

PROGRAMMATIC AGREEMENT

AMONG THE

**U.S.D.A. FOREST SERVICE, PACIFIC SOUTHWEST REGION (REGION 5)
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
NEVADA STATE HISTORIC PRESERVATION OFFICER, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

REGARDING THE

**PROCESSES FOR COMPLIANCE WITH SECTION 106 OF
THE NATIONAL HISTORIC PRESERVATION ACT
FOR MANAGEMENT OF HISTORIC PROPERTIES BY THE
NATIONAL FORESTS OF THE PACIFIC SOUTHWEST REGION**

Review Draft

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THE NATIONAL HISTORIC PRESERVATION ACT
FOR MANAGEMENT OF HISTORIC PROPERTIES BY THE
NATIONAL FORESTS OF THE PACIFIC SOUTHWEST REGION**

PREAMBLE

WHEREAS, this Regional Programmatic Agreement fully supersedes all provisions of the First Amended Regional Programmatic Agreement among the USDA Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Process for Compliance with Section 106 of the National Historic Preservation Act for Undertakings on the National Forests of the Pacific Southwest Region, executed on August 24, 2001; and the Programmatic Agreement among the U.S.D.A. Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation Regarding the Identification, Evaluation and Treatment of Historic Properties Managed by the National Forests of the Sierra Nevada, California, executed on December 10, 1996; and

WHEREAS, the U.S.D.A. Forest Service, Pacific Southwest Region (**REGION 5**) has a multiple-use mission to manage its public lands in California and Nevada for a variety of resources, values, products, and uses which may affect historic properties; and

WHEREAS, Region 5 as public land steward is mandated to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (**NHPA**) (16 USC 470), and its implementing regulations, entitled Protection of Historic Properties (36 CFR part 800); and

WHEREAS, National Forests of Region 5 (**Forests**) have professional staffing and an extensive history of compliance with the provisions of 36 CFR part 800 that demonstrates many undertakings can be implemented using procedures, as set forth in this Programmatic Agreement (**PA**), that have proven effective in managing and preserving historic properties in a less burdensome and more cost-effective, expeditious, and flexible manner than the undertaking-specific process outlined in 36 CFR part 800; and

WHEREAS, Region 5 works to identify, evaluate, treat, protect, preserve, notify and consult about historic properties, as authorized and required by the: Antiquities Act of 1906 (34 Stat. 225; 16 USC 431-433), Historic Sites Act of 1935 (49 Stat. 666; 16 USC 461-467), , National Environmental Policy Act of 1969 (**NEPA**), as amended (83 Stat. 852 et seq.; 42 USC 4321-4347), Archaeological and Historical Data Preservation Act of 1974 (88 Stat. 174; 16 USC 469), American Indian Religious Freedom Act of 1978 (92 Stat. 469; 42 USC 1996), Archaeological Resources Protection Act of 1979, as amended (**ARPA**) (93 Stat. 721 et seq.; 16 USC 470 et seq.); and the Native American Graves Protection and Repatriation Act of 1990 (**NAGPRA**)(104 Stat. 3048-3058; 25 USC 3001-3013); and as mandated under Executive Order 13007, entitled *Indian Sacred Sites*, Executive Order 13175, entitled *Consultation and*

Coordination with Indian Tribal Governments; and Executive Order 13287, entitled *Preserve America*; and

WHEREAS, Region 5 has determined that its **undertakings** (as defined in Appendix A) under its jurisdiction have the potential to effect historic properties either included in or eligible for inclusion in the National Register of Historic Places (**NRHP**), and that these undertakings are subject to consideration under Sections 106 and 110 of the NHPA; and

WHEREAS, the signatories have reviewed these Forests' kinds of undertakings to consider prudent and feasible management measures that not only take into account the effects of these undertakings on historic properties which are included in, or eligible for inclusion in, the NRHP, but also protect unevaluated properties which might be eligible for the NRHP under criteria at 36 CFR 60.4; and

WHEREAS, 36 CFR 800.14 allows federal agencies to develop alternative procedures, such as this PA, to implement Section 106 if they are consistent with the ACHP's regulations pursuant to Section 110(a)(2)(E) of the NHPA, and the signatories share a common desire and purpose to exercise their option to develop alternative procedures that would satisfactorily take into account the effects of these undertakings where proper precautions are followed; reduce redundant documentation associated with recurring types of undertakings within areas having adequate prior identification, review, and consultation; and facilitate Forest progress towards meeting Section 110 responsibilities; and

WHEREAS Region 5 has consulted with the California State Historic Preservation Officer (CASHPO), the Nevada State Historic Preservation Officer (NVSHPO) [collectively or individually SHPO] and the Advisory Council on Historic Preservation (ACHP) [collectively, signatories] pursuant to 36 C.F.R. part 800; and

WHEREAS Region 5 has consulted with federally recognized tribes that attach religious and cultural significance to historic properties, and

WHEREAS, in carrying out its responsibilities, the USDA Forest Service and Region 5 have developed policies and procedures through its directives system (Forest Service Manual (**FSM**) Series 2360-2368) (Appendix B) to guide planning, decision making, and activities. Region 5 has professional historic preservation staff in its Heritage Program to advise its Line Officers and to implement historic preservation policies. It is the intent of this agreement to provide a process for continuing, diligent, uniform, and consistent compliance with Sections 106 and 110 of NHPA by Region 5; and

WHEREAS, administration of this PA by Region 5 Regional Heritage Program Leader ensures appropriate oversight and application of PA stipulations and meets PA delegation, dispute resolution, review, amendment, and reporting requirements on behalf of the Regional Forester of Region 5; and

WHEREAS, execution of this PA by the Regional Forester of Region 5 obligates that each participating Forest comply with the stipulations contained herein, and the Forest Supervisors of these participating Forests have concurred with this requirement; and

NOW, THEREFORE, the signatories agree that all undertakings by the Forests shall be implemented in accordance with the following stipulations in order to take into account the effects of their undertakings on historic properties; and, when so administered, the processes specified in this PA for identification, documentation, evaluation, review, consultation, and public notification and participation may be followed, in lieu of the requirements of 36 CFR part 800, and these processes satisfy the Forests' Section 106 responsibilities for all individual aspects of their undertakings.

STIPULATIONS

REGION 5 shall ensure that the following measures are carried out:

I. PURPOSE AND APPLICABILITY

A. Definitions of Terms Used in this PA

The terms used in this PA are defined within the body of the PA itself, in appended documents, or Appendix A. Definitions may also be found in REGION 5's FSM 2360 and in 36 CFR 800.16 (a-z).

B. Purpose of this PA

This PA prescribes the manner in which REGION 5 and the SHPO shall cooperatively implement this PA in California and portions of Nevada. It is intended to ensure that REGION 5 organizes its programs to operate efficiently and effectively in accordance with the intent and requirements of the NHPA and that REGION 5 integrates its historic preservation planning and management decisions with other policy and program requirements. The PA streamlines the NHPA Section 106 (Section 106) process by eliminating case-by-case consultation with the SHPO on undertakings for which there is little or no potential to affect historic properties and for undertakings that and which culminate in no historic properties affected or no historic properties adversely affected with approved Standard Protection Measures (36 CFR 800.4(d)(1) and 800.5(d)(1)).

The PA also requires the effective management of Forest Heritage Programs consistent with the requirements of Section 110 of the NHPA and implementation of the Heritage Program by each Forest in partial exchange for relief from the case-by-case procedural requirements of 36 CFR part 800. REGION 5 may develop a Historic Preservation Plan in consultation with the SHPO to help forests effectively manage their Heritage Programs and address broader historic preservation objectives.

Supplemental procedures attached to this PA by approved amendments provide procedures that are specific to individual programs or functions (refer to Stipulation XII.C).

C. Applicability of this PA

This PA, subject to threshold limitations specified in Stipulation VI, applies to all programs, funding initiatives, permits, assistance, actions or decisions under the statutory or regulatory authority of REGION 5 that, regardless of land ownership, constitutes an undertaking that may affect historic properties. However, this PA shall not apply to tribal lands. Any proposed REGION 5 undertaking on tribal lands will require consultation that is outside the scope of this PA and will follow 36 CFR part 800 or the Indian tribe's programmatic alternative to 36 CFR part 800.

If more than one federal agency is involved in an undertaking that is in part under the jurisdiction of Region 5, and the other federal agencies agree to designate the Forest Service the lead federal agency, the FS and those agencies may use this PA and the process herein to comply with Section 106. Where multiple federal agencies and/or multiple federal jurisdictions are involved, federal agencies should first consider developing a unique Programmatic Agreement for that specific undertaking.

Undertakings shall be considered federal actions subject to the requirements outlined in this PA when they involve non-federal lands and REGION 5 is the lead agency, or where Region 5 has provided funding and retains jurisdiction on the expenditure of this funding on specific

undertakings.

D. Effect of this PA

This PA establishes the procedures that govern the interaction between REGION 5 and the SHPO. The California and Nevada SHPOs each have respective consultation roles under this PA when an undertaking occurs within their state or an undertaking may affect historic properties within their jurisdiction. The goals of this PA are to enhance planning for protection and management of historic properties under REGION 5's jurisdiction or control, and to ensure appropriate consideration of historic properties beyond REGION 5's jurisdiction, but which may be affected by its actions.

II. ROLES AND RESPONSIBILITIES OF AGENCY PERSONNEL

A. Regional Forester: The Forest Service Line Officer who has the delegated authority to make and execute decisions on a regional level; Forest Supervisors report to the Regional Forester. The Regional Forester meets annually with the State Historic Preservation Officer and may meet more frequently upon request of either REGION 5 or the SHPO; consults with the SHPO or ACHP regarding implementation of the PA; ensures Forests meet the requirements of, and implement their programs according to, the PA; and enters into region-wide Programmatic Agreements with the SHPO, the ACHP, and other Agencies for implementing Section 106 in specific circumstances not covered by this PA.

B. Forest Supervisor: The Forest Service Line Officer with the delegated authority to make and execute decisions on a National Forest. The Forest Supervisor is the "Agency Official" (36 CFR 800.2(a)) responsible for implementing the PA on a forest. Under this PA the Forest Supervisor can concur in determinations of, including but not limited to, Area of Potential Effect (APE), NRHP eligibility, no adverse effect, and no historic properties affected developed by professional Heritage Program staff; consult formally with SHPO as appropriate (Stipulation VI) and when there is unresolved disagreement with Heritage Program staff determinations; ensure necessary training for cultural staff; ensure availability of Heritage Program funding for preservation projects and implementation of the Historic Preservation Program; ensure Indian consultation for Section 106 projects consistent with Forest Service Manual direction and 36 CFR part 800; execute Memoranda of Agreement for adverse effects and Programmatic Agreements which are limited to specific Forests.

C. District Ranger: A Forest Service Line Officer who has the delegated authority to make and execute decisions on a Ranger District. Under this PA the District Ranger can concur in determinations of, including but not limited to, APE, NRHP eligibility, no adverse effect, and no historic properties affected developed by professional Heritage Program staff; ensure necessary training for cultural staff; ensure availability of cultural resources funding for preservation projects and implementation of the Historic Preservation Program; ensure Indian consultation for Section 106 projects consistent with FSM direction and 36 CFR part 800. Responsibilities for Heritage Program Management are identified in the Forest Service Manual (2360).

D. Regional Heritage Program Leader: The Regional Heritage Program Leader oversees implementation of the PA for the Regional Forester, provides regional PA guidance, identifies needed training, conducts reviews, recommends certification, provisional certification, decertification, and recertification of Forests, reviews or develops Programmatic Agreements and Memoranda of Agreement, may lead consultation with the SHPO in specific cases, consults with the SHPO and ACHP on behalf of Regional Forester, and submits reports and information to the SHPO and ACHP concerning implementation of the PA.

E. Heritage Program Manager (HPM): The designated forest-wide coordinator and

heritage program lead on a Forest for heritage program activities implemented under this PA. The HPM coordinates consultation with the SHPO, ACHP and other parties on behalf of the Forest Supervisor and other Line Officers. The HPM, without formal SHPO consultation, determines Areas of Potential Effect (APE), certifies determinations of NRHP eligibility as provided by this PA, and determines no adverse effect or no historic properties affected by an undertaking. The HPM also seeks the informal opinion of SHPO staff when appropriate; maintains heritage program records and transmits reports and inventory records to Information Centers; maintains professional knowledge and ability; develops and implements Section 110 programs and projects; and may delegate some of these responsibilities under this PA to other professional Heritage Program staff as appropriate; and certifies that findings, determinations, and recommendations regarding the identification and management of historic properties meet the professional standards and requirements of this PA.

F. Heritage Program Staff: Forest or district staff that are trained in historic preservation specialties, such as historic or prehistoric archaeology, history, anthropology, ethnography, or architectural history who may conduct literature searches and cultural resource inventories, record and monitor sites, excavate, process and analyze cultural resource data, maintain heritage databases, maintain heritage records and collections, write reports, stabilize sites, or assist Heritage Program Managers or qualified professionals with other historic preservation tasks; and who has the experience and skills pertinent to his or her job duties and responsibilities under this PA. Heritage Program staff generally serves in District or Zone Archaeologist, Assistant Forest Archaeologists, or other assistant positions on forests in Region 5.

III. RELATIONSHIP OF PA TO OTHER AGREEMENTS

Future development of programmatic agreement documents pertaining to specific aspects of the Heritage Program is not precluded by this PA. Undertaking-specific programmatic agreements in force at the time of the execution of this PA shall continue to function normally according to their terms. Previously approved REGION 5 cultural resource modules or other cultural resource management programs approved under existing programmatic agreements may be appended to this PA without revision as the signatories may agree, and housed in the Amendment section (Appendix H).

IV. PROCEDURES

The following procedures shall be implemented by REGION 5 under this PA:

A. MEETINGS

The State Historic Preservation Officers and the Regional Forester, with their respective staffs, shall meet annually to review REGION 5's implementation of the PA, annual reports of activities, and other pertinent issues. The ACHP shall be invited to participate in order to facilitate its general oversight of the Section 106 process. At the annual meeting, the SHPOs and REGION 5 shall exchange information relevant to achieving the goals and objectives set forth in this PA. At any time the SHPOs or the Regional Forester may convene a meeting to discuss critical issues. This PA encourages its parties, including staff and cultural resource specialists, to meet and consult frequently in order to maintain appropriate communication, to seek informal opinion and advice, and share information and knowledge.

B. COMMUNICATING BY REPORTING

REGION 5 shall inform the SHPO of activities carried out under this PA by developing and submitting reports annually to the SHPO as specified below.

1. *Forests*

a. Information by Forest detailing use of the PA, including exemptions (Appendix D), for Section 106 actions no later than December 1 following the prior fiscal year, or by an alternative date negotiated with SHPO by the Regional Heritage Program Leader.

b. Information by Forest detailing Historic Preservation Program (Section 110) accomplishments for each Forest no later than December 1 following the prior fiscal year, or by an alternative date negotiated with SHPO by the Regional Heritage Program Leader.

2. *Regional Office.* The Regional Heritage Program Leader shall review the reports on Section 106 actions and Section 110 activities submitted by the Forests. Based on that review and other information provided by Forests, the Regional Heritage Program Leader shall develop a summary report for submission to SHPO and ACHP by the Regional Forester, and submit this report by March 1. An alternate date may be negotiated between the Regional Heritage Program Leader and the SHPO. The report may identify need for further review of specific Forest programs if necessary.

C. PROFESSIONAL DETERMINATIONS AND RECOMMENDATIONS

This PA authorizes REGION 5's professional Heritage Program Managers on each Forest to act on the SHPO's behalf under limited circumstances, including those limits specified in Stipulation VII of this PA. Within those limits, REGION 5's Heritage Program Managers may define APEs, conduct inventory, make determinations of eligibility, determine no adverse effects, determine that no historic properties are affected, certify documentation for screened undertakings, identify appropriate protection measures, and apply exemptions (Appendix D) without involvement of the SHPO. The Line Officer may elect to accept the recommendations and determinations prepared by the Heritage Program Manager or delegated Heritage Program staff. When professional determinations and recommendations are accepted by the Line Officer, no SHPO consultation is required. However, when professional determinations or recommendations including, but not limited to, APE, scope of inventory, determinations of National Register eligibility, findings of no historic properties affected or no adverse effect with approved Standard Protection Measures, or application of exemptions are not accepted by the Line Officer, the Forest Supervisor shall in each such case initiate consultation with the SHPO under 36 CFR part 800 (Appendix C).

D. SHPO INVOLVEMENT IN THE REGION 5 HERITAGE PROGRAM

To encourage broad participation by the SHPOs in REGION 5's Heritage Program, the following involvement opportunities are offered:

1. *Land Management Planning Efforts.* At the earliest stage of the planning process, each Forest responsible for preparing a land use plan or significant amendments or revisions at the regional or local level shall invite the SHPO to participate in the planning effort (FSM 2360). The SHPO may elect to not participate in specific planning efforts. The approach and scope of planned compliance activities shall be identified through these consultation efforts or under 36 CFR part 800. An agreement document specific to the planning effort may be requested by either party. All draft and final land use plans and related cultural resource plans shall be submitted to the SHPO for review and comment. Completion of the consultation process for planning will be indicated by a Forest's written response to the SHPO's comments on the draft land use or cultural resource project plans. No decision documents for planning shall be issued prior to completion of the consultation.

2. *Field Tours.* REGION 5 Forests may invite the SHPO/SHPO staff to participate in field tours relating to land use planning efforts or specific undertakings whenever cultural

resources may be affected. The SHPO's views will be requested with regard to management of the cultural resources.

3. *Contact.* Formal consultation outside the scope of this PA will be conducted between the SHPO and the Forest Supervisor. REGION 5 Line Officers, in coordination with the Heritage Program Manager or other Heritage Program staff, may also contact SHPO staff informally regarding specific undertakings. The professional staffs at the SHPO and in REGION 5 are encouraged to communicate at their discretion on general concerns or issues related to specific undertakings. Informal consultation shall be documented by both SHPO and REGION 5 Forest staff; Region 5 documentation shall be retained in appropriate files under the control of the Forest Heritage Program staff.

4. *Internal REGION 5 Program Review.* REGION 5 shall invite SHPO participation in internal Forest program reviews pertaining to this PA and shall provide reports of reviews, exclusive of findings and recommendations specific to personnel matters. The scope of review opportunities is detailed in Stipulation V.E of this PA.

In keeping with the PA's stated goal of encouraging participation by SHPO in REGION 5's Heritage Program, additional opportunities may be identified by REGION 5 or may be requested by the SHPO.

V. PROGRAM DEVELOPMENT AND ACTIVITIES

A. Preservation Program. REGION 5 commits to fulfill the responsibilities enumerated in Section 110 of NHPA. The Regional Forester shall implement a region-wide Historic Preservation Program (HPP). The HPP will be an amendment to this PA and shall guide REGION 5 in achieving measurable progress toward compliance with Section 110 of NHPA.

The *Framework for Archaeological Research and Management for Forests of the North-Central Sierra Nevada* (FARM) may be implemented as the prehistoric archaeological element of HPPs for the Eldorado, Inyo, Sequoia, Stanislaus, and Tahoe National Forests, and the Lake Tahoe Basin Management Unit. Additional elements and revisions to the FARM shall be reviewed and incorporated into HPPs where approved by the SHPO.

B. Curation. REGION 5 will ensure to the greatest extent possible that curation and disposition of all archaeological materials and data from Federal lands are consistent with FSM 2360 as appropriate. Management of non-Federal archaeological materials and data will be consistent with applicable law and professional curation requirements as negotiated with non-Federal landowners or managers. Non-museum collections may be maintained at Forests, but only under appropriate curatorial conditions and with appropriate documentation.

C. Data Sharing and Information Management.

1. *Documentation of Findings.* All cultural resources investigations associated with implementing this PA regardless of findings shall be documented to the standards stipulated in FSM 2360 and written guidance of the SHPO. Region 5's current archaeological site records, survey, exemption, and previous coverage reports meet these standards. In California, REGION 5 shall submit to the appropriate Information Center of the California Historical Resources Information System (CHRIS) inventory reports and Archaeological Site Records (Department of Parks and Recreation form 523 or equivalent; or R5 Cultural Resource Record (CRRs)) completed to the standards of the Office of Historic Preservation. In Nevada, REGION 5 shall submit cultural resource inventory reports and Intermountain Antiquities Computer System (IMACS) forms for archaeological and historic sites to the NVSHPO for incorporation into NVCRIS.

REGION 5 Heritage Program staff shall document all determinations, findings, and recommendations made under this PA and all such actions and related documentation shall be considered by Line Officers prior to making decisions that may affect historic properties. Such actions include, but are not limited to, delineating areas of potential effect, National Register eligibility determinations, applying exemptions, no historic properties affected and/or no adverse effect findings and other findings and determinations. Prior to making NEPA decisions, the potential effects of undertakings on historic properties must be documented and supported by completed reports, and report approvals dated and signed by HPMs or qualified Heritage Program staff delegated by HPMs, in accordance with the stipulations in this PA. Documented determinations, findings, and recommendations shall be retained as described in Stipulation V.C.3 of this PA.

2. *Exchange of Data.* REGION 5 has developed and maintains corporate databases that include information about cultural resources and cultural resource investigations (INFRA Heritage Module) and geospatial data in a Geographic Information System (GIS) in accordance with Section 112(2) of the NHPA and FSM 2360. The INFRA Heritage Module and GIS database will be updated with newly recorded and re-recorded resource and investigation data. REGION 5 and SHPO may jointly work to develop or consider ways that facilitate the electronic submission of records for tracking agency actions.

3. *Records Management.* REGION 5 shall maintain complete, current, and permanent records for cultural resources activities, including but not limited to survey areas, findings, determinations, reports, historic property records, archaeological site records, and correspondence, to fully document fulfillment of its responsibilities under this PA, and other laws, regulations, and policies. Records management shall be consistent with the standards and policies at FSM 2360 and standards and procedures in FSH 2309.12 and developed subsequent to execution of this PA. Records pertaining to undertakings shall be retained in files, under the control of Forest professional Heritage Program staff, which document inventory efforts, research designs, peer reviews, assessment of effects and impacts, and use of exemptions (Appendix D). Records shall include, but shall not be limited to, site records, monitoring and condition reports, determinations of eligibility, images, use allocations, and cross references to other files or curated documents which contain information pertaining to the individual property.

The Regional Forester has determined, under the authority of Section 304 of NHPA and consistent with Section 9 of ARPA, that public disclosure of the location and character of cultural resources may risk harm to those resources. Cultural resource information under the control of REGION 5, regardless of ownership of the resource, shall not be disclosed to the general public (FSM 2360) and such information shall not be stored in documents open to the general public. This determination notwithstanding, REGION 5 may characterize cultural resources in writing sufficiently for the purposes of required analyses under NEPA and cultural resource information may be disclosed when such disclosure is deemed to advance management purposes or the public interest.

D. Professional Development and Training

Training and development are key elements in maintaining the effectiveness of the PA. Heritage Program Managers, with assistance from the State Historic Preservation Officer as necessary, will provide timely advice and guidance to forest Line Officers on the requirements and application of the PA. Where Line Officer training in the use and implementation of the PA is needed, the SHPO shall be offered the opportunity to assist REGION 5 in such training.

Heritage Program staff, Line Officers, planning staff, and other forest staff, as appropriate, shall receive training in the use and implementation of the PA, including the procedural requirements of 36 CFR part 800 which are to be implemented in instances where the PA

does not apply. The Regional Heritage Program Leader shall identify the need for specialized cultural resource management training. REGION 5's Heritage Program staff shall meet yearly, usually in conjunction with the Society for California Archaeology meetings, to participate in workshops, training, exchange information, and to discuss issues concerning the Heritage Program. The SHPO shall be offered the opportunity to assist REGION 5 in on-going training of Line Officers and Heritage Program staff in the implementation of the PA.

Forests, in consultation with the Regional Heritage Program Leader, shall devise professional development plans for their Heritage Program staff to ensure that current professional standards in the discipline can be met and maintained, and to identify training needs. Training received shall be reported as a component of annual reporting (Stipulation IV.B).

REGION 5 recognizes that staying current in relevant professional practices and participation of Heritage Program staff in professional societies and annual meetings (e.g., Society for California Archaeology, Society for American Archaeology, Society for Historical Archaeology, California Council for the Promotion of History, Society of Architectural Historians) is integral to: staying abreast of developments and advances in the discipline; acquiring current information useful in making professional recommendations and determinations provided for in this agreement; enhancing professional knowledge and skills; and providing opportunities for leadership and service to the profession.

Annual participation by Forests in PA training and Heritage Program staff completion of any required culture resource management training shall be key considerations for continuing certification of individual Forests.

E. Reviews of Forest Performance under this PA

Professional review of Forest program operations is an essential and mandatory component of REGION 5's Heritage Program and this PA, especially as it pertains to certification (Stipulation XI). Ensuring that such review takes place is a primary responsibility of the Regional Heritage Program Leader under this agreement. Reviews may involve any aspect of a program's function including, but not limited to, documentation, findings and recommendations, resource protection, record keeping and curation, security, and professional contributions. It is the intent of such reviews to improve operations at individual Forests and to improve the Heritage Program region-wide.

Three levels of internal review are available to the Regional Heritage Program Leader: Annual Review; Technical Review; and Program Review. Findings of reviews shall be relevant for purposes of assessing certification status of Forests.

1. *Annual Review.* The Regional Heritage Program Leader shall assess annually each Forest's ability to implement the provisions of the PA. The Annual Review will be based primarily on information and data submitted by each forest for the Annual Report required in Stipulation IV.B of this PA; however, other data may be considered. The Regional Heritage Program Leader shall document the findings of the annual review and the Regional Forester shall submit that report to the SHPO and ACHP. The ACHP shall be consulted where identified deficiencies involve and/or include recommendations to resolve adverse effects to historic properties. When recommendations to correct deficiencies receive SHPO concurrence, and ACHP if participating in resolution of adverse effects, and are accepted by the Regional Forester, implementation of such recommendations shall become the responsibility of each Forest Supervisor who shall be required to initiate corrective actions within sixty (60) days from the date the recommendations are accepted by the Regional Forester. Depending on the nature of the identified deficiencies, the Regional Forester may elect to place a Forest in provisional status according to the procedures described at Stipulation XI.B of this PA.

2. *Technical Review.* The Regional Heritage Program Leader shall determine whether Forests are maintaining an appropriate level of technical capability and performance in particular program elements. Such elements may include, but are not limited to, record-keeping, documentation of PA actions, Section 110 actions, curation, inventory documentation, determinations, budget issues, and findings from Annual Reviews. The Regional Heritage Program Leader shall document the findings of the Technical Review and the Regional Forester shall submit that report to the SHPO. When recommendations to correct deficiencies receive SHPO concurrence and are accepted by the Regional Forester, implementation of such recommendations shall become the responsibility of each Forest Supervisor, who shall be required to initiate corrective actions within sixty (60) days from the date the recommendations are accepted by the Regional Forester. Failure to initiate corrective actions within the specified time or failure to correct the deficiencies shall require the Regional Forester to consider, based on recommendations from the Regional Heritage Program Leader and in consultation with the SHPO, actions under Stipulation XI of this PA.

3. *Program Review.* The Regional Heritage Program Leader shall determine whether Forest Heritage Programs are fully functional in their ability to implement this PA. Program reviews are broad-based reviews of the entire Heritage Program at a Forest, although such a review may focus on particular areas of interest. The Regional Heritage Program Leader shall invite the participation of the SHPO, document the findings of the Program Review and the Regional Forester shall submit that report to the SHPO. Should deficiencies be identified, the Regional Heritage Program Leader shall develop corrective recommendations. When such recommendations receive SHPO concurrence and are accepted by the Regional Forester, implementation of such recommendations shall become the responsibility of each Forest Supervisor, who shall be required to initiate corrective actions within sixty (60) days from the date the recommendations are accepted by the Regional Forester. Failure to initiate corrective actions within the specified time or failure to correct the deficiencies shall require the Regional Forester to consider, in consultation with the Regional Heritage Program Leader and SHPO, actions under Stipulation XI of this PA.

From time to time, in order to ensure that actions of REGION 5 professional staff retain a high level of professionalism, the SHPO may request that particular documents be subjected to external professional peer review. This can be done through the review/inspection process or through the normal Section 106 procedures. REGION 5 may prepare peer review guidelines in consultation with the SHPO or may elect to accept existing peer review guidelines proffered by the SHPO. The SHPO and REGION 5 agree that peer review shall not delay the implementation of undertakings.

VI. PARTICIPATION OF INDIAN TRIBES

REGION 5 recognizes the importance of the continuing government-to-government relationship with tribal entities and the importance of meaningful consultation on specific undertakings. REGION 5 shall follow 36 CFR 800.2(c)(2) (Appendix C) and the procedures and guidelines established in FSM 2360 and FSH 2309.12 when conducting consultation with the Indian community for undertakings under this PA. REGION 5 supports and encourages the sharing of project specific cultural resource information with Federally-recognized tribes when they are consulting parties for an undertaking. Policy and guidance for government-to-government consultation between Line Officers and Tribal Governments are included in the American Indian and Alaska Native Relations sections of the Forest Service Manual (FSM 1563) and Forest Service Handbook (FSH 1509.13).

Non-Federally recognized Indian tribes or communities and individual members may be invited to participate as additional consulting parties and shall be encouraged to raise issues, express concerns, provide information and identify resources and places they would like REGION 5 to consider in decision-making. REGION 5 shall initially solicit such input of non-

Federally recognized Indian tribes through the public participation opportunities afforded by REGION 5's land use planning and environmental impact review processes, and consultation protocols. REGION 5 shall take into account any confidentiality concerns raised by Indian tribes during the identification process.

VII. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

The type of undertaking, are of potential effects, and existing information help determine identification needs for undertakings considered under this PA. Undertakings are processed to determine whether: (1) they fall into one of the streamlined procedure categories (i.e., Exemptions or Screened Undertakings); (2) existing information is sufficient for identification needs; or (3) a field survey is needed to identify historic properties that may be affected. If an undertaking is Exempt (see below) under the provisions of this PA, it can proceed without further consideration under this PA or 36 CFR 800. If it is a Screened Undertaking, the HPM determines whether the streamlined procedures should be applied based on known information or whether it should be treated as a regular undertaking. All other undertakings require more comprehensive identification efforts to determine whether historic properties are present and could be affected. With the exception of Exemptions, all categories of undertakings are documented as specified in this PA.

A. Exemptions

Under this PA, some undertakings (Appendix D) are generally exempt from further review or consultation. A Line Officer, HPM or SHPO may recommend that a specific Class A undertaking identified in Appendix D be reviewed, through consultation following Stipulation XII.C., to add, delete, or modify specific exemptions. However, the following exceptions apply:

1. Any Forest may elect to review a normally exempted, specific undertaking under the terms of this PA or 36 CFR part 800.
2. The SHPO or ACHP may request that an otherwise exempt undertaking or groups thereof, instead be considered undertakings under this PA or 36 CFR 800.
3. The SHPO or ACHP may request that a Forest consult with it about a particular exempt undertaking or screened undertaking or groups thereof, prior to continued consideration under this PA.
4. Should disputes or objections arise to exempt undertakings or to exempt classes of undertakings prior to implementation, see Stipulation XII.A.
5. Should an objection by the public arise to an exempt undertaking prior to implementation, the Forest shall consult with the objecting party and the SHPO for not more than 30 calendar days following receipt to resolve the objection. If the objection is resolved within this timeframe, the parties shall proceed in accordance with the terms of that resolution. If the objection cannot be resolved within this time frame, and the Forest and the SHPO have not agreed to extend the consultation period, the Forest shall submit the disputed exemption for review either under this PA or under 36 CFR part 800 (Appendix C).
6. Any party to this PA may propose that Appendix D be modified by removal or revision of exempted undertakings or by addition of a previously non-exempted class of undertakings. Such proposals for modification of Appendix D shall be considered pursuant to the provisions for revisions and amendment of this PA at XII.B-C. Appendix D may be revised as a component of PA revision or may be revised at any time upon written agreement of the signatories to this PA.

B. Screened Undertakings

The HPM or delegated professional Heritage program staff may determine that any specific undertaking subsumed under the list of screened undertakings found in Appendix D qualifies for certification under the streamlined procedures in this PA. Documentation regarding a screened undertaking's certification and exemption from additional review under this PA shall be retained in a Forest's cultural resources or project files, and entered into the Forest Service's INFRA database.

1. Any Forest may elect to review a normally exempted, specific undertaking under the terms of this PA or 36 CFR part 800.
2. The SHPO or ACHP may request that a screened undertaking, or groups thereof, instead be considered undertakings subject to the identification and other stipulations under this PA or 36 CFR 800.
3. The SHPO or ACHP may request that a Forest consult with it about a particular screened undertaking or groups thereof, prior to continued consideration under this PA.
4. Should disputes or objections arise to screened undertakings or to classes of screened undertakings prior to implementation, see Stipulation XII.A.
5. Should an objection by the public arise to a screened undertaking prior to implementation, the Forest shall consult with the objecting party and the SHPO for not more than 30 calendar days following receipt to resolve the objection. If the objection is resolved within this timeframe, the parties shall proceed in accordance with the terms of that resolution. If the objection cannot be resolved within this time frame, and the Forest and the SHPO have not agreed to extend the consultation period, the Forest shall submit the disputed exemption for review either under this PA or under 36 CFR part 800 (Appendix C).
6. Any SIGNATORY to this PA may propose that Appendix D be modified by removal or revision of screened undertakings or by addition of a previously non-screened class of undertakings. Such proposals for modification of Appendix D shall be considered pursuant to the provisions for revisions or amendment of this PA at XII.B-C. Appendix D may be revised as a component of PA revision or may be revised at any time upon written agreement of the signatories to this PA.

C. Area of Potential Effect

Heritage Program Managers or delegated Heritage Program staff shall apply the definition of Area of Potential Effect (**APE**) (36 CFR 800.16[d]) to each undertakings and shall include a description of the APE and justification in the undertaking's Heritage Program report. In defining the APE, REGION 5 shall consider potential direct, indirect, and cumulative effects to historic properties and their associated settings as applicable, regardless of land ownership. Heritage Resource Managers, or delegated Heritage Program staff, are not required to determine the APE in consultation with the SHPO. However, in cases where the APE is subject to question or in which there are multiple federal jurisdictions involved, the Forest shall seek the opinion of the SHPO (Stipulation VIII.A.3).

D. Identification and Inventory Needs

Region 5 forests shall make a good faith effort to identify all historic properties that may be affected in an undertaking's APE. Where existing information is inadequate identification efforts may require field inventories. The HPM or delegated professional Heritage Program staff will design an inventory strategy with prescribed coverage methods based on a forest's

or district's cultural resource sensitivity model that employs environmental and geomorphic variables such as slope, aspect, elevation, hydrology, flora, landforms, or other landscape attributes and natural features. Such inventory strategy may include a variety of coverage methods to identify historic properties throughout the APE. Inventory strategies employing survey traverses spaced no more than 30 meters apart shall be considered intensive for the purposes of this agreement. HPMS may also approve intensive inventory strategies that may also utilize traverses spaced up to 50 meters apart where such strategies are based on a documented forest or district sensitivity model. Unless otherwise agreed in consultation with the SHPO, REGION 5 shall ensure that project-specific surveys and other efforts to identify historic properties are consistent with the appropriate professional standards in FSM 2360 (Appendix B), and to the extent prudent and feasible with respective guidelines of the California Office of Historic Preservation or Nevada SHPO, and the Secretary of Interior's Standards and Guidelines.

1. REGION 5 will identify historic properties on REGION 5-administered lands or other lands where a REGION 5 undertaking will occur.

2. No additional identification efforts are required prior to making decisions about the implementation of undertakings if the APE is entirely within areas that have been previously inventoried; and HPMS determine that the previous identification efforts meet standards under this PA and document these findings for those undertakings. When assessing the adequacy of previous inventory work (i.e., reports and documentation) that is more than 15 years old, HPMS should consider the following measures: when the work was done; who did the work and whether there are any previously identified problems with similar work; what parties were consulted and how; methods that were used; whether survey methodology accounted for both prehistoric, Indian cultural and historic resources; and adequacy of documentation.

3. In all cases where REGION 5's Cultural Resource staff determines that non-intensive inventory is appropriate for an undertaking (e.g., reconnaissance or sample survey), a written justification or strategy shall be prepared and retained in appropriate files. When Reconnaissance or Sampling survey strategies (FSM 2360) are deemed appropriate for an undertaking, Forest Cultural Resource staff shall seek informally the views of the SHPO staff concerning the justification and strategy for the reduced level of inventory. The SHPO may concur with the proposed approach or may determine that formal consultation shall be initiated (Stipulation VIII.A.4).

4. All surveys and other efforts to identify historic properties shall be documented according to standards set forth by the Secretary of the Interior, FSM 2360, REGION 5, and the SHPO. Recorded cultural resource sites will be documented using Archaeological Site Records (Department of Parks and Recreation form 523 or equivalent; or R5 Cultural Resource Records (CRRs)) completed to the standards of the Office of Historic Preservation. In Nevada, REGION 5 shall submit reports of inventory and archaeological site records (IMACS) (HRIF) to the SHPO for incorporation into NVCRIS. The records for previously recorded sites in an APE shall be reviewed to determine if documentation meets current standards. If existing documentation does not meet current standards, or new information should be recorded (e.g., changes in integrity or condition), these records shall be updated.

E. Consultation with Indian Tribes and Traditional Practitioners

Consultation with Indian tribes and traditional practitioners is an important component of identification and evaluation activities conducted under this PA. The Forest Supervisor shall ensure that consultation with Indian tribes and traditional practitioners begins at the earliest stages of planning for an undertaking and continues throughout the process as appropriate. The Forests recognize the unique role tribes play in determining to which historic properties

the tribes assign traditional religious or cultural importance. The Forest Supervisor shall be prepared to continue consultation throughout the planning and implementation stages of an undertaking. Policy and guidance for consultation is provided in FSM 2360. Any Federally recognized tribe that requests to be a consulting party in writing shall be afforded that status.

F. Public Involvement and Consulting Parties

REGION 5 shall provide adequate opportunity for the public to express views by seeking and considering those views when carrying out actions under this PA. REGION 5 shall coordinate this public participation requirement with those of NEPA, FLPMA, other pertinent statutes, and the REGION 5 planning process. Interested parties shall be invited to consult early in the review process if they have expressed an interest in a REGION 5 undertaking or action subject to the PA. Such interested parties may include, but are not limited to, local governments; applicants, grantees, permittees, or owners of affected lands or land; Indian Tribes, organizations, and individuals; and those seeking to participate as consulting parties in a particular undertaking. Region 5 will also make an effort to identify and invite potential consulting parties and will not rely solely on the requests by those parties. Region 5 shall make an effort to consult with the SHPO and other recognized consulting parties on the decision to honor requests for consulting party status from additional parties.

The participation of Indian Tribes shall be guided by the provisions of Stipulations VI and VII.E of this PA, by FSM 2360 (Appendix B), and by 36 CFR 800.2(c) (2) (Appendix C).

G. Evaluation and Determination of NRHP Eligibility

1. Unless otherwise agreed to in consultation with SHPO, REGION 5 will ensure that historic properties that cannot be avoided, or protected by the application of standard protection measures (see Appendix E), or any historic property considered under Stipulation VII.G.2, are evaluated for their significance and a determination be made regarding their eligibility for listing on the NRHP in accordance with the National Register criteria (36 CFR 60.4), Region 5's programmatic agreement guidelines (Appendix F) and with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation (Vol. 48, Federal Register, No. 190, Part IV). In completing determinations of eligibility, REGION 5 will consult with and seek the concurrence of the SHPO, and consult with and consider the views of any Indian tribe that attaches traditional religious and cultural significance to the identified property when making its determination.

2. HPMs and other Heritage Program staff (e.g., archaeologists, historians or architectural historians) may make NRHP determinations of eligibility under this agreement once those staff have been certified by the Regional Heritage Program Leader. HPM certification shall be based on an individual's qualifications based on education, training and experience appropriate for determining whether a specific type of cultural resource (e.g., prehistoric site, historic structure) meets the NRHP Criteria. HPMs shall certify that all formal Determinations of Eligibility completed under this agreement meet appropriate evaluation standards and guidelines and are properly documented. Certification authority cannot be delegated by the HPM to other Heritage Program staff.

3. For expedited ineligibility determinations made by HPMs or certified professional staff using procedures outlined in Appendix F, such determinations shall meet the consensus determination requirements of 36 CFR 800.4(c)(2) for specific undertakings. Ineligible determinations made under this stipulation shall be certified by the HPM and will be submitted to the SHPO on a bi-annual or other agreed on basis.

4. Except for expedited ineligible determinations made under Stipulation VII.G.3, all determinations of eligibility will be submitted to the SHPO for consensus determinations

pursuant to 36 CFR 800.4(c)(2). If there is any unresolved disagreement between the forest and the SHPO regarding a forest's determination, the Forest will forward the determination to the Keeper of the NRHP who will make a final determination. Until such time as a consensus determination from the SHPO or a final determination by the Keeper of the NRHP is made, the forest shall avoid or protect the historic property using Standard Protection Measures.

5. REGION 5 shall document all determinations of eligibility, including applicable National Register criteria, and summarize and report those determinations in REGION 5's heritage database, annual reports, and other reporting processes agreed to between Region 5 and the SHPO. SHPO may elect to review any evaluation as an element of its oversight role in this PA. The SHPO will provide written concurrence/non-concurrence of REGION 5's evaluations within 30 days of receipt of adequate documentation. The SHPO may have an additional 30 days to reply when needed provided it notifies the forest. The SHPO will provide written consensus/non-consensus determinations for expedited ineligibility determinations on a bi-annual or annual basis provided sufficient documentation supporting forest determinations has been provided.

6. Where this PA requires REGION 5 to consult with the SHPO, and with Indian tribes to identify properties having religious and cultural values, and seek concurrence regarding the National Register eligibility of a property, any unresolved disagreement resulting from such consultation shall be submitted to the Keeper of the National Register in accordance with 36 CFR 63.3(d).

7. For management purposes, REGION 5 may assume that a historic property, cultural resource, or groups of resources are eligible for inclusion in the National Register of Historic Places without consultation with the SHPO or interested Indian tribes. Eligibility is assumed in cases where avoidance or other protection measures identified in Appendix E, PA revisions or amendments will be implemented as the management strategy for managing effects. Assuming eligibility for a particular property neither precludes nor prejudices formal evaluation in the future.

8. Forests shall consult with the SHPO under 36 CFR part 800, and/or Keeper of the NRHP under 36 CFR 63, when evaluating historic properties that may be eligible for the NRHP because of their religious and cultural significance to Tribes.

H. Determination of Effects to Historic Properties

If undertakings may diminish historic property NRHP values, Forests shall follow the provisions of 36 CFR part 800 regarding determination of effects, except as provided below.

1. Undertakings With No Historic Properties:

When no historic properties are identified following approved inventory, documentation, and certification by HPM or qualified Heritage Program staff delegated by HPMS, no consultation with the SHPO or ACHP is required prior to making decisions about implementation of undertakings.

2. Undertakings Where Management Measures Are Not Necessary for the Protection of Historic Properties:

When historic properties are identified, following approved inventory, documentation, and certification by HPMS or qualified Heritage Program staff delegated by HPMS, but will not be affected, and the undertakings can be implemented without the adoption of management measures to protect historic properties, then decisions about implementation of these undertakings may be made without further review or consultation with the SHPO and/or

ACHP.

3. Undertakings Where Management Measures Can be Applied for the Protection of Historic Properties:

a. If HPMs, or qualified Heritage Program staff delegated by HPMs, determine that the nature and scope of a proposed undertaking is such that their effects can be reasonably predicted, and Standard Protection Measures (Appendix E) can be used to protect historic properties, then these Standard Protection Measures will be used to manage and maintain historic properties in manners which ensure that the undertaking will not adversely affect historic properties (i.e., no adverse effect).

b. When historic properties are identified, following approved inventory and documentation, and HPM or qualified Heritage Program staff delegated by the HPM recommend that Standard Protection Measures would protect historic properties (Appendix E) and these conditions are accepted by the Line Officer as part of the approval of an undertaking, no review or consultation with the SHPO or ACHP is required prior to approving and implementing the undertaking.

i. Forests may choose to consult with the SHPO, pursuant to 36 CFR part 800, on any undertakings covered by this PA where the use of Standard Protection Measures is proposed.

ii. At its discretion and with the cooperation of the Forests, the SHPO may participate in review or consultation on specific undertakings, or classes of undertakings, where Standard Protection Measures are being used.

6. Undertakings Requiring Assessment of Adverse Effects and Resolution of Adverse Effects

The Forest Supervisor shall comply with the ACHP's regulations at 36 CFR part 800.5-800.7 for undertakings that do not meet the conditions of Stipulation VII.H1-3), above. That is, Forests shall comply with 36 CFR 800.5-800.7 for undertakings that may adversely affect historic properties and for which it is not possible, or the Forest has elected not to apply standard protection measures prior to the assessment of effects. For cases of inadvertent effects or unanticipated discoveries in projects implemented under the provisions of this agreement, refer to Stipulation VII.J.

I Human Remains

1. Should inadvertent effects to or unanticipated discoveries of human remains be made on Region 5's lands, the County Coroner (California Health and Safety Code 7050.5(b)) or Sheriff if *ex officio* Coroner (Nevada Revised Statutes 259) shall be notified immediately. If the remains are determined to be Native American or if Native American (Indian) cultural items pursuant to NAGPRA are uncovered, the provisions of NAGPRA and its regulations at 43 CFR 10 and ARPA at 43 CFR 7 shall be followed on federal lands.

2. If such remains or items are uncovered off federal lands within California, for projects authorized by the Forest Service (see Stipulation I.D), the provisions of the California Native American Graves Protection and Repatriation Act (California Health and Safety Code 8010-8030, and California Public Resources Code 5097.98-99) shall be followed.

3. If Indian burials are uncovered off federal lands within Nevada, for projects authorized by the Forest Service (see Stipulation I.D), the provisions of Nevada's Protection of Indian Burial Sites (Nevada Revised Statutes 383.150-190) shall be followed.

4. For undertakings on federal lands, the provisions of a Written Plan of Action (43 CFR Part 10.5(e)) or Comprehensive Plan (43 CFR Part 10.5(f)) governing the intentional or inadvertent discovery of human remains and cultural items described in NAGPRA shall be followed in lieu of the above procedures.

J. Discoveries and Inadvertent Effects

1. In the event that properties are discovered during implementation of an undertaking which has been duly considered under the terms of this PA and in which the property cannot be protected, REGION 5 shall address the discovery in accordance with the provisions of 36 CFR 800.13 (see Appendix C). In consultation with the SHPO, ACHP and Tribes attaching religious and cultural significance to the property, REGION 5 shall select the appropriate mitigation option.

2. In the event that properties are discovered during implementation of an undertaking which has been exempted under Stipulation VII, the HPM may recommend the use of standard protection measures (Appendix E) where appropriate based on professional judgment. If standard protection measures are not approved, REGION 5 shall consult with the SHPO, ACHP and Tribes which may attach religious and cultural significance to the property to identify appropriate mitigation measures.

3. Where properties are inadvertently encroached by project activities, and the HPM determines that no effects or not adverse effects to historic properties have occurred (e.g., trees felled into site boundaries or vehicles driven onto sites), SHPO and ACHP notification are not required provided that HPM recommendations are limited to non-disturbing treatment measures and these recommendations are implemented as prescribed. If HPM recommendations will not be implemented, the Forest shall consult with the SHPO on effects and the ACHP if an adverse effect has occurred.

4. If consultation under VII.J.3 determines that an adverse effect has occurred, the forest will then consult with other interested parties or Indian tribes as appropriate to identify acceptable mitigation or treatment measures. The results of any interested party or Indian tribe consultation will be included in further consultation efforts with the SHPO and/or ACHP to resolve the inadvertent effects.

5. In instances where the involvement of the SHPO occurs after steps have been taken under the PA, the Forest Supervisor or other Line Officer shall not be required to reconsider previous findings or determinations unless those findings or determinations are the subject of unresolved disputes or disagreements.

K. Emergency Undertakings

REGION 5 shall develop an appendix to this PA, through the amendment process in Stipulation XII, agreeing to procedures for protecting historic properties during emergency undertakings, including wildfire. Until such an amendment is developed and approved, the following shall apply: should REGION 5 find it necessary to implement an emergency undertaking as an immediate response to a declared emergency, undeclared emergency, or another immediate threat to life or property, in a manner that would preclude the use of this PA, REGION 5 and its mutual aid partners, will implement to the extent prudent and feasible any measures that could avoid or minimize harm to historic properties and shall implement measures to rehabilitate and stabilize damages to historic properties caused by agency activities during the emergency. For management purposes, REGION 5 may assume the eligibility of a cultural resource or group of resources for inclusion in the NRHP without consultation with the SHPO where proposed rehabilitation and stabilization measures are unlikely to affect prospective NRHP values and measures are needed to prevent further

resource damage or destruction. REGION 5 shall evaluate any historic property that may be adversely affected by rehabilitation and stabilization measures. REGION 5 shall comply with the provisions of 36 CFR 800.12 and 36 CFR Part 78 for such emergency undertakings. REGION 5 shall document properties discovered or affected by the emergency undertaking, including post-fire rehabilitation, and shall submit a report to the SHPO.

VIII. Situations Warranting SHPO Consultation

REGION 5 shall initiate formal consultation with the SHPO on the following undertakings and shall follow the procedures set forth in 36 CFR part 800 (Appendix C). Notwithstanding, REGION 5 and SHPO may agree to continue under the PA in consideration of specific conditions or characteristics of a specific undertaking which would normally require continuation of formal consultation.

A. Initiate SHPO CONSULTATION:

1. Where the FOREST has made a determination that an undertaking may have an adverse effect as defined by 36 CFR 800.5(a)(1) (Appendix C), including adverse effects to National Historic Landmarks (NHL) or properties either considered eligible for, or which are listed in, the National Register of Historic Places.
2. Where the Heritage Program Manager position at a Forest Supervisor's Office is vacant (excluding Acting HPM meeting professional qualifications Stipulation XI.A and Appendix A) or where expertise is required that REGION 5 does not possess or cannot obtain (e.g., architectural historian).
3. Where REGION 5 has been designated and acts as the lead agency on behalf of other Federal agencies for an entire undertaking, the designated agency official shall act on their behalf in fulfilling their collective responsibilities under section 106 (36 CFR 800.2(a)(2)). Where more than one federal agency is involved but no lead agency has been agreed to, this agreement only applies to the Forest Service responsibilities for the larger undertaking.
4. Where a Region 5 undertaking may have effects beyond the boundaries of Region 5 forests in California and Nevada, or may involve other Federal agencies, the Region 5 agency official will consult as appropriate with SHPO and those other Federal agencies. In such cases, REGION 5 will either consult with the respective SHPO and agencies regarding an appropriate compliance process either under the terms of this PA, or develop a new PA for that undertaking, or proceed in compliance with 36 CFR part 800 (Appendix C).
5. Where REGION 5 proposes to complete less than an intensive survey of the affected (selected) lands, except where survey requirements are identified in any amendment to the PA, and when informal consultation with SHPO staff yields consensus agreement to proceed with formal consultation (Stipulation IV.D.3).
6. Where an undertaking involves land exchange or land sale exceeding 10,000 acres regardless of the survey class.
7. Where REGION 5 proposes to transfer lands to the State of California or the State of Nevada absent an agreement document governing the undertaking.
8. Where determinations of eligibility involve a historic property that may be eligible as a Traditional Cultural Property.
9. Where Traditional Cultural Properties, or historic properties that also are or may be of religious or cultural significance to an Indian Tribe, or a sacred site (EO 13007), may be

affected.

10. here land use plans and amendments are initiated.
11. Where unresolved disagreements or disputes concerning professional findings exist between Heritage Program staff and Line Officers, the forest shall request the Regional Office's review and recommendations for resolving identified issues.
12. Where unresolved disagreements or disputes, internal to REGION 5, arise concerning an exempt undertaking.
13. Where a Forest declines to participate in any supplemental procedures (Amendments) which would normally govern the undertaking or class of undertaking.
14. Where PA stipulations and procedures in the FSM 2360 (Appendix B) may conflict with the procedures established in 36 CFR part 800 (Appendix C).
15. Where supplemental procedures appended to this PA require such consultation.
16. Where historic properties are discovered and unanticipated, potentially adverse effects are found after completing the procedural steps at Stipulation VII.J of this PA.
17. Where historic properties have not been protected in the manner prescribed during project activities, possible effects may have occurred, and Stipulation VII.J.3 does not apply.
18. Where an objection by the public arises to a screened undertaking and remains unresolved (Stipulation VII.B.5 of this PA).
19. Where a member of the public or a Federally recognized Indian tribe or other Indian group or individual objects at any time to the manner in which this PA is being implemented for a specific undertaking (Stipulation XII.A.2) .

IX. THRESHOLDS FOR ACHP CONSULTATION

A. Notifying ACHP

The Forest Supervisor shall notify the ACHP when an undertaking will have an adverse effect upon a historic property and the agency is beginning consultation to resolve adverse effects.

B. Inviting ACHP to Consult

The Forest Supervisor's notice shall include an invitation to the ACHP to consult when:

1. the Forest is proposing and developing program alternatives for compliance with NHPA Section under 36 CFR 800.14 (see FSM 2360);
2. the Forest cannot reach agreement with the SHPO, Tribes, or other consulting parties regarding effect to historic properties; and
3. the Forest needs to resolve an adverse effect to a National Historic Landmark..

C. Consulting with the ACHP

The Forest Supervisor shall formally consult with the ACHP when:

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1. the Forest, Region 5, the SHPO, a Tribe, or any other consulting party invites the ACHP and the ACHP decides to participate in the consultation consistent with the criteria in Appendix A of 36 CFR part 800; or
2. the ACHP responds to a notification or invitation from the Forest Supervisor with a decision to participate in consultation consistent with the criteria in Appendix A of 36 CFR part 800; or
3. the ACHP elects to enter consultation on its own behalf consistent with the criteria in Appendix A of 36 CFR part 800; or
4. revisions or amendments to the agreement are proposed (Stipulations XII.B and C); or
5. disputes need to be resolved (Stipulation XII.A).

X. STAFFING

A. Professional Staff

Under this PA Agreement, REGION 5 operates with limited external oversight. In order to successfully act on behalf of the SHPO and to maintain the trust of the SHPO, REGION 5 shall continually strive for a high level of professional capability. REGION 5 is committed to employing a professional staff. In hiring new full time professional staff, REGION 5 will follow Section 112(a)(1)(B) of the NHPA and emphasize the selection of candidates that meet the Secretary of the Interior's Professional Qualifications Standards or the education and experience standards in Office of Personnel Management X118 standards. Forests shall employ at least one full-time, permanent professional Heritage Program Manager. Forests which do not have the services of a professional Heritage Program Manager, either on staff or through arrangement with another REGION 5 administrative unit, shall consult with the SHPO on all undertakings.

B. Professional Capability

When REGION 5 is involved in an undertaking requiring expertise not possessed by available REGION 5 staff, it may request the assistance of the SHPO in such cases or may obtain the necessary expertise through contracts, Forest Service personnel from other states or Forests, cooperative arrangement with other agencies or institutions, or by other means.

C. Non-Professional Personnel

REGION 5 may employ technicians, volunteers, and Certified Paraprofessional Archaeological Surveyors (**Paraprofessionals**) who do not meet Secretary of the Interior Standards for professional Heritage Program personnel. In such instances, individuals who do not meet these Standards shall work under the direct technical supervision of REGION 5 professional Heritage Program staff and may not substitute for professional Heritage Program staff in making decisions or determinations regarding the identification and evaluation procedures set out in this PA or in Section 36 CFR part 800. Certification of paraprofessionals will follow the standards and requirements of REGION 5's Certified Paraprofessional Archaeological Surveyors program (Appendix G).

XI. CERTIFICATION

A. Certification

REGION 5, in consultation with the SHPO and the ACHP, will certify each REGION 5 Forest to operate under this PA based upon the following: (1) Line Officers and Heritage Program staff have received required PA training within six months of the PA's effective date or their

reporting date at a new duty station, and (2) professional capability to carry out these policies and procedures is available through each Forest's immediate staff or through other means. Upon execution of this PA, REGION 5 Forests will automatically operate under Provisional Certification for no more than six months or until they are either certified or decertified. The SHPO or ACHP may provide recommendations on the certification of Forests to the Regional Forester who will consider these recommendations when making decisions about certification.

The Regional Heritage Program Leader shall periodically consider the certification status of each Forest during the review process delineated in Stipulation V.E of this PA.

B. Provisional Certification

The Regional Heritage Program Leader, the SHPO, or the ACHP may recommend that the Regional Forester place a Forest on a provisional status based on findings from any of the reviews specified at III.E of this PA or other identified deficiencies. Provisional status may extend from one to two years, although the term of the provisional status shall be a matter of agreement between the signatories to this PA and shall reflect the complexity of the deficiencies identified. While on provisional status, a Forest will have the opportunity to correct deficiencies that have been identified and documented. Forest progress in resolving identified deficiencies shall be reported to the Regional Heritage Program Leader every six months. Upon expiration of the provisional status term, the signatories to this PA shall determine whether identified deficiencies have been satisfactorily corrected. Should the signatories determine that such deficiencies remain uncorrected, or should new deficiencies that the signatories deem significant be identified, provisional status may be extended, or the decertification process shall be initiated as described at Stipulation XI.C of this PA.

C. Decertification

The Forest Supervisor, the SHPO, or the ACHP may request that the Regional Forester initiate such a review of a Forest's certification status. Upon receipt of such a request, the Regional Forester will notify the requestor and other parties if a review will be conducted. If a Forest is found not to have maintained the basis for its certification (e.g. the professional capability needed to carry out these policies and procedures is no longer available, or the Forest is not in conformance with this PA) and the Forest Supervisor has not voluntarily suspended participation under this PA, the Regional Forester will decertify the Forest.

1. A Forest may ask the Regional Forester to review a decertification recommendation, in which case the Regional Forester will request SHPO and/or ACHP participation in the review.
2. The Regional Forester will notify the SHPO and the ACHP if the status of a certified Forest changes. In consultation with the SHPO and ACHP, the Regional Heritage Program Leader will prepare a Plan of Action to address the identified deficiencies.
3. When a Forest is decertified, the responsible Forest Supervisor shall follow the procedures of 36 CFR Part 800 to comply with Section 106.

D. Recertification

If a decertified Forest is found to have restored the basis for certification, either under provisional or full performance levels, the Regional Heritage Program Leader will recommend that the Regional Forester recertify the Forest. The SHPO and ACHP shall be notified when the Regional Forester recertifies a Forest. If the SHPO or ACHP objects to the Regional Forester's decision to recertify a Forest, the objection will be resolved under Stipulation XII.A.

XII. RESOLVING DISPUTES OR OBJECTIONS, REVISION, AMENDMENT, TERMINATION AND EXPIRATION

A. Procedure for Resolving Objections

1. REGION 5, the SHPO, or the ACHP may object to an action proposed or taken by the other pursuant to this PA. The objecting party shall notify the other party in writing of the objection. Within seven (7) calendar days following receipt of notification, the signatories shall consult for 30 calendar days to resolve the objection. If the objection is resolved within this time frame, the parties shall proceed in accordance with the terms of that resolution. If the objection is not resolved within this time frame, and the signatories have not agreed to extend the consultation period, the Regional Heritage Program Leader shall submit the objection, including copies of all pertinent documentation, to the ACHP for comment. Within 30 calendar days following receipt of any ACHP comments, the Regional Forester shall make a final decision regarding resolution of the objection and in writing notify the SHPO and the ACHP of that decision. The objection shall thereupon be resolved. In reaching a final decision regarding the objection, the Regional Forester shall take into account any comments received from the SHPO and the ACHP pursuant to this stipulation.

2. If a member of the public or a Federally recognized Indian tribe or other Indian group or individual objects at any time to the manner in which this PA is being implemented in a specific case (except as part of administrative appeals of NEPA decisions (Stipulation XII.A.3)), REGION 5 shall consult with the objecting party for a period not to exceed 45 days and, if the objecting party requests, with the SHPO, to resolve the objection. If the objecting party and REGION 5 resolve the objection within 45 days, REGION 5 shall proceed in accordance with the terms of that resolution. If the objection can not be resolved, the Regional Forester shall refer the objection to the ACHP. Within 30 calendar days following receipt of any ACHP comments, the Regional Forester shall make a final decision regarding resolution of the objection and shall, in writing, notify the objecting party, the SHPO and the ACHP of that decision. The objection shall thereupon be resolved. In reaching a final decision regarding the objection, the Regional Forester shall take into account any comments received from the objecting party, the SHPO, and the ACHP pursuant to this paragraph. Any objection filed pursuant to this paragraph shall not prevent REGION 5 from proceeding with project planning; however, project implementation shall be deferred until the objection is resolved pursuant to the terms of this paragraph.

3. The Forest Service NEPA appeals process at 36 CFR 215 (*Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities*) shall be used to consider NEPA related appeals involving historic properties. Until a NEPA decision for an undertaking is made, specific objections from tribal governments, Indians, and interested parties about the identification of historic properties and their values, and the effects to and treatment of historic properties, within an undertaking shall be resolved under this PA's dispute resolution procedures (Stipulation XII.A.1-2) or 36 CFR part 800 (36 CFR 800.4(d)(ii-iv), 800.5(c)(2-3), 800.9(a)). Once the agency makes a decision on an undertaking, objections and appeals will follow the procedures at 36 CFR 215.

B. Revision of this PA

This PA is intended to be responsive to changing circumstances. Therefore, REGION 5, the SHPO, or the ACHP may propose revision of this PA, whereupon the parties shall consult to consider the proposed Revision. "Revision" as used herein refers to the process of review and rewriting stipulations in the PA. Revisions shall only become effective upon written concurrence of the signatories. Any signatory can recommend that the suggested revisions be considered under the Amendment provisions (XII.C) rather than this stipulation. Any disagreements on which stipulation to follow shall be resolved under the resolving objections

stipulation (X.A).

C. Amendment of this PA

In keeping with the intended responsive nature of this PA, REGION 5, the SHPO, or the ACHP may propose amendment of this PA at any time, whereupon the signatories shall consult to consider such amendment. "Amendment" as used herein refers to the process of revising all or portions of this PA, extending its effective date, and the process of adding supplemental procedures for specific REGION 5 programs when signatories to the PA wish those procedures to be made explicit. The amendment process culminates in the issuance of an amended PA, which replaces the previous PA on its effective date. Amendments to the PA will only become effective upon approval of all the signatories.

D. Termination, Amendment, Expiration, and Review of this PA

1. REGION 5, SHPO, or ACHP may terminate this PA or any PA Amendment. The party proposing termination shall in writing notify the other SIGNATORIES of their intent to terminate and explain the reasons for proposing termination. Within seven calendar days following receipt of such notification, the parties shall consult for up to 90 days to seek alternatives to termination. Should such consultation result in agreement on an alternative to termination, the parties shall proceed in accordance with the terms of that agreement. Should such consultation fail, the party proposing termination may terminate this PA or any PA Amendment by providing the other party with written notice of such termination. Termination hereunder shall render this PA or any terminated PA Amendment without further force or effect

2. In the event of termination of this PA, REGION 5 shall comply with the provisions of 36 CFR part 800 (Appendix C) for all undertakings previously covered by this PA, with the exception of those Supplemental Procedures described in PA Amendments which, by written agreement of the signatories, may remain in full force and effect. In the event a PA Amendment is terminated, REGION 5 shall comply with 36 CFR part 800 for the program or practices subsumed under the PA Amendment except insofar as SHPO, ACHP, and REGION 5 in writing agree to subsume such program or practices under this PA.

3. This PA and REGION 5's activities under this PA shall be reviewed by the SHPO and ACHP on about the fourth anniversary of its execution. The purpose of such review shall be to determine whether the terms of this agreement have been satisfactorily implemented and whether the SIGNATORIES can agree to extend this PA in accordance with Stipulation XII.C.

4. At midnight of the fifth anniversary of the date of its execution, this PA shall automatically expire and have no further force or effect, unless it is extended by written agreement of the SIGNATORIES. Should the PA not be extended and should no successor agreement document be in place at the time of expiration, REGION 5 shall comply with 36 CFR part 800 (Appendix C).

XIII. OTHER STATE-SPECIFIC PROCEDURES

In addition to the procedures agreed to in this PA, REGION 5 shall follow procedures and adhere to policies detailed in the FSM 2360 (Appendix B) and with standards and guidelines promulgated by the respective state SHPO (California's Office of Historic Preservation and Nevada State Historic Preservation Office). REGION 5, in consultation with SHPO, may develop other guidance as necessary as supplemental procedures to this PA (Stipulation XII.C).

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The SIGNATORIES mutually agree that execution of this PA and implementation of its terms will evidence satisfactory compliance by REGION 5 with the requirements of 36 CFR part 800, the implementing regulations for Section 106 of the National Historic Preservation Act.

U.S.D.A. FOREST SERVICE, PACIFIC SOUTHWEST REGION

_____ Date: _____
RANDY MOORE
Regional Forester

STATE OF CALIFORNIA, OFFICE OF HISTORIC PRESERVATION

_____ Date: _____
MILFORD WAYNE DONALDSON
State Historic Preservation Officer

STATE OF NEVADA, HISTORIC PRESERVATION OFFICE

_____ Date: _____
RONALD M. JAMES
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ Date: _____
JOHN M. FOWLER
Executive Director

I CONCUR:

_____ Date: _____
JODY NOIRON, Forest Supervisor
Angeles National Forest

_____ Date: _____
WILL METZ, Forest Supervisor
Cleveland National Forest

_____ Date: _____
RAMIRO VILLALVAZO, Forest Supervisor
Eldorado National Forest

_____ Date: _____
JIM UPCHURCH, Forest Supervisor
Inyo National Forest

_____ Date: _____
MARGARET J. BOLAND, Forest Supervisor
Klamath National Forest

_____ Date: _____
TERRI MARCERON, Forest Supervisor
Lake Tahoe Basin Management Unit

_____ Date: _____
KATHLEEN MORSE, Forest Supervisor
Lassen National Forest

_____ Date: _____
PEGGY HERNANDEZ, Forest Supervisor
Los Padres National Forest

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TOM CONTRERAS, Forest Supervisor
Mendocino National Forest Date: _____.

STAN SYLVA, Forest Supervisor
Modoc National Forest Date: _____.

ALICE B. CARLTON, Forest Supervisor
Plumas National Forest Date: _____.

JEANNE WADE EVANS, Forest Supervisor
San Bernardino National Forest Date: _____.

TINA TERRELL, Forest Supervisor
Sequoia National Forest Date: _____.

J. SHARON HEYWOOD, Forest Supervisor
Shasta-Trinity National Forest Date: _____.

EDWARD E. COLE, Forest Supervisor
Sierra National Forest Date: _____.

TYRONE KELLEY, Forest Supervisor
Six Rivers National Forest Date: _____.

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_____ Date: _____
TOM QUINN, Forest Supervisor
Stanislaus National Forest

_____ Date: _____
STEVEN T. EUBANKS, Forest Supervisor
Tahoe National Forest

APPENDIX A

DEFINITIONS

The following definitions apply to this PA:

Area of Potential Effects (APE): is the geographic area or areas, whether federally administered or not, within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist.

Cultural Resource: is an object or place created, used, or modified by humans; with its creation, use, or modification having first occurred no fewer than 45 years ago; including sites, structures, buildings, districts, and objects associated with, or representative of, peoples, cultures, and human activities and events; and including any such property regardless of its NRHP eligibility.

Emergency Undertaking: see *Undertaking*, a. *Emergency Undertaking*, below.

Exemption: see *Exempt Undertaking*, below.

Forest Line Officer: either the Forest Supervisor or District Ranger with delegated authorities for an administrative unit.

Historic Preservation Plan (HPP): is a plan that may be developed and implemented on a Forest consistent with the requirements of Section 110 of the NHPA and the Secretary of the Interior's Guidelines for Preservation Planning (48 FR 44716-44720).

Heritage Program Manager (HPM): is the lead position on each Forest that is responsible for: directing and administering the Forest's complex and multifaceted Heritage Program; planning, developing, and implementing the Forest's cultural resources inventory, evaluation, preservation, and enhancement activities; delegating professional and technical responsibilities to heritage specialists pursuant to this PA; providing professional and technical advice to the Forest Leadership Team; coordinating the Heritage Program internally, and with external agencies, organizations, and the public; curating and controlling access to cultural resource records and collections; and meeting other program management responsibilities under this PA. The HPM shall: meet the professional standards established for either archaeologist, historian or architectural historian, as outlined in 36 CFR 296.8 or in the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739); or meet at least Office of Personnel Management X118 GS-170/193-11 journeyman level qualifications; and have the experience and skills pertinent to his or her job duties and responsibilities under this PA.

Heritage Program staff: are trained in historic preservation specialties, such as historic or prehistoric archaeology, history, anthropology or ethnography, or architectural history, who may conduct literature searches and heritage resource inventories, record and monitor sites, excavate, process and analyze heritage resource data, maintain heritage databases, maintain heritage records and collections, write reports, stabilize sites, or assist Heritage Program Managers or qualified Heritage Program staff with other historic preservation tasks. Heritage Program staff must meet at least Office of Personnel Management X118 GS-170/193-9 level qualifications to be delegated HPM responsibilities, and have the experience and skills pertinent to his or her job duties and responsibilities under this PA.

Historic Property is: any prehistoric or historic district, site, building, structure, or object, and its associated artifacts, remains, features, settings, and records, that is either listed in or determined eligible for inclusion in the NRHP; or any property not yet evaluated to determine whether it is eligible for the NRHP.

At Risk Historic Property: is a property that the HPM or qualified heritage professional delegated by the HPM identifies as susceptible to being adversely affected by specific undertaking activities. *At risk historic properties* are more commonly identified as part of strategies developed in consultation with the SHPO for specific undertakings or programs (e.g., non-intensive survey strategies). The HPM or qualified heritage professional develops and implements an inventory strategy with the focused goal of identifying *at risk* historic properties rather than all historic properties that may be present. An *at risk* historic property is identified based on property characteristics (e.g., flammability or fragility) and undertaking parameters (e.g., fuel load or fire temperature, or equipment weight or type). Examples are wooden structures susceptible to fire from prescribed burning or rock alignments that can be crushed by tracked vehicles. *At risk* historic properties have also been called a *resource of interest*, *heritage resource of interest*, or *archaeological resource of interest* in Region 5.

Indian tribe: means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Intensive Survey: is a systematic, detailed examination of an area designed to gather information about the number, location, condition, and distribution of historic properties within an undertaking's APE. The need for minimal subsurface testing (e.g., shovel test probes, auguring), in archaeologically sensitive areas as part of an intensive inventory should be assessed where surface evidence may not be adequate when defining an undertaking's APE (e.g., large ground disturbing projects).

Paraprofessional: Forest Service employee who receives specialized training to develop technical skills generally related archaeological identification, survey, and recordkeeping. Certification means that individual has met regional standards, and those detailed in Appendix G, or other standards set by the Forests and agreed to by the SHPO.

Reconnaissance survey: employed when gathering data refine a historic context; checks on presence or absence of expected property types; estimates distribution of historic properties in a given area; provides general understanding of properties in an area; may require more detailed survey to meet specific needs.

Region 5 Regional Heritage Program Leader: is the lead position in Region 5 responsible for directing, administering, and overseeing the region's complex and multifaceted Heritage Program management; advising the Regional Forester, Regional Leadership Team, staff directors, and the Director of Recreation, Wilderness, and Heritage about heritage program management issues; coordinating the Heritage Program internally and with external agencies, organizations, and the public; representing the region to Washington Office meetings and task groups; negotiating agreement documents with consulting parties on behalf of the region; overseeing and administering the region's agreement documents, meeting agreement delegated responsibilities, and delegating responsibilities to forests pursuant to those agreements. The Region 5 Regional Heritage Program Leader shall meet the professional standards established for either archaeologist or historian, as outlined in 36 CFR 296.8 or in the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739), and shall have the experience and skills pertinent to his or her job duties and responsibilities under this PA.

Sample survey: may employ intensive or reconnaissance survey to inventory less than total area; effectively used to evaluate alternatives and estimate frequencies of properties and types of properties over large areas; may use random, stratified, and systematic designs.

Screened Undertaking: See *Undertaking, Screened Undertaking*, below.

Standard Protection Measure: is a historic property treatment procedure, listed and described in Appendix E, that when properly applied eliminates or substantially minimizes the adverse effects of undertakings on historic properties; and when properly applied, no historic properties will be affected by the undertaking.

Undertaking: is any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the Forest Service, including: those carried out by or on behalf of the Forest Service; those carried out with federal financial assistance from the Forest Service; and, those requiring a federal permit, license, or approval, including Forest Supervisor or District Ranger authorization.

a. *Emergency Undertaking:* is any undertaking that the Forest Supervisor determines must be initiated within 30 days of a natural disaster (including human-caused wildfire) or national security emergency, such that emergency actions are necessary in order to avoid an imminent threat to human life or of major property damage, or as defined in 36 CFR Part 78.

b. *Exempt Undertaking:* is an undertaking that is exempt from review or consultation under the terms of this PA and 36 CFR part 800, pursuant to Stipulation VII.A and specifically listed in Section I of Appendix D.

c. *Screened Undertaking:* is an undertaking that may be subject to expedited review, documentation, or consultation under the terms of this PA and 36 CFR part 800, based on HPM or Heritage Program staff delegated by HPM recommendation, pursuant to Stipulation VII, and specifically listed in Section II of Appendix D.

APPENDIX B

FOREST SERVICE MANUAL CHAPTER 2360 – HERITAGE PROGRAM MANAGEMENT

APPENDIX C

**36 CFR part 800
(August 5, 2004)**

APPENDIX D

EXEMPT AND SCREENED UNDERTAKINGS

I. Exempt Undertakings (Class A undertakings):

A. Certain classes of undertakings are considered exempt from further review or consultation under the terms of this PA, as defined in Appendix A, and pursuant to Stipulation VII.A. A Line Officer, HPM or SHPO may recommend that a specific undertaking be reviewed under the term of this PA rather than be exempt. Line Officers and planners do not have to notify nor consult with HPMs about these classes of undertakings unless such Line Officers and planners have reason to believe that specific exempt undertakings may affect historic properties. (Projects requiring Standard Protection Measures (see Appendix E) or other conditions for the protection and preservation of historic properties are not considered exempt undertakings)

B. Exempt undertakings are not to be reported in Forest Annual Reports.

C. Exempt undertakings (Class A) are:

1. easement acquisitions, where the historic properties received are not considered in exchange for any historic properties relinquished;
2. land acquisitions or transfers of administrative control to the Forest Service, where the historic properties received are not considered in exchange for any relinquished;
3. personal use fuel wood and Christmas tree permits (except on lands in Nevada);
4. installations of signposts and monuments, when no new ground disturbance is involved;
5. nondisturbing broadcast seeding and mulching for establishment of vegetation;
6. removal of log jams and debris jams using hand labor or small mechanical devices;
7. removal of illicit narcotics equipment and marijuana gardens from federal land during law enforcement operations, excluding the removal of buildings or structures 45 years of age or older as of the date of removal.

II. Screened Undertakings (Class B undertakings):

A. HPMs, or qualified Heritage Program staff delegated by HPMs, shall determine whether specific undertakings subsumed in certain classes of undertakings (Class B) may be treated as screened undertakings under this PA. If so determined, such screened undertakings must be certified by HPMs or delegated Heritage Program staff and documented in writing. If HPMs or delegated Heritage Program staff determines that undertakings have an effect, will continue an on-going effect, or may affect historic properties, the undertakings shall not be considered a screened undertaking and shall be subject to the provisions of this PA or 36 CFR part 800, as appropriate. Projects requiring class II or III Standard Protection Measures (i.e., protections other than avoidance; see Appendix E) or other conditions for the protection and preservation of historic properties may not use the streamlined documentation procedures for screened undertakings; they must be documented using cultural resource survey reports.

B. Screened undertakings are to be reported in Forest Annual Reports.

C. Screened undertakings (Class B) may include:

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1. land use planning activities that do not authorize specific undertakings (e.g., Wilderness Plans, Wild and Scenic River Plans);
2. withdrawal revocations;
3. activities whose APEs are entirely within obviously disturbed contexts (e.g., borrow pits), and the disturbances are such that the presence of historic properties is considered highly unlikely;
4. activities that do not involve ground or surface disturbance (e.g., timber stand improvement, precommercial thinning, nondisturbing wildlife structures, and fuels treatment), and that do not have the potential to affect access to or use of resources by Indians;
5. transfers of use authorization from one authority to another when actions such as boundary adjustment necessitate changing rights-of-way, easements, or permits from one authority to another (e.g., Forest Service Special Use Permit to a USFA Title V Right-of-Way);
6. issuances or grantings of permits, easements, rights-of-way, or leases that do not authorize surface or resource disturbance, and that do not have the potential to affect access to or use of resources by Indians;
7. applications of pesticides that do not have the potential to affect access to or use of resources by Indians;
8. activities limited within stream channels, not including terraces, cut banks, etc.;
9. activities that involve less than one cubic meter of cumulative ground disturbance per acre;
10. installations of barriers, fencing, or signs with “T”-posts or rebar;
11. hazards abatement, including elimination of toxic waste sites, filling, barricading, or screening of abandoned mine shafts, adits, and slopes where such features are not historic or contributing properties (e.g., temporary closures of adits and tunnels with foam, installation of bat gates and other metal grates).
12. routine trail maintenance limited to brushing and light maintenance of existing tread with hand tools, including chain saws;
13. trail maintenance of existing tread on slopes exceeding 30%;
14. routine road maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts, and cut and fill slopes within road prism, where there are no known historic properties;
15. felling of hazardous trees along roadways, within recreation areas, or other areas for health and safety reasons provided they are left in place or cut up with hand tools, including chain saws, and removed by hand;
16. felling and removal of hazard and wind thrown trees from road prisms where deemed necessary for health, safety, or administrative reasons, so long as trees are felled into and removed from within existing road prisms (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) where previous disturbance is such that the presence of historic properties is considered unlikely, and so long as ground disturbance is not allowed off previously disturbed areas associated with road prisms;

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17. issuances of road use permits for commercial hauling or permits for off-highway vehicle events over existing roads having no historic properties, whenever federal involvement is incidental to activities associated with permit purposes and where there are no known effects to traditional cultural properties;
18. temporary or long-term closures of roads or trails involving no new ground disturbance;
19. construction of snow fences where no new ground disturbance is involved;
20. maintenance and replacement in kind of existing nonstructural facilities (e.g., cattle guards, gates, fences, stock tanks, guardrails, barriers, traffic control devices, utility poles, light standards, curbs, sidewalks, etc.) that do not involve new ground disturbance, or where ground disturbance is limited to less than one cubic meter total per acre and in areas where there are no known historic properties or where the presence of historic properties is considered highly unlikely;
21. activities or alterations involving facilities or structures that are less than 45 years of age as of the date of the project;
22. maintenance (that does not add to nor change the configuration of the existing facilities) to existing electronic communication sites involving no ground disturbance or impacts to known historic properties;
23. removal of trash deposits that are less than 45 years of age and do not qualify as historic properties;
24. installation of law enforcement detection devices within historic properties for ARPA or other law enforcement investigations to prevent site vandalism;
25. installation of use counting devices within historic properties for monitoring to aid in effect evaluations; and
26. installation of any off-site historic property protection measures.
27. wildfires, including initial attack, where suppression activities have required no mechanical disturbance of the surface of the ground, including surfaces which may contain prehistoric art, and where no structures have been disturbed.
28. activities to reduce hazardous fuels on private lands, funded in whole or in part using Forest Service grants, including educational and training efforts, hand treatments, mowing, chipping, pile burning, use of low impact mechanized equipment, and all fuels treatments at private residences.
29. creation of defensible space around homes and structures through the removal of trees, brush, and other vegetation using chainsaws and hand tools, where such activities do not affect the integrity of the setting of Historic Properties.
30. placement of geophysical seismic monitoring equipment on surfaced portions or within prisms (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) of regularly maintained roads.
31. tree planting by hand following a wildfire where low impact method is used (e.g., planting bar; no mechanical auger) and where such activities would not affect the integrity of historic properties if present.

APPENDIX E

APPROVED STANDARD PROTECTION MEASURES

Heritage Program Managers (HPMs), or qualified Heritage Program staff delegated by HPMs, shall ensure that Standard Protection Measures are implemented as appropriate for all subject undertakings managed under this PA. When these protection measures are effectively applied, Forests will have taken into account the effects of undertakings on historic properties.

Forests shall provide the funding and staff time necessary to perform all post-project activity necessitated by historic property treatments and protections, monitoring, effects assessments, and documentation recommended by HPMs or qualified Heritage Program staff delegated by HPMs as a condition of project approval, or when identified during post-activity assessments. All such work shall be completed within one year of final project activities. If recommended work is not completed within this period of time, Forests shall notify and consult with Region 5, the SHPO, and the ACHP on appropriate actions needed to complete the work within agreed upon time periods, or failing to do so, shall comply with 36 CFR part 800.

Class I: Avoidance

HPMs, or qualified Heritage Program staff delegated by HPMs, shall exclude historic properties from areas where activities associated with undertakings will occur, except where authorized below.

A. Proposed undertakings shall avoid historic properties. Avoidance means that no activities associated with undertakings that may affect historic properties, unless specifically identified in this PA, shall occur within historic property boundaries, including any defined buffer zones (see clause I.A.1, below). Portions of undertakings may need to be modified, redesigned, or eliminated to properly avoid historic properties.

1. Buffer zones may be established to ensure added protection where HPMs, or qualified Heritage Program staff delegated by HPMs, determine that they are necessary. The use of buffer zones in avoidance measures is particularly applicable where setting contributes to property eligibility under 36 CFR 60.4, or where setting may be an important attribute of some types of historic properties (e.g., historic buildings or structures with associated historic landscapes, or traditional cultural properties important to Indians).

a. The size of buffer zones must be determined by HPMs or qualified Heritage Program staff on case-by-case bases.

b. Landscape architects and qualified Heritage Program staff may be consulted to determine appropriate viewsheds for historic resources.

c. Knowledgeable Indians should be consulted when the use or size of protective buffers for Indian traditional cultural properties needs to be determined.

2. Activities within historic property boundaries will be prohibited with the exception of using developed Forest transportation systems when the HPM or qualified heritage professional recommends that such use is consistent with the terms and purposes of this agreement, where limited activities approved by the HPM or qualified heritage professional will not have an adverse effect on historic properties, or except as specified below in parts II and III of Appendix E.

B. All historic properties within APEs shall be clearly delineated prior to implementing any associated activities that have the potential to affect historic properties.

1. Historic property boundaries shall be delineated with coded flagging and/or other effective marking.

2. Historic property location and boundary marking information shall be conveyed to appropriate Forest Service administrators or employees responsible for project implementation so that pertinent information can be incorporated into planning and implementation documents, contracts, and permits (e.g., clauses or stipulations in permits).

C. When any changes in proposed activities are necessary to avoid historic properties (e.g., project modifications, redesign, or elimination; removing old or confusing project markings or engineering stakes within site boundaries; or revising maps or changing specifications), these changes shall be completed prior to initiating any project activities.

D. Monitoring by heritage program specialists may be used to enhance the effectiveness of protection measures. The results of any monitoring inspections shall be documented in cultural resources reports and the Infra database.

Class II: On-Site Historic Property Protection Measures

Forest HPMS or qualified Heritage Program staff delegated by HPMS may provide written approval for an undertaking's activities within or adjacent to the boundaries of historic properties based on professional judgment that such activities will not have an adverse effect on historic properties, or under carefully controlled conditions such as those specified below. All activities performed under Section II Standard Protection Measures must be documented in inventory or other Heritage Program Reports (HPMS), or other compliance reports prepared pursuant to this PA; none may be performed under exemptions.

A. The following historic property protection measures may be approved for undertakings under the conditions detailed below:

1. Linear sites (e.g., historic trails, roads, railