tribal lands after November 16, 1990.

Tribal lands include all lands within the exterior boundaries of any Indian reservation including, but not limited to, allotments held in trust or subject to a restriction on alienation by the United States. This may include some federal, state, or private lands that are within the exterior boundary of a reservation.

In and of itself, reserved rights to tribal lands do not provide the Indian tribe standing to request human remains, funerary objects, sacred objects, and objects of cultural patrimony that were in federal agency or museum collections before November 16, 1990.

3. Cultural Affiliation. Cultural affiliation is a relationship of shared group identity that can reasonably be traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group.

A wide variety of evidence can be introduced to document such a relationship, including geographic, kinship, biological, archaeological, linguistic, folklore, oral tradition, historic evidence, and other information or expert opinion.

Unlike claims of lineal descent in which the relationship between the claimant and the individual whose remains or objects are claimed must be direct and without interruption, determination of cultural affiliation should be based on an overall evaluation of the totality of the circumstances and evidence and should not be precluded solely because of some gaps in the record.

Culturally affiliated Indian tribes may claim human remains, funerary objects, sacred objects, and objects of cultural patrimony in federal agency and museum collections as well as those excavated or discovered on federal or tribal lands.

4. Aboriginal Territory. The aboriginal occupant is fourth in priority in determining the custody of human remains, funerary objects, and sacred objects, and third in priority for objects of cultural patrimony, that are excavated or discovered on tribal lands after November 16, 1990.

The 1978 final report of the Indian Claims Commission included a map of those lands determined to be the aboriginal territory of particular Indian tribes. Congress has made other determinations of tribal aboriginal lands and the U.S. Court of Claims (now the U.S. Court of Federal Claims).

Congress, the commission, and the court considered a wide range of information, including oral history and anthropological evidence, in reaching their decisions and have provided valuable tools for identifying areas occupied aboriginally by present-day Indian tribes.

Other sources of information regarding aboriginal occupation should also be consulted. In and of itself, aboriginal occupation does not provide standing to claim human remains, funerary objects, sacred objects, and objects of cultural patrimony in federal agency or museum collections before November 16, 1990.

5. Other Cultural Relationship. Indian tribes with some other cultural relationship are fifth in priority in determining the custody of human remains, funerary objects, and sacred objects, and fourth in priority for objects of cultural patrimony, that are excavated or discovered on tribal lands after November 16, 1990.

This term is not defined in the statute or regulations, but clearly constitutes a weaker relationship than those previously listed. In and of itself, this other cultural relationship does not provide standing to claim human remains, funerary objects, sacred objects, and objects of cultural patrimony in federal agency or museum collections before November 16, 1990.

In some cases, more than one lineal descendant, Indian tribe, or Native Hawaiian organization may claim particular human remains, funerary objects, sacred objects, or

objects of cultural patrimony. The Forest Supervisor faced with this situation should first assess all claims in light of the priorities of disposition in regulation at 43 CFR 10.6(a) for planned excavations and inadvertent discoveries and 43 CFR 10.10 for collections in Forest Service control.

1.34n – Exemptions. The Forest Service may retain control of American Indian human remains, funerary objects, sacred objects, or objects of cultural patrimony that would otherwise be repatriated or disposed of to a lineal descendant, Indian tribe, or Native Hawaiian organization under the regulations if one of two exemptions apply:

1. Multiple disputing claims. The Forest Service may retain control of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are discovered, excavated, or part of a collection if there are multiple disputing claims and the agency cannot determine by a preponderance of the evidence which requesting party is the most appropriate recipient. The disputed items may be retained until the requesting parties mutually agree on the appropriate recipient or the dispute is otherwise resolved pursuant to the regulations or by a court of competent jurisdiction. There is no set time during which multiple claims must be resolved.

2. Right of possession. The Forest Service may retain control of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are discovered, excavated, or part of a collection if the agency has right of possession to the items. Right of possession means possession obtained with the voluntary consent of an individual or group that had authority of alienation.

1.34o - Standard of Proof. The preponderance of the evidence represents the standard of proof needed to evaluate claims made under the statute. Claimants do not have to establish aspects of their claims with scientific certainty. However, it is the responsibility of the Forest Service to determine to its satisfaction whether the evidence substantiates the claim.

1.34p - Final Administrative Decision. After careful consideration of all of the available evidence, the Forest Supervisor must decide whether a valid claim can be made for human remains, funerary objects, sacred objects, and objects of cultural patrimony under his or her control.

Heritage resource specialists at Forest, Regional, and Washington Office can provide assistance in making this decision. Forest Supervisors must document their decisions as completely as possible. The timing of this decision depends on the type of object being considered and when the object came under Forest Service control.

Decisions regarding the repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony are request-driven. Regulations stipulate that decisions regarding repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony must take place within 90 days of receipt of a valid request.

Decisions about the disposition of human remains, funerary objects, sacred objects, and objects of cultural patrimony excavated or discovered on National Forest System lands need to be made expeditiously upon receipt of a valid request.

1.34q- Notification Requirements. Before the repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony in Forest Service collections, the Secretary of the Interior is required to publish a notice in the Federal Register. This notice summarizes the contents of a completed inventory of human remains and associated funerary objects in sufficient detail to enable other individuals, Indian tribes, and Native Hawaiian organizations to determine their interest in claiming the inventoried items.

1.34r- Appeals. In some cases, it may not be possible for the Forest Service and the interested individuals, Indian tribes, and Native Hawaiian organizations to agree on the disposition or repatriation of particular human remains, funerary objects, sacred objects, and objects of cultural patrimony.

In addition to the normal administrative appeals procedures, NAGPRA provides an additional process for settling disputes. The NAGPRA appeals process should be followed first, turning to the administrative process only if that process fails to resolve the dispute.

1.34s - Disposition or Repatriation. Disposition or repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony has occurred when the control or custody has been transferred from the Forest Service to the appropriate lineal descendant, Indian tribe, or Native Hawaiian organization.

When transferring control or custody, the Forest Supervisor must ensure that the human remains, funerary objects, sacred objects, and objects of cultural patrimony are de-accessioned according to Forest Service procedures. This includes assigning de-accession numbers, updating accession and catalog records, completing a de-accession form, and filing all documentation in the accession or optional de-accession file.

Preparation for disposition or repatriation must also involve additional consultation with the appropriate lineal descendant, Indian tribe, or Native Hawaiian organization to determine the place and manner of delivery [25 USC 3005(a)(3)].

1.34t - Reburial on NFS Lands. The Forest Service is under no statutory or regulatory obligations regarding what happens to human remains, funerary objects, sacred objects, or objects of cultural patrimony once control or custody has been transferred to the appropriate lineal descendant, Indian tribe, or Native Hawaiian organization. However, based on approved action plans or agreements, reburial of repatriated American Indian human remains and associated funerary objects may be authorized on National Forest System lands (see FSM 1563.01e, FSM 1563.31, and 1563.4) in accordance with the following options:

1. The preferred location for such reburials shall be at or as close as practicable to the site from which those remains and funerary objects were originally recovered.

2. Should the above option above not be available, as in the case of selected lands in a completed land exchange or water impoundment, reburial at an alternate location near the site or project area may be considered.

When reburial on NFS lands has been authorized, costs of reburials shall be apportioned as follows:

1. For human remains and associated funerary objects excavated after the enactment of NAGPRA (November 16, 1990), reburial shall be considered a legitimate cost of data recovery, in lieu of curation. The party funding data recovery in accordance with an approved data recovery plan shall pay reburial costs.
2. For human remains and associated funerary objects recovered before the enactment of NAGPRA (November 16, 1990), reburial and any associated costs shall be the primary responsibility of lineal descendants and/or culturally affiliated Indian tribes to whom human remains have been repatriated. The Forest Service will cooperate with tribal governments to facilitate the reburial of those remains.

Lineal descendants and/or culturally affiliated Tribal representatives shall have the opportunity to be present and conduct ceremonies at reburials. Any costs for these activities shall be the responsibility of lineal descendants and/or the respective Indian tribes.

Locations of reburied human remains and associated funerary objects shall be kept confidential to the extent permitted by law.

Employ diligence to avoid future disturbances of reburied American Indian human remains and associated funerary objects. Reburial of American Indian human remains and associated funerary objects shall not be construed to limit the authority of the Forest Service to manage National Forest System lands in accordance with applicable laws. In the event that it becomes necessary to disturb a reburial location, undertake any such activity in compliance with provisions of NAGPRA and other applicable laws.

1.34u- Documenting Administrative Decisions. The administrative record must document all disposition or repatriation actions. It must include documentation of the human remains, funerary objects, sacred objects, or objects of cultural patrimony under consideration and copies of all written correspondence, a log of all telephone conversations, documentation of all consultation meetings, and copies of all agreements between the relevant parties.

The Forest as part of collections management should retain the original accessioning records and the archaeological site data housed in federal and non-federal repositories. A copy of pertinent records should be sent to the Regional Office. These files should be retained even after the disposition or repatriation of the relevant human remains, funerary objects, sacred objects, and objects of cultural patrimony. Security of sensitive data, as discussed below shall be maintained at Forest and Regional levels.

In some situations, the Indian tribe and Native Hawaiian organization representatives may consider the information needed by the Forest Supervisor to make a decision regarding applicability of the statutory terms to particular objects extremely sensitive. The Forest Service has a limited ability to protect sensitive information from public disclosure.

- The Freedom of Information Act gives any person the right to access federal agency records, except to the extent when specific records are protected from disclosure by one of nine exemptions or three special law enforcement record exclusions.
- There is no specific provision in NAGPRA that protects sensitive information from public disclosure. Other disclosure limitations, such as those in the Archaeological Resources Protection Act and the National Historic Preservation Act, may provide some flexibility in protecting sensitive information from public disclosure.
- ARPA requires that information concerning the nature and location of any archaeological resource whose excavation or removal requires a permit may not be made available to the public without the consent of the appropriate federal land manager pursuant to the conditions outlined at 16 USC 470hh.
- The National Historic Preservation Act requires the head of a federal agency or other public official to withhold from disclosure to the public information about the location, character, or ownership of a historic resource if the Secretary of the Interior and the agency determine that disclosure would cause a significant invasion of privacy, risk harm to the resource, or impede the use of a traditional religious site by practitioners [16 USC 470w-3].

It is important to be candid with Indian tribe and Native Hawaiian organization representatives about the limited protection that can be given to sensitive information. A representative of the Office of General Counsel should be involved before any agreement regarding the confidentiality of consultation information is made. During consultation, the Forest Supervisor should not request more information than is needed to reach a decision regarding the disposition or repatriation of human remains, funerary objects, sacred objects, and objects of cultural patrimony.

1.34v - Trafficking in American Indian Human Remains and Cultural Items. Section 4 of NAGPRA makes it illegal to traffic in American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony. Section 4(a) stipulates that whoever knowingly sells, purchases, uses for profit, or transports for sale or profit the human remains of a American Indian without the right of possession to those remains shall be fined and/or imprisoned [18 USC 1170(a)]. Section 4(b) stipulates that whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any American Indian cultural items (funerary objects, sacred objects, and objects of cultural patrimony) obtained in violation of the statute shall be fined and/or imprisoned [18 USC 1170(be)].

1.35 – “Sacred Sites” Executive Order 13007. This executive order provides Presidential direction to federal agencies to give consideration to the protection of sites determined sacred by federally recognized tribes and to allow access where feasible. An Indian tribe is defined as "an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103-454.108 Statute 4791, and Indian refers to such an Indian tribe."

1.35a - Sacred Sites and Traditional Cultural Properties. There are many similarities between "sacred sites" and "traditional cultural properties," however there are important distinctions that must be recognized.

1. Under EO 13007, a "sacred site" is a place of religious significance to an individual or federally recognized tribe and verified to the agency by an appropriately authorized tribal representative (i.e., an elected official). It is a specific location on the landscape that is "narrowly delineated." It requires no documented evidence of its use over many decades, and is not subject to the regulatory provisions of the National Historic Preservation Act.
2. A TCP on the other hand may or may not have a sacred or religious use or meaning. It is a location or property where traditional activities or uses have been carried out for many years. A TCP by definition must meet the established criteria of significance and be evaluated as eligible for listing as a National Register property. Management of TCP's is subject to the regulatory provisions of section 106 of NHPA.

Some tribes may not want sites, which are determined, sacred under EO 13007 to also be considered as TCPs or nominated to the National Register of Historic Places. Consult with Tribes to determine appropriateness of formal designations and discuss management constraints under each designation

The agency should respect requests by Federally recognized tribes not to pursue National Register eligibility of sites determined sacred under 13007 insofar as is possible, recognizing the fact that evaluation of a site under certain circumstances may require otherwise. For example a decision to evaluate a site for the National Register may be the preferred choice for protecting archaeological resources.

1.35b - Identifying Sacred Sites Under EO 13007. The responsibility for identifying sacred sites rests with a federally recognized Tribe or individual authorized to represent the Tribe in such matters. The Forest Service cannot presume to identify which individual members of a tribe are appropriately authorized to identify sacred sites. Executive Order 13007 requires the agency will ensure "reasonable notice" about proposed actions or land management policies that may restrict future access to, ceremonial use of, or adversely affect the physical integrity of a sacred site.

1.35c - Adverse Effects to Sacred Sites. The responsible official will need to know the location of a sacred site before they can ensure that an action will not adversely affect the site. The responsible official shall take into account the effect a decision may have on the ability to access the sacred site, the effect on the specific site location and the surrounding landscape.

Potential adverse effects on the integrity of a sacred site are similar to adverse effects defined under the NHPA for cultural resources (e.g. potential destruction, damage, or alteration of the site, or exchanging the site).

Potential adverse effects may also include visual, auditory, olfactory, and air quality impacts. Photographing may constitute an adverse effect, as could the handling and moving of religious offerings or human remains.

The Executive Order does not require the avoidance of adverse effects or the provision of access at all costs, but only when it is practicable, permitted, and not inconsistent with agency functions. It does require a reasonable and good faith effort to accommodate access and to avoid adverse effects whenever possible.

1.35d - Use of Sacred Sites Where the protection or use of sacred sites creates conflict with other laws, Statutes, policies and implementing regulations the responsible official shall refer to Section 1(a) of E. O. 13007, which states:

“Accommodation of Sacred Sites. (a) In managing Federal lands, each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.”

## CHAPTER 2 – PLANNING

- 2.01 - Authority – See FSM 2360.1
- 2.02 - Objectives – See FSM 2362.02
- 2.03 - Policy – See FSM 2362.03
- 2.04 - Responsibility – See FSM 2360.4

2.1 – PLANNING AND THE HERITAGE PROGRAM. Planning is a formal decision-making process that is both dynamic and continuous. To ensure that land management planning goals and objectives of the FS are met, agency processes requires that a number of interests, including those of cultural resource management, be considered. Heritage program participation in forest planning occurs at least five distinct planning levels or scopes:

1. forest planning
2. landscape-watershed planning
3. other resource planning
4. project planning
5. historic preservation planning

The agency official with the assistance of heritage professional will use a variety of cultural resource data in support of these different planning efforts (Exhibit FSH 2309.12.21).

2.2 - Forest Planning. Cultural resources are part of the FS land management planning process (FSM 1921.13, FSH 1909.12, section 13). Integration of cultural resources into the planning process is specifically outlined in FSH1909.12, Section 13.13b. A key role of the heritage program is to provide “crucial data and insights into the past that have a bearing on sustainability and management of NFS lands and resources”. Cultural resources are integrated into the forest planning process in three phases (FSH 1909, section 13):

1. initial evaluation to determine the need for change
2. evaluation of changes in the plan components
3. integration into the plan component(s)

2.21 - Complete an Existing Condition Report. During forest plan development and revision, the heritage professional develops an existing condition report based on information in the heritage program strategic plans, cultural resource overviews; heritage program records and databases; tribal, state and local records; and other pertinent reference material. The report may identify special interest areas (FSM1926.15) where cultural resources are the defining character of the special area designation. For example, a National Register district or cultural landscape, or a National Historic Landmark, could qualify for special interest area management status.

Cultural resource data in the existing condition report includes but is not limited to:

1. Known and projected density, diversity, distribution and significance of cultural resources in the plan area.

2. Present condition of the known cultural resources in the plan area.
3. Existing and potential uses of the cultural resources in the plan area.
4. Existing and reasonably foreseeable threats to cultural resources in the plan area.
5. Traditional values ascribed to places and resources by tribes or other cultural groups.
6. Results of previous management actions to prevent the loss or destruction of cultural resources in the plan area.
7. Existing cultural resource commitments and agreements (i.e., programmatic agreements).
8. Current and future cultural resource management concerns and recommendations (desired future condition, goals and objectives).

The majority of data in the existing condition report will be derived from the unit's strategic plan and cultural resource overview. Contingent on its thoroughness and adequacy, these planning tools may require updating and revision as part of the forest planning process.

Predictive models are another important resource in forest planning, where they exist. Predictive models allow for the extrapolation of cultural resource density and distributions across the plan area. These models may identify areas that are rich in cultural resources that require special protection and management.

Intensive cultural resource field survey is not a part of forest planning or revision. Depending on the adequacy of existing inventory data, cultural resource reconnaissance and sampling survey may be completed in selected portions of the plan area (see FSH 2309, Chapter 3).

2.22 - Forest Plan Integration. Heritage program goals, objectives, standards, guidelines, proposed accomplishments, and monitoring requirements are incorporated into the forest plan document. They should be consistent with national heritage program direction provided in FSM 2360 and FSH 2909.12.

2.22a – Goals and Objectives. Heritage program goals and objectives should be comprehensive and adequately reflect Section 106 and 110 NHPA, ARPA, NAGPRA and other legal requirements. They should balance legal compliance and cultural resource protection and stewardship responsibilities.

2.22b – Standards and Guidelines. Forest plan standards and guidelines should address:

1. Legal compliance procedures or alternative procedures in programmatic agreements under NHPA Section 106.
2. Identification and evaluation of traditional cultural properties; protection and access to sacred sites; and treatment and reburial of human remains (see also FSM 1563).

3. Protection, enhancement and development of cultural resources under various legal authorities, policies, directives and initiatives (i.e., EO 13287-Preserve America).
4. Appropriate uses of cultural resources for public outreach, education, recreational and other benefits through Windows on the Past, Passport in Time, and other programs.
5. Cooperative programs and partnerships to achieve heritage program objectives.
6. Records and data management, including confidentiality and incorporation of cultural resource data into Infra and spatial GIS systems

2.22c - Management Priorities. Management priorities and proposed work accomplishments identified for the plan period include but are not limited to:

1. National Register nominations and other special designations
2. monitoring, protection and law enforcement
3. database management (Infra, GIS)
4. research to enhance knowledge and management of cultural resources
5. stabilization, rehabilitation, restoration, interpretation and other stewardship projects
6. public outreach, participation and education programs and development

2.22d – Monitoring Plan. The forest plan should include a cultural resource-monitoring component. The monitoring plan is the mechanism to assess and document the relative success of meeting the desired future condition (via goals, objectives, standards and guidelines, and proposed work accomplishment) during the plan period. Specifically, monitoring measures cultural resource conditions, vulnerability, protection, stewardship and related issues.

2.22e - Consultation with Tribes, Advisory Council, and SHPO. Forest planning may not directly result in actions that have the potential to effect historic properties. However, NHPA compliance is required if planning efforts restrict subsequent consideration of options to avoid, minimize or mitigate adverse effects to historic properties. NRHP consultation for Forest planning should be appropriate to the forest and landscape scales and scope of the planning efforts (36 CFR § 800.1(c)).

The Forest Supervisor invites Tribes and SHPO to participate in developing or revising Forest plans. Where tribes have established a THPO, or where tribal lands may be involved or affected, the THPO or designated Tribal representative is also invited to participate in the planning process. Topics that may be addressed during consultation include TCP and sacred site identification; traditional cultural values; management allocations, management actions and treatments; and cultural resource monitoring and protection.

2.22f – Forest Plan Alternative Analysis. Forest planning requires the analysis of direct, indirect, and cumulative effects to cultural resources for each of the management alternatives. This analysis involves consideration and weighing of cultural resource desired future conditions, goals, objectives, management issues, tribal and other public concern. Specific direction for alternative analysis is provided in FSM 1900.

2.3 - Landscape-Watershed Planning. To comply with NFMA and other planning authorities, the broad desired future conditions, goals and objectives set forth in forest and grassland plans may be further refined in analyses completed for specific landscapes, mountain ranges or watersheds. These analyses are specifically required in regions where anadromous or threatened fisheries, certain wildlife species, and other resources are of major concern. These planning efforts may eventually lead to projects (undertakings) that are subject to NEPA analysis and public review.

Heritage professionals participate in these interdisciplinary planning efforts and provide cultural resource information pertinent to the plan area, as derived from:

1. cultural resource overviews, Infra and GIS databases, and local records
2. monitoring of selected cultural resources in the plan area.
3. limited sample or reconnaissance surveys in the plan area

Heritage professionals and other resource specialists are required to prepare a report that describes the cultural resource base in the plan area, the desired future condition, goals and objectives and resource issues and needs.

Landscape-watershed analyses provide an excellent opportunity to identify and describe cultural resource protection and stewardship issues and opportunities, which may eventually be formulated into projects. This level of detail is usually not included in forest plans. For example, the need to re-route a recreation trail away from an archaeological site threatened by artifact collecting could be identified in a landscape-watershed analysis. The need to thin vegetation around an important historic building or historic mine waste rock (that could be destabilized and create erosion problems in the aftermath of a severe wildfire) could also be proposed. Cultural resource proposals may derive multiple resource benefits. There is no guarantee that proposals in a landscape-watershed analysis will be implemented but the concerns will highlighted in a formal planning document.

Landscape-watershed analyses are also advantageous for identifying early in the planning process projects (and their Area of Potential Effect) that have the potential to affect cultural resources. As a result, heritage professionals can prepare estimates of the inventory, evaluation and other work necessary to support these project proposals and comply with NHPA Section 106.

2.4 - Other Resource Program Planning. Heritage program goals and objectives, and compliance requirements under NHPA Section 106 or other legal authorities should be incorporated into other resource or program plans where there is the potential to affect cultural resources. These plans include but are not limited to:

1. Abandoned mine reclamation master plans
2. Administrative facilities master plans
3. Fire management plans
4. Interpretive and public outreach plans
5. Lands acquisition and disposal plans
6. Law enforcement plans

7. Range allotment management plans
8. Recreation site facilities master plans
9. Research natural area, experimental forest or other special area management plans
10. Wilderness management plans

Cultural resource information content will vary according to the type of resource plan. Generally, for reasons of plan length and information confidentiality, detailed discussions of cultural resource context, distributions, and significance will be limited. Rather, procedural requirements under NHPA Section 106 (or substitute procedures under a programmatic agreement) and protection-stewardship concerns under NHPA Section 110 will be emphasized.

2.5 – Project Planning. Project planning under NEPA requires that the decision maker have adequate cultural resource information so that they can make informed decisions about the potential effects to historic properties and select project alternatives that best meet agency objectives. The decision to implement a project is not made until the heritage professional has submitted a cultural resource report and Section 106 compliance consultation with the SHPO, Tribes, and other interested parties as appropriate has been completed.

The NHPA Section 106 process for project planning is described in detail in FSM 2364.1 and FSH 2309.xx. In general, successful heritage program support to project planning involves:

- Early project involvement by heritage professionals as members of the project interdisciplinary review team (IDT)
- Early notification of the undertaking to tribes, SHPO, ACHP, and THPO, if appropriate
- Timely completion of inventory, including field survey and reports
- Timely completion of National Register determination of eligibility evaluation(s)
- Timely development of cultural resource mitigation-treatment, including preparation of adverse effect assessment, case reports, and memorandum of agreement, and SHPO, ACHP and tribal consultation.
- Timely discussion of relevant cultural resource findings with line officers to ensure they understand the issues (i.e., effects, treatments, confidentiality, tribal involvement).
- Analysis and disclosure of the effects of each alternative on cultural resources in the environmental document produced for the undertaking.
- Participation in data requests, field visits (i.e., with SHPO, Tribes, interested public), appeals and litigation during public participation and environmental review.
- Monitoring and adequate reporting of project, especially where mitigation of adverse effect to cultural resources is completed through specific treatments.

- Appropriate treatment of artifact or other collections derived from inventory, evaluation or mitigation of adverse effect (i.e., data recovery).

Adequate funding, staffing and planning are required to support these sequential NHPA Section 106 compliance responsibilities.

Project planning done under other legal authorities such as the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; 42 U.S.C. 9601, 1980) also considers the potential effects of activities on cultural resources in accordance with NHPA Section 106. But this interplay between these laws and NHPA are less straightforward. For example, under CERCLA, the time-critical nature of the proposed action may require expedited compliance and review. Adverse effect mitigation and treatments options may also be narrowed by an overarching public and environmental health concern. For example, *in situ* preservation and capping of toxic mill tailings at an historic mine property may not achieve the *time-critical* environmental objective and partial or full removal to a designated repository may be required. Photographic documentation and perhaps interpretation may be the only feasible mitigation option.

Whether CERCLA and similar legislation “prevails” over NHPA is not fully settled by either legal precedent or case law. Historic preservation objectives are easier to realize for *non-time-critical actions* where public and environmental health issues are not imminent (usually outside of a formally designated Superfund site). However, early participation in these interdisciplinary team processes will usually enable cultural resource issues to be adequately considered during project planning. Where environmental and public health issues are at stake, reasonableness, negotiation will usually achieve most cultural resource protection and mitigation objectives. In some cases, removal of non-historic materials, stabilization and other treatments can be built into the project design with effective planning.

2.6 – National Heritage Program Planning. The FS heritage program is framed by goals, objectives and desired outcomes in the *National Heritage Strategy: It’s About Time*. This national program-planning tool encourages forests and grasslands to conduct activities in three major program areas:

- *Stewardship*, which concerns the identification, formal recognition, protection and maintenance of significant cultural resources on National Forest System lands.
- *Public Service*, which concerns the development, enhancement, interpretation and use of cultural resources for agency and public benefit.
- *Enhancing Natural Resource Management*, which concerns the use of cultural resource data to help understand the evolution and condition of ecosystems.

Various federal historic preservation laws, regulations, executive orders, policies and initiatives direct the FS in the three program components. The National Heritage Team, composed of WO staff and Regional heritage program leaders, is responsible for developing plans, programs and policies to assist FS regions and units in implementing the national heritage strategy. This team

also tackles priority issues related to the national strategy that affect the entire heritage program, and whose resolution may eventually become agency policy, direction or guidance.

2.61 – Regional Heritage Program Planning. Each FS Region is responsible for implementing the national strategy based on its own heritage program priorities, issues and concerns. Regions may develop strategies and work programs to ensure that priority issues are brought to regional leadership team attention and are resolved. Resolution often occurs in the form of regional or state programmatic agreements that set forth protocols, standards and guidelines for dealing with complex cultural resource management issues.

Regions may also develop planning and operational policies that are incorporated into the FS 2360 Manual. These policies are tailored to cultural resource issues pertinent to the affected region.

2.62 – Forest and Grassland Heritage Program Planning. FS units are responsible for heritage program planning. Planning efforts, and their resulting documents, vary from bona fide heritage program strategies, to desired future condition statements in cultural resource overviews, to goals and objectives articulated in unit land use plans. Heritage program planning is part of a larger planning process described in FSM 1900.

Traditionally, cultural resource overviews have been a synthesis of existing cultural resource data and thus have not been viewed as heritage program planning tools. Creation, revision or updates of cultural resource overviews provide opportunities to develop these documents into more dynamic, useful and comprehensive management tools that better meet the current needs of the agency and resource. FS heritage professional involvement is critical because it is unlikely that CRM contractors or academic researchers alone can successfully develop many of the internal planning and management components.

The components of comprehensive heritage program planning on forests and grasslands include:

1. archaeological, ethnographic, and historic background and context
2. density, diversity, distribution, and condition of known cultural resources
3. resource potential based predictive, landscape sensitivity or site probability models
4. National Register evaluation and nomination or other special designations status
5. management allocation and potential uses of cultural resources (i.e., interpretation)
6. traditional values ascribed to places and resources by Tribes or other cultural groups
7. data and information gaps (research, management)
8. existing and reasonably foreseeable threats to cultural resources (ARPA)

9. current and proposed management opportunities, including recommendations to resolve cultural resource issues
10. public participation in cultural resource management activities (i.e., PIT)
11. cultural resource monitoring requirements and schedule
12. unanticipated discovery plan and/or protocols (i.e., NAGPRA compliance).
13. emergency contingency plan and/or protocols (natural disasters, wildfire).
14. cultural resource database management and artifact and records curation
15. review and assessment of Heritage Program accomplishments and effectiveness, including funding issues and resource needs

2.63 – Historic Property Plan. Specific historic properties or classes of similar historic properties (priority heritage assets) may require detailed planning and management to meet heritage program goals and objects. A Historic Property Plan (HPP) serves this purpose. An HPP provides detailed background historical and management context; identifies management goals, objectives and desired future condition; describes maintenance standards and guidelines; identifies critical protection, maintenance, stabilization, rehabilitation, restoration and other actions and issues; and provides an associated budget, timeframes and schedules. An HPP should:

1. tier to heritage program goals, objectives, issues, and opportunities in the Forest Plan, cultural resource overview, landscape analyses, or related heritage planning documents, as appropriate.
2. incorporate the ideas and concerns of other forest resource specialists, SHPO, tribes, ACHP, and other interested parties, as appropriate; HPP formulation is an interdisciplinary process.
3. ensure that maintenance standards, protection measures; and conservation (rehabilitation, restoration) proposals are appropriate, achievable, and consistent with use allocation; and
4. be reviewed and approved by the agency official in whose jurisdiction the properties reside.
5. comply with NEPA and NHPA, as appropriate
6. omit legal descriptions and maps if there is sufficient reason to expect that public disclosure would lead to unauthorized activities.

7. contain provisions to evaluate the HPP's effectiveness and need for revision; revision is indicated when the condition of the cultural resource has continued to deteriorate at an unacceptable rate, or when other objectives of the plan are not being met.

An HPP could be developed for:

- A complex of prehistoric masonry ruins
- An turn-of-the-century lode mine and mill
- A concentration of prehistoric rock art
- A cluster of early farmstead within standing ruins
- An important prehistoric-historic travel route
- An early FS Ranger Station
- A set of Civilian Conservation Corps-era buildings

## CHAPTER 3 – INVENTORY, EVALUATION, AND ALLOCATION

- 3.01 - Authority – See FSM 2360.1
- 3.02 - Objectives – See FSM 2363.02
- 3.03 - Policy – See FSM 2363.03
- 3.04 – Responsibility – See FSM 2361

3.1 – SEQUENCE OF EVENTS. Cultural resources are an important consideration in all agency land use planning. Timely and professionally adequate inventory of cultural resources on national forests and grasslands, and in areas affected by agency- or agency-permitted undertakings, is the essential first step toward making informed resource and land use decisions.

Evaluation for eligibility for listing on the National Register of Historic Places follows as soon as practical after inventory, or is conducted in conjunction with it when feasible, to ensure that land managers have full knowledge of the character and values of affected cultural resources prior to making land use decisions. Timely National Register evaluations ensure that a backlog of unevaluated cultural resources is not created.

Allocation is the process of assigning cultural resources to one or more categories within a uniform, agency-wide management framework. Allocations are made during the inventory or evaluation processes or as part of other heritage program planning. Allocated cultural resources are managed according to the general prescriptions in each category.

3.2 - Identifying Inventory and Evaluation Needs. All FS units create annual programs of work based on priorities and budget. These work programs, which include routine operations and maintenance, reconstruction and new development, resource projects, and land use applications, are identified in unit programs of work (POW), NFMA and NEPA project planning schedules, Capital Investment Program (CIP) schedules, budget WorkPlans, project initiation letters and other planning sources.

The Heritage Professional is responsible for reviewing these unit work programs and planning schedules to determine which projects (undertakings) have the potential to adversely affect cultural resources according to the criteria in 36 CFR 800.5. This assessment then determines what type and level of heritage program support, including inventory and evaluation, is required to comply with Section 106 of NHPA. Undertakings that pose little or no risk to cultural resources, such as issuance of an Outfitter-Guide Special Use Permit for fall big game hunting, may not require inventory or field survey or related compliance work. State programmatic agreements may still require documentation of these determinations of no effect in annual reports to the SHPO and THPO, as applicable.

The annual heritage program fieldwork schedule should be compiled based these project data. This schedule should align closely with unit planning priorities and completion schedules. Large-scale (acres) projects, such as prescribed burns, will require ample field survey time to implement and document. Smaller-scale projects will usually require a lesser amount time to complete field survey, but the subsequent evaluations and design of treatments may be time consuming if a significant cultural resource is encountered and if options for reducing or

eliminating adverse effects are limited. Project size will not always be an indicator of project complexity.

3.2a - Forest-Grassland Land Use Planning. During the earliest feasible stage of forest or grassland planning and environmental review, the Heritage Professional will complete an inventory of what information is necessary and available to adequately assess the cultural resources in the planning area, and what actions need to be taken to identify and protect those resources. This assessment will determine whether a pedestrian field survey is needed. Information should be sought from the SHPO, Tribes and interested persons to identify the historic, traditional-cultural, and religious properties that might exist in the planning area.

When an environmental assessment or environmental impact statement is being prepared for a proposed land use that might affect cultural resources, the land manager must have access to sufficient inventory data to allow for meaningful consideration of cultural resources projected or known to occur in the area of potential project effect.

3.2b - Land Use Applications and Authorizations. Lands proposed for use or occupancy in response to a land use application or a FS action are inventoried to identify potentially affected cultural resources at a level commensurate with the nature of the proposed undertaking and its likely effects on cultural resources.

3.2c – Tribal Consultation. The Forest Service is required to consult with Tribes, and THPOs where appropriate, regarding activities and undertakings that have the potential to affect cultural resources, Traditional Cultural Properties. The annual list of proposed national forest undertakings will usually be the basis for pre-field season consultation and subsequent progress reports.

3.3 – CULTURAL RESOURCE INVENTORY. The Forest Service heritage program includes four kinds of cultural resource inventory protocols. Each is designed to provide specific kinds of cultural resource information, as needed by various planning and resource management activities. The cost of cultural resource inventory is the responsibility of the land-use applicant or the benefiting Forest Service activity.

3.31 - Existing Data Inventory. A review of existing forest information is a required first step in resource identification in land use planning and for review of a proposed Forest Service or Forest Service authorized-undertaking. The review includes a review of:

1. Cultural resource overviews and heritage program databases (Infra, GIS) to identify previously completed field surveys and recorded cultural resources.
2. Historic (i.e. Government Land Office) maps, mineral entry and homestead records, local records and histories, and oral interviews to identify potential locations of cultural resources and traditional cultural properties.

3. Ethnographic and ethnohistorical literature, appropriate sections of the forest Cultural Resource Overview, and related sources to identify potential properties of traditional, cultural or religious importance to American Indians or other cultural groups.

3.32- Field Inventory. Depending on the type and scope of land use planning and undertaking, and based on the results of the existing data review, three different types of field survey may be employed.

3.32a - Reconnaissance Survey. This is a non-statistical, special-purpose field survey that is less systematic, less intensive, less complete, and does not meet either Intensive Survey or Sampling Survey standards. Reconnaissance surveys may be used for:

1. Identifying the general range of cultural resources in a specific mountain range or watershed for forest, landscape, or other broad-scale resource planning purposes.
2. Developing recommendations about inventory needs in previously un-surveyed areas for planning, project or management purposes.
3. Checking the adequacy of previous surveys (monitoring).
4. Verifying assumed conditions that would warrant a waiver of more intensive survey.
5. Locating architectural or other high-profile properties, especially those vulnerable to human- or nature-caused degradation.
6. Filling special and limited management information needs, such cultural resources potentially damaged by wildfire.

While the portions of an area covered by a Reconnaissance Survey may have been thoroughly examined, the land area in which the reconnaissance occurs is not considered to be inventoried (surveyed) and will be subject to re-survey for other purposes.

3.32b - Sampling Survey. This type of inventory is a statistically- or judgmentally-based (or both) sampling field survey of less than 100% of the area of potential effect (APE) defined for a project. It is designed to aid in characterizing the probable density, diversity, and distribution of cultural resources in a planning area; to develop and test predictive models; and to answer pertinent research or management questions. Within individual sample units, survey methods and intensity are the same as those applied in intensive survey.

Sampling Survey may be conducted in several phases, using different sampling designs, to improve statistical reliability. Sampling Surveys are appropriate when comparing alternative locations and evaluating the potential project effect of proposed undertakings considered under NEPA, in accordance with 36 CFR 800.4.

Sampling Survey is not appropriate for determining the specific effects of a proposed land use or undertaking except when the sample distribution and sample rate are proven sufficient to

demonstrate that the specific environmental situation(s) in the area sampled did not support human occupation or use to a degree that would make further Intensive Survey information useful or meaningful. The SHPO, and THPO when appropriate, are usually consulted when such an assessment of cultural resource potential is made.

3.32c - Intensive Survey. This type of survey is required when it is necessary to know precisely what cultural resources exist within a project APE to comply with Section 106 of NHPA or to help address specific resource protection and management issues under ARPA and other authorities. The purpose of an Intensive Survey is to determine the number, locations, types, conditions and sensitivity/vulnerability of all cultural resources within a specific project or targeted land area.

An Intensive Survey is a thorough (complete) pedestrian examination of an entire project area (APE) or land area of specific management concern. Intensive Survey is accomplished by walking either regularly spaced, linear transects or transects that conform to topography within the boundaries of a specific project APE or targeted land area. Transect frequency and interval location may vary contingent on the probability of there being cultural resources within certain terrain types or environmental zones identified in forest predictive models or site identification-inventory strategies (see below). For example, steep (over 45%) forested mountain slope may be examined less intensively than benches adjacent to a river bottom. In this sense, an intensive survey has a sampling component.

While survey methods, strategies and tactics vary from region to region; an Intensive Survey should conform to the prevailing professional survey standards for the State or FS Region involved, and meet or exceed the Secretary of Interior's Standards and Guidelines.

36 CFR 800.4 allows for a phased inventory strategy when the project planning area involves linear corridors (i.e. pipelines) or large land areas (i.e., fuels projects) that are considered under multiple alternatives in NEPA analysis. The Heritage Professional must closely track and document the progress of a phased inventory. A complete inventory of the selected project Alternative should ultimately be reported in a final document to comply with NHPA.

Once an Intensive Survey is complete, additional survey work is necessary only if there are changed conditions in technique, technology, or visibility in the surveyed area. Areas with dense vegetation cover, partial snow cover, dune activity, or other surface-obscuring conditions may require further survey as these conditions change. Local conditions that make re-survey advisable or necessary should be defined.

3.33 - Field Survey Requirements and Exceptions. An Intensive Survey of a project APE is usually required when a proposal will substantially disturb the land surface; transfer land out of Federal ownership; affect the integrity of historic properties; or alter the traditional use of properties with traditional cultural or religious importance. Previously surveyed areas where conditions have not significantly changed will not require further survey unless there has been a substantial change in technology or visibility. If additional survey is to be done in previously surveyed areas, the record must clearly state the justification.

Field survey requirements may be waived when any of the following conditions exists:

1. Natural conditions are such, or previous natural ground disturbance has modified the surface so extensively, that the likelihood of finding evidence of cultural resources is negligible.
2. Human activity within the last 50 years has changed the natural topography enough to eradicate cultural resources.
3. Existing survey data are sufficient to indicate that the specific environmental situation did not support human occupation or use to a degree that would make further inventory information useful or meaningful, and records documenting the location, methods, results, and reliability of the survey are at hand.
4. The type of undertaking or the environmental setting is exempted from survey under the terms of a state or national programmatic agreement

3.34 - Predictive Models, Site Identification Strategies and Inventory Plans. Predictive modeling is an application of basic sampling technique that projects or extrapolates the density and distribution of cultural resources in relation to observable environmental and geomorphic variables including slope, aspect, elevation, hydrology, soil classification, flora and other landscape attributes and natural features. The models identify the “cultural resource sensitivity” of specific landforms or terrain types and thus project cultural resource potential or probability. They are valuable for broad-scale forest and grassland planning and analyses and are useful in planning and implementing field surveys to comply with Section 106 of NHPA.

In the FS, predictive models may be statistically sophisticated planning tools or simple and pragmatic field survey guides. The sophistication of a predictive model is partly contingent on the quality and quantity of existing cultural resource data. Forests and grasslands located in regions with a long history of academic and CRM research, such as the American Southwest, are often better poised to develop sophisticated predictive models than forests located in regions where concerted research is more recent and less extensive.

At their most sophisticated, predictive models are formal, quantitative tools that offer statistically valid predictions of cultural resource probability within a specified confidence level and a known margin of error. These statistical projections of cultural resource probability are based on a variety of carefully selected landscape variables or attributes, and fully consider the known distributional patterns of prehistoric and historic cultural resources across the landscape. Modelers may use regression analyses and other statistical measures to determine the strength of association between and among variables. Academic researchers have traditionally developed such predictive models for the FS because they require a considerable amount of time, resources and expertise to develop.

In the FS, predictive models that are non-statistical, qualitative, and pragmatic in structure are frequently called *site identification strategies* or *cultural resource inventory plans* as opposed to predictive models. Like their statistically sophisticated counterparts, these models are also

developed on the basis of known cultural resource distributions and key environmental variables, as well as on professional experience and judgment. These models assign a cultural resource “sensitivity” or “probability” value (such as high, moderate and low) to various landforms or environmental settings that, in turn, define the intensity of required field survey. In some cases, regression analyses or other statistical techniques are used to measure the strength of association among variables or landform data is quantified and given site probability values. But overall, these types of predictive models are normative, non-statistical and intuitive.

Formal predictive models and site identification strategies-inventory plans should be used to implement the various types of field surveys described in Section XX above. Sampling and Intensive Surveys, in particular, should use these probability tools to:

1. target areas for thorough and cost-effective field searches;
2. determine the appropriate intensity of field coverage within identified cultural resource sensitivity or probability zones;
3. set pedestrian field survey standards (i.e., frequency and spacing of transects) and;
4. meet the intended planning purpose, including compliance with NHPA Section 106.

3.34a – Model Use and Validation. Whether it is rigorously statistical or qualitative and judgmental, a predictive model is an essential Heritage Program tool. It explains explicitly how landscapes will be analyzed and evaluated for forest planning purposes and describes exactly how field surveys will be implemented. Models increase both operational efficiency and understanding of past human use of landscapes that are now part of the National Forest system. Site identification strategies-inventory plans set the stage for developing more powerful predictive models and planning tools. For these various reasons, in some states, predictive-site probability models are required under programmatic agreements with the SHPO.

Predictive models of any type require testing, validation and refinement as new information is acquired. For example, the environmental variables useful for predicting the locations of prehistoric sites may prove to be different from those used to predict the locations of historic sites, especially industrial ruins such as early mining and logging sites located, for example, on steep mountain slope where evidence of prehistoric occupation is often scarce. The periodic assessment, documentation and revision of predictive models and site identification strategies are usually requirements of programmatic agreements. Heritage Professionals should design programs to systematically test, evaluate and document whatever type of predictive or site probability model that is in place.

3.35 - Remote Sensing. Cultural resource inventory and field survey may be enhanced by the application of aerial photography, satellite imagery and geophysical prospecting tools such as ground penetrating and electromagnetic resistivity. In some regions, the use of these aerial detection and geophysical prospecting methods substantially increases the chances of finding cultural resources that are presently obscured or hidden by dense vegetation, soil deposition or

difficult terrain. Remote sensing may compliment subsurface probing during field survey (see FSH-xx.3.26 below).

Terrestrial remote sensing requires some amount of subsurface prospecting (excavation) to determine if identified subsurface anomalies are of cultural origin. The type and extent of probing and excavation necessary to verify or refute the cultural origin of a subsurface anomaly should comport with a well-conceived research or inventory plan and, if applicable, a Permit for Archaeological Investigations if this work is being done by a land use applicant. Grids and transects, subsurface anomalies and test probes or units resulting from remote sensing should be carefully mapped at a topographic scale and all pertinent data recorded.

Aerial and terrestrial remote sensing can occur at any stage of land use or project planning. Because of the potential costs involved, remote sensing is most applicable during Sampling or Intensive Survey. Remote sensing is also used in conjunction with evaluative testing and project-impact mitigation to discover, expose, excavate and analyze subsurface features such as fire hearths, storage pits and house ruins.

3.36 - Subsurface Probing. Shovel and auger probing during field survey is a standard and necessary cultural resource detection technique on forests and grasslands with dense vegetation, rapid soil accumulation, dune activity or other geophysical conditions. Probing is usually accomplished with a trowel, small shovel or hand-held auger. Soil matrix from the test probes is carefully screened or otherwise hand-examined to determine if cultural evidence is present. Where probing is a standard practice, cultural materials recovered must be collected in accordance with standards used in other cultural resource collecting procedures.

Probing may be authorized under the authority of a Permit for Archaeological Investigations when:

1. It is an acceptable standard technique employed in the area, and
2. A qualified Forest Service cultural resource specialist determines that the work would not be likely to affect the attributes of properties that may make them eligible for the National Register

Probing should not be confused with test excavation, whose purpose is to determine the content, character, horizontal and vertical extent, and National Register eligibility of an identified cultural resource. This is a cultural resource evaluation technique and is described in FSHxx.4 below.

3.37 - Locating Properties of Traditional Cultural Importance. Properties of traditional cultural or religious importance to American Indians or other cultural groups are identified and evaluated at the same time that NHPA Section 106 inventory and procedures are being carried out for land use or project planning.

Traditional Cultural Properties (TCP) and Sacred Sites may be specific places, or may be general areas where certain resources or conditions exist that are important to tribes in preserving traditional or religious practices. Such properties often cannot be identified using standard

cultural resource management practices such as field survey methods. Rather, this information is best acquired through consultation with the cultural groups known to have traditional interests in the project or planning area. Consultation, including interviews with knowledgeable traditional practitioners, gives interested persons an opportunity to reveal to the Forest Service the specific locations of traditional cultural places and uses that are known to them and that they want the Forest Service to consider during decision-making (see also FSH 2309.3.3).

3.38 - Inventory Sufficiency. Cultural resource inventory, including existing information searches and field survey, serves a variety of project planning and resource management purposes. Inventory sufficiency or adequacy is therefore contingent on the nature of the proposed undertaking, planning effort, land use decision and environmental review document. Generally, cultural resource inventory is considered sufficient when it:

1. Fulfills the intended planning purpose, land-use decision and environmental documentation. An Existing Data Review and Reconnaissance Survey would be sufficient for providing information for a landscape or watershed-scale analysis, but would not provide enough data to evaluate the effects of an undertaking under NEPA or NHPA Section 106. An Intensive Survey would likely be required.
2. Meets the inventory standards and requirements appropriate to the type of undertaking, as specified in a predictive model, site identification-inventory strategy, or a programmatic agreement.

The SHPO is provided the opportunity to comment on adequacy of inventory and proposed treatments of affected cultural resources during the NHPA Section 106 review process. Cultural resource inventory sufficiency may also be a part of appeals and litigation of agency projects. Heritage professionals must therefore ensure that all inventory work is done in accordance with prevailing Regional standards or those in programmatic agreements.

3.39 - Inventory Documentation. Heritage Professionals are responsible for thorough and timely documentation of inventory results for agency projects and land use decisions. Programmatic agreements may identify specific documentation requirements and procedures for the state in which the project is located. At a minimum, FS Reconnaissance, Sampling or Intensive Survey reports should describe:

1. The kinds of cultural resources looked for, with reference to a predictive model or site identification strategy-inventory plan if one exists.
2. The boundaries and acreage of the area surveyed (project, APE boundary; individual probability zone acreage if applicable);
3. The method of survey, including the intensity of survey coverage, survey conditions, personnel, and project duration.

4. A precise (latitude/longitude, UTM) record of the project boundaries and location of all cultural resources identified, as determined with GPS instruments and suitably scaled maps;
5. Information on the appearance, significance, integrity and boundaries of each identified cultural resource sufficient to permit an evaluation of its significance.
6. General recommendations for treatment of project-affected cultural resources (the spatial relationship between an identified cultural resource and a proposed treatment area [i.e., prescribed burn unit] should be explicit).

Reports may also include a discussion of the area's culture history (background, context); previous research in the area; efforts to identify TCPs or other areas of special cultural significance, and general recommendations of National Register eligibility. Fieldwork must be designed and staffed appropriately to ensure that this documentation standard will be achieved.

Cultural resource inventory and site documentation should be adequate for timely, accurate and cost-efficient FS Infra and GIS data entry. When feasible, new cultural resource inventories and sites are entered into Infra as part of the documentation process for those projects rather than at year-end when numerous projects have accumulated and upward reporting deadlines are fast approaching. Project and cultural resource site maps should be created using GIS compatible mapping systems and software (i.e., ArcView) so that geospatial data can be accurately entered into Infra without incurring extra steps, such as digitizing field maps.

3.4 – EVALUATION FOR NATIONAL REGISTER ELIGIBILITY. One purpose of evaluation is to determine whether a cultural resource meets the eligibility requirements for listing in the National Register of Historic Places in accordance with Section 106 of NHPA and its implementing regulations in 36 CFR 60.4. This evaluation determines a cultural resource's legal "significance" under NHPA and establishes the property's value in the context of agency land use and project planning.

3.41 - Application of National Register of Historic Places Criteria. A district, site, building, structure or object that represents America's history, architecture, archaeology, engineering, or culture may be eligible for listing in the National Register. In determining the National Register eligibility of a cultural resource, an appropriately qualified heritage professional must apply each of the four National Register of Historic Places criteria for evaluation (36 CFR Part 60.4). To be judged eligible, a property must possess integrity of location, design, setting, materials, workmanship, feeling, and association, and must meet at least one of the following criteria:

1. Is associated with an event or events that have made a significant contribution to the broad patterns of America's history (Criterion A)
2. Is associated with the lives of persons significant in our past (Criterion B).
3. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic value, or represents a

significant and distinguishable entity whose components may lack individual distinction (Criterion C).

4. Has yielded or may be likely to yield information important in prehistory or history (Criterion D).

The same criteria and integrity standards are applied to all cultural resources, whether archaeological, historical, architectural, or traditional. In order to be formally listed, or found eligible for listing, in the National Register, a property must have integrity and must meet one or more of the four criteria. No property or type of property is automatically eligible for listing in the National Register.

3.42 - Evaluation Resources. Each SHPO maintains information relevant for evaluating the legal significance of cultural resources in the state. In some states, this responsibility has been assigned to some other office with which the FS would work. On tribal lands, the THPO, if one has been established, or in some cases a Cultural Committee, will have this responsibility. Relevant State and Tribal information includes a comprehensive inventory of cultural resources, copies of all National Register documentation for the properties in the State, and the statewide historic preservation plan, which identifies themes or contexts important in that State's history and prehistory. National Register evaluation and nomination guidance is provided in a variety of documents produced by the National Park Service.

Number	Title*
15	How to Apply the National Register Criteria for Evaluation
16A	How to Complete the National Register Registration Form
16B	How to Complete the National Register Multiple Property Documentation Form
18	How to Evaluate and Nominate Designated Historic Landscape
30	Guidelines for Evaluating and Documenting Rural Historic Landscapes
32	Guidelines for Evaluating and Documenting Properties Associated with Significant Persons
36	Guidelines for Evaluating and Registering Historical Archaeological Sites and Districts
38	Guidelines for Evaluating and Documenting Traditional Cultural Properties
39	Researching a Historic Property
41	Guidelines for Evaluating and Registering Cemeteries and Burial Places
42	Guidelines for Identifying, Evaluating and Registering Historic Mining Properties

\* Available from the National Register of Historic Places, National Park Service, Washington, D.C.

3.43 - Professional Evaluation. Qualified heritage professionals, guided by cultural resource overviews, research designs, historic contexts, and their own professional knowledge of local cultural resources, apply the National Register criteria for evaluation to determine if a cultural resource is eligible for listing in the National Register. The specialist then provides the Forest Supervisor with appropriate recommendations concerning eligibility.

When feasible, evaluation will follow cultural resource inventory and identification to provide land managers with current and accurate cultural resource information. This approach will also avoid creating a large backlog of unevaluated sites. In some cases, evaluations will be relatively simple because the cultural resource is small and not complex, represents a highly redundant class of resource, lacks physical integrity, or has limited potential for yielding archaeological

information valuable in prehistory or history. An isolated mining prospect pit, which cannot be associated with a specific mine ruin or mining claim, is one example.

In other cases, evaluation of prehistoric and historic cultural resources will involve substantial fieldwork, laboratory analysis and library-archival research. Detailed mapping and subsurface testing will be necessary to determine property boundaries, size, depth, and content at archaeological properties. Data recovered during fieldwork will require laboratory and other special analyses. For historic cultural resources, a search of existing records and oral interviews with knowledge persons familiar with the building, structure or ruin may be essential to understanding the age and origin of the property. A professional-quality report, including a statement of National Register eligibility, is prepared that meets the requirements for SHPO review. NRHP-evaluation can therefore be a time-consuming process that requires adequate planning, time and budget to successfully complete. Heritage professionals must appraise Line Officers this situation when designing, funding and implementing cultural resource site evaluations.

A positive or negative recommendation about a property's eligibility is a professional judgment based on careful consideration of information concerning the integrity of the cultural resource and the reasons why the property is thought to be, or not to be, significant. All recommendations about eligibility must be documented because Forest Supervisors use this information in decision making about potential land uses, undertakings and management strategies that might affect a historic property.

3.44 - SHPO and Keeper of the National Register Concurrence. Unless there is a programmatic agreement in effect that modifies this process, eligibility determinations must be made between the Forest Supervisor and the SHPO or THPO in the case of tribal lands. They will follow the consensus procedures in 36 CFR 800 or the procedures in 36 CFR 63 for a formal Determination of Eligibility through the Keeper of the National Register. Where there are programmatic agreements, the terms of that agreement will supercede the process described in 36 CFR 8

3.44a - Eligible Cultural Resources. If a cultural resource has integrity, meets one or more criteria, and is not ruled out by a criterion exception, the heritage specialist should recommend to the responsible manager that it be considered an eligible "historic property" as defined in the National Historic Preservation Act and related regulations. The National Park Service's National Register Bulletins provide guidance on applying the evaluation criteria. Such eligibility is an essential gateway to the Section 106 process (NHPA) contained in 36 CFR 800. Forest Supervisors are required to take into account the effects that a proposed Forest Service undertaking (action or authorization) would have on a historic property, prior to making a decision to approve or authorize the undertaking.

3.44b - Ineligible Cultural Resources. A property that is not eligible for listing does not rise to the level of NHPA consideration under Section 106. However, such properties may have other important uses and be subject to other provision of law and regulation such as Executive Order 13007 or the American Indian Religious Freedom Act. Eligibility acts as a means of separating cultural resources into those that must be considered under NHPA and those that may fall under different management authorities and prescriptions (see Allocation discussion below).

3.45 - Unevaluated Cultural Resources. All unevaluated cultural resources will be treated as potentially National Register-eligible historic properties until a formal evaluation has been completed and the SHPO and/or the Keeper of the Register have been provided the opportunity to review and comment. This situation highlights the importance of evaluating cultural resources on a timely and regular basis. For example, a Line Officer would be required to avoid adversely affecting cultural resources in absence of a professional, National Register-evaluation.

3.46 - Religious and Other Properties Excluded. In general, properties used for religious purposes, cemeteries, graves, birthplaces, moved structures, reconstructed buildings, commemorative properties, and properties that are less than 50 years old are excluded from National Register eligibility (see 36 CFR 60.4). This exclusion applies to the reburial locations of American Indian remains under the provisions of NAGPRA. Such reburial locations will not be considered eligible for listing. There are several exceptions identified in 36 CFR 60.4:

1. American Indian religious places, cemeteries, and graves. Properties used for traditional religious purposes by Native Americans may be found eligible for the National Register. The eligibility exclusion pertaining to religious properties is not intended to exclude traditional cultural properties merely because they have religious uses, as traditional cultures often do not distinguish between what is secular and what is sacred.

As with all traditional cultural properties, properties used for traditional religious purposes must conform to the meaning of traditional and satisfy one or more National Register criteria to be found eligible. American Indian graves ("burials") and cemeteries, the criteria exclusions notwithstanding, may also be found eligible as traditional cultural properties.

2. Ethnohistorical Documentation. A traditional cultural property important for the religious or funerary values ascribed to it may be found to be eligible, but only if its importance has been ethno-historically documented and the property can be clearly defined (see National Register Bulletin No. 15, "Criteria Consideration A: Religious Properties").

3.5 – EVALUATION FOR MANAGEMENT SIGNIFICANCE. Cultural resources do not all share equal value, nor do National Register-designated historic properties share the same kind of significance. Some cultural resources have high potential for scientific use; others hold interpretive potential; and still others may be significant in the traditions of a local Tribe or in the history of a local community. Numerous historic properties are useful for sustained use or adaptive reuse as administrative structures or hold exceptional recreational potential. Some cultural resources may have little or no traditional, cultural, scientific, historical, interpretive, recreational or other value or use. Determining what those respective values are, and identifying those cultural resources that possess them, is another purpose of evaluation. Evaluation and allocation to management categories then is the necessary bridge to cultural resource protection and stewardship.

Management allocations provide Heritage Professionals and Line Officers with a uniform framework for making strategic decisions about which cultural resources to aggressively protect, which to investigate out of scientific, historical or cultural interest, which to stabilize and

maintain for interpretation, which to adaptively reuse, and which to conserve for the future scientific and public benefit. Management allocations assist in defining and managing forest Priority Heritage Assets in accordance with federal (SFFAS 29) accounting standards and practices.

3.51 – Management Allocation and NHPA Section 106 Compliance. Allocation is a FS planning and management guidance tool. When management prescriptions, treatments or uses are proposed that have the potential to affect a historic property, the undertaking is reviewed in accordance with NHPA Section 106. SHPO, tribal, public and THPO, when appropriate, consultation and involvement is required.

3.52 – Management Framework. The following agency framework should be used to evaluate and allocate cultural resources to one or more use or management categories.

3.52a – Preservation. This category includes cultural resources that are: important to the traditions or religions of groups of people; exceptionally unique, valuable or rare; and important to future research. Its three subcategories are:

1. *Traditional Use Areas:* Cultural resources important to groups as traditional gathering places for religious or spiritual practices, or for collection of natural resources for traditional purposes are included in this subcategory. Traditional use areas may not be recognizable by the presence of archaeological remains or ruins. Instead, consulting with the cultural groups known to have traditional interests in the project or planning area is often the best way to identify them. Some of these resources may be addressed in AIRFA and EO 13007, and may or may not be subject to compliance requirements in NHPA. Other traditional properties may fall under the purview of NHPA.
2. *Rare and Unique Cultural Resources:* Cultural resources that are rare, scarce or highly unique to the forest or grassland are included in this subcategory. These may include the remains of an early Ice Age mammoth kill, a rare aboriginal paint source, or the standing ruins of a Pony Express Station. Their uniqueness and mystery warrants their preservation above all other management interests
3. *Future Research:* This subcategory includes cultural resources that, because of their ability to yield abundant and significant data, are being “banked” for future research as new technologies and ideas for scientific inquiry and analyses are developed. Such cultural resources principally involve highly significant archaeological properties, including a prehistoric rockshelter with deeply buried cultural deposits, extensive prehistoric masonry ruins, or the remains of an early mining camp. To thoroughly investigate such properties now would severely limit opportunities for discovering new information in the future with new technologies.

Although minimal investigation may be necessary to understand the characteristics of cultural resources in this category, preservation and protection are the appropriate management strategy for cultural resources in this category. These resources are intended to not be un-necessarily damaged, altered or disturbed in any way.

3.52b – Enhancement. This category includes cultural resources that have the potential to provide public educational, informational or recreational benefit above other uses. This category encompasses two subcategories:

1. *Interpretation:* This category includes cultural resources that, because of their unique informational characteristics, would provide valuable public interpretive and educational opportunities through use of brochures, signage, trails and related off- and on-site media and infrastructure. Usually, these cultural resources will be accessible or lie in close proximity to urban areas. They typically will be “hardened” to withstand public attention and visitation. In some cases, their integrity has been previously compromised, making them suitable candidates for public interpretation. The value of these cultural resources for interpretation and education will outweigh preservation concerns, although some protective and monitoring measures may be taken. In some cases, interpretation could have a deterrence benefit. Cultural resources allocated to this category may include standing buildings, visible structures and ruins, trails, and cultural landscapes.
2. *Sustained Use and Adaptive Reuse:* Cultural resources that are currently, or have the potential to be, maintained and actively used as administrative or recreational facilities are assigned to this category. These typically include forest ranger cabins and backcountry guard stations, recreational cabins, and lookouts. Many of these cultural resources will require rehabilitation or restoration in order to be occupied or used by the Forest Service and public. Adaptive reuse requires a careful balance between allowing for public use (and facility modifications to provide for safety and use) and protecting cultural resources. Adaptive reuse extends the use-life of many buildings that might otherwise fall into disrepair and become too expensive to stabilize and maintain for some future agency or public benefit. National Register nomination and other recognition will be a standard treatment for the especially important cultural resources assigned to this category.

3.52c - Scientific Investigation. Cultural resources whose primary value lies in their ability to reveal information about past human cultures and environments fall into this category. Unlike the highly unique and valuable cultural resources preserved for Future Research, cultural properties in the Scientific Investigation category are usually well represented across the forest, although their exact character, content and context may not be well understood. Such cultural resources include many pre-contact American Indian occupations (i.e. “lithic scatters”), early homesteads settlements, and mining, logging or other industrial camps. Because they are (primarily buried) archaeological sites, such cultural resources will usually (though not always) be poor candidates for public interpretation.

1. *Data Extraction:* Cultural resources in this category are suitable for data extraction (most often through extensive recordation and archaeological excavation) to meet NHPA compliance or other stewardship responsibilities. This research is carried out in a planned and orderly fashion, with compliance and research goals clearly explained. SHPO and Tribal consultation is complete. The results of these investigations are made available to researchers and the public in popular reports. These data may be integrated

with off-site interpretive programs and media and added to cultural resource overviews, context statements and similar documents as appropriate.

2. *Experimental*: Cultural resources may be allocated to purely experimental research purposes to resolve management problems such as the effects of an activity or the efficacy of a treatment atop an archaeological site. For example, an archaeological site (“lithic scatter”) may be used to test the impacts of timber felling atop frozen ground or a historic trail may be used to assess the effects of OHV use. In some cases, the integrity of cultural resources allocated to this subcategory will have been previously compromised. Experimental projects atop or within the boundaries of cultural resources should only be initiated with well-conceived research designs and the results should be documented and reported so that the findings have broader management benefit.

3.52d - Release from Management. This category includes cultural resources that:

1. are not eligible for inclusion on the National Register,
2. have negligible potential for enhancement for public use or benefit,
3. have lost their integrity and value through alteration or destruction, and/or
4. have highly redundant information.

Cultural resources assigned to this category might include:

- An isolated cabin ruin that has no written or oral documentation
- A thoroughly looted rockshelter with no remaining cultural evidence
- A small mining camp completely destroyed by past logging
- A field of rock from past placer mining
- A dilapidated 1930s-era livestock-watering tank with counterparts found throughout the forest.

Release from management should not be treated lightly. Prior to allocating cultural resources to this management category, they should be thoughtfully considered and the results of this analysis well documented. However, it is important to recognize that many cultural resource properties on National Forest System land are currently being managed as though they had been released from management. Specifically, such cultural resources are rarely or never monitored and there is little thought of conducting research, stabilization, enhancement or other activities at them now or in the future, despite having resources available to do so. This situation may be the first indicator that certain sites are candidates for release from active management. Forest designations (i.e., *Infra*) given to cultural resources in this category may need to be relinquished if especially compromised cultural resources have no physical expression left on the ground.

Cultural resources released from active management are still protected from theft, vandalism, and unauthorized uses under ARPA if older than 100 years and under 36 CFR 261 if between 50

and 100 years old. Heritage professionals should nonetheless be pragmatic in dealing with such situations when they arise and should carefully advise Line Officers and Law Enforcement.

3.53 - Determining Management Allocation. Heritage specialists should allocate to appropriate management categories cultural resources known within a land use planning area in a timely and systematic way. Management allocations should generally follow an evaluation of National Register eligibility, although NR eligibility is only one of various considerations when allocating cultural resources to specific management categories. Allocations may be applied both to individual properties and to classes of similar properties.

At the time of initial recordation or in subsequent evaluation, qualified heritage specialists will recommend suitable uses for each cultural resource or class of similar resources by considering the following:

1. Site type and archaeological or historic context
2. Site characteristics
3. Site location and setting, including public access
4. Site condition and potential impacts and threats
5. Site significance and potential National Register eligibility
6. Perceived values and potential uses

In broader context, following factors should be considered in evaluating the use potential of a specific cultural resource or class of similar resources:

*Relative Importance and Sensitivity.* The relative importance and sensitivity of cultural resources should be considered, not simply their geographic distribution, visibility and density. For example, a large cluster of small archaeological manifestations may be determined to have very little scientific importance, no public value, and small risk from other resource or land uses. Alternatively, an isolated cultural resource could represent a unique archaeological property of overriding importance and high vulnerability to competing uses.

*Feasibility.* Cultural resources should be included under a management objective only if there is a reasonable potential of achieving the objective. For example, a rare and important archaeological property should not be proposed for long-term conservation if its deterioration is proceeding at a pace that cannot reasonably be arrested. A historic mine should not be proposed for stabilization and interpretation if it difficult of access and in a remote location. Logic and common sense should prevail.

*Necessity.* Allocation decisions should be made on the basis of their need, not just their feasibility. For example, while many cultural resources are capable of being interpreted to the public, in some areas there is virtually no need or desirability for interpretive development. Balance. Cultural resources are not intended to be divided among the several management categories in any set proportion. For many forests, the majority of cultural resources will be prehistoric and historic archaeological properties managed by conservation for future scientific or informational use. Objectives pertaining to other management categories may be less well represented.

Exhibit XX

Allocation Category	Possible Management Prescriptions
Preservation – Traditional Use, TCP, Sacred Site	Protection, monitoring, continued consultation with affiliated cultural group
Preservation – Traditional Use, Sacred Site	Protection, monitoring, continued consultation with affiliated cultural group
Preservation – Rare, Scarce, Unique Resource	Protection, monitoring, limited investigation, nomination to the National Register and other special designations
Preservation – Future Research	Protection, monitoring, possible nomination to the National Register
Public Use - Interpretation	Stabilization, rehabilitation, restoration, protection, possible nomination to National Register
Public Use - Adaptive Reuse	Stabilization, rehabilitation, restoration, protection, nomination to National Register and other special designations
Scientific Investigation – Data Extraction	Protection, monitoring, excavation, stabilization, possible nomination to National Register
Scientific Investigation - Experimental	Excavation, collection, experimentation
Released from Management	Long-term preservation and management is not a consideration.

Management allocations are a planning tool, derived according to the best professional judgment of the heritage specialist and land manager who maintains responsibility for the affected cultural resource. A cultural resource may be allocated to more than one use category or it may pass from one category to another (i.e. from Scientific Investigation to Development (Interpretation) upon completion of an investigation). Allocations should be re-evaluated and revised as appropriate when circumstances change or new data become available. Conditions or criteria for revising management allocations should be included in the appropriate land use-planning document. Management allocation will be indicated on the Cultural Resource Site Record and the Infra database. When management allocation has not yet been evaluated, this will be clearly indicated in the site record.

3.54 - Allocation and Management Prescriptions. Different management prescriptions will apply to cultural resources in different use categories. While decisions about appropriate prescriptions

must be made on a case-by-case basis, the following table serves as a general guide to show the relationship between use categories, National Register eligibility, and appropriate management prescriptions.

3.55 - Allocation and National Register Nomination. Although any cultural resource may be nominated to the National Register if it qualifies, it is expected that other management decisions concerning the relative value and future management of that property will precede the consideration of whether to nominate it. For example, a property whose primary importance lies in its potential for contributing to scientific knowledge in the near future would not likely be nominated to the National Register. Since such a property might be invested in research in the near future, not preserved in place over the long run, placement on the Register would serve no purpose.

Much of the assignment of significance rests with local communities and groups. Heritage professionals and line officers should coordinate with the SHPO, THPO, and other interested groups on the process of evaluating and allocating cultural resources, and should employ systematic methods to elicit the views of local communities concerning heritage values (36 CFR 60.9)

3.56 - Management Allocations and Land Use Planning. Cultural resource management allocations and treatments should be clearly reflected in heritage program management goals, objectives, standards and guidelines in forest and other local land use plans. These plans should identify, as appropriate, specific management actions and treatments necessary to:

1. Prioritize and accomplish necessary research and address critical data gaps.
2. Implement protection, conservation and stewardship projects, including National Register nominations.
3. Anticipate and address traditional uses of American Indians and other cultural groups.
4. Develop interpretive, educational and recreational projects.
5. Initiate experimental studies.
6. Use cultural resource data to contribute to the management of other national forest and grassland resources and programs.

3.6 – EVALUATION AND ALLOCATION IN WILDERNESS. The Wilderness Act creates a special concern with the management of historic structures in designated Wilderness areas. Where historic structures are found in wildernesses areas, agency policy direction (FSM 2323.8) requires their evaluation to determine which ones are compatible with wilderness values as defined in the Act and which ones are not. This evaluation is usually focused on 20th Century buildings (i.e., Forest Service guard stations) that have been determined, or are potentially eligible for, listing in the National Register. Prehistoric and historic archaeological resources are generally considered compatible with wilderness values and are not considered in this process. A historic structure must be evaluated prior to any decision that would adversely affect it.

Evaluation of historic buildings in wilderness must consider:

1. Building integrity, including form, materials; and setting or context.
2. Architectural value, including design, construction, execution, and chronology.
3. History, including affiliation, pattern, and rarity.

Evaluation methods described in (XX G. Throop reference) should be followed unless substituted by an alternative method or scheme that meets agency and SHPO guidelines and standards. This evaluation method will identifies Primary, Secondary and Tertiary classes of buildings and establishes a framework for management inside wilderness areas.

## CHAPTER 4 – PROTECTION AND STEWARDSHIP

- 4.01 - Authority – See FSM 2360.1
- 4.02 - Objectives – See FSM 2364.02
- 4.03 - Policy – See FSM 2364.03
- 4.04 – Responsibility – See FSM 2361

4.1 – PROTECTION FROM AGENCY AND AGENCY-AUTHORIZED ACTIONS. Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, and its implementing regulations in 36 CFR 800, require that federal decision-makers take into account the effects of agency or agency-authorized undertakings on cultural resources that are eligible for or included on the National Register of Historic Places. Compliance with Section 106 is a Federal agency responsibility that cannot be delegated or transferred to a non-Federal party. The Line Officer who is authorized to make a land use decision that could affect cultural resources is the "Agency Official" responsible for initiating and carrying out Section 106 review and consultation.

The primary participants in the Section 106 review process are the Line Officer (the "Agency Official"), the SHPO, the Advisory Council, and the THPO in the event that tribal lands, ceded lands or tribal aboriginal territory are involved. The SHPO, ACHP and THPO roles are defined in 36 CFR Part 800.

4.11 - Considering Effects of Proposed Actions. The Forest Supervisor, with the assistance of qualified professional heritage staff, will identify, evaluate and assess the effects of proposed Forest Service or Forest Service-authorized actions on cultural resources according to the following process.

4.11a - Meet the Definition of an Undertaking. The first step is to determine whether a proposed action meets the definition of an undertaking in Section 301(7) of NHPA, as amended, and 36 CFR 800.16(y). Generally, an undertaking is defined as a FS action or authorized action that has the potential to cause ground-disturbance that would damage, alter, destroy or abandon a cultural resource. The FS, land use applicants, other agencies and cooperators all initiate undertakings on National Forest System lands. The range of FS or FS-permitted undertakings includes, but is not limited to:

1. Abandoned mine reclamation
2. Administrative facilities maintenance, improvement and construction
3. Energy exploration, development and extraction (coal, natural gas, oil)
4. Land adjustments, exchanges and sales
5. Mineral exploration, development and extraction
6. Rangeland maintenance and developments (i.e., livestock water)
7. Recreation (including Wilderness) operations, events, improvements and construction
8. Road and trail maintenance, improvements and construction
9. Special Use Permit actions and authorizations (in various resource programs)
10. Utilities maintenance and construction (power lines, dams, etc)
11. Vegetation-fuels management (thinning, commercial timber sales, prescribed burns)

## 12. Watershed stabilization and restoration (including fisheries projects)

Programmatic agreements may specifically exclude certain FS actions from NHPA review because they will cause negligible ground disturbance or have very low potential to adversely affect heritage resources. Such projects may include routine road, trail and facility maintenance within an existing trail or road prism or facility “footprint”; issuance of certain kinds of Special Use Permits where no ground-disturbance is involved (i.e. recreation events); and range improvements such as jack-leg (above ground) fence construction. Programmatic agreements usually require heritage specialist to document that such projects meet the NHPA exclusion category in annual reports to the SHPO.

The Heritage Program also initiates compliance and stewardship projects that meet the definition of an undertaking. For example, a major data recovery (excavation) adjacent to a river to remove rapidly eroding cultural deposits would require NHPA Section 106 review of the data recovery plan. NEPA review of the project by fisheries specialists and hydrologists could necessitate mitigation measures to protect water quality and fisheries habitat. These projects should be included on the annual forest or grassland program of work. Heritage projects are not exempt from NHPA or NEPA review.

4.11b - Determine the Area of Potential Effect (APE). The next step is to define the geographic area or area within which an undertaking may affect cultural resources—the Area of Potential Effect. The APE boundaries are defined by project description and on a suitably scaled map provided by the project manager or Line Officer in charge. It is incumbent on the heritage specialist to insure that the full range of project impacts are clearly understood and included within the APE. For example, the need to improve a short road access into a project area or construct equipment staging areas can be easily overlooked but both cause ground-disturbance.

APE boundaries frequently change during the planning process as data are forthcoming from ongoing resource inventory and analyses (i.e. for vegetation, fisheries) related to the project. This is particularly be the case for geographically large projects such in vegetation management and travel planning areas where multiple treatment alternatives are usually considered. It is essential that heritage specialists maintain accurate and up-to-date maps (GIS-quality) and work closely with the project manager during the entire project (NEPA) analysis.

4.11c - Review Existing Cultural Resource Information. A review of forest inventory and cultural resource records is required to determine what previous fieldwork has been completed and what cultural resources are currently identified within the APE. This information should be available in the Cultural Resource Overview, INFRA and GIS databases, GLO and early FS maps, and Heritage Program records.

Additional information about the APE is often available in various administrative records and old FS visitor and other maps. Information may also be obtained from the SHPO, Tribes, local historical societies and knowledgeable individuals. Previous inventory coverage and identified cultural resources should be clearly marked on a project map and information should be compiled for future use.

The cultural resource potential of the project APE should also be estimated using a predictive model or site identification strategy, if one exists. In absence of such probability models, best professional judgment is required.

The amount of time spent completing a pre-fieldwork existing cultural resource information search must be balanced with the size, complexity and schedule of the proposed undertaking. At their most basic, existing information searches should assure that the past record of heritage program activity in the area is clearly understood (previous surveys, identified cultural resources) and that the potential for finding cultural resources is identified through use of other data sources, such as GLO maps and mining claim records, and predictive models-site identification strategies. Some FS units use “pre-field” information check-lists to assure that these bases are covered by Heritage Professionals and Archaeological Technicians.

4.11d - Determine the Need for Further Actions. The review of existing cultural resource information, and projection or estimate of cultural resource potential, is followed by a determination of need for further Section 106 compliance review and action. In most cases where ground-disturbance will occur within the APE, a field survey is required. Predictive models and site identification strategies will help to determine where there is high potential for locating cultural resources within the APE boundary. Professional judgment is also required.

Field survey tactics and schedules are based on this needs assessment. In some cases, the review will indicate that a project APE has been completely surveyed in the past for cultural resources and meets current sufficiency standards. In others, the project APE may lie in highly disturbed terrain (i.e. an old tree plantation). In both situations, other than acknowledging and carefully documenting the known cultural resources within the APE, there will be no need to conduct an intensive field survey. The heritage specialist must still actively participate in the project planning process, especially where cultural resources have been previously identified in the APE. Generally, most ground-disturbing projects will require additional survey or spot-checking.

4.11e - Complete Necessary Field Surveys. A reasonable and good faith effort will be made to identify on-the-ground all heritage properties that may be affected by the undertaking. Usually, a pedestrian Intensive Survey of the project APE is required (see FSH 2309.3.3). Field identification efforts should be scaled to the potential impact of the proposed project. It is important to know if a programmatic agreements define a required intensity of inventory coverage for a specific undertaking type, such as oil well pads.

During NEPA analyses, field survey may be carried out in phases in accordance with 36 CFR 800.4 if the project is large-scale and involves the consideration of several or more alternatives. In this case, survey progress must be carefully tracked and documented. To comply with NHPA, the phased survey strategy should ultimately lead to a complete survey of the selected project Alternative identified in the final NEPA document and record of decision. Phase surveys usually concern large-acreage (or mileage) projects, such as fuels reduction or transportation planning, or linear corridors for pipelines and power lines.

The locations of identified cultural resources should be recorded using GPS technology and suitably scaled topographic maps (USGS 7.5' quadrangle maps). Their location within specific

project planning or treatment areas should be carefully noted since this information will be important in the subsequent analysis of project effect. Cultural resource surveys must be documented to the prevailing professional standards in the state where the project is located or standards identified in a programmatic agreement.

4.11f - Evaluate the National Register Eligibility of Identified Cultural Resources. Field survey is generally followed by evaluation to determine the eligibility of identified cultural resources within the APE for listing in the National Register, in accordance with criteria in 36 CFR 60.4. Forest heritage specialists, contractors or cooperators may do National Register evaluations. Evaluations include subsurface testing, data analyses, and comparative archaeological research or detailed recordation, mapping and archival research of buildings and structures. Evaluations may focus on an individual site or a class of similar sites within the APE.

Evaluation culminates in a Determination of Eligibility Statement(s) that is submitted by the Line Officer to either the SHPO or Keeper of the National Register. The SHPO may agree or disagree with the agency findings of National Register eligibility through the consensus procedures in 36 CFR 800 or by the Keeper through formal procedures in 36 CFR 63. Cultural resources that are determined to be National Register eligible are the focus of further NHPA review. Ineligible cultural resources no longer have standing in relation to NHPA, although the project manager may still choose to avoid and protect such resources during project activities.

To the fullest extent possible, evaluation of National Register eligibility should directly follow identification to insure that land managers are not unnecessarily prohibiting other land uses because of the presence of un-evaluated cultural resources. Evaluations are usually labor-intensive and require sufficient planning time and allocation of project funds. Evaluation costs are borne by either the FS benefiting function (program) or the land use applicant.

4.11g- NHPA Status of Unevaluated Cultural Resources. When time constraints, lack of resources or other factors preclude evaluation of cultural resources within the APE, the Line Officer must consider any affected cultural resources as potentially National Register-eligible. These cultural resources will be given the same consideration for protection and treatment as National Register-eligible historic properties. Due to lack of sufficient site information, data recovery (mitigation) to remove an un-evaluated site from harm's way is not an option under these circumstances. Project re-design and other protection must be implemented to prevent impacting unevaluated cultural resources.

This "find, flag and avoid" approach to Section 106 compliance must be used judiciously. In absence of site evaluations, land use decisions will be made on the basis of incomplete cultural resource information. Expensive treatments may be set in motion that would otherwise not be used because the affected cultural resource was NR-ineligible (although this finding does not always preclude protection). The backlog of unevaluated cultural resources will increase and delay allocation to management category. Early participation in project planning, and use of predictive models and related site-probability information, by heritage specialists will enable project managers and Line Officer to anticipate potential cultural resource inventory and evaluation costs.

4.11h - Apply the Criteria of Effect. The Criteria of Effect in 36 CFR 800.5(1) is applied to National Register-eligible or listed historic properties within the project APE. Adverse effects (36 CFR 800.5) occur under conditions that include, but are not limited to:

1. Destruction or alteration of all or part of a property.
2. Isolation from or alteration of its surrounding environment.
3. Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting.
4. Transfer or sale of federally owned property without adequate conditions or restrictions regarding preservation, maintenance, or use.
5. Neglect of a property resulting in its deterioration or destruction.

A wide range of Forest Service or Forest Service-permitted actions or undertakings will meet the conditions for adverse effect. Projects that cause ground-disturbance or otherwise alter an existing landscape clearly have the potential to cause adverse effect to cultural resources. Less obvious are undertakings that indirectly alter the integrity of a historic property, such as a power line installation that affects its visual character or an OHV trail that substantially increases the surrounding noise levels. Heritage specialists should fully understand the undertaking in order to accurately assess project effect.

Some projects may have beneficial effects that enhance the qualities of an affected historic property. Heritage specialists in consultation with other forest resource staff may formulate such projects. For example, a fuels reduction project (timber thinning by hand or mechanical means) surrounding an historic building reduces the danger of wildfire (it creates defensible space) and therefore is a beneficial effect. A road project that resolves a water drainage problem and prevents an archaeological site from further erosion is another example. Such projects still require review by the SHPO, and THPO when appropriate, to insure that all facets of the project have been appropriately considered for purposes of complying with NHPA Section 106. These projects may also be subject to forest environmental (NEPA) review and analyses.

4.11i – Effect Findings. The application of the criteria of effect will lead to three potential findings:

1. *No historic properties affected:* If National Register listed, eligible or potentially eligible heritage properties within the APE will clearly not be directly or indirectly affected by the proposed undertaking, this finding is documented and provided to the SHPO and THPO(s), as appropriate, under Section 106 or programmatic agreement procedures.

One example is a project where no cultural resources of any kind are located within the project boundaries. Another is when cultural resources are located within the project boundary (planning area) but clearly lie outside any proposed treatment units or areas affected by ancillary activities such as a staging area for heavy equipment.

2. *Historic properties affected:* If an historic property(s) will be affected, or if the SHPO or Council objects to the finding of no effects, apply the Criteria of Adverse Effect in 36 CFR 800.5(1) to determine whether the effect of the undertaking should be considered adverse. Examples are provided in 4.11k below.

4.11j – When Effects to Historic Properties are Not Adverse. When the effect of the undertaking on heritage properties is found, in consultation with the SHPO, not to be adverse because the criteria do not apply or because the undertaking is modified or conditions are imposed that would avoid adverse effects, the finding of no adverse effect is appropriate. All consulting parties and provide documentation of finding should be notified. The project is implemented when there is agreement by the SHPO and Council or there are no objections raised within 30 days of receipt of documentation. Alternative procedures in programmatic agreements may eschew case-by-case consultation and allow for reporting of no effect or effects not adverse findings in year-end reports to the SHPO.

4.11k - When Effects to Historic Properties are Adverse. When the effect is found *to be adverse*, and if the Agency Official decides to proceed with the undertaking, the SHPO and other interested parties are consulted to develop, evaluate and implement treatments to avoid, reduce or mitigate the adverse effects. These treatments will be set forth in a Memorandum of Agreement among the FS, SHPO (and THPO if applicable) and ACHP. The Agency Official must notify the ACHP. The Advisory Council will decide if it will participate in accordance with 36 CFR 800.

The SHPO or any of the consulting parties may request the Council to participate in the consultation over adverse effects. The Council will notify the Agency Official within 15 days whether or not it will participate. The Agency Official must invite the Advisory Council to participate if a programmatic agreement will be prepared.

4.11l - Documentation of Adverse Effect and Treatments. When properties within a project APE may be adversely affected by a land use action, the heritage specialist should prepare a report that includes a description of the affected historic properties, an assessment of project effect, and proposed treatments or mitigation. Proposed treatments should be:

1. Forest Service-formulated or Forest Service-approved.
2. Commensurate with the nature and significance of the cultural resources involved and the extent of possible impacts.
3. Substituted for standardized treatments in programmatic agreements for specific property types, when applicable.

Adverse effect treatments are stipulated in a project Memorandum of Agreement among the FS, SHPO, and ACHP when appropriate (see FSH 2309.4.11p below).

4.11m - Treatment Through Avoidance. Project redesign is frequently the most cost-effective treatment to protect historic properties and unevaluated cultural resources affected by forest projects. The project may be abandoned in the area with an affected historic property. Or the APE boundary may be adjusted to ensure that the affected historic property lies completely outside the area that will be impacted by the project. In addition, a buffer strip is frequently placed around the heritage property to prevent inadvertent damage from project activities. The size and dimensions of the buffer strip will vary depending on the type of historic property involved and its susceptibility to direct and indirect project impacts.

The heritage professional must insure that historic properties designated for avoidance are properly marked in the field. Flagging, tagging and signing requirements for identified historic properties vary among FS units. Historic properties should be identified in project plans (i.e. prescribed burn plan, road engineering design) to insure that project planners and the Line Officer have precise knowledge of where cultural resources are located within the project and what protective treatments are required. Experience has shown that cultural resources are sometimes inadvertently harmed or destroyed through poor communication and project coordination.

Cultural resource locations are sensitive data whose disclosure within a project area may lead to vandalism and unauthorized uses. Protocols should be in place to safeguard cultural resource location information while allowing for effective communications between project managers, contractors, and heritage specialists. For example, a timber sale contract only indicates places within the sale boundary where any activity is prohibited. This area could contain an eagle nest, cultural resource site or sensitive plants or soils. The Sale Administrator would have information disclosing the type of resource being protected within the prohibited area to ensure that he/she knew what was actually being protected and how to monitor for any changes during the course of the project activity.

Heritage professionals or designated archaeological technicians should monitor the project while it is on going. Protocols for communicating about problems identified during monitoring should also be in place. In general, the project manager should be immediately notified if there is a problem in meeting the requirements for cultural resource protection and treatment. In the case of a contracted work, the Contract Inspector, Contract Officer's Representative or Contracting Officer should also be notified. In the latter case, it is critical to follow all federal contracting protocols to avoid legal-contractual problems if a dispute occurs.

Inspections should occur after the project is completed to document treatment effectiveness.

4.11n - Alternative Treatments. When avoidance through redesign of the undertaking is imprudent or infeasible, a range of alternative physical and administrative conservation measures should be considered. Physical conservation measures, which maintain heritage property integrity, are usually preferable to relocation and data recovery techniques.

Alternative treatments vary from region to region, forest to forest. Treatments may be stipulated in a programmatic agreements for specific property types (i.e. historic mining ruins). For example, conducting a project activity such as logging atop a archaeological site that is buried in

frozen ground and protected by a specified amount of snow may be a standard treatment under a state agreement. Allowing low-energy prescribed fires to burn through certain property types such as prehistoric sparse “lithic scatters” is another example.

There is no “alternative treatment cookbook” for every type of project or class of cultural resources affected by FS undertakings. In many cases, treatments will be developed through collaboration among forest heritage staff, other agency resource specialists, the SHPO, tribes and THPO, when appropriate. The Line Officer and other unit staff with responsibility for the project should be clearly informed of the proposed treatment, particularly if it will require significant project re-design, increase project costs, or affect the project schedule. Proposed treatments should pass the “red face test” and be reasonable, feasible and meet the stated mitigation objective.

Successful treatments should be fully documented so that they can be studied, shared and applied in similar situations by other heritage professionals.

4.11o - Treatment through Data Recovery. When heritage properties that are significant for research purposes cannot be preserved in place, the loss of research potential may be reduced through various data recovery techniques. Data recovery plans are prepared in accordance with the federal guidance documents prepared by the Secretary of Interior, the ACHP, and any applicable programmatic agreements. Data recovery plans should include, at a minimum, the following:

1. The property, properties, or portions of properties where data recovery will be carried out;
2. Any property, properties, or portions of properties that will be destroyed or altered without data recovery;
3. The research questions to be addressed through data recovery, with an explanation of their relevance and importance;
4. The field and laboratory analysis methods to be used with an explanation of their relevance to the research questions;
5. The methods to be used in data management and dissemination of data, including a schedule;
6. The proposed disposition of recovered materials and records;
7. A proposed schedule for the submission of progress reports;
8. Proposed methods by which Indian tribes and local governments will be kept informed of the work and afforded the opportunity to comment, as appropriate.

When a historically significant building, structure or ruin cannot be preserved in place, some level of recordation to stipulations in a project memorandum of agreement or in a programmatic agreement or in accordance with Historic American Building Survey (HABS) or Historic American Engineering Record (HAER) standards. HABS and HAER are both national archival programs that gather drawings, photographs, and documentation for architectural and engineering works, respectively. Recordation to less than full HABS/HAER standard is frequently allowed under a project MOA or programmatic agreement.

Data recovery costs are borne by either the Forest Service or the land use applicant. Because of the time commitment involved, and frequently the need for specialized services, data recovery and building recordation are usually be done under contract with a qualified consulting firm. Data recovery is usually the most expensive type of treatment to mitigate the adverse effects of a project. However, it may also best meet long-term unit management goals for other resources and public use of the area. For example, data recovery at a prehistoric site within a popular and heavily used FS campground may resolve long-standing protection issues concerning artifact collecting, gradual site degradation and planning for future campground development.

4.11p - Agency Consultation. The federal land manager's decision to implement treatment, including data recovery or site documentation, requires consultation with the SHPO, tribes, and THPO and other consulting parties, as appropriate, in accordance with 36 CFR 800.

Resolution of adverse effects through treatments stipulated in a *Memorandum of Agreement* among the Forest Service, SHPO, Council and interested parties, as appropriate (see Exhibits in FSH 2309.8 ). Agreements will usually state that qualified heritage personnel will monitor project treatments during and after project implementation. Monitoring results are usually reported in annual reports in accordance with Forest Service policies and programmatic agreements.

Failure to reach agreement with the SHPO, Council or other consulting parties regarding analyses of project effect or treatments are handled through Section of 36 CFR 800.7.

4.12 - Previously Undiscovered Properties. Cultural resources may be discovered during implementation of an undertaking. If discovery is likely, a plan should be developed for the treatment of such properties prior to initiating or authorizing the undertaking. This discovery or emergency contingency plan should be part of a broader heritage program plan or strategy.

If a discovery plan is in place, the legal requirements of NHPA Section 106 and the Native American Graves Protection and Repatriation Act (NAGPRA) can be met by following the plan when heritage properties or human remains are discovered during implementation of an undertaking. The Line Officer must take prudent and feasible steps to ensure that the undertaking does not harm the property until treatment is completed in accordance with the discovery plan.

If a discovery plan has not been developed prior to implementing an undertaking, the Line Officer shall make reasonable efforts to avoid or minimize harm to a discovered property until:

1. the property has been assessed in terms of National Register eligibility and appropriate uses,
2. treatment measures have been carried out consistent with any treatment plan developed for the undertaking as a whole,
3. the requirements of NAGPRA are met if applicable.

In the absence of a treatment plan for the undertaking, measures will be carried out consistent with the Forest Supervisor's professional assessment of the property's research, traditional use, interpretation, or conservation significance.

4.13 - NHPA and NEPA Compliance. The regulations implementing the Section 106 review process encourage the use of the NEPA process to fulfill the agency's responsibilities under Section 106. Forest Supervisors may elect to coordinate the two processes (see FSH.xx).

#### 4.2 - PROTECCION FROM UNAUTHORIZED USE AND ENVIRONMENTAL DAMAGE.

Cultural resources are adversely affected by both human activities and natural events. Natural processes and events that affect cultural resources include normal aging and weathering, erosion, mass slumping and slides, vegetation encroachment, flooding, hurricanes, high-wind events, and wildfire. Cultural resource records and monitoring reports identify the specific range of environmental damage affecting cultural resources on every national forests and grasslands.

Human-caused cultural resource degradation includes all forms of property vandalism, illegal excavation (looting), arson, demolition and related depreciative activities. Human-caused damage may also be done inadvertently, such as dispersed camping or cutting firewood atop a cultural resource. Systematic monitoring and working closely with FS law enforcement are the primary means of identifying on-going or potential human-caused degradation to cultural resources. In absence of these actions, it will be difficult to assess the effects of human-caused cultural resource degradation.

It is unlawful to remove any cultural resource from National Forest System land without permission. Permission to remove heritage properties, artifacts and objects other than by or under the supervision of a qualified professional may be granted only where it has been determined that such removal will not adversely affect historical, scientific, tribal or social values. Permits are required to conduct archaeological investigations on National Forest System land.

4.21 - Detection, Examination and Investigation. Cultural resources that are vulnerable to unauthorized uses require systematic field monitoring, condition assessment, documentation and reporting, and investigation.

4.21a - Monitoring and Law Enforcement. Cultural resource protection is an essential stewardship responsibility. Cultural resource protection should be integrated into law enforcement plans and monitoring schedules. Forest plans, cultural resource overview, historic property plans, predictive models and vulnerability assessments should be the basis for identifying cultural resources at risk and needed protection. Patrols, surveillance (including

electronic sensors, cameras and related detection technologies), and interagency collaboration are usually necessary for effective cultural resource monitoring and law enforcement.

4.21b - Law Enforcement Investigation. A cultural resource that has received unauthorized use and damage should receive timely investigation by both law enforcement officers and qualified heritage professionals. Standard law enforcement procedures should be strictly followed throughout the investigation and any subsequent legal proceedings. Heritage professionals may document violations in Incident Reports or other reports as requested by FS law enforcement.

A FS Special Agent-In Charge is responsible for the conduct of the legal investigation, following the guidance of the United States Attorney's Office. FS law enforcement works under a "stove-pipe" chain-of-command system and is not tied as closely to FS units as other agency programs. Line Officers are usually (but not always) privy to the conduct of a cultural resource damage investigation on their unit. Line Officers may assist in the investigation by securing funding and other resources. The Special Agent-In Charge is responsible for appraising Line Officers regarding the conduct of an investigation and any legal proceedings. Heritage professionals report to the Special-Agent-In-Charge during an ARPA or NAGPRA investigation rather than their official supervisor. Information confidentiality and security is paramount in law enforcement investigations and any subsequent legal proceedings.

4.21c - Site Damage Assessment. A site damage assessment is a legal requirement for responding to a vandalized, looted or otherwise damaged cultural resource. In the case of human-caused damage, the assessment establishes the amount of damage and sets criminal and civil penalty amounts in accordance with ARPA Section 7(a)(1-2) and 43 CFR Part 7. The site damage assessment should be prepared by a qualified heritage professional who has training in archaeological forensic work and documentation, as provided by the Federal Law Enforcement Training Center (FLETC) or its contractors or by the Forest Service. The components of a site damage assessment completed under the authority of ARPA include but are not limited to:

1. Incident background (where, when, how the damage happened)
2. Description of affected cultural resource (property type, content, significance)
3. Assessment of damage (measurements, photographs, maps)
4. Description of resource values lost
5. Research design and data recovery plan to calculate damage amount
6. Restitution and repair needs

In many cases, damage will occur to an un-evaluated or previously unknown cultural resource. Testing and other data recordation may first be necessary to determine the content and value of the damaged cultural resource. A damaged cultural resource does not need to be National Register-eligible in order to become the focus of a law enforcement investigation. Ultimately, the legal significance of the affected cultural resource under NHPA may play a role in legal

proceedings. Securing a Determination of Eligibility (assessment of legal significance) is therefore advisable.

Site damage assessments for some cultural resource property types, such as prehistoric rock art, may be difficult to develop. Consultations with archaeologists familiar with similar ARPA assessments and specialists, such as professional rock art conservators, are permissible under the guidance of the Special Agent In-Charge and/or US Attorney. Consultants and contractors are legally obligated to treat all resulting information as confidential. The incident background and other data should only be provided to consultants and contractors on a need-to-know basis and with the approval of the Special Agent In-Charge.

A completed site damage assessment is confidential information that is provided by the Heritage Professional directly to the Special Agent-In-Charge for review and forwarding to the US Attorney's Office, as appropriate. The damage assessment may be reviewed by the Line Officer, if it is so provided by the Special Agent In-Charge. A site damage assessment should not be shared with the SHPO, THPO, Indian tribes or other interested parties unless specifically allowed by the Special Agent In-Charge and/or US Attorney.

Vandalism, damage and theft of a cultural resource property less than 100 years old are legally addressed through federal statutes other than ARPA, including Theft of Government Property—Destruction of Government Property (18 U.S.C 641, 18 U.S.C. 1361). While the regulations for these statutes do not specifically address cultural resource assessments, following the ARPA damage assessment template is advisable in most cases.

4.21d - Penalties under ARPA. Based on the findings of the Site Damage Assessment and other legal factors, penalties may be assessed under ARPA as follows.

1. If the commercial or archaeological value of archaeological resources and cost of restoration and repair does not exceed \$500, a convicted individual shall be fined not more than \$100,000 or imprisoned not more than 1 year, or both.
2. If the commercial value or archaeological value of archaeological resources and cost of restoration and repair exceed \$500, a convicted person shall be fined not more than \$250,000 or imprisoned not more than 2 years, or both.
3. Upon additional convictions, such person shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both.

The assessment of civil penalties and damage claims against individuals under the Archaeological Resources Protection Act is guided by provisions in the Act and its implementing regulations, 43 CFR Part 7. Before civil penalties are assessed, the Federal land manager should ensure that such assessments do not interfere or jeopardize any criminal investigation or prosecution.

4.21e - Penalties under NAGPRA. A person convicted of illegal trafficking of American Indian human remains shall be fined in accordance with title 18 U.S.C. (see 18 U.S.C. 3571), or

imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with title 18 U.S.C. (see 18 U.S.C. 3571), or imprisoned not more than 5 years, or both.

If convicted of illegal trafficking of American Indian cultural items such person shall be fined in accordance with title 18 U.S.C. (see 18 U.S.C. 3571), or imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with title 18 U.S.C. (see 18 U.S.C. 3571), imprisoned not more than 5 years, or both.

4.21f - Restitution and Artifact Conservation. Criminal or civil monetary restitution for damages under ARPA or other federal statutes should be applied directly and promptly to the affected heritage property(s) as necessary in accordance with a site-specific treatment plan. Restitution may cover the cost of filling and re-contouring illegal excavation holes, re-planting the area with native vegetation, removing garbage and other detritus, and fencing and signing as appropriate. In some cases, a specialists such as a rock art conservator may be called in to remove unsightly graffiti. Restitution may fund salvage excavations for badly damaged but still valuable cultural resources that are vulnerable to further looting or other depreciative behavior.

Artifacts recovered during criminal or civil investigations will be properly conserved and stored immediately following a completed investigation and legal proceedings. Funerary objects and items of cultural patrimony shall be returned to the legally recognized Tribe in accordance with Section 3 (c) of NAGPRA

4.21g – Rewards. As provided by the Archaeological Resources Protection Act and 43 CFR Part 7, an amount equal to one-half the penalty assessed under either the criminal or civil provisions of the Act, but not to exceed \$500, shall be paid to any person who furnishes information leading to the finding of a civil violation, or the conviction of criminal violation under the Act.

4.21h - Violations under other Statutes. The measure of damages and reimbursements shall be made in accordance with regulations promulgated under those Acts. For example, ARPA excludes from its criminal penalties the removal of arrowheads located on the surface of the ground (16 U.S.C. 470ee(g)); however, arrowheads are an archaeological resource by definition, i.e., weapon projectiles (16 U.S.C. 470bb(1)). Although the removal of arrowheads on the ground surface is not subject to ARPA penalties, such removal of an arrowhead, which is an archaeological resource, is prohibited by 43 CFR 8365.1-5(a)(1), and is a violation of the Antiquities Act (16 U.S.C. 432, 433) and subject to the criminal penalties provided by those acts.

Artifacts that are buried (i.e., embedded in the soil matrix) in federal lands are the property of the Federal Government and their removal is considered theft of government property. Determinations of penalties under other statutes (i.e. Theft of Government Property) are made in accordance with regulations promulgated under those Acts.

4.22 – Metal Detecting on Public Lands. Metal detectors may be used on National Forest System lands in areas that do not contain or would not be reasonably expected to contain archaeological or historical resources. Metal detectors must be used for lawful purposes and not violate the proscriptions of ARPA or any other law. Normally, developed campgrounds,

swimming beaches, and other developed recreation sites are open to metal detecting unless there are heritage resources present. In such cases, Forest Supervisors are authorized to close these sites by posting notices in such sites.

4.23 – Treasure Troves: Buried or lost treasures (“treasure troves” under the 1870 abandoned property statute, 40 U.S.C. 310) on National Forest System land are considered to be cultural resources protected by ARPA, NAGPRA, and NHPA.

4.24 – Geocaches: GPS-locatable geocaches are allowed on National Forest System land for recreational and training purposes, provided they do not cause harm, or have the potential to cause harm, to cultural resources. For example, hiding a geocache within a prehistoric rock cairn or inside a historic building, such as an old mine structure, has the potential to harm cultural resources both during its placement and upon its discovery. A geocache recreation event may require issuance of a Special Use Permit. Line Officers and heritage professionals should consider the potential effect of the geocache event on cultural resource prior to permit issuance. Regions may have specific policies and direction concerning geocaches, especially where wilderness is of concern.

4.25 - Monitoring and Protection. Systematic monitoring of cultural resources and designated Priority Heritage Assets will be completed on a regular basis. Monitoring is required to:

1. Assess environmental and human-caused effects to significant, vulnerable or threatened cultural resources.
2. Assess the adequacy of protective or mitigation treatments to cultural resources affected by Forest Service and Forest Service-permitted undertakings.
3. Evaluate the adequacy and accuracy of methods, techniques, strategies and tactics used to inventory National Forest System lands for cultural resources.

Cultural resource monitoring results should be documented on a *monitoring or condition assessment form*. This information should then be entered into heritage Infra (as an Event) and the file copy should be included with the appropriate cultural resource record form.

Protection issues and needs arising from regular monitoring should be incorporated into cultural resources preservation plans, pursuant to Section 110(A) (B) of NHPA, forest law enforcement plans, and addressed as part of broader land management decisions when applicable.

Monitoring is a Forest Plan reporting requirement. Lack of adequate monitoring is frequently an issue in legal appeals and litigation over agency projects and programs. The condition of Priority Heritage Assets is also a specific reporting requirement under SFFAS 29. Forests and grasslands should therefore develop annual monitoring programs and protocols to insure that monitoring under these legal requirements is met. Monitoring is usually funded by the heritage program (it is the benefiting function), although sometimes alternative funding is available.

Trained public volunteers may assist in routine cultural resource monitoring where established *Site Steward* or similar forest volunteer programs are in place. Such programs require time, funding and commitment to implement and monitor but they increase heritage program capacity, visibility and deterrence, especially at highly significant but vulnerable historic properties, including Priority Heritage Assets. Some states such as Arizona and individual FS units have highly effective *Site Steward* programs so a “blue-print” is already available.

#### 4.3 – ADMINISTRATIVE PROTECTION AND CONSERVATION MEASURES.

Administrative measures may be required to protect significant heritage properties from damage or destruction, especially that which is human-caused. These measures will usually be preceded by a written *vulnerability or risk assessment* prepared by the Heritage Professional for the Line Officer. This assessment describes the natural processes and/or human activities adversely affecting or threatening a heritage property(s), and discusses the range of management options. Indirect protection measures include but are not limited to:

4.31 – Withdrawal. Protective withdrawal means withholding an area from settlement, sale, location or entry under the general land and mining laws (36 CFR xx; FSM xx). Withdrawals usually do not cover discretionary actions such as those taken to administer mineral leases and claims. Administrative withdrawal also allows transfer of jurisdiction to other Federal agencies. Withdrawing FS-managed canyon lands containing extensive galleries of American Indian pictographs from oil and gas leasing is an example. Another example is withdrawing lands containing early Chinese placer mining camps from mineral leasing and mining. Withdrawals can be a time-consuming legal process that usually requires a NEPA-level decision. For this reason, only truly exceptional historic properties should be considered for withdrawal.

4.32 - Closure to Public Access. Areas may be temporarily or permanently closed to public use and travel to facilitate cultural resource management. (36 CFR xx; FSMxx). Public lands may be designated as indefinitely limited or closed to the use of motor vehicles. Closing an area to vehicle use in order to protect vulnerable prehistoric rock alignments in an arid basin or a “medicine wheel” atop a mountain ridge is an example of a public access restriction. Closures do not preclude people from visiting a cultural resource on foot or by horse.

4.33 - Special Designations. Individual cultural resources or districts may be nominated to the National Register of Historic Places to recognize and reinforce their special management status (36 CFR 60; FSM 2364). Limited protection through national recognition is afforded when a property is listed as a National Historic Landmark. Special management areas may also be designated to address particular management needs for cultural resources. Developing area-specific management goals, standards and guidelines in the Forest Plan for a National Register district (landscape) is an example of the value of special designations and recognition.

4.34 - Land Acquisition and Easements. Federal cultural resources that lie partly on State- and privately-owned land may be acquired through exchange, purchase or deed to maintain the integrity of the cultural resource or to provide buffer areas (36 CFR xx). Acquisition of private land containing outlying prehistoric masonry ruins that conjoin with a prehistoric building complex on National Forest System lands is an example of land acquisition.

Easements are authorizations for non-possessory, non-exclusive use of lands. The Forest Service may acquire an easement to ensure administrative access to a historic property for patrolling, monitoring or other purposes. For example, an easement may be secured to allow access across private ranch land to an adjacent canyon on National Forest lands containing an abundance ancient masonry ruins that are threatened by vandalism and looting.

4.35 - Cooperative Law Enforcement. Regular patrols and surveillance is another administrative protection-conservation measure that may be employed to protect cultural resources. Because of the vast distances involved on many FS units, and limited heritage and law enforcement resources, cooperation and coordination with other federal, state and local agencies and law enforcement is usually essential. Cooperative law enforcement includes the use of vehicle, horseback and pedestrian patrols; aerial fly-overs; and use of surveillance and special detection equipment. Heritage professionals and line officers should be trained in cultural resource law enforcement. Coordinated and systematic patrols by the BLM, FS and County Sheriff of a local area containing prehistoric pithouse villages and human burials that are frequented looted by artifact collectors is an example of cooperative law enforcement.

4.36 - Public Education and Awareness. Efforts to inform and educate the public about local cultural resources and instill a conservation ethic may decrease vandalism, looting and other depreciative behaviors and ensure compliance with use restrictions. These efforts should be part of a broader program of public outreach and education described in FSH 2309.5. One obvious example is heritage specialists giving frequent presentations to the local community about cultural resources and why they are important and at risk. A less obvious example is involving qualified local Site Stewards in monitoring and interpretation at highly vulnerable cultural resources.

4.37 - Line Officer Decision. The Line Officer decides what administrative measures will be implemented, in consultation with the heritage professional, law enforcement officers and other forest resource specialists. Many of these indirect measures are intended to protect cultural resources over the long term. As such, these measures may have broader resource consequences that will require forest interdisciplinary review, some level of environmental analyses, public involvement, and SHPO and tribal review prior to implementation. Heritage professionals play an important role in facilitating these processes.

4.4 – PHYSICAL PROTECTION AND CONSERVATION MEASURES. Contingent on the vulnerability or risk to the cultural resources, the Line Officer may decide to implement physical protection measures to reduce or eliminate natural and human-caused adverse effects. Consultation with the SHPO, tribes and other interested parties is usually required when these direct protection measures modify the affected heritage property in any way. Some measures, such as placement of erosion control barriers or vegetation treatments, may require forest interdisciplinary review and some level of environmental analyses and documentation. Direct protection measures include but are not limited to:

4.41 – On-Site Administrative Signing. Under conditions of active or potential vandalism, cultural resources should be adequately signed, identifying the protection afforded by law (ARPA, etc). Signs should be placed so as not to intrude on the property or draw unwarranted

attention to it. Interpretive signs may also be appropriate for some historic properties and help promote a conservation ethic based on public appreciation and enjoyment of cultural resources. Cultural resource administrative or interpretive signs that are frequently vandalized or removed should be routinely replaced (do not become frustrated; this is simply a reality of public land management) unless this depreciative activity is representative of a larger management problem. In this case, more frequent law enforcement presence and other measures will be necessary. The heritage program will usually fund the purchase of antiquities or other signage necessary to control public activities at cultural resource sites.

4.42 - Physical Barriers. Barriers, including fences, gates, rock alignments and kelly-humps, can be used alone or in combination with other methods to restrict public access, especially from motor vehicles. The selection of designs and materials must avoid unwarranted intrusion on the cultural resource. Maintenance and safety requirements must also be considered in the design and its implementation.

Like administrative signs, physical barriers often encourage rather than abate depreciative behavior among a minority of the public and attempts are sometimes made to remove them by aggressive force using trucks, chains and other equipment. Barriers should therefore be installed at enough distance from the cultural resource so that this depreciative behavior does not cause unwarranted cultural resource damage. Forest engineering, recreation and other staff should be consulted. Physical barriers may be installed by employees or under contract, or a combination of both. The heritage program will usually be responsible for funding the purchase and installation of physical barriers unless they serve other resource management purposes. In this case, the heritage program would be a financial contributor to the project.

4.43 - Erosion Control-Stabilization. Cultural resources may be destabilized or destroyed by the effects of natural erosion from flooding, seepage, surface water run-off, and wind. Erosion control measures performed off-site (for example, upstream and away from the cultural resource) may create less disturbance to cultural resources and be achieved at a lower cost than on-site erosion control. Off- and on-site erosion control measures may include the construction of abutments and cribbing to prevent a cultural deposit from slumping or collapsing; installing diversions and check dams; re-contouring the slope and planting vegetation; and creating windbreaks.

Erosion control measures should be carefully considered with other staff specialists, particularly hydrologists, soil scientists and engineers. Implementation of erosion control projects to protect a cultural resources may require administrative and some level of NEPA review because of their location in a riparian area near a live stream. Erosion control structures may be installed by employees or under contract, or a combination of both. The heritage program would fund the purchase and installation of an erosion control structure if the sole intent of the structure is to protect a cultural resource(s). Frequently, erosion control is part of a larger effort to rehabilitate and manage a watershed. In this case, heritage resources would be a contributor to the project.

4.43 - Vegetation and Fire Management. Cultural resources may be threatened by vegetation growth and encroachment. Vegetation growth affects the visual integrity of historic properties. Tree roots penetrate and disturb buried archaeological sites. Wind-thrown timber (blow-down)

exposes tree roots and artifacts. Wildfire burns historic properties made of wood and fire-suppression methods may disturb cultural resources through construction of fire lines, equipment staging areas, and camps, as well as through the use of aerial retardants.

Vegetation management practices, such as thinning of commercial and non-commercial timber, can be used to protect cultural resources from the effects of blow-down and wildfire. Vegetation management helps to maintain and protect the visual integrity of historic properties. Periodic inspections of historic buildings and structures are required by FS fire management staff to determine potential fire hazards. Projects to remove hazardous fuels will usually require interdisciplinary review and some level of NEPA analysis unless they are very minor in scale and scope.

An active fire protection program for cultural resources include pre-suppression, suppression and post-suppression planning and preparedness activities. Heritage staff should be appropriately trained to participate in all phases of fire management pertaining to cultural resources. Pre-suppression activities include preparation of fire action plans that propose fuels reduction, fuel breaks, and other prevention (fire proofing, creating defensible space) measures at significant historic properties. When implementing fire prevention measures, the visual and physical integrity of the cultural resource and its surrounding environment (setting) must be considered and protected. Cultural resources should be a part of national forest and grassland fire plans. A cultural resource emergency contingency plan developed as part of heritage program planning (see FSM 2362.32f; FSH 2309xx) should include a discussion of protection priorities and protocols.

Heritage professionals frequently work with fire incident command (IC) teams during wildfire suppression to both identify cultural resources of concern within the wildfire boundaries and recommend protection measures where feasible (for example, wrapping a significant historic property with Kevlar wrap and sprinklers; guiding the construction of bulldozer line around valuable prehistoric ruins). Cultural resource information should be readily available in GIS or comparable data formats for easy access and use by IC planning teams and resource advisors. Heritage specialist roles as resource advisors are described in *Resource Advisor's Guide for Wildland Fire* (2004) published by the National Wildfire Coordinating Group (USDA, DOI and National Association of State Foresters).

Post-suppression activities involve the assessment of the actual damage or potential threats to cultural resources caused by: 1) wildfire; 2) suppression activities, including construction of fire line construction and related support facilities; and 3) post-fire flooding and hydrologic events.

Burial and seeding of fire suppression line begins during the earliest stages of fire mop-up. Suppression line in "high site probability" areas may be inventoried by heritage specialists to insure that burial of fire line does not cause further damage to any newly exposed cultural resources. There is rarely time or resources to inventory all of the suppression line, helicopter landing, cleared safety zones, and other areas that have been disturbed during fire suppression. Heritage professionals may recommend a treatment to the IC that reduces impacts to cultural resources, such as repairing suppression line in disturbed cultural resources to be repaired with

hand-crews or lighter mechanical equipment. These post-suppression heritage program activities are charged to the appropriate budget code for the wildfire incident.

The purpose of Burned Area Emergency Recovery (BAER) is to identify cultural resources that are threatened by hydrologic (flooding, erosion) events in the aftermath of a wildfire. This assessment is targeted at known or suspected cultural resources, usually located along watercourses where severe flooding and erosion events are mostly likely to occur. BAER policy and guidelines prohibit cultural resource inventory outside of areas not threatened by imminent post-wildfire hydrologic events. A designated FS or interagency team completes the BAER assessment under a very tight time frame (1-2 weeks). Heritage professionals may propose measures to stabilize and armor clearly threatened cultural resources, such as a creek-side prehistoric masonry ruin located at the mouth of a severely burned canyon. Funding for cultural resource protection under BAER is not always assured since budgets are based on overall wildfire recovery needs. These heritage program activities—assessments and protective actions—are charged to the appropriate BAER code for the wildfire incident.

Heritage professionals are responsible for monitoring the long-term effects of wildfire on cultural resources, including their vulnerability to erosion and slumping, downed and wind-thrown burned timber, flooding, and looting and artifact collecting. Cultural resource degradation may lead to abatement measures, such as sawing down burnt timber that is threatening to blow down atop a fragile rock cairn or masonry ruin. Because of the ground exposure (once the ash has settled and washed away, but before vegetation grows back), sample-based field survey within the burn area is frequently rewarding. Numerous examples now exist of post-fire surveys revealing extensive but previously unknown archaeological properties, some of great significance. These activities are charged to the heritage program as necessary stewardship and protection work.

4.44 – Stabilization, Rehabilitation, Restoration and Interpretation. Active management and use of historic properties is an important way to meet protection goals and objectives. These various activities arrest and correct short- and long-term structural and maintenance problems and allow for public enjoyment, educational opportunities and beneficial use. They also establish a FS presence at significant cultural resources and demonstrate agency concern for their appropriate management. Heritage program funding usually supports these types of activities. These activities are described below in Section 4.5 STEWARDSHIP.

4.45 – Relocation. Some especially vulnerable or threatened cultural resources can be relocated with a minimal affect on their inherent significance. This method is largely limited to structures and some forms of rock art, particularly boulders containing petroglyphs. Relocation of buildings and structures is usually expensive and requires special skills and equipment. This will involve only highly significant historic properties. The views of the SHPO, Tribes and interested parties will need to be considered when planning to relocate prehistoric and historic properties. Efforts to relocate properties should be carefully planned and should include a consideration of alternative conservation methods. The cost of relocation of a cultural resource would usually be borne by the heritage program unless a specific undertaking or activity is the reason that this mitigation action is being considered.

4.46 - Burial and Camouflage. Certain kinds of archaeological sites can be hidden from public view by burying them under soil padding, screening them with vegetation, or otherwise making them obscure in the landscape. The precise boundaries and content of cultural resources targeted for burial should be known and recorded. Filter cloth or a similar durable fabric should lie between the archaeological deposit and the soil padding. This treatment should be “reversible”; that is, the padding could be safely removed at some future point with little harm to the cultural resource. Vegetation screening is less invasive but will discourage public interest and access. Burial and camouflage will likely be used in combination with other protection measures at highly sensitive or threatened sites. Heritage program funding usually covers the cost of these treatments unless precipitated by a specific undertaking in another FS program.

4.47 – Adaptive Reuse. Administrative or public use of historic structures is an important conservation measure that should be considered before selecting more potentially invasive methods such as relocation. Adaptive use will usually require building rehabilitation or restoration (see Section 4.7 below). Adaptive use is typically focused on historic buildings (for example, cabin rentals) but it also pertains to historic structures or features that can be incorporated into an interpretive development—as part of a museum, kiosk, sign or exhibit.

4.48 - Recordation and Data Recovery. Historic properties under on-going and continuous human-caused or environmental damage may be targeted for recordation and data recovery. These should be used as a last resort when all other protection alternatives are not adequate or feasible to protect and conserve their integrity. Data recovery and building-structure recordation requirements are described in Section 4.1n above.

4.49 – Monitoring, Detection Devices and Patrols. These protection and conservation treatments should be considered on a case-by-case basis. The success of the treatment (or not) should be actively monitored and documented by heritage professionals. Necessary adjustments or changes should be made when a specific treatment is not working.

4.5 – STEWARDSHIP. The responsibilities for furthering the purposes of NHPA are defined in Executive Order 11593 (1971), which directs federal agencies to administer cultural properties under their control in the spirit of stewardship for future generations.

Stewardship consists of systematic, responsible management actions designed to recognize, conserve and enhance significant heritage properties for agency and public benefit in perpetuity. These goals and objectives are identified in the Forest Plan, Cultural Resource Overview and historic preservation plans for individual properties or classes of properties (see FSH 2309.12, Planning). Beyond assuring cultural resource protection from agency land use decisions and environmental processes, the agency is responsible for implementing a program of activities designed to designate and recognize, restore and enhance, and interpret and use cultural resources.

4.51 - Special Designation and Recognition. Sections 106 and 110 of the NHPA require all federal agencies to maintain programs to nominate to the National Register of Historic Places heritage properties that they own or control. The Forest Service may also nominate properties as National Historic Landmarks and pursue other local, state, national and international recognition

for highly valuable historic properties and Priority Heritage Assets. All of these designations enhance the visibility of historic properties and help to integrate cultural resources into forest planning and land use decisions.

4.52 - National Register of Historic Places. National Register nomination is the final step in the cultural resource evaluation (Determination of Eligibility) process described in FSH 2309 Chapter 3.3. National Register-eligible and National Register-listed historic properties are afforded the same legal consideration in agency planning and management. The decision to formally nominate a historic property to the National Register is contingent on its characteristics, significance and management allocation. Nomination of a historic property to the National Register does the following:

1. Provides formal (internal and external) recognition of a significant historic property located on National Forest System land.
2. Provides a thorough and detailed understanding of a historic property's value, context and integrity (determinations of eligibility statements frequently do not contain this amount of detail).
3. Highlights the importance of a historic property in agency planning, land use allocation, and management.
4. Meets legal requirements under NHPA to nominate significant properties to the National Register.

4.52a - National Register Guidelines. National Register nomination can be a lengthy and time-consuming process. Priorities for nomination should be established which consider the following:

1. Properties should be nominated in order of their importance and in accordance with allocation (i.e. long-term preservation and protection).
2. Properties should be nominated that are intended for long-term retention through preservation and protection.
3. Consideration should also be given to nominating properties in groups according to historic or cultural themes or associations.
4. Properties that are of marginal significance and would normally be subjected to data recovery when threatened should not be nominated.

Where documentation of a property is necessary for interpretive purposes or as part of the planning process, combine it with nomination requirements and avoid redundancy.

4.52b - National Register Formats. The NHPA recognizes five types of heritage resources eligible for listing in the National Register, and nominations should be submitted in one of these categories: district, site, building, structure, or object. Properties may be:

1. Nominated and listed individually using the National Register of Historic Places Registration Form (NPS-10-900) or
2. Nominated and listed collectively in a multiple property format using the National Register of Historic Places Multiple Property Documentation Form (NPS-10-900-b) if all included properties are historically, culturally, or geographically related. Each district, site, building, structure, or object in a multiple property submission must meet the National Register criteria.

A Multiple Property Documentation is a covering or overview document and is not a nomination in its own right. It serves as a basis for evaluating the National Register eligibility of related properties according to themes, trends, and patterns of history shared by the properties. It may be used to nominate a large number of related historic properties simultaneously, or to establish the registration requirements for properties not yet identified or documented but expected to be nominated in the future. (See NPS Bulletin 16).

4.52c - Qualifying Properties and Nomination Boundaries. A National Register nomination should clearly describe and state the significance of the nominated property as it relates to the National Register criteria. A nomination form should identify which resources within the nominated area contribute and do not contribute to its significance (NPS Bulletin 16A). Properties should be nominated to the National Register with defined boundaries that encompass, but do not exceed, their full extent. The registered area should be large enough to include all historic features but should not include buffer zones or acreage not directly contributing to its historical significance.

The Forest Service may nominate properties where a portion of the property is not under federal ownership or control but is an integral part of the heritage resource. Such submissions should be handled under procedures for concurrent nominations as outlined in 36 CFR 60.10, "Concurrent State and Federal nominations."

4.52d - Objects and Collections. NHPA specifies that historic objects, along with buildings, districts, sites, and structures, are to be included in the National Register. Because the National Register criteria require integrity of location and setting, and because of the practical difficulties of encompassing the volume of potentially eligible objects and collections, the National Register limits individual listing of objects to relatively large, fixed features that remain in their historic settings (as opposed to museum contexts).

Frequently, however, objects and collections are associated with and contribute to the significance of sites, buildings, structures, or districts qualifying for National Register listing. Such place-related and Forest Service-controlled historic object collections should be described and evaluated in the National Register forms documenting the contributing features of their

associated properties. The significance statement of the National Register form must assess the collections' value in relation to the property in terms of the National Register criteria.

4.52e - National Register Nomination Procedures. The procedures to be followed in nominating properties on federal lands to the National Register are in 36 CFR Part 60, as follows:

1. Completed nominations for forest heritage properties, which have been approved by the Forest Supervisor, are submitted to the State Historic Preservation Officer (SHPO) and concurrently to chief elected local officials of the county or equivalent government unit and municipal political jurisdiction in which the property is located.
2. If the SHPO and local officials concur with the eligibility recommendation, nominations are submitted to the Regional Forest Service Federal Preservation Officer (FPO) for review. Technically or professionally deficient nominations are returned to the Forest Supervisor. Acceptable nominations are submitted by the FPO to the Keeper of the Register, who must act on the nomination with 45 days of receipt.
3. The National Register provides notice in the Federal Register that the nominated property is being considered for listing in the National Register. In approved, the nomination will be included in the National Register within 45 days of receipt by the Keeper.
4. When a property does not appear to meet the National Register criteria for evaluation, or exhibits technical or professional deficiencies the nomination will be returned with an explanation as to why the property does not meet the National Register criteria for evaluation or has not been accepted to the Register.

The National Register encourages federal and state historic preservation officers to cooperate in locating, inventorying, evaluating and nominating properties that extend beyond Forest boundaries and are in non-federal ownership. These procedures are outlined in 36 CFR 60.6 and 60.10. Various guidance documents are provided by the Keeper of the Register, National Park Service.

4.52f - Protection of Sensitive Information in National Register Nominations. In accordance with Section 304 of NHPA, National Register nomination information about property ownership as well as location or character may be withheld if disclosure would cause a significant invasion of privacy, impede the use of a traditional religious site by practitioners, or risk harm to the historic resource. The Secretary of the Interior has delegated lead responsibility for implementing Section 304 to the Keeper of the National Register. Nominations must therefore be treated with the same confidentiality as other cultural resource records.

See 2309.12 - Exhibit 01

4.53 - National Historic Landmarks. National Historic Landmarks (NHL) are the Nation's only officially recognized nationally significant historic properties. These properties are designated in accordance with 36 CFR Part 65.4 and National Register Bulletin No. 16. The National Park

Service maintains the National Historic Landmarks inventory. The NHL criteria, while similar to the National Register criteria, set substantially higher thresholds for evaluating significance. Evaluation and listing of a heritage property as a National Historic Landmark is the prerogative of the National Park System Advisory Board. The National Register maintains the inventory of properties referred for Landmark consideration in its National Register Information Systems (NRIS) database and property files.

The FS does not need to apply the Landmark criteria when evaluating heritage properties. With the concurrence of the SHPO, and the recommendation of the Forest Service Federal Preservation Officer, a site may be submitted to the National Register staff for review as a potential National Historic Landmark. If the National Register staff concurs in the property's national significance, the nomination is referred to the National Historic Landmarks staff for consideration.

The protection and management of National Landmarks is guided by cultural resource source plans similar to HPPs. Heritage specialists with the National Park Service produce these plans in consultation with the federal agency responsible for managing the lands on which the National Landmark is located. In the case of National Forest System lands, it is incumbent on the forest heritage specialist to provide archaeological and historic context, inventory and evaluation data, and related cultural resource information to the Park Service when such a plan is formulated. Beyond nominating a property as a National Landmark, Line Officers and heritage specialists should assist in the development or revision of the property's management plan.

4.54 - Congressional and Presidential Designations. The Congress, through legislation, and the President, through Executive proclamation, may designate places that are distinguished for their historical importance (National Historic Trails system, National Monuments). Such areas are managed according to the particular requirements in the legislation or proclamation that designated them.

There may be no direct connection between special congressional and presidential designations and the application of the National Historic Preservation Act or Historic Sites Act. Consequently, significance relative to the National Register of Historic Places will need to be established separately.

Where a proposed undertaking would potentially affect a specially designated place such as a National Monument or a National Historic Trail, the first step is to determine if it is listed in the National Historic Landmark inventory or the National Register, as follows:

If the property is listed in either inventory, the cultural resources specialist must determine if the portion of the property to be affected is a contributing part of the property. Applying the National Register criteria for evaluation and assessing integrity to that portion of the property determine this. If the area or features appear to be contributing and the monument or the trail is a National Historic Landmark or listed in the National Register of Historic Places at the national level of significance, then the SHPO and the Advisory Council should be consulted.

If the monument or trail is not a National Historic Landmark or listed in the National Register of Historic Places, but the portion that would be affected appears to be eligible in its own right or to contribute to an eligible historic property, then the area or feature should be evaluated as eligible for the National Register and treated as such. If it is neither eligible in its own right nor as a contributing property, then the portion that would be affected should not be considered a historic property as defined by the National Historic Preservation Act.

4.56 - State, Local, and Tribal Designations. Properties designated as historically or culturally significant by non-Federal entities, such as state and local governments or Indian tribes, do not automatically attain National Register eligibility or status because of such designations. Where a proposed undertaking would potentially affect a specially designated place such as a state historic register property or a community commemorative site, the first step is to determine if it is listed in or eligible for the National Register. Base upon the findings appropriate procedures to comply with the NHPA will be implemented.

4.57 - United Nations Designations. The World Heritage List was established under terms of The Convention Concerning the Protection of the World Cultural and Natural Heritage adopted in November 1972 at the 17th General Conference of UNESCO. The Convention publishes a World Heritage List of cultural and natural properties, which are submitted by the States Parties and considered to be of outstanding universal value.

There may be no direct connection between special congressional and presidential designations and the application of the National Historic Preservation Act or Historic Sites Act. Consequently, significance relative to the National Register of Historic Places will need to be established separately

4.6 – MAINTENANCE STANDARDS. Executive Order 11595 requires that National Park Service standards be used to maintain National Register eligible or listed properties on federal land, including buildings, structures, features and ruins. Maintenance objectives and standards should be included in historic preservation plans and/or related cultural resource planning documents. The following terminology is used:

4.61 – Preservation. Either before or after restoration or rehabilitation, preservation is the application of measures to sustain the form and extent of a structure essentially in the existing state. Its intent is to halt further deterioration and provide structural safety but does not contemplate significant rebuilding. This is often referred to as “arrested decay”. Traditional cultural properties, sacred sites and some exceptionally rare heritage properties will be maintained for preservation. When vandalism or other site/area degradation is observed, law enforcement, repair and stabilization and related treatments may be required.

Either before or after restoration or rehabilitation, a structure and its environment will be satisfactorily preserved when:

1. All physical evidence and objects related to it are preserved and recorded. The provenance of items removed for protective storage will be labeled.

2. Normal housekeeping and minor repairs that are carried out on a regular basis do not change or adversely affect the fabric or historic appearance.
3. Measures have been taken to arrest or slow deterioration of the historic fabric.
4. Measures have been taken to control vegetation growth in the historic environment.
5. Items requiring periodic replacement, such as paint or roof coverings, are replaced in-kind unless a change is required to return to the historic appearance.
6. No attempt is made to create a ruins out of a whole structure.
7. Intrusions such as roads and necessary utilities do not seriously affect the historic integrity of the structure or its environment.
8. Natural accretions of time, such as forest growth, are retained unless they are incongruous intrusions on the historic scene or seriously hamper visitor understanding.

4.62 – Rehabilitation. This is process of returning a structure to a state of efficiency by major repairs or alterations so that it will serve a useful purpose. It provides that portions of the structure (external, internal, or in combination), which are important in illustrating cultural values, are preserved or restored. A historic property will be satisfactorily rehabilitated when:

1. Its historical significance and use allocation does not justify full restoration.
2. Its condition and allocated use precludes preservation in its existing form.
3. Every reasonable effort is made to provide a compatible use that will require a minimum alteration to the structure.
4. Major alterations do not destroy those portions of the structure that are important in illustrating cultural values.
5. Installation of modern utilities and other appliances is designed for a minimum intrusion on the historic scene and appropriate respect for the historic fabric.
6. Removal of the historic fabric is held to a minimum and is consistent with its allocated use.
7. A record is made of physical conditions and design prior to rehabilitation.
8. Such work does not create ruins out of a whole structure, such as removing the roof and windows to display only walls.

4.63 – Restoration. This is the process of accurately recovering, by the removal of later work and the replacing of missing original work, the form and details of a site, structure, or part of a

structure, together with its setting, as it appeared at a particular period of time. Restoration may be full or partial and may be combined with rehabilitation.

Full restoration is adopted when the entire building and structure, and its component features, are historically significant and is representative of a cultural pattern or lifeway, architectural style or efforts of a master craftsman. Both the building interior and exterior are restored.

Partial restoration is adopted when only parts of a structure are important in illustrating cultural values or contribute to the values that make the historic property significant. The interior and exterior, or any part thereof, are restored.

Adaptive Reuse is adopted for buildings whose historical value can best be preserved and maintained by adapting it for modern functional use. The exterior is authentically restored while the interior is modified for functional use to achieve its management allocation and purpose.

A historic property is considered properly restored when the following conditions have been met:

1. Adequate documentary and physical evidence remains to accurately recreate the visual historic conditions.
2. A documented and graphic record of existing conditions has been prepared.
3. A documented and graphic report showing the proposed work is prepared.
4. Proposals include techniques necessary to reproduce accurate design, color, and texture.
5. Steps are taken to preserve remaining original fabric.
6. Man-made features introduced after the date or period of the event commemorated are eliminated unless compatible with the historic property and setting are not an impediment to public understanding of the property.
7. To the extent deemed practical and desirable for public understanding, elements of the historic setting are restored, including man-made features, vegetation, and historic land uses.

4.64 - Ruins Preservation. This concerns treatment of historic or prehistoric ruins (structural remains with or without roofs) when:

1. Done according to an approved plan by qualified professionals.
2. Completes only necessary treatment consistent with its intended use.
3. Conforms to the structure's original appearance.
4. Conceals all new structural material is from view.

5. Does not significantly alter or add architecturally where there is no scientific evidence for such alterations or additions.
6. Recordation and photography before treatment, work in progress, and of completed work (with a descriptive narrative including methods and materials used) are completed.

4.65 - Maintenance Consultation and Planning. The operation, repair and maintenance of historic buildings, structures and ruins may have an effect on properties listed in or eligible for inclusion in the National Register pursuant to 36 CFR 800.13. Case-by-case consultation with the SHPO, Council, THPO, tribes and interested parties may be necessary for maintenance work unless otherwise carried out under an existing State Programmatic Agreement. Under State Programmatic Agreements, some minor or routine maintenance work may be categorically excluded from Section 106 consultation.

Historic preservation work on historic buildings, structures and ruins should be completed in strict accordance with a Treatment Plan and Scope of Work approved by the Forest Supervisor, or a delegated authority. Whether Forest Service employees, private contractors, public volunteers, or some combination implement the required treatments, all work should be directed and supervised by qualified historic preservation specialists (Historical Architect, Master Craftsman, Master Carpenter, or Archaeologist).

Treatments should be monitored during the project and work accomplishments reported to the SHPO following protocols in 36 CFR 800.9 or under State Programmatic Agreements.

4.7 – ADAPTIVE REUSE. Historic properties that have been restored or rehabilitated should be considered for agency or agency-permitted uses that extend their use-life and derive agency and public benefits. Adaptive reuse should serve administrative, recreational, educational, economic, social or other purposes essential to the mission of the Forest Service, in accordance with these guidelines:

1. Designated use is consistent with the affected property's use allocation and the goals and objectives in an approved heritage property preservation or management plan.
2. Necessary building or structural alterations do not compromise the integrity of the features that make the property historically significant and are done in accordance with the Secretary of Interior's Standards and Guidelines.
3. NHPA (Section 106) consultations with the SHPO, Council and other interested parties are successfully completed, unless otherwise allowed under a State Programmatic Agreement.
4. Rehabilitation and use complies with all other Forest Service laws, policies and/or regulations in design, construction, use and maintenance.

5. Adaptively reused buildings and structures are managed as an agency asset (“federal real property”) in accordance the requirements of Executive Order 13327, Federal Real Property Asset Management (2004).
6. The historical significance of forest adaptively reused administrative and recreation facilities will be considered in engineering, recreation, administrative or other routine or periodic reviews and assessments of forest facilities under Executive Order 13327 or other agency directives, policies and protocols.
7. The inclusion of adaptively reused historic properties, such as cabins and lookouts, in the public rental (recreation) program usually will require a business plan and related documentation. Monies derived from fee generation should be applied back to the affected facility(s) to meet annual operations and long-term maintenance needs.
8. National Register eligible or listed buildings being considered for transfer of surplus Federal property will be reviewed in accordance with the procedures in Section 110 (d) of NHPA.

4.8 – CULTURAL RESOURCE INTERPRETATION. A heritage property may be suitable for public interpretation consistent with its use allocation and management goals and objectives in a completed historic preservation plan. Interpretation (and public presence) may be an effective method to abate vandalism and other depreciative behavior at some historic properties. Interpretation is one aspect of the agency’s Public Outreach and Education program for cultural resources. Heritage interpretation may involve the construction or use of trails, buildings, signs and kiosks, and exhibits. Interpretive development or use that directly involves heritage properties should:

1. Comply with Forest Service laws, policies and/or regulations in design, construction, use and maintenance.
2. Be aesthetically and functionally appropriate to the environmental, recreational or social setting in which it is located.
3. Be historically accurate and culturally sensitive.
4. Provide educational, recreational, economic or other public benefits.

Consultation with the SHPO, THPO, tribes and other interested parties may be necessary if an interpretive development modifies or affects the values of a National Register eligible or listed properties.

Partners, volunteers, tribes, other agencies and interested parties may be involved in the development of an interpretative project.

Heritage interpretive facilities, including buildings, structures, signs, and kiosks, will be managed as an agency asset (“federal real property”) in accordance the requirements of Executive Order 13327, Federal Real Property Asset Management (2004).

Historical, archaeological or archival collections used, in part or whole, in any interpret facility or exhibit will be used in accordance with the Heritage Collections guidelines in FSM 2360.heritage collections.

4.9 – SCIENTIFIC RESEARCH. The primary value of many heritage properties, especially archaeological sites, is the information they contain about past human cultures and the environment. These properties may be studied or conserved (“banked”) for future scientific study as new recovery techniques and laboratory methods are developed. Forest Supervisors, or a delegated authority, may allow for scientific research and investigations for a specific heritage property or class of properties provided that it:

1. Derives a tangible agency or public benefit.
2. Receives appropriate SHPO, Tribal or other interested party review and consultation.
3. Is legally permitted and authorized
4. Is completed and documented in a professional and timely manner.

This potentially consumptive use of cultural resources must foster greater understanding and appreciation of past human cultures and environment and/or engender better stewardship of cultural resources.

Historical, archaeological or archival collections obtained during the course of these investigations will be catalogued, labeled or otherwise designated by the authorized investigator and managed by the Forest Service in accordance with the Heritage Collections guidelines in FSM 2360.heritage collections.

## CHAPTER 5 – PUBLIC EDUCATION & OUTREACH

- 5.01 - Authority – See FSM 2360.1
- 5.02 - Objectives – See FSM 2363.02
- 5.03 - Policy – See FSM 2363.03
- 5.04 – Responsibility – See FSM 2361

5.1 – PUBLIC EDUCATION AND OUTREACH. Public education and outreach is an essential component of the FS heritage program. Under the general framework of the *Windows on the Past*, national forests and grasslands may engage agency employees and the public in a variety of programs and activities that protect, repair, restore, enhance and interpret cultural resources. These activities help the FS to meet its stewardship obligations under NHPA Section 110, ARPA, and EO 13287-Preserve America. In broader perspective, public education and outreach through the heritage program engenders a spirit of volunteerism on federal lands and creates better understanding of FS land management activities practices.

5.2 – IDENTIFYING PUBLIC EDUCATION AND OUTREACH OPPORTUNITIES. Public education and outreach goals and objectives should be integrated into agency land management planning. Forest and grassland planning should identify the public demand for places to visit and learn about cultural resources and identify interpretive and public use opportunities. State and local tourism data provide one means of assessing public interest and demand. Recreation and other FS visitor surveys may also provide this type of information. Cultural resource interpretation, tourism and education opportunities should be identified in heritage program strategic plans and cultural resource overviews, and reflected in cultural resource management allocations and prescriptions. Cultural resource public outreach and education goals and objectives should be incorporated into forest or grassland Interpretation and Education (I&E) and Conservation Education programs, if they exist. In essence, heritage professionals must be at the table with heritage program public education and outreach ideas, issues and opportunities during all facets of agency planning.

5.21 – Heritage Program Planning. Heritage professionals should identify the main cultural themes and opportunities represented by cultural resources on their forest, grassland or planning area. This may be done in conjunction with developing a unit public education and outreach or interpretive plan. Heritage program strategic plans, cultural resource overviews, historic property plans, and related documents should include this broad vision and desired future condition for cultural resources. It should provide specific recommendations for developing those themes through a diversity of public outreach methods, opportunities and actions. Without this broad thinking and vision, followed by specific recommendations, it will be very difficult to formulate an effective plan.

Historic Property Plans (see FSM 2362.33, FSH 2309.2xx) are the perfect place to nail down the long-range vision, desired future condition, goals and specific actions that have a public outreach and education component, involving interpretation, education, and volunteerism (see Exhibit XX).

Exhibit XX: Example of a Vision and Desired Future Condition Statement (this is just an idea, it can be deleted or shortened, it comes from an actual HPP).

**Vision and Desired Future Condition  
Charter Oak Mine and Mill (24PW476)  
Powell County, Montana**

Abandoned mine reclamation work is complete at Charter Oak. This effort has cleaned up the toxic waste and made the site safe for public visitation with some necessary cautions. During mine reclamation, non-historic trailers, equipment, and refuse—all dating to after 1960—have been removed to a local landfill. Waste rock has been removed from around some buildings, drainage ditches route water away from buildings, and access roads and the parking area have been improved. These actions were identified as benefiting mitigation measures in the memoranda of agreement prepared for the Montana SHPO as part of the Section 106 review for mine cleanup projects.

The Charter Oak Mine is recognized locally and regionally as a historic mining site well worth visiting. A site brochure is available in Forest Supervisor Offices, Ranger Stations, state, county and local (i.e., World Museum of Mining) museums, Chambers of Commerce, and other historic mining sites throughout Montana. Visitation schedules are clearly printed in the brochure, and Charter Oak is identified on FS road signs in the Little Blackfoot drainage. Helena NF information assistants and employees are likewise knowledgeable about Charter Oak and when it is open for public visitation.

The Charter Oak Mine's important role as a World War II "strategic metal" producer is documented in a formal National Register of Historic Places nomination. Site stabilization efforts are directed at preserving the mine's Depression–World War II-era integrity and character. Forest heritage personnel have interviewed people related to or knowledgeable of the mine operators—the Hopkins and Bonner families and later leasers. The nomination and various research documents form the backbone of the stabilization and interpretation plans.

Site stabilization has been active since 1997, and a number of buildings have been treated. The treatment schedule is based on building condition assessments and a stabilization plan prepared by Helena NF staff and members of the R-1 Historic Preservation Team. Their immediate focus is on the industrial buildings containing intact mining equipment. Treatments have included in-kind repair or replacement of roofs, windows, doors, sill logs and foundations, lower walls, steps, railings, and landings. Preservative has been applied to some buildings. Areas and buildings unsafe for public access have been boarded or fenced off and signed accordingly. The stabilization work has been accomplished on an opportunistic basis with Passport in Time and local volunteers and with grant and appropriated heritage and CIP funding. These stabilization and volunteer efforts have been recognized in local media and have attracted much interest in this project. The Region 1 Historic Preservation Team uses Charter Oak occasionally as a hands-on training center.

Interpretive kiosks and professional-quality signs have been constructed at Charter Oak at strategic points identified in the interpretive plan. The interpretive plan has both a technological and human dimension. A platform has been placed near the mill load-out to deter people from walking atop it and to provide a vista point at the top of the mill complex. Interpretive signing at the vista point describes the old tram system atop the waste rock dumps, as well as the former mill tailings on the floodplain and their cleanup. Simple wood signs also identify equipment both inside and outside the buildings. An interpretive trail has been developed on the site. Metal signposts on the trail route are keyed to a self-guided brochure. The main residence cabin has been entirely gutted and refurbished with only simple wood flooring. Interpretive displays showing mining artifacts are housed in this building. All site interpretation has been identified in a well-thought-out interpretive plan. Interpretation is integrated in design theme and style to other FS mining sites in Region 1.

A new toilet has been built on-site near the old one behind the main residence cabin. A well and pump have been installed for fire protection and to accommodate Site Stewards and site visitors. Several picnic tables and garbage containers are located on the site in the aspen grove near the main cabin and kiosk, and near the compressor shed above the mill, for the comfort of families and tour groups. A small walking path to the Little

Blackfoot River allows small children to wade while part of their group tours the site. Fisheries biologists and other specialists have been involved in the location of this small river access trail.

The access road to the Charter Oak Mine is open only for administrative use—when Charter Oak is open for public visitation during the summer months. Several FS-trained Site Stewards, recruited from the local area, manage public visitation during the summer months under the supervision of the Forest Archaeologist. They are knowledgeable of historic mining and enthusiastically lead tours upon request. They are guardians of the site and work under the direct supervision of the Forest Archaeologist and the Helena Ranger District. Space is available behind the residence cabin to park the Site Steward’s camper truck or RV. In addition to “walk-in” visitors, the Helena NF heritage staff accommodates a variety of special tours and education programs for school, historical, and civic groups throughout the year when the site is snow-free.

A “Friends of Charter Oak Mine” group, whose membership is derived from the communities of Avon, Elliston, Deer Lodge, and Helena, assists in the planning and implementation of stabilization, interpretation, and education projects. Their partnership has been critical in seeking grant funding to complete needed projects. The Helena National Forest Foundation is likewise instrumental in drawing attention and funding to the Charter Oak project. Collaboration and communication is critical, and Helena NF staff work closely with other agencies and entities managing significant historic mining sites across the state.

**5.21 - Heritage Opportunity Spectrum [Reserved]**

**5.3 – RELATIONSHIP TO MANAGEMENT ALLOCATIONS.** The best guide for identifying public outreach and education opportunities is the Management Framework described in FSM 2363.3 and FSH 2309.xx). The Enhancement category identifies cultural resources that are most appropriate for public education and outreach through interpretation, continued use, or adaptive reuse. With the exception of the Preservation category concerning traditional cultural properties and sacred sites, there are public outreach and education opportunities in all management categories. In this sense, management categories provide numerous public outreach and education opportunities that benefit the public. The following table illustrates examples of public benefit derived from cultural resources allocated to each use category.

**Exhibit XX:**

Category	Public Benefit
Preservation for Traditional Use, TCPs and Sacred Sites	The group using the property for traditional purposes benefits from that use. Examples: Continuation of traditional religious ceremonies; collection of materials for traditional purposes like basket making, medicinal plants, etc.
Preservation of Rare & Unique Sites or Features	Current and future scientific or general visiting public will benefit from the opportunity to study and visit these, curious and sometimes unexplainable properties.
Preservation for Future Research	Future scientific public will have the opportunity to apply improved investigative technology and explore new research questions.
Enhancement for Interpretation	General visiting public benefits from access to property and information about its history.
Enhancement for Continued Use or Adaptive Reuse	FS benefits from continued use of historic properties as working administrative units. General visiting public benefits from adaptive reuse of historic properties as visitor centers, living history museums, recreation rentals, etc.
Scientific Investigation	Scientific public benefits from new data extracted from historic properties. General public benefits from new information presented in popular media as a result of new scientific data. FS benefits from environmental data extracted from archaeological excavations.

5.4 – WINDOWS ON THE PAST. Windows on the Past is the umbrella program for FS heritage education and outreach programs. It encompasses a diversity of programs and activities at the national, regional and forest-grassland levels.

5.41 - Passport in Time. Passport in Time (PIT) is the heritage program's most widely known and appreciated public education and outreach program. It is an optional volunteer program. The verbs 'must' and 'shall' in the following handbook section apply only when the responsible official has chosen to employ PIT as a means to accomplish heritage stewardship goals.

5.41a – PIT Roles and Responsibilities. Heritage Specialists are the PIT project leaders and are responsible for proposing, funding, and supervising PIT projects on their FS unit. The funding source will depend on the purpose of the PIT project and the activities conducted during the project. If the work is in support of a FS or FS authorized project and is being done as part of NHPA Section 106 compliance, the resource program benefiting from the support will fund the PIT project or that part of the PIT project that is in direct support of the undertaking. If the PIT project is in support of NHPA Section 110 resource stewardship, the funding source will be NFRW.

The FS Washington Office (WO) provides support for PIT through a volunteer clearinghouse under a participating agreement. The WO also provides incentives such as the moose logo pins, a PIT banner, and the passports.

The PIT Clearinghouse provides:

1. Volunteer support:

- A. 24-hour 800 number for information
- B. Receipt and acknowledgement of project applications
- C. Notification of volunteers who are not accepted on projects including a list of projects still open (Project leaders select their volunteers and notify those selected.)
- D. Maintenance of the PIT website listing all current projects nation-wide and including reports of past projects and human interest stories

2. Agency/Project Leader Support:

- A. Acceptance and review of PIT project proposals for listing on [www.passportintime.com](http://www.passportintime.com).
- B. Posting of PIT projects on [www.passportintime.com](http://www.passportintime.com)
- C. Distribution of volunteer applications to the hosting forests
- D. Project specific timeline including when the applications are due, when the project leader must select volunteers, when they will receive project materials (below), and when they should report volunteer hours after the project is completed.
- E. Distribution to hosting units of PIT project materials including passports, pins, patches, rubber stamp, and banner
- F. Maintenance of databases including volunteer hours/value, PIT projects, volunteer mailing list for hard copy project listings
- G. Quarterly reports of contributed hours by project, field unit, and year.

5.41b - General PIT Guidelines. The PIT program is structured under the following national guidelines:

1. The primary goal must be to provide education and resource awareness to the volunteers, not simply to get a project done. Of course, volunteers will help you achieve program goals such as identification, evaluation, mitigation, and enhancement, but primary consideration must be for the volunteers' educational experience. Not every research project lends itself to public involvement.
2. A PIT project should not be an activity for which you have a tight deadline. Doing NHPA 106 compliance is OK within PIT, but just not with tight deadlines. In other words, there is no guarantee what volunteers can accomplish in a given period of time.
3. A trained archaeologist, historian, or preservationist must be a direct supervisor of the volunteers. The ratio of supervisors to volunteers varies according to activity, but a general rule is one professional to four volunteers.
4. All volunteers must sign the "Agreement for Individual Voluntary Services", FS 1800-7.
5. Maintain a FS presence at the project at all times. The public expects to work with agency professionals and we want them to know their tax dollars are being wisely spent in ways they can directly enjoy.
6. If your project is carried out in cooperation with a university field school or by a contractor, it is best if you are on-site as the volunteer coordinator. If that is not possible, make sure the field school director or contractor is fully aware of the goals of PIT and is supportive. That person is representing the FS when you are not present.
7. Do not overlook NHPA consultation with State Historic Preservation Officers and American Indian groups for PIT projects involving activities requiring such consultation.
8. Search for opportunities to involve diverse groups in your projects. For example, Tribal involvement greatly enhances volunteers' experience and offers Tribes an opportunity to educate the public. Projects involving subjects such as the Underground Railroad or Basque history expand public awareness about our diverse history, and attract diverse populations as volunteers.
9. Write up the results of your project as soon as possible. This is standard professional procedure, but a summary of results should also go to your volunteers and to any media who covered your project. An informal report, showing how the work produced new scientific information or resulted in better management of historic resources, is an excellent way to illustrate the benefits of PIT internally and to show your volunteers how they have contributed to the preservation of cultural sites.

10. Natural disasters and situations that might put volunteers in jeopardy are reasons to cancel a project; transfers of project leaders, increased workloads, and last minute lack of funds are not. PIT is advertised nationally, offering an experience to visitors to the national forests and grasslands. If we advertise it, we must provide it. If you think there is a chance you will suffer budget cuts, workload increases, or personnel decreases, perhaps it is not the best time to plan a PIT project.
11. Sometimes the best-laid plans fail. Designate an alternate project leader who can take over should you transfer or for some reason be unable to carry out your project leader responsibilities. Get line officer's support, including commitment to funding should the planned funding disappear.

5.41b - Types of PIT Projects. Because PIT is a tool to accomplish heritage stewardship projects, the rules are flexible to allow individual units to design projects that meet their management goals and their local communities' interests. The different types of projects allow PIT project leaders to engage volunteers in a variety of ways.

The PIT project leader must fill out a proposal on-line (see 6.36 below) for all types of projects. There are no exceptions. Submitting a proposal on-line automatically adds the project to database and provides a means for the CH to count volunteers' contributions.

1. Standard PIT project: Submit the project on-line according to the schedule below and it is posted on the website.
2. Non-advertised PIT project: If you have a group of local volunteers or a specific group who wants to do a PIT project together (e.g. teachers or girl scouts), and you don't want to open the project up to others via the website, submit a proposal on-line and indicate "Not advertised" at the top of the form. You do not need to adhere to the project-posting schedule in 6.36 below.

Non-advertised PIT projects should be the exception, not the norm because the idea behind PIT is to expand awareness and involvement. You might consider augmenting local volunteers with volunteers recruited through the website. See specific instructions in 6.38a – Proposing your PIT Project. You could also host two sessions of the same project, one for local volunteers or specific groups and one advertised via the website for the general public.

3. Carry-over PIT project: If volunteers continue to work after a project is over, you may continue to count their hours. Report the hours by individual volunteer to the CH and note which project they are continuing to work on so the CH will know where to record their hours.
4. On-going PIT project: If you have an individual or individuals who help you periodically all year long, you may count their hours as PIT contributions. In order to log their hours,

the CH must attach hours to a project, so submit a general proposal for your forest and indicate at the top that it is not advertised and is on-going.

5. PIT projects on non-FS land: You may conduct a PIT project on non-FS land. Two conditions apply: you must be able to show how the project will benefit the FS heritage program and you must have an agreement document to allow you to engage volunteers off FS land. For example, a trail might cross through the jurisdiction of different agencies or even cross private land. To evaluate the entire trail, you must work off FS in some areas. The work being done off-forest contributes to the understanding of sites on NFS lands. A simple agreement document will provide the vehicle for engaging FS volunteers on non-FS land.

5.41c - Helpful Hints for Planning a PIT Project. The FS has several decades of practical experience with PIT. The following hints derive from that collective experience.

1. Historic restoration projects result in immediate, visible results – a positive for volunteers and also less follow-up work for project leaders. Archaeological excavations require follow-up analysis, report writing, and curation.
2. If you do an archaeological excavation, don't forget that volunteers are just as willing to help with that part of the job as well. Follow-up lab and curation projects are popular winter projects.
3. If your volunteers are camping in an agency fee campground, it is nice to provide free camping while they are volunteering. Check with your line officer to see if this is possible. If the campground is run by a concessionaire, the agency can reimburse the concessionaire for revenues lost from the non-paying volunteers.
4. Providing meals to your volunteers on field projects is a benefit to them and to you. If camping in a wilderness, it makes it easier to maintain a clean campsite. At the end of the day, you can focus on volunteer activities instead of meal preparation. It allows the volunteers to get together after hours and talk about the day's activities, rather than disappear to their own campsites to cook after working all day.

There are many ways to provide meals for your volunteers, for example, you may include meals in the cost of hosting the project and let a personal services contract for a camp cook. You may also "pass the hat" at the beginning of a project and pool the money to buy groceries and have the volunteers share in cooking duties.

5. Providing some project incentives is always popular. Volunteers like to take something away with them as a thank you for their time and effort. Items that FS PIT leaders have provided in the past include ball caps, t-shirts, insulated drink mugs, cold food packs, and Maglites. Use your imagination...and the PIT logo!

5.41d - Schedule for Submitting PIT Project Proposals. All project proposals, those advertised on the website and those not advertised, must be submitted on line at <http://www.passportintime.com/application/proposal.asp>

Once you have submitted your proposal, you will get response from the CH within 24 hours that the project has been received.

Exhibit XX: General Schedule for Submitting PIT Projects

PHASE	TASK	MAXIMUM TIME NEEDED*	COUNT DOWN TO PROJECT
Production	PIT Project leader writes and submits a proposal via the Web		
Production	Proposal is downloaded within 24 hours, but proposals will be reviewed and submitted for approval once a week	5 days	week 16
Production	Proposals are sent to FS PIT Coordinator for approval.	3 days	week 15
Production	CH formats projects for paper listing and the web, sets deadlines for applications.	5 days	Week 14
Posted	PIT project posted	3 days	
Advertise	Time on web	4 weeks	week 13
Advertise	Applications due	8 weeks	week 9
Notification	CH forwards applications to project leader	1 day	week 9
Notification	Volunteers are selected and notified	within 1 week	week 8
Implementation	Project occurs		Start date

- Project leaders can submit a project any time and as far in advance as they want.
- The CH will only review projects once a week, so depending on when a project is received within that week, production times could be as short as 1 day; the days listed on the table represent the maximum time. The maximum time between proposal submission and posting is 3 weeks and the minimum time is one week.
- Projects are posted on the web a minimum of 8 weeks. The farther in advance of the project start date that leaders submit their project, the longer it will be on the web and the more time potential volunteers will have to find it and apply.
- Project leaders will have a week to notify volunteers.
- Volunteers have 8 weeks to plan trip.



5.41e – Specific PIT Responsibilities. In order to maintain an effective PIT program, it is imperative that all participants in the program understand their roles and responsibilities as follows:

FS National PIT Coordinator is responsible for:

1. administering the cooperative agreement with the CH provider,
2. helping FS heritage personnel determine appropriate PIT projects,
3. answering media questions about PIT,
4. maintaining a budget to provide the CH services, and
5. purchasing materials for PIT project field support (pins, patches, banners, stamps, passports)

PIT Project leaders are responsible for:

1. developing a PIT project, acquiring appropriate FS line officer signature, and setting up contingency plans for alternative project leaders should an emergency arise.
2. submitting PIT project proposal on-line;
3. selecting volunteers and notifying the CH of those selected and those not selected;
4. notifying selected volunteers within 2 weeks of the project's application due date;
5. making all local arrangements for the project, locating potential lodging, and notifying volunteers of their options;
6. purchasing project-specific items for volunteer appreciation items;
7. making sure all of the project participants have signed and submitted their volunteer agreements (FS-1800-7) on the first day of the project;
8. supervising the volunteers and assuring they have a positive educational experience;
9. teaching site ethics;
10. the work being performed and for recording and reporting the project;
11. assigning PIT passports to new volunteers and reporting volunteers' hours to the CH; and
12. producing a final project summary suitable for publication on the Web.

PIT Clearinghouse is responsible for:

1. downloading and editing proposals for publication on the PIT Web page;
2. maintaining current information on the PIT Web page;
3. assisting potential volunteers through their application process;
4. receiving volunteer applications and acknowledging receipt back to the applicants;
5. distributing applications and project materials to the project leaders;
6. contacting volunteers not selected on projects;
7. entering project and volunteer data into the program database;
8. recording volunteer hours in the database;
9. working with FS National PIT Coordinator for program oversight; and
10. submitting quarterly reports of contributed hours to FS National PIT Coordinator.

Volunteers are responsible for

1. accurately portraying their abilities on the project applications;
2. communicating special needs to the project leader, prior to arriving at a project site;
3. showing up for projects that they have committed to or for notifying the project leaders or CH if they are no longer available;

4. their own transportation, food, and lodging unless otherwise instructed by the project leader; and
5. ethical and legal behavior while on the project.

5.41f - Specific Responsibilities for Project Leaders. The importance of effective project leadership cannot be overemphasized. The leadership responsibilities come in four areas:

1. Proposing your PIT Project:

- A. Abide by the project-posting schedule. It was developed to give the public time to find projects on the web and time to plan their trip if they are accepted.
- B. Submit your project on-line. This automatically populates a database at the CH.
- C. When filling out the “number of openings”, please include only those you want through the CH. In other words, if you have 10 local volunteers you’ve promised spots, those are in addition to what you advertise through the CH. Example: You want 20 volunteers, but 10 of those are locals you’ve already promised spots, then you would put “10” in the “number of openings” on the proposal form.
- D. Shortly after you submit a project, you will receive a message from the CH that includes:
  - 1) A word document of your proposal for your files
  - 2) Your project application due date, i.e. the due date by which volunteers must apply for your project to the CH
  - 3) The date you will receive your applications from the CH. That date is generally within 2 business days after the application due date
  - 4) The date by which you must contact the CH with those you’ve selected and those you have not. That date is within two weeks of the project application due date
  - 5) The date the CH will send you your project materials (passports, patches, pins, stamp, banner, etc). That date will generally be one week prior to the start of your project.

2. Selecting Your Volunteers

- A. Please do not pre-select volunteers. All volunteers who apply by the application due date, have a right to be considered.
- B. If your project on the web says you have 8 openings, that is the minimum you can select from the CH applications. You can always select more, but not fewer. In other words, if you say you have 8 openings and you received 8 applicants, unless you have a compelling reason not to select one of those, you must select all 8.
- C. You must contact the CH within two weeks of your project application due date with a list of those you have selected and those you have not. If you are going to be out of the office, you will need to make arrangements to get this done remotely or have someone else do it for you.

- D. When you contact the CH with your list of volunteers, include those you have recruited locally so the CH can add them to the database and send you passports in their names.
- E. You must contact your selected volunteers within 3 weeks of your project application due date. This is very important. If you fail to contact your volunteers, they begin calling the CH wondering if they've been accepted or not. Remember, volunteers have to plan transportation, time off work, etc. This is a big deal to them. We need to let them know their status in a timely manner. The CH will contact those volunteers you do not select. You only need to contact those you select and provide them project details as needed.
- F. You may extend an application deadline if you do not receive enough applicants by the application due date. Simply call the CH and ask them to extend the date on the web. However, this does NOT mean that you can postpone calling your accepted volunteers who applied by the original due date. They are still expecting to hear from you within 3 weeks of that original date, so call those who applied and let them know their status.
- G. As the time draws near for your project, remember to send your volunteers anything they will need to prepare. Provide the usual list of provisions like camping gear, good shoes, bug spray – whatever your project warrants. Don't forget GOOD DIRECTIONS! Many of these folks will be new to the woods – don't assume they know all about forest roads.

### 3. Implementing Your Project:

- A. You should have an accurate accounting of all project volunteers, their arrival and departure plans, transportation needs, and have their appropriate paperwork, including volunteer forms.
- B. You should understand and have carefully planned for any special medical, dietary, accessibility or other needs.
- C. You should have prepared a project Job Hazard Analysis (JHA) that has been reviewed and approved by the appropriate line officer and forest safety officer. The JHA should be reviewed and signed by all PIT volunteers and other crewmembers. Morning briefings should include discussion of all JHA issues (driving to and from the project is frequently the number 1 job hazard). You must ensure that volunteers wear the appropriate personal protection equipment (i.e., hardhats, gloves, sturdy shoes). Safety is the number one goal of any PIT project!
- D. You should ensure that PIT volunteers are properly trained and supervised in the use of all project equipment, including field AND camping gear. Provide briefings to field experienced as well as novice crews.
- E. You should clearly and repeatedly explain the intent and desired outcome of the project to all volunteers. This is essential and will generate camaraderie and a common understanding of goals, schedules and limitations.

- F. You should acknowledge and appreciate that the bulk of project work is being done by volunteers. This is a “vacation” for many volunteers and some will be more engaged and work harder than others. You must set and adjust your work schedule and expectations accordingly.
- G. You should be on-site with the volunteers and work together to the fullest extent possible, even if you have field supervisors. Many volunteers will be drawn to the project specifically because of YOUR expertise and experience. A frequently absent project leader generally leads to less enthusiasm and work, and disgruntled PIT volunteers. If you are too busy to actively participate in PIT, do not initiate a project.

#### After the Project

- A. You must contact the CH within one month of the completion of your project with your list of volunteers by name and the hours they contributed so the CH can update the database and credit your volunteers and your unit and project.
- B. If you have “walk-ons” or unexpected volunteers who show up and you are able to involve them, you can add their names and contact information to the list you send the CH and they will add them to your project database.
- C. The CH posts a “volunteer honor roll” on the website with volunteers’ names who have contributed 1000 hours or more. The volunteers know how many hours they’ve contributed; if you don’t send in their hours, the CH can’t credit them. If their name is left off the honor roll, they have a legitimate complaint.

5.42 - Heritage Expeditions. Heritage Expeditions provide opportunities for the public to enjoy, learn about, and help care for cultural resources on NFS lands through direct engagement with heritage specialists responsible for their conservation. This benefits the resources either directly through the work that gets done or indirectly through increased public understanding. Expeditions also help meet the growing demand for educational travel, interpretation, and learning vacations. Many expeditions will involve cooperation with Indian Tribes, historical societies, state tourism boards, private industry, or special interest groups.

Expeditions may be considered heritage tourism or ecotourism because they do, like those programs, involve conservation education, but unlike other tours, they involve participant directly in the resource stewardship work of the agency. For many, this is what makes the experience unique. Many tour companies already offer learning vacations. Expeditions offer a different twist on that same demand, where the public can work directly with resource specialists in hands-on resource management and research.

Because of the increase in recreation and interest in specific resources, many resources are being loved to death. If the FS hopes to meet the demand for more educational experiences and continue to protect resources, resource specialists must find new ways to do both; offer more opportunities and at the same time protect the resources that are the subject of those opportunities. By making an experience self-sustaining through fees, the agency can keep it open to the public, and maintain the integrity of the resources.

5.42a - Types of Heritage Expeditions. The following examples show how a heritage expedition could be structured: and how each might be structured.

1. Adding value to existing, private sector tours, i.e. outfitter/guide trip. An existing float trip is enhanced by including professional archaeologists and rock art specialists on the trip to interpret sites along the way and guide the participants in restoration work. The outfitter would collect the fee and would remit a portion back to the agency according to a business plan to take care of the sites that are the draw for private sector trips and to cover the cost of the value-added specialist on the trip.

2. New outfitter-guide opportunities: The FS could document the route taken by early fur trappers, and propose a re-enactment of early exploration by canoe. A call for interest would go out to the outfitter-guide community. If an outfitter-guide organizes such a trip, the revenues would be handled in the same way as outlined above, with only that portion covering agency involvement coming back to the agency to maintain the sites involved in the expedition and ensure they continue to be available for public interpretation.

3. FS opportunities: If a call for interest does not result in a feasible proposal from the private sector, the FS may provide the opportunity. Even in this case, expedition planners may need to have agreements with local service providers like hotels and restaurants. This should be done in accordance with procurement guidelines. Once the expedition is up and running and proves successful, another call for interest could be issued, keeping the opportunity open for the private sector.

4. Outfitter-guide training: In some cases, outfitter-guides might prefer to keep their trips as is, but improve their own interpretive skills regarding the cultural resources their customers are interested in. In these cases, the FS, could offer training to outfitter-guides to ensure they are imparting accurate and ethical information to their customers about cultural resources. Revenues from these courses could be used to develop interpretive materials for the outfitters to use in their trips.

5. Traditional Skills Training: Similar to the above, but open to the public, not just outfitter-guides. Examples are the programs offered by Ninemile Wildlands Training Center in Montana. These programs, traditionally offered to FS employees, are now open to the public. The revenue from these classes is used to host more classes and to restore and maintain historic structures used in the training.

5.43 - Interpretive Projects. The possibilities for public interpretation of cultural resources on National Forest System lands are limitless and are bounded only by imagination. PIT projects and Heritage Expeditions also serve interpretive purposes in that they educate the public through involvement. But in this context, interpretation includes developing programs, services and products that deliver interpretation and education to the public. Several examples include:

- Placing interpretive signs at an historic cabin or an excavated rock shelter that has been excavated. The signs would inform visitors about the prehistory or history of the cultural resources and the laws protecting such resources.

- Constructing a guided (with a brochure) interpretive trail in a historic mining sites, with stops along the way to view and read about relevant mining features.
- Hosting an open house and interpretive tour of an historic ranger station that is still in agency or public use.
- Providing quality brochures about historic sites or events at National Forest or community visitor centers or trailheads.
- A Civil War re-enactment.
- A presentation about local historical events, such as early homesteading, at a school or community organization.
- Participating in Archaeology Week, an event sponsored by SHPOs around the country in cooperation with Federal and State agencies.
- Implementing a Heritage Celebration in a local community that involves various of displays, exhibits, presentations and activities. These are often co-sponsored with other agencies, historical societies and civic groups, usually last for a week, and allow for many children and teachers to participate.

5.43a - Things to Consider When Developing an Interpretive Project. Successful implementation of an interpretive project requires careful planning and consideration, including:

Any interpretive project that has the potential to affect cultural resources either indirectly through increased visitation or directly through treatments applied to the site is subject to NHPA Section 106 consultation with Tribes, SHPO, and THPO.

Consider opportunities to enhance interpretive projects through partnering with Tribes or other cultural groups. Sometimes an interpretive project provides an opportunity for Tribes or others to educate the public about their history and current issues.

5.43b – Interpretation and Management Treatments. Management treatments for cultural resources allocated to Enhancement for interpretation might include such things as hardening cultural resources to withstand increased visitation; data recovery of specific archaeological materials; nomination to the National Register and posting the National Register plaque on the site. The type of treatments considered will depend on the type of resource (architectural, archaeological) and the area in which it is located. For example, on-site interpretation is generally not acceptable in wilderness. A historic structure does not necessarily need to be restored in order to be an interpretive site, but it should be stabilized and all hazards removed.

Management treatments should be consistent with natural settings and the desired visitor experience identified for the area in land use plans and the Recreation Opportunity Spectrum (FSM/FSH reference needed).

## CHAPTER 6 - MANAGEMENT OF HERITAGE COLLECTIONS

- 6.01 - Authority - See FSM 2360.1
- 6.02 - Objectives – See FSM 2366.02
- 6.03 - Policy – See FSM 2366.03
- 6.04 - Responsibility – See FSM 2361

6.1 – MANAGEMENT OF CULTURAL RESOURCE COLLECTIONS. Heritage program collections (artifacts, objects, specimens, historic documents, historic photos, and related records) are important cultural resources that provide information about past processes, events, and interactions among people and National Forest System lands over time.

All heritage program records that are directly associated with heritage collections should be managed as heritage assets consistent with 36 CFR Part 79. These and other resource management records are preserved as part of heritage collections because they document and provide an information source for the continuing management of cultural resources on National Forest System lands.

Heritage collections used for research or in exhibits, furnished historic structures, and other interpretive programs help forest visitors to gain a better understanding of the lives, events, activities of people who have lived and traveled upon the lands now managed by the FS.

When considering any use of collections the Forest Supervisor should ensure that consultation with Tribes and other appropriate parties has been conducted. The Forest Supervisor must ensure that any culturally sensitive items have been identified and guidelines for appropriate use of these items documented.

Curation with non-forest facilities should be conducted through a Memorandum of Understanding (Exhibit 1), signed by the Forest Supervisor and implemented at the Forest level. To the greatest extent possible, file documentation regarding acquisition, accessioning, cataloging, and other associated records for heritage collections in the heritage Infra database.

6.2 - Forest Collections Housed in other USDA Facilities. USDA research stations and State & Private Forestry units frequently house cultural resource collections. If these collections are not properly housed following collections direction (FSM 2366 or FSH 2309.12XX) or being used for public or scientific benefit the line officer should take one of the following actions:

1. Return collections or items to the appropriate Forest for curation.
2. Curate collections with an appropriate facility following guidelines provided in FSM 2366 and in this FSH Chapter

In all case notify individual Forests of possession of collections and items. Forests may utilize these collections for public and scientific benefit in the future.

6.3 - Land Use Planning and Collections Management. To ensure that a Forest's heritage collections are properly documented, protected, preserved, and used, management requirements need to be considered in the Forest planning process.

Heritage collection management should be addressed in a heritage collections planning component, which will describe desired future conditions, objectives, and guidelines. Development and implementation of a collections monitoring plan will also be a key part of the heritage collections planning component.

Compliance and scientific research projects including permitted work (see FSM 2367), for inventories, evaluations, data recovery, ore mitigation projects, should include planning and funding for the curation of collected heritage objects, specimens, and associated records. This is particularly critical for in-house heritage projects, which generate accumulations of artifacts annually.

6.4 - Staffing and Funding. Each Forest with a heritage collection should assume responsibility for its management by assuring that adequate resources are available to perform the necessary tasks associated with the collection's management, and preservation.

Funding for collections management should come from those programs and activities that generate the collections as part of compliance requirements. Collections management and associated costs are a direct outcome of compliance the activities part of inventory, evaluation, and determination of effects, and when appropriate, data recovery.

Funding for collections generated by historic preservation activities or projects should be provided by the heritage program.

6.5 - Collections Management Plan. A heritage collection management plan provides short-term and long-term guidance to the Forest Supervisor and heritage specialists in the management and care of objects, manuscripts, and associated records. Professional curators should be enlisted when developing the collection management plan, curatorial guidelines, procedures, and facilities standards.

The collection plan is prepared by the Forest heritage specialist, and may include the assistance of curators or contractors who are responsible for collecting and housing the Forest's heritage collections.

As part of the collections plan, current conditions of the collections and curation facilities should be identified. Corrective actions should be implemented to bring the collections to professional standards as defined in 36 CFR 79. Corrective actions may be addressed with long or short-term solutions depending on budget, availability of appropriate curation facilities and other factors.

As part of the collections plan, list action items and develop timelines should be listed to address collections issues. The collections plan will identify corrective actions to be taken, specifies priorities, target dates for completion, and responsible persons. Develop work plans with

attached briefing papers to identifying funding needs including supply, personnel, and associated curation costs.

6.5a – Accessioning. The first issue in a collections management plan is accessioning, which is completed upon receipt of objects. Accessioning establishes legal ownership and custody (temporary or permanent) and records basic information about an object or group of objects.

Each accession transaction should be recorded in a permanent accession system, which is treated as legal documentation. This includes information on acquisition such as deeds of gift, collecting permits, receipt of property forms, and related correspondence. The accession entry and accession file are permanent Forest records not subject to disposition.

Heritage collections that are placed in non-Forest Service museums and institutions must be monitored to assure that adequate documentation of accessioning is kept and available to assure physical and intellectual access to the collections. Institutions that cannot perform these basic functions should not be used to house Forest Service heritage collections.

6.5b – Cataloging. The second plan component should be completed soon after the receipt of objects or entire collections. Cataloging involves, labeling objects, gathering and recording information observable from the objects themselves, and gathering associated documentation. The following guidelines should be followed:

1. Data on each heritage object should be entered into appropriate databases so that their location and description can readily be located.
2. All paper or hard copy records (e.g., accession entries, accession files, catalog records, photographs) are kept in a secure, insulated file.
3. Fragile items, such as textiles, basketry, cloth, historic photographs and maps, should be maintained in a climate-controlled facility. Fragile items will require additional work beyond basic cataloging and storage, such as preparation for storage with acid free archival materials or stabilization using professionally accepted materials and techniques.
4. Non-Forest Service institutions receiving or housing Forest Service heritage collections must be able to catalog collections adequately, following professionally recognized procedures, and in a timely manner.

6.5c - Collections Management Standards. A collection management plan should guide proper management and care of its heritage collections whether in Forest Service facilities or non-Forest Service institutions. Curation agreements should be developed (see exhibit 1) with facilities that house and maintain Forest heritage collections. The following guidelines should be followed:

1. Condition surveys should be completed and documented of collections from priority heritage assets and document and quantify deferred maintenance needs for those priority assets.

2. Regularly scheduled monitoring inventories should be conducted at least once every five years to assess the condition of heritage collections, and prioritize conservation treatment priorities. The inventory will also assess the condition and effectiveness of curation facilities for meeting professional standards (36 CFR 79). Monitoring should be documented in a curation agreement with non-Forest facilities.
3. Documentation should establish federal ownership and custody of heritage collections is required.

6.6 - Curatorial Standards. FS collections catalogues and records should be maintained and managed in accordance with 36 CFR Part 79.9.

1. Repositories receiving or currently housing FS collections must meet curatorial standards per 36 CFR 79. Qualified institutions must also be able to catalog and accession these collections adequately and in a timely manner, otherwise they should not be used for the storage of Forest Service collections.
2. All materials resulting from research projects associated with an accession must be housed at the same repository, except when on temporary loan for specific use elsewhere.
3. Within that repository, objects and records composing an accession should be stored or filed separately from related objects and records to the extent required for security, fire protection, enhanced or reduced access, preservation, fiscal control, or exhibition.
4. Archival and manuscript collections should surveyed, appraised, accessioned, cataloged, and described by under the guidance of a professional archivist according to standard museum procedures and guidelines.
5. Data on the extent and curation of collections should be maintained in the heritage INFRA database (see FSM2368).
6. The condition of collections in either a FS or external curatorial facilities should be monitored at least once every five years and complete a monitoring report with findings and any proposed actions.

6.7 - Collection Condition Survey & Monitoring. The Forest heritage professionals should conduct a collection condition survey with the assistance of a professional conservator. The survey creates the baseline reference for future assessment of object deterioration and identifies objects in need of conservation treatment by degree of urgency. It should identify any problems that require corrective action such as security, object preservation, access, and identification. Most importantly, the condition survey is a planning tool used to identify and monitor the condition of potential heritage priority assets and quantify deferred maintenance needs for the collections.

It is the responsibility of the Forest Supervisor to assure that heritage collections taken from NFS lands are properly preserved, protected, and maintained. To accomplish this periodic reviews of the records, objects, and facilities housing such collections be made.

Monitoring of collections should be scheduled for intervals of no less than every five years. Non-Forest Service institutions should be inspected prior to receiving any Forest heritage collection if that institution has no previous Forest Service heritage collections. This is to ensure that the facility has adequate provisions for accessioning, cataloguing, preserving, and securing the collection.

6.8 - Protection of Heritage Collections. Fire, theft, vandalism, natural disasters, and careless acts may threaten heritage objects. A systematic approach to protecting them includes actions:

1. identify and evaluate threats and risks
2. conduct and reconcile annual inventories of collections
3. develop and implement good operational procedures and practices (e.g., key control, access control, opening and closing procedures)
4. evaluate the physical security of spaces housing collections (with attention to barriers, cases, locks, doors, and windows)
5. install intrusion detection systems and fire detection and suppression systems appropriate to the nature of collections and the structures housing them
6. incorporating the special needs of collections in physical security plans, structural fire plans, and emergency operations plans
7. ensuring that all incidents involving collections are reported
8. develop emergency operations plans that identify and give protection and recovery priority to the most significant objects in collections

Since the majority of heritage collections are in non-federal institutions, the Forest must work with those institutions to ensure that heritage collections are being adequately protected.

6.8a - Conservation. The first level of preservation is preventive conservation. A preventive conservation program focuses on non-intrusive actions that can be taken to prevent damage to and minimize deterioration. Actions include:

1. monitoring, recording, and controlling environmental agents (e.g., light, relative humidity, temperature, dust, and gaseous pollution)
2. inspecting and recording the condition of objects and collections
3. establishing an integrated pest management program in all spaces that house heritage objects
4. practicing proper techniques and methods in handling, research use, reformatting, documentation, storage, exhibit, housekeeping, and packing and shipping of collections
5. ensuring that information and procedures relevant to collections are incorporated in the institution's emergency operations plan

6.8b - Conservation Treatment. Conservation treatment employs methods and techniques that are usually intrusive in varying degrees to preserve the condition or appearance of objects. The two broad categories of conservation treatments are stabilization and restoration.

Stabilization treatments are applied to objects to increase their stability or durability when preventive conservation actions are insufficient to reduce the rate of deterioration or when deterioration has rendered them so fragile as to be in danger under any circumstances. Restoration treatments may be required when objects are placed on exhibit or are needed for research purposes. Restoration is an attempt to bring objects closer to their original or other previous appearance by removing additions not considered historically important, replacing missing parts, renewing finishes, and/or concealing damage.

6.9 - Uses of Collections. In many cases it is appropriate to use collections for public benefit. The key to beneficial use is through external agreements or formal internal memoranda that define protocols for proper use, temporary storage, and protection of collections or individual artifacts and documents.

6.9a - Research Use of Collections. Qualified institutions and individuals may conduct research with collections held by the Forest Service or by an approved non-Forest Service repository. Authorization requires the submission of a written request to the Forest Supervisor and should include a research proposal detailing the purpose, methods, and expected results of the research.

Access to collections for approved research is permitted under conditions designed to ensure the security and preservation of the materials, including adequate staff supervision.

Each outgoing loan must be documented by an outgoing loan agreement. All loaned heritage objects are cataloged. Conditions for preserving, handling, and shipping and an itemized list of heritage objects are included in a loan agreement.

Although collections should not routinely be used in a consumptive manner, destructive analysis may be undertaken for officially sanctioned research purposes.

6.9b - Consumptive Use of Heritage Objects. A primary consideration in all proposed uses is the preservation of each object and the collection as a whole. Use that may damage or hasten the deterioration of objects should be undertaken only after careful review and approval. In certain instances the benefits to society or academia may justify consumptive use of an object. As discussed above consultation with Tribes to identify culturally sensitive objects and inappropriate use of those objects is required by NAGPRA before any consideration of consumptive uses.

Destructive analysis is a legitimate use of heritage collections for approved research purposes when the impact is minor or when the object is common. Carbon dating and other types of analysis may provide important data. In these cases approval by the Forest Supervisor is required.

In cases where use of a heritage object would expose it to a high risk of unacceptable wear, deterioration, destruction, loss, or theft, an accurate reproduction should be used

If an object is rare or significant, a request for destructive analysis or use should be reviewed by the Regional heritage program leader and approved by the Regional Forester.

The Regional Forester may approve consumptive use of objects if the Forest Supervisor has submitted a justification statement demonstrating that the program in which the object is to be used is for the benefit of the public and will enhance understanding and appreciation of cultural or natural heritage or contribute significantly to heritage preservation or protection, and that reproductions of the original or a similar object will not accomplish the intended purpose

The statement should also contain the following:

1. Description of the program and proposed use of the object.
2. Description of the object to be used and a copy of its catalog card.
3. Explanation of how the activity is essential to Forest heritage program needs.
4. Discussion of alternatives that could achieve the same or a similar purpose.
5. Explanation of why it is not feasible to use reproductions of the exact heritage object or similar objects.
6. Measures proposed to mitigate the loss or damage that might occur.
7. Discussion of how the Forest will, if necessary, explain to the public why it is using heritage objects in a potentially consumptive manner.

The Forest Supervisor will grant no exemption for use that might lead to loss or deterioration of heritage objects that are type specimens or one-of-a-kind specimens.

No exemption will be granted for use of heritage objects where such use may lead to loss or destruction of human remains, associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony as defined by the Native American Graves Protection and Repatriation Act, unless such use is approved by the affiliated cultural group in addition to the Regional Forester or Chief. The exhibition of skeletal or mummified human remains or photos or replicas of them is prohibited.

An exemption may be granted for scientific analysis that will damage, deteriorate, or destroy all or portions of any heritage object if that analysis is based on a professional research design that clearly documents the scientific need for the use of such techniques.

Reproductions used in place of original heritage objects must be indelibly marked as such if retained in the collection.

6.9c - Educational and Interpretive Uses of Collections. Collections may be used for educational and interpretive purposes contingent on the age, condition, rarity and other attributes of the artifacts, objects or records.

The Forest Supervisor should consult with Tribes on the appropriate use of any collections that may be of religious or cultural significant to those Tribes.

Artifacts and records used in interpretive exhibits, displays and programs must be appropriately safeguarded to insure against damage or theft.

6.9d- Outgoing Loans. Forests may make outgoing loans of collections for purposes of exhibition, exhibit preparation, research, conservation, photography, curation, and storage.

Standard outgoing loans may be made to nonprofit educational or cultural institutions (e.g., museums, historical societies, and universities) and to organizations providing services (e.g., conservation treatment and exhibit preparation).

Outgoing loans also may be made to other Forest Service units or to non-Forest Service repositories (museums and universities) for curation and appropriate use of collections. Loans will not be made to individuals.

Collections obtained under permit and housed in non-Forest Service museums and institutions are considered to be on long-term loan and remain the property of the federal government. Loan agreements should be written and signed by appropriate representatives of the Forest and the receiving institutions for all collections on loan.

Collections that are housed by the Smithsonian Institution are considered to be in federal ownership and control and not on loan.

6.9e – Acquisitions. All artifacts, objects and archival and manuscript collections considered for acquisition (including collections created or assembled by Forest Service staff) must be evaluated against the Forest's need for such collections.

In most cases, archival and manuscript collections are acquired or assembled by a Forest if they are found useful for reference, exhibition, or heritage resource management.

Each Forest must consult with affected Native Americans on any acquisitions that involve human remains and associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony.

Forests that acquire objects and archival and manuscript collections (including photographic materials and sound recordings) or works of art by gift, purchase, or exchange need to determine if use of these materials are restricted by existing copyright. If so, use agreements to secure permission to use these materials. All works published prior to 1922 are in the public domain.

Documentation establishing federal ownership and custody of heritage objects is required. Documentation facilitates physical and intellectual access to cultural resource objects for purposes of collection management, research, interpretation, exhibit, and loan.

**De-accessioning (section reserved)**

**Exhibit XX: Collections Agreements**

Exhibit 1: Sample agreement document with non-federal curatorial facility.

Exhibit 2: Sample loan agreement

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CURATORIAL FACILITY  
OF STATE AND/OR INSTITUTION  
AND  
USDA FOREST SERVICE  
WEST OVERSHOE NATIONAL FOREST  
  
FOR LONG-TERM CURATORIAL SERVICES

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into by and between \_\_\_\_\_, in the State of \_\_\_\_\_ hereinafter referred to as the Repository; and the U.S. Department of Agriculture, Forest Service, \_\_\_\_\_ National Forest, hereinafter referred to as the FOREST SERVICE; under the provisions of the Organic Act of 1897, as amended, 16 U.S.C. 551 and the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483-490). This agreement supersedes Memorandum of Understanding for Curatorial Services #99-MU-11020399-047 executed 10/01/1999.

**I PURPOSE**

To establish a general framework of cooperation between the Repository and the \_\_\_\_\_ National Forest. Archaeological specimens, found on Forest Service land, need special housing and management by curation specialists that the Forest Service does not have. The Repository has both the skill and the facilities. The Forest Service and the Repository propose to work together to ensure that collected resources are suitably protected, managed and preserved for the public good.

**II STATEMENT OF MUTUAL INTEREST AND MUTUAL BENEFITS**

The Parties recognize that it is national policy to preserve for public use objects of national significance, including significant archaeological resources, for the inspiration and benefit of the people of the United States.

The Forest Service has the responsibility under Federal law to preserve for future use certain collections of archaeological resources, specimens and associated records, molds and casts, herein called the Collection and is desirous of obtaining curatorial services.

The Parties recognize the Federal Government's responsibility to ensure that the Collection is suitably protected, managed and preserved for the public good as a heritage asset held for the nations' general welfare and possessing natural significance.

The Repository is desirous of obtaining, housing and maintaining the Collection, and recognizes the benefits, which will accrue to it, the public and scientific interests by housing and maintaining the Collection for scientific study, exhibition, and other educational purposes.

The Parties hereto recognize the Federal Government's continued ownership (title) and control over the Collection curated with the Repository.

NOW, THEREFORE, in consideration of the above, the parties hereto mutually agree as follows:

**THE REPOSITORY SHALL:**

1. Provide for the professional care and management of the Collection from the land administered by the Forest Service within the political boundaries of State or appropriate defined area in connection with federally authorized projects
2. Perform all work necessary to protect the Collection in accordance with Regulation 36 CFR Part 79 for the curation of federally owned and administered archaeological collections and Attachment A that is attached hereto and made a part of this MOU.
3. Assign as the Curator, the Collections Manager and the Conservator having responsibility for the work under this MOU, persons who are qualified museum professionals and whose expertise is appropriate to the nature and content of the Collection.

4. Begin all work upon execution of this MOU and continue for a period of five (5) years, or until terminated or revoked in accordance with the terms set forth herein.
5. Provide and maintain a repository facility having requisite equipment, space and adequate safeguards for the physical security and controlled environment for the Collection and any other U.S. Government-owned personal property in the possession of the Repository.
6. Not in any way adversely alter or deface any of the Collection except as may be absolutely necessary in the course of stabilization, conservation, scientific study, analysis and research. The Forest Service must approve any activity that will involve the intentional destruction of any of the Collection in advance and in writing.
7. Annually inspect the facilities, the Collection and any other U.S. Government-owned personal property. Every five (5) years physically inventory the Collection and any other U.S. Government-owned personal property, reconcile to accounting records in accordance with Forest Service Manual and Handbook for Stewardship Resources, and provide a written record to the Forest Service.
8. Provide access to and the right to examine all records, books, papers, or documents relating to the Collection and the Federal Accountable Property Program for Stewardship Resources to the Forest Service and Comptroller General of the United States or their authorized representatives.
9. Perform only those conservation treatments as are absolutely necessary to ensure the physical stability and integrity of the Collection, and report the results of inventories, inspections and treatments to the Forest Service in writing.
10. Within five (5) days of discovery, report all instances of and circumstances surrounding loss of, deterioration and damage to, or destruction of the Collection and any other U.S. Government-owned personal property to the Forest Service, and those actions taken to stabilize the Collection and to correct any deficiencies in the storage area or operating procedures that may have contributed to the loss, deterioration, damage or destruction. Any actions that will involve the repair and restoration of any of the Collection and any other U.S. Government-owned personal property must be approved in advance and in writing by the Forest Service.
11. Review and approve, or deny requests for access to or short-term loan of the Collection (or a part thereof) for scientific, educational or exhibition in accordance with the terms and conditions for the curation of federally-owned and administered archaeological collections stipulated in this MOU (Attachments B and C). In addition, refer requests for consumptive uses of the Collection (or a part thereof) to the Forest Service for approval or denial.
12. Not mortgage, pledge, assign, transfer, exchange, give, sublet, discard or part with possession of any of the Collection or any other U.S. Government-owned personal property in any manner to any third party either directly or in-directly without the prior written permission of the Forest Service, and redirect any such request to the Forest Service for response. In addition, not take any action whereby any of the Collection or any other U.S. Government-owned personal property shall or may be encumbered, seized, taken in execution, sold, attached, lost, stolen, destroyed or damaged.
13. Exhibit, photograph or otherwise reproduce and study the Collection, or portions thereof, in accordance with the terms and conditions stipulated in this MOU. All exhibits, reproductions and studies shall credit the Forest Service, and read as follows: ``Courtesy of the USDA Forest Service, Black Hills National Forest." The Repository agrees to provide the Forest Service with copies of any resulting publications.
14. Maintain complete and accurate records of the Collection and any other U.S. Government-owned personal property, including information on the study, use, loan and location of said Collection, which has been removed from the premises of the Repository.

The Forest Service shall:

1. Ensure collections submitted to the Repository are prepared following Repository standards and guidelines.
2. Assign as the Forest Service Representative having full authority with regard to this MOU, Forest Archaeologist.
3. Every five (5) year(s), jointly with the Repository's designated representative, have the Forest Service Representative inspect and inventory the Collection and any other U.S. Government-owned personal property, and inspect the repository facility.
4. Review and approve, or deny requests for consumptively using the Collection (or a part thereof).

5. Be notified of removal of all or any portion of the Collection from the premises of the Repository for scientific, educational or exhibition purposes may be allowed in accordance with the regulation 36 CFR part 79 for the curation of federally-owned and administered archaeological collections; any conditions for handling, packaging and transporting the Collection; and other conditions that may be specified by the Repository to prevent breakage, deterioration and contamination.

6. Provide the Repository with the appropriate Federal Property Management Handbooks, copies of other Forest Service Manuals or Handbooks and any subsequent changes and instructions relating to the Federal Property Management program. Provision may be made via the Internet.

IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT:

1. All archaeological resources acquired and maintained by the Repository under the terms of this MOU shall be and remain the property of the United States. All items to be loaned will be documented on Report of Transfer or Other Disposition or Construction of Property form (AD-107), attached hereto as Attachment D, and by this reference incorporated herein.

2. Nothing herein shall be construed as obligating the Forest Service to expend funds, or as involving the United States in any contract or other obligations for the future payment of money in excess of appropriations authorized by law and administratively allocated for this work.

3. Upon execution by both parties, this MOU shall be effective as of the last date shown below and shall remain in effect no later than January 31, 2012, at which time it will be reviewed, revised, as necessary, and reaffirmed or terminated.

4. This MOU may be revised or extended by mutual consent of both parties, or by issuance of a written amendment signed and dated by both parties. Either party may terminate this MOU by providing 60 days written notice.

5. Upon termination, the Repository shall return such Collection and any other U.S. Government-owned personal property in accordance with the MOU to the destination directed by the Forest Service and in such manner to preclude breakage, loss, deterioration and contamination during handling, packaging and shipping, and in accordance with other conditions specified in writing by the Forest Service. If the Repository terminates, or is in default of, this MOU, the Repository shall fund the packaging and transportation costs. If the Forest Service terminates this MOU, the Forest Service shall fund the packaging and transportation costs.

6. This instrument in no way restricts the Forest Service or Repository from cooperating with, receiving cooperation from, or entering into agreements with other public or private agencies, organizations, or educational institutions on prehistoric, historical or historically related matters.

7. Nothing herein shall be construed as obligating the Repository to accept archaeological resources from the \_\_\_\_\_ National Forest.

8. This instrument is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

9. Changes within the scope of this instrument shall be made by the issuance of a bilaterally executed modification.

Title to the Collection being cared for and maintained under the MOU lies with the Federal Government.

PRINCIPAL CONTACTS. The principal contacts for this instrument are:

Forest Service Project Contact

Name

USDA Forest Service

Cooperator Project Contact

Name

Curation Facility

National Forest  
Mailing Address

Mailing Address

Phone:  
FAX:  
E-Mail:

Phone:  
FAX:  
E-Mail:

Forest Service Administrative Contact  
Name  
Agreements Coordinator  
USDA Forest Service  
Mailing Address

Phone:  
FAX:  
E-Mail:

## ASSURANCES

The Repository further assures and certifies that:

1. The Repository shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, handicap, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) The Indian Self-Determination Act (P.L. 93-638), which allows for Indian preference in employment and training.
2. It will assist the Forest Service in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469A-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify property listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notify the Forest Service of the existence of any such properties, and by (b) complying with all requirements established by the Forest Service to avoid or mitigate adverse effects on such properties.
3. It will comply with the provisions of the Hatch Act, which limit the political activity of employees.
4. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
5. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
6. It will comply with all requirements imposed by the Federal-sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.
7. It will ensure that the facilities under its ownership, lease, or supervision which shall be used in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, and will notify the Forest Service of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
8. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-243, 87 Stat. 975, approved December 31, 1976). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood

hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

9. It will comply with Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794) and all regulations, guidelines, and interpretations issued pursuant thereto. Section 504 provides that no otherwise qualified handicapped individual shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of, or subject to discrimination under any program or activity receiving Federal financial assistance.

AUTHORIZED REPRESENTATIVES. By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last date written below.

STATE OF \_\_\_\_\_  
DEPARTMENT OF TOURISM  
AND STATE DEVELOPMENT

USDA FOREST SERVICE  
\_\_\_\_\_ NATIONAL FOREST

NAME	DATE	NAME	DATE
Secretary		Forest Supervisor	

The authority and format of this instrument has been reviewed and approved for signature.

NAME	DATE
FS Agreements Coordinator	

- Attachment A: Regulation 36 CFR Part 79
- Attachment B: Curation Facility: Collection Loan Regulations
- Attachment C: Curation Facility: Collection Loan Form
- Attachment D: AD-107 Property Transfer Form
- Exhibit 2: Curation Facility Collection Loan Form

LOAN AGREEMENT

Loan Information

Loan # 189 Owner of Collection \_\_\_\_\_ National Forest

Loan Period from September 26, 2006 to October 30, 2006

Renewal \_\_\_\_\_ Returned \_\_\_\_\_

Borrower Information

Borrower's Name \_\_\_\_\_

Institution \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Ph. \_\_\_\_\_ Fax \_\_\_\_\_

E-mail address \_\_\_\_\_

Purpose of Loan

Education

Research

Attachment A: Inventory of the loan items.

Exhibit

Ceremonial

During the term of the loan, the Borrower agrees to handle, package, and ship or transport the collection in a manner that protects it from breakage, loss, deterioration and contamination, in conformance with the regulation (36 CFR Part 79) for the curation of federally-owned and administered archaeological collections, the Secretary of the Interior's Guidelines for Historic and Archeological Resource Preservation, and the Repository's Loan Agreement Regulations. The Borrower also agrees to assume full responsibility for insuring the Collection during transit and while in its custody. Within five days of discovery, the Borrower will notify the Repository of instances and circumstances surrounding any loss of, damage to, or destruction of the Collection and will, at the direction of the Repository, take steps to conserve damaged materials. It is also further understood and agreed that the materials shall be changed or altered in any way whatsoever and shall not leave the custody of the Borrower without written permission of the Repository's representative. The Borrower agrees to acknowledge and credit the Owner of the collection and the Repository in any exhibits or publications resulting from the loan. The credit line shall read as follows:

"Courtesy of the \_\_\_\_\_ National Forest and ACME curation facility." Borrower will provide, at no charge, a copy of all papers and publications to both Curation Facility and the \_\_\_\_\_ National Forest.

Upon termination of this agreement, the Borrower agrees to properly package and ship or transport the collection to the Repository. Either party may terminate this agreement, effective not less than 30 days after receipt by the other party of written notice, without further liability to either party.

Curation Facility Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Borrower: \_\_\_\_\_ Date: \_\_\_\_\_

THE BORROWER IS RESPONSIBLE FOR RETURNING LOANS BY THE DUE DATE LISTED ABOVE. FAILURE TO RETURN A LOAN BY THIS DATE WILL RESULT IN THE SUSPENSION OF THE BORROWER'S CURATION AGREEMENT WITH THE ARCHAEOLOGICAL RESEARCH CENTER. THE COLLECTION OWNER WILL BE NOTIFIED OF THE PAST DUE LOAN. LOAN PRIVILEGES WILL ALSO BE REVOKED INDEFINITELY.

## CHAPTER 7 – PERMITS, CONTRACTS, & AGREEMENTS

- 7.01 - Authority – See FSM 2360.1
- 7.02 - Objectives – See FSM 2363.02
- 7.03 - Policy – See FSM 2363.03
- 7.04 – Responsibility – See FSM 2361

7.1 – PERMITS. Archaeological activities on National Forest System land are controlled and regulated through the issuance of a *Permit for Archaeological Investigations*. A permit for archaeological investigations is issued in accordance with policy and direction in 36 CFR 251, Subpart B (FSM 2700). Permit issuance is not in itself an undertaking subject to Section 106 review under NHPA. SHPO or ACHP consultation is not required.

ARPA, as amended, and its implementing regulations in 36 CFR 296, supercedes the 1906 Antiquities Act for purposes of permitting and regulating archaeological research and investigations. The Antiquities Act may be used to regulate paleontological research on National Forest System lands.

7.11 - Uses Authorized: The following types of archaeological activities are subject to permitting:

7.11a - Inventory and cultural resource recordation. This activity includes reconnaissance, sampling and intensive pedestrian field survey on National Forest system lands and formal recordation of any cultural resources identified. Recordation involves through ground searches to identify the horizontal size and surface content of the identified cultural resource. In areas of dense vegetation, deep soils, and dune activity, shovel or auger probes may be required to identify cultural resources. Otherwise, field survey would be non-productive. Inventory may include collection of diagnostic tools but generally it has no physical effect on cultural resources.

7.11b - Subsurface testing and/or collection. This activity involves subsurface excavation to determine the depth and content of an identified cultural resource. It is primarily done to determine the significance of a culture resource and evaluates its eligibility for inclusion in the National Register. The number of test units (usually 1 by 1 meter pits) is usually contingent on the physical attributes of the cultural resource (i.e., whether it is a masonry ruin complex, shell midden, rockshelter or open-air “lithic scatter”), horizontal size, surface visibility and other factors. By its nature, testing involves the collection of artifacts and has some amount of physical impact to cultural resources.

7.11c - Excavation and/or removal. This activity involves extensive excavation of a cultural resource to extract scientific information about past human cultures and environments. Excavations may be initiated to fulfill academic research objectives or to remove a sample of data from harm’s way to mitigate the impacts of a ground-disturbing project, which is termed “data recovery”. Excavations are consumptive and have obvious physical impacts to cultural resources. However, due to the high cost of scientific excavation and analysis, the amount of

(sample) excavation often pales in comparison to the overall size of many cultural resources. Excavation involves the recovery of all artifacts and related data. Excavations involves a substantial commitment of field, laboratory and documentation time. Data recovery is frequently completed by CRM contractors.

7.11d - Conservation and protection. This category encompasses a wide range of activities, including ruin stabilization and repair; vandalism abatement (i.e., installation of grates, fencing); repair of looted or damaged cultural resources (i.e. graffiti removal at rock art sites) and interpretive developments (i.e., trails, signage). Some of these activities directly affect cultural resources more than others. When the work is minor, FS employees usually complete this type of work. CRM contractors are usually hired when this work is more extensive and complex, or requires specialized knowledge (i.e., graffiti removal at rock art sites; ruin stabilization).

7.11e - Combination of the above activities. Some projects involve a combination of activities, such as minimal investigation an archaeological property prior to completing stabilization and repairs.

7.12 - Permitting Authorities. The agency official with the assistance of the heritage professional reviews the type of work involved to determine under which legal authority a *Permit for Archaeological Investigations* will be issued:

7.12a - Archaeological Resources Protection Act. Archaeological investigations that involve extensive subsurface testing, excavation (data recovery), major ruin stabilization or other conservation treatment is permitted under ARPA and its implementing regulations in 36 CFR 296. Tribal consultation is required prior to issuing a permit.

7.12b – Organic Act. Archaeological investigations that involve cultural resource inventory, including pedestrian survey, remote sensing, and subsurface probing (shovels, augers) to determine the presence or absence of cultural resources on a landscape are permitted under the Organic Act. Tribal consultation is not a requirement for permit issuance.

7.13 – Exceptions. Ethnographic studies that do not involve fieldwork; archival and historical work pertaining to National Forest System lands; and review of archaeological collections and records in a designated curatorial facility does not require a permit when the work is being done by qualified persons, under the supervision of the facility curator or designated staff, and enables the Forest Service to comply with a legal requirement.

7.14 - Permit Holders. Forest Supervisors or a subordinate officer with delegated authority may issue a permit for archaeological investigations to qualified non-Federal applicants, provided that the work proposed would further knowledge in the public interest, would not conflict with other legitimate or protected uses of National Forest System lands and resources, and would not be inconsistent with any approved management plan, objective, or established policy applicable to the public lands or resources concerned.

Permits will be issued to:

1. Qualified academic researchers affiliated with a university, museum, archaeological society, tribe, consulting firm or similar private or public institutions.
2. Qualified consultants (Contractors) working on National Forest System lands under contract with a land use applicant.
3. Qualified agency employee, or an employee of another agency, proposing to do off-duty research on National Forest System land.

Permits will not be issued to:

1. Qualified heritage resource consultants who are under a contract with the FS and are carrying out official agency duties pertaining to the management of heritage resource properties on National Forest System lands.
2. Qualified cooperators who are working under formal partnership agreements with the FS.
3. Federal employee(s) from another federal agency proposing to do heritage resource work on National Forest System lands. Authorization is by written agreement and approval is subject to the same considerations in the permit review process.
4. Qualified consultants working on non-Forest lands under FS requirements; the FS is responsible for the quality of work done to satisfy Section 106 requirements.

7.15 - Permit Issuance Procedures. Any person may apply for a heritage resource permit by submitting an *Application for Permit for Archaeological Investigations* form (FS-2700-30, Rev 05/06; OMB No. 0596-0082) and required supporting documentation, in person or by mail, to the address designated by the Forest Supervisor who is responsible for administering the public lands where the proposed work would occur.

7.15a - Application Review. Upon official receipt of an application, and under the direction of the Forest Supervisor, a qualified specialist examines the application to determine if the filing is regular and completely fills all required information. Applications lacking necessary information are withheld from further review until such documentation is provided. An applicant that fails to meet minimum qualifying criteria, or is non-responsive to a request for missing information, may be denied a permit. For any recommendation to deny a permit application, the Forest Supervisor prepares a letter to the applicant, setting out in detail the reasons for denial.

The Forest Supervisor notifies and consults with American Indian tribes when the consulting or academic work proposed in an application for a permit, as authorized under ARPA, could potentially and adversely affect heritage resource properties or areas that have tribal cultural or religious importance.

For permit applications filed under the authority of ARPA that involve the jurisdictions of more than one Federal land manager, the Forest Supervisor coordinates the review and evaluation of applications and the issuance of permits, pursuant to 43 CFR 7.8(b).

7.15b - Permit Administration and Performance. When an application meets all permit requirements and conditions, and having given due consideration to any Tribal concerns under ARPA authority, the Forest Supervisor may authorize issuance of a *Permit for Archaeological Investigations* (FS-2700-32, Rev 05/06; OMB No. 0596-0082). The Forest Supervisor determines if a fee is to be assessed in accordance with FSH 2709.11, Chapter 30, Section 31.51).

The application corresponding to the permit is incorporated as the *operating plan* for the permit. The authorized officer may supplement the information contained in the application as appropriate or necessary.

The Forest Supervisor and designated heritage staff are responsible for regularly monitoring the permittee's performance throughout the life of the permit. The Forest Supervisor or subordinate officer will inform the permittee in writing of the results of performance monitoring, review and verification. Depending on the scope, duration, and nature of the work, the authorized officer may require progress reports periodically for the duration of the authorized activities.

7.15c - Permit Amendment, Extension and Renewal. A permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215. An authorized officer must approve any amendments to the individuals named in or activities authorized by a permit.

A permit is not renewable. A permit holder may request an extension of the permit for a limited, specified period to complete the activities authorized under a permit. Requests for an extension must be submitted in writing at least one month before expiration of the permit.

If a permit is issued for more than one year, the authorized officer reviews it annually. The holder submits to the authorized officer a report enumerating all activities conducted under the permit.

7.15d - Permit Suspension, Termination, Appeals and Remedies. The Forest Supervisor may immediately suspend a permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision is in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor grants this request within 48 hours. Following the on-site review, the authorized officer's supervisor promptly affirms, modifies, or cancels the suspension.

The Forest Supervisor or subordinate officer may revoke or suspend a permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of the permit.
3. For abandonment or other failure to exercise the privileges granted.

4. With the consent of the holder.
5. For specific and compelling reasons in the public interest

Prior to revocation or suspension, other than immediate suspension under permit clause C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

Within 30 days of revocation or suspension of a permit, the holder shall deliver to the Forest Service all artifacts and originals of all photographs, negatives, catalogues, field notes, analysis sheets, reports in any stage of preparation, computer files, and any other records resulting from any activity conducted under this permit.

A permit is terminated when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date. Termination of a permit is not subject to administrative appeal and does not give rise to any claim for damages by the holder against the Forest Service.

Written decisions made by the authorized officer relating to administration of a permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of a permit shall not give rise to any claim for damages by the holder against the Forest Service.

7.15e - Permit Collections, Records and Reports. Documents and products delivered to the Forest Service as a result of agency-permitted fieldwork shall be to professional standard and meet SHPO report requirements in States where such requirements exist. Preliminary, draft final and final reports shall be submitted to the authorized officer in accordance to the performance schedule stipulated in the permit.

Within 90 days of the date the final report is submitted to the authorized officer, the holder shall deposit all artifacts, samples, and collections and original or clear copies of all records, data, photographs, and other documents resulting from activities authorized by this permit with the curatorial facility named in the permit.

The permit holder provides the authorized officer with a catalogue and evaluation of all materials deposited with the curatorial facility named in the permit, including the facility's accession or catalogue numbers, and confirmation, signed by an authorized curatorial facility official, that artifacts, samples, and collections were deposited with the approved curatorial facility.

Final reports resulting from agency-permitted work are provided to the State Historic Preservation Officer (SHPO), and Tribal Historic Preservation Officers (THPO) and tribal governments, State historical societies and libraries, and other suitable repositories as appropriate.

The permit holder shall keep the specific location of sensitive resources confidential. Sensitive resources include but are not limited to threatened, endangered, and rare species; archaeological sites; caves; fossil sites; minerals; commercially valuable resources; and traditional cultural properties.

Without the authorized officer's prior written approval, the holder cannot publish any location or other information identifying archaeological sites that could compromise their protection and management by the federal government. The Forest Supervisor should use appropriate means to make final reports and documentation resulting from permitted work available to the public, as appropriate.

Any published article, paper, or book containing results of work conducted under this permit shall specify on which National Forest that work was performed. The holder shall submit a copy of any published or unpublished report, article, paper, or book resulting from the authorized activities to the authorized officer and the appropriate official of the curatorial facility named in the permit.

7.15f - Permit Fee. The fee for a Permit for Archaeological Investigations is \$2 per professional workday for actual fieldwork, or the Regional minimum fee (sec. 31.51a), whichever is greater (FSM 2724.4, Chapter 30). All or part of the fee may be waived by the authorized officer when equitable and in the public interest, in accordance with 26 CFR 251.57.

7.15g - Native American Graves and Repatriation Act (NAGPRA). If excavation is authorized and human remains are discovered, a permit holder immediately notifies the forest archaeologist and coordinates with the forest archaeologist to follow the procedures outlined in the permit application and NAGPRA action plan regarding discovery and treatment of human remains. In other cases, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder immediately ceases work in the area of the discovery and makes a reasonable effort to protect and secure the items. The holder immediately notifies the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery.

The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.

7.2 – AGREEMENTS. The Forest Supervisor may execute agreements to meet legal compliance under the National Historic Preservation Act (NHPA), and its implementing regulations in 36 CFR 800 (see FSM 2360.consultation) and to implement cooperative projects where a mutual benefit and interest exists between the Forest Service and a partner (Cooperator).

7.21 – NHPA Agreements: Two types of compliance agreements may be created under NHPA:

7.21a – A Programmatic Agreement (PA) is created when an agency official has developed substitute procedures to implement Section 106 of NHPA, in whole or in part, and its

implementing regulations. The agency official and the SHPO, ACHP, Tribes and interested individuals, as appropriate, are signatories to a PA in accordance with 36 CFR 800.14(b). Programmatic agreements require time, effort and creativity to develop. Consultation, and frequently negotiation, among the various parties is essential to this process.

In general, programmatic agreements address the following issues:

1. How the agency will meet its NHPA compliance responsibilities. A PA may define standards and procedures that expedite some parts of Section 106 review (i.e., case-by-case SHPO review of negative inventory reports) while assuring quality control. A state or regional PA may require that forests and grasslands have sufficient professional heritage staffing, adequate cultural resource records systems, and extant predictive models or inventory plans in order for the SHPO to relinquish control of some parts of the compliance review process. An “operations” PA may also emphasize program balance between NHPA Section 106 and Section 110 activities.
2. How the agency will manage its cultural resources. A PA may define identification, evaluation, protection and management of a specific class of cultural resources. It may describe appropriate treatment for certain kinds of undertakings and land use activities affecting that class of cultural resources. Usually, these agreements address large, complex or widely distributed resources such as historic mining sites and landscapes. They typically include procedures that lead to registration requirements, multiple property documentation and National Register nomination.
3. How the agency will deal with specific types of undertakings. A PA may target specific projects or undertakings that are extensive and multi-year; procedurally and legally complex; and have the potential to affect numerous cultural resources of various kinds. Such agreements stipulate planning, inventory, and evaluation requirements and treatment options. Oil, gas, and coal leasing, exploration and development; federal relicensing of hydropower facilities; and revision of rangeland allotment management plans are examples of undertakings that could be the subject of a national, regional or forest/grasslands programmatic agreement.

7.21b – Memorandum of Agreement (MOA) ensures that the agency decision-maker carries out the undertaking in accordance with the stipulated treatments that avoid, minimize or mitigate the adverse effect to an history property(s) caused by an agency or agency-permitted project. The agency official, SHPO (or THPO when applicable) and ACHP may be signatories to an MOA under.

The FS and SHPO (or THPO when applicable) are signatories when standard treatments in a programmatic are being followed and/or the FS and SHPO are in agreement regarding on how adverse effects will be resolved in accordance with 36 CFR 800.6(b)(1). The FS, SHPO (or THPO when applicable) and ACHP are signatories to an MOA when the ACHP decides to participate or where the agency and the SHPO cannot agreement on resolution of adverse effect in accordance with 36 CFR 800.6(b)(2). This usually occurs when complex undertakings and cultural resource issues are involved.

MOA treatment stipulations are the end product of a project adverse effects assessment and documentation (case report) completed in accordance with 36 CFR 800.5 and 800.6. Cultural resource treatments in an MOA cannot be proposed for SHPO review an agency vacuum. The FS project manager and relevant resource specialists, including the heritage professional, must be part of treatment formulation to insure that they are reasonable and feasible within the construct of the undertaking. Frequently, the benefiting function or project proponent bears the cost of designing and implementing cultural resource treatments and mitigation work.

Historic property treatments must be incorporated into project environmental documents, project plans and designs, and contracts (when applicable) to ensure that the project is implemented according to MOA stipulations. Otherwise, there will be a information “disconnect” that leads to damage or destruction of cultural resources intended for protection and treatment. Protocols and measures can be implemented to protect the confidentiality of cultural resource information in these documents and designs.

There is no “cookbook” that describes treatment options for every historic property type or undertaking. Dialogue, innovation and critical analyses are all necessary to formulate mitigation and treatment strategies. MOA examples are provided in Exhibit XX. Some representative situations where an MOA is formulated include:

- An 2-Party MOA stipulates that filter fabric and logs be placed horizontally to the top of the berm within an 1880s-vintage municipal water supply ditch to mitigate the adverse effects of logging equipment crossing the ditch during commercial logging operations (steep terrain precludes alternate crossings; however, all but one crossing were eliminated from consideration). A programmatic agreement concerning historic mining properties provides for consultation between the FS and SHPO. In this case, the District Ranger, project manager (timber staff), timber sale administrator, contracting officer, and heritage specialist all play a role in ensuring that the terms of the MOA are both feasible and met.
- A 3-Party MOA stipulates that wood containment structures holding toxic mill tailings within a historic lode mine will be mapped and photographed in detail prior to their removal (along with the tailings). The ACHP is party to the agreement because it has chosen to participate due to the importance of the site. An adjacent mill structure and equipment will not be removed. In this case, the District Ranger, project manager (engineering staff), on-scene reclamation coordinator, contracting officer, and heritage specialist all play a role in formulating and implementing the terms of the MOA.
- A 2-Party MOA stipulates that limited data recovery of an archaeological site will be completed to facilitate improvements at an existing campground. Tribal consultation has been completed. The ACHP has been notified but has declined involvement due to the routine nature of this project. The agreement (and attached data recovery plan) stipulates the extent of excavation, resources and completion schedule. One campground area will not be developed as planned to protect the remaining part of the site. In this case, the District Ranger, project manager (recreation staff), recreation planner, contracting officer and heritage specialist are all involved in facilitating the conditions of this MOA.

- A 3-Party MOA stipulates that full data recovery will be undertaken to facilitate construction of a temporary road through an archaeological site on a long, narrow finger ridge. The road accesses timber that is dying from mountain pine beetle infestation and presents an extreme fire danger. The project will thin and salvage dead timber in the upper drainage. Tribal consultation has been completed. Because of the controversial nature of this project, the ACHP has asked to participate in this project and MOA formulation. Data recovery will be completed under contract with a local CRM firm prior to implementing the project. In this case, the District Ranger, project manager (timber staff), sale administrator, contracting officer and heritage specialist are all involved in facilitating the MOA stipulations.
- A 2-Party MOA stipulates specific conservation treatments that will be done at several prehistoric masonry structures that have been badly degraded by natural processes and vandalism. The project will reconstruct several walls and replace in-kind several timbers to support wall segments and a partially collapsed roof. Dendrochronological dating will also be attempted during this conservation project. Tribal consultation is complete. The work will be done with Passport in Time volunteers under FS supervision. The ACHP has declined to participate because procedures for ruins treatments are included in a regional programmatic agreement. In this case, the District Ranger, project manager (heritage staff), forest engineer, and tribal liaisons are all involved in implementing the MOA stipulations.

\* Don't know if examples are useful or necessary, especially in conjunction with the exhibits. There are probably better and more varied ones to use.

Exhibit X. Example of a Two-Party Memorandum of Agreement (MOA)

**MEMORANDUM OF AGREEMENT**  
Between the Colorado State Historic Preservation Officer  
And the  
West Overshoe National Forest  
For the  
Milford Subdivision Road Project

WHEREAS, the USDA Forest Service, West Overshoe National Forest, has determined that the Lucky Strike Homestead, located adjacent to the Little Bough River, is eligible for inclusion in the National Register of Historic Place as a site of local homesteading and farming significance.

WHEREAS, in order improve road access to private land (Milford Subdivision), FS dispersed recreation areas, and the Alder Grazing Allotment, the FS is proposing to construct 1.4 miles of new, graveled road, of which an 1/8 mile segment will bisect the Lucky Strike Homestead and require infilling of two irrigation ditches and one historic dump feature;

WHEREAS, the FS has determined that the Milford Subdivision Road Project, as described in the accompanying effects analysis, will have an effect on the Lucky Strike Homestead and has consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to 36 CFR 800.6<a>.

NOW, THEREFORE, the FS and SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

**Stipulations**

The USDA Forest Service, West Overshoe National Forest, will ensure that the following measures are carried out:

1. Photograph with 35 MM camera and black and white film the affected irrigation ditches and historic dump feature prior to in-filling.
2. Remove any affected historic equipment and tools within 50 meters of the irrigation ditch features and provide for the security and disposition of these artifacts.
3. Conduct test excavation within the historic dump feature to recover a representative sample of artifacts prior to implementation of the project.
4. Carry out all cultural recordation and excavation work under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's Professional Qualification Standards.

Upon completion of the above treatments, the FS will proceed with the road construction without further SHPO notification or consultation.

Execution of this Memorandum of Agreement by the USDA Forest Service, West Overshoe National Forest and the Colorado SHPO, and implementation of its terms, evidence that the Forest Service has taken into account the effects of the undertaking on historic properties.

**FOREST SUPERVISOR**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**COLORADO STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_ Date: \_\_\_\_\_

## Exhibit X: Example of a Three-Party Memorandum of Agreement (MOA)

### **MEMORANDUM OF AGREEMENT**

Pursuant to the  
Programmatic Agreement Regarding the Management of  
Historic Placer and Lode Mining Properties in Montana  
For the  
Charter Oak Mine Phase 2 Reclamation Project

WHEREAS, the Helena National Forest and the Montana Historic Preservation Officer have determined that the Charter Oak Mine, located adjacent to the Little Blackfoot River on the Helena National Forest, is a National Register of Historic Places property of national significance;

WHEREAS, as an abandoned mine site, the Charter Oak Mine contains 4115 cubic yards of heavy metal contaminated waste rock and four hazardous mine openings (adits, tunnels) which are potential environmental threats to the Little Blackfoot River system, and humans, wildlife and aquatic biota using the area, and thus require partial removal, stabilization, and/or closure under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA);

WHEREAS, the Helena National Forest has determined that the Charter Oak Phase 2 Reclamation Project will have an effect on the Charter Oak Mine and has consulted with the Montana State Historic Preservation Officer and the Advisory Council on Historic Preservation (Council) pursuant to the Programmatic Agreement Regarding the Management of Historic Placer and Lode Mining Properties in Montana and 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

NOW, THEREFORE, the Forest Service and the Preservation Officer agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on the Charter Oak Mine:

#### **Stipulations**

The USDA Forest Service, Helena National Forest, will ensure that the following measures are carried out:

1. Photograph with a large format or 35 MM camera and black and white film the seven (7) affected waste rock (WR) dumps which will either be partly removed or benched (WR-1, 2, 4 and 5) or entirely removed (WR-9 and 10).
2. Photograph with a large format or 35 MM camera and black and white film the four affected hazardous mine adits scheduled for fencing (Adit 1), grating and enlargement (Adit 2), or complete closure (Adits 3 and 4).
3. Remove any affected historic equipment and tools from the proposed bench areas on the waste rock dumps or adjacent adits, and provide for the security and disposition of these artifacts.
4. Design and construct benches to conform to existing road cuts across the face of WR-1, 2, 4 and 5, to the fullest extent possible.
5. Design and construct a 4-6 foot extension on Adit 2 adjacent to the mill buildings with in-kind materials (logs, dimensional lumber) to accommodate the grating and contaminated surface water system.
6. Remove the two, non-historic (1970's vintage) trailers and all non-historic debris (recent machinery, equipment, appliances, domestic refuse) identified by the Helena NF heritage specialist.
7. Level a small parking area at the base of WR-1 and below (south) of the mill buildings to control traffic flow and accommodate site visitation.
8. Design, contract, implement and monitor all ground-disturbing activities associated with this project so that all standing mine and mill buildings and their related features are not disturbed.

9. Integrate photographs, maps, and other information derived from Phase 2 recordation into the Historic Preservation Plan being developed by the Helena NF for the Charter Oak Mine.

10. Carry out all cultural recordation under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's Professional Qualification Standards.

Upon completion of the above mitigation work, the Helena National Forest will proceed with the reclamation action with further MTSHP or ACHP notification or consultation.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the Helena National Forest has afforded the Council an opportunity to comment on the Charter Oak Mine Phase 2 Reclamation Project and its effects on historic properties.

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**HELENA NATIONAL FOREST**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**MONTANA STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Concur:

**MONTANA DEPARTMENT OF NATURAL RESOURCES**

By: \_\_\_\_\_ Date: \_\_\_\_\_

7.22 – Partnership Agreements. Partnership agreements that benefit and enhance Heritage Program activities are implemented under a variety of federal laws and policies, as established in FSM 1580. If the project proposal is primarily for the direct benefit of the Forest Service, then it is a procurement situation and not an agreement. The following partnership agreements will typically be used to improve and enhance heritage program activities:

7.22a – A Memorandum of Understanding (MOU) provides a general cooperative framework for partnerships but is not a fund-obligating instrument.

7.22b - Challenge Cost-Share and Participating Agreements provide the legal basis for partnership projects and are fund-obligating instruments.

7.23c - Inter-Agency Agreements allow for the transfer of funds, materials, supplies and services to serve a public purpose as authorized by law.

The federal laws and regulations authorizing these types of agreements specify that certain requirements will be met, including contribution ratios, reimbursement or advancement of funds, involvement of NFS or other lands, types of projects and so forth. The Forest Supervisor or subordinate officer with delegated authority, heritage program staff, and the Cooperator must therefore be fully cognizant of these requirements prior to negotiating and implementing an agreement of any type for heritage program work.

7.3 – Contracts. Federal contracting (procurement) is a means to acquire necessary skills, technical expertise, work capacity and/or products to complete compliance and stewardship work essential to the mission of the Forest Service. Contracting is most appropriate for:

1. Preparation of Forest heritage resource overviews and ethnographies.
2. Large-scale, logistically complex or time-critical field inventories.
3. Extensive subsurface site testing and evaluation programs.
4. Technically complex building or structure rehabilitation and renovation
5. Intensive/extensive mitigation of adverse effects (data recovery-excavation, HABS/HAER documentation).

7.31 - Heritage Program Roles in Contracting. A Forest Service contract is implemented under the Federal Acquisition Regulations (FAR) and Agriculture Acquisition Regulations (AGAR). The Forest Supervisor or subordinate officer with delegated authority (Agency Official) is responsible for ensuring that the content of final products completed under contract with a non-Federal entity meets applicable agency standards and guidelines (36 CFR 800.2 (a) (3)). A designated Contracting Officer (CO) administers the contract.

Qualified heritage program staff may be involved in contract preparation and administration as either (1) Technical Advisor; (2) Contract Officer's Representative; or (3) Contract Inspector.

7.31a - Technical Advisor and/or Contract Officer's Representative (COR) may assist the CO as follows:

1. Identify procurement or project (work) need and prepare the *Request for Contract Action* (FS 6300-4), if the authorized requisitioner.
2. Develop the *Statement of Work* (SOW) and technical specifications to procure the item or complete the project and provide the Government estimate of procurement or contract cost.
3. Ensure that the SOW comports with the agency mission and need, and has received compliance, tribal, engineering, administrative or other necessary reviews.
4. Provide maps, drawings, photographs, specifications, mailing lists of potential quoters/bidders, *Funds Availability Certification* (FS 6500-202), and other required solicitation (contract package) documentation.
5. Input procurement data into the *Integrated Acquisition System* (IAS), if identified as the requisitioner.
6. Review solicitations quotes or contract bidder packages and help to select a qualified the bidder.

7.31b - COR and Contract Inspector (CI) may assist the Contract Officer as follows:

1. Monitor contractor performance and work progress through all contract phases.
2. Advise/recommend the CO about changed conditions, contract delays, contract non-compliance, work stoppages or suspensions, payment authorizations, and contract modifications or amendments, as necessary.
3. Participate in all or a portion of the technical aspects of contract modification negotiations.
4. Resolve potential disputes, finding remedies, analyzing contract claims and recommending settlement positions.
5. Closeout the contract and submit the completed contract file to the CO; and facilitate the return of any Government Furnished property and all artifacts, artifact catalogues, data sheets, maps, photographs, and report copies to the Forest Service.
6. Distribute completed products to the SHPO, THPO, tribes, other agencies, universities, curatorial facilities and interested parties, as required or appropriate.

732 - Agreement and Contract Deliverables. Products delivered under federal agreements and contracts are the property of the United States Government. A Cooperator or Contractor does not retain any proprietary rights to the resulting deliverables unless otherwise legally specified. Products such as field reports and data are usually considered to be confidential information, protected under the Freedom of Information Act, and cannot be disclosed in publications, presentations or other media without the authorized officer's prior written approval.

## CHAPTER 8 – INFORMATION MANAGEMENT AND REPORTING

- 8.01 - Authority - See FSM 2360.1
- 8.02 - Objectives – See FSM 2368.02
- 8.03 - Policy – See FSM 2368.03
- 8.04 - Responsibility – See FSM 2361

8.1 – HERITAGE PROGRAM RECORDS. A variety of paper and electronic records are necessary to efficiently and successfully manage a Heritage Program. These records include:

- cultural resource record forms
- cultural resource condition assessments, monitoring reports
- cultural resource damage assessments-ARPA casework
- inventory (field survey) reports
- project and historic maps
- transcripts of oral interviews
- ethnographic, TCP, sacred site data
- photographs, negatives and catalogues
- artifact catalogues for forest collections
- master copies of contractor/cooperator reports
- FS and other historical documents (i.e., old SUP records)

Paper records are referred to as Legacy Data since they go back to the inception of the FS Heritage Program in the early 1970s. These records vary widely in content, quality and condition. Much of it is now being incorporated into electronic database (Infra, GIS) systems.

Electronic copies of cultural resource site and inventory (field survey) records are contained and kept current in Infra and GIS databases.

Heritage program libraries include cultural resource overviews, property-specific heritage property plans, monitoring reports, pertinent CRM and academic references, technical studies, local histories and related documents. These documents are essential for evaluations of National Register significance, evaluations of project effect, preparation of mitigation-data recovery plans, and related professional program activities, particularly among forest and grassland units with limited access to community and university libraries.

8.2 – STANDARDS AND GUIDELINES. Forests and grasslands should adhere to the data standards, requirements and protocols in the national Infra and GIS database systems. States, FS regions or individual forests and grasslands may have specific standards and guidelines for maintaining and managing heritage program records. Some general records management guidelines are provided here:

8.2a – Cultural Resource Site Records: Cultural resources should be recorded on standard FS forms unless the specific FS Region is required to use an alternative state or multi-agency form under a programmatic agreement with SHPO or another procedural arrangement. Forms should

be filled out thoroughly since someone unfamiliar with the cultural resource(s) may ultimately enter these data into the Infra system. Companion maps, field sketches, photograph and artifact logs, informant information and related data should be clearly linked to the site form. All paper cultural resource site records should be marked and filed by a forest, Infra, Smithsonian, country, or ranger district designation for easy retrieval and use.

Cultural resource “legacy” data that are old or vague (“site leads or ticklers”) should not assigned a site designation and included in the file or Infra database until they are substantiated by fieldwork and appropriate recordation.

Monitoring reports, condition assessments, and other field data should be included in the cultural resource record file.

Cultural resource records should be contained in a secure, fireproof, metal cabinet with ample room for additional information. Records access should be limited to Heritage Professionals.

8.2b – Inventory (Field Survey) Record. Inventory (field survey) report forms and formats should also follow FS, FS-regional or state standards and conventions. Survey records should describe the nature and intensity of the inventory and describe project results (both positive and negative) with the pertinent cultural resource record forms, survey notes, project maps, and photographs attached

8.2c – Atlas and Master Maps. Cultural resource site and inventory locations may also be contained in a compendium of USGS 7.5’ topographic maps--often called the forest’s “cultural resource atlas” or “master maps”. The atlas-map set has been a traditional way to record and easily access geospatial information for heritage program planning and project (Section 106) purposes.

The atlas system requires regular updating by hand, which can be exacting and time-consuming. There are also security issues because the map sets are frequently large, bulky and difficult to store and use. For these reasons, to the fullest extent possible, GIS technology (which is linked to Infra) should be used to store, update, manipulate and manage geospatial data in lieu of the atlas or master map system. Cultural resource GIS data layers can be easily integrated into broad-scale planning efforts, such as fuels reduction and transportation planning. Project maps for field surveys created in GIS will also eliminate the need for subsequent digitizing or other hand-manipulation and processing.

8.2d – Infra and GIS Databases. Infra is the national corporate database for all National Forest resources and infrastructure. The heritage program module includes cultural resource records and event records, including field inventories, monitoring, condition assessments and other activities. Infra is linked to a GIS (geospatial) database. The *Infra Heritage Resources User Guide* and various updates explain how the system is used. (Cite Web page and other NIMI).

Forests reliant on Access, Oracle, Excel and other forest electronic databases, software, and spreadsheets should discontinue using these systems and convert those data to the national Infra database.

8.2e – Project and Historic Maps: Heritage programs accumulate a variety of agency and other historic maps. These maps are highly useful in identifying changes in forest land use and transportation systems during the past 100 years or more. FS administrative facilities, recreation cabins, roads and trails, mining claims and mines, utility routes and other information are identified on these maps. Many of these maps are old, well-used and were often acquired by the heritage program as the last resort prior to being thrown away.

In view of this situation, maps should be catalogued and maintained in a flat file or other suitable space. Protective sleeves, covers and dividers may be appropriate. Some types of old maps are attractive (i.e., hand-colored vegetation and range maps) and can disappear if the map file is not secure from employee and public access. When feasible, maps should be Xeroxed or electronically scanned so that they originals can be safely filed and the copies used for planning and project use.

8.2e – Photograph, Slides and Negatives. Heritage programs typically accumulate numerous photographs in the course of completing NHPA Section 106 and 110 work. Without immediate and proper attention, they may languish unlabeled during a busy field season and their provenience may be lost. Therefore, photographs and slides taken with conventional (35mm) cameras should be appropriately labeled, cross-referenced to the pertinent cultural resource record or inventory form, and maintained to archival standards (i.e., in acid-free slips or containers) as appropriate. Processing 35 mm (or other) film is expensive. Developing contact sheets is usually the best approach; select photographs can then be developed showing the desired environmental setting, ruins, features or artifacts for a field report.

Digital photographs should also be catalogued and cross-referenced to the pertinent cultural resource record or inventory form. Labeled CDs or diskettes are a handy way to store digital photographs and include them with the appropriate cultural resource or inventory record. Digital photography is increasingly being used for field inventory and cultural resource recordation. Test excavation, data recovery, building restoration and other types of substantive NHPA Section 106 and 110 projects likely involve both conventional (35 mm) and digital formats to insure both photographic and archival quality, which sometimes complicates cataloguing, record keeping and storage.

8.2f – Ethnographic, TCP and Sacred Site Information. Data collected from Tribes and other cultural groups concerning their traditions, histories and lifeways, especially as they relate to particular and special areas on national forests and grasslands, are usually sensitive information. Oral histories recorded on tape should be transposed into a manuscript to insure the survival of the interview (magnetic tape deteriorates over time). Photographs, maps, and related information should be properly archived. This kind of cultural resource information should be securely stored, managed and used in accordance with confidentiality guidelines discussed in Section 8. below

8.2f – Historic Records. Heritage programs are often the repository of a wide array of historic records and documents, usually pertaining to the FS. These typically include Special Use Permit records; internal and external correspondence; resource reports; publications and brochures; and environmental documents. Frequently, these records do not meet the criteria for submission to

the National Records Center and are threatened by disposal and pilfering. Records storage, either by the Heritage Program and Forest History Program (as it may exist in FS regions and units), may be limited. Forest records are frequently lost or destroyed during relocation of FS offices and facilities.

In view of this situation, historic records pertinent to the forest or grassland unit should be catalogued and maintained, to the extent possible, to archival standard, by record type, topic, date or other designation, in the heritage program file system. Some records may be more appropriately stored by the Forest History Program. In broader context, it may be more appropriate to convey exceptionally unique records and collections to state historical societies so that their long-term survival, agency access and public use is insured.

8.3 – ARCHIVAL STANDARDS. Agency records, maps, photographs, and documents maintained to professional archival standards to the fullest extent practical. These standards include but are not limited to:

- Maintain in an appropriate repository in an agency office or other facility
- Maintain in locked, fire- and moisture-proof file cabinets and map drawers
- Maintain a current catalogue of all records
- Incorporate data into electronic systems (Infra) as appropriate
- Use appropriate archival materials to protect records (i.e., acid-free envelopes)
- Use copies of records and maps rather than originals
- Convey to federal records centers or state historical societies records and documents that cannot be locally housed and maintained or exceptional archival collections

While it may not be practical to eliminate all possible sources of deterioration, such as fire, humidity, light, and chemical changes, care should be taken not to introduce sources of deterioration when there is a choice

8.4 – CONFIDENTIALITY. Heritage resource inventory and evaluation records, maps, and reports in electronic and hard copy IS withheld from disclosure to the public as necessary to protect the resource.

Hard copy data should be maintained in secure storage files to ensure protection from public disclosure.

When sharing sensitive information in electronic or hard copy format with Tribes or other consulting parties, a memorandum of agreement should be developed with the consulting parties to ensure that:

1. Data will be held under appropriate security measures by the consulting party and not at risk to unauthorized disclosure
2. Information is identified as sensitive and not available for disclosure to the public by the consulting parties under provisions of the NHPA and FOIA (Exhibit### sample data security agreement).

Exhibit 1. Sample data security agreement for use with consulting partners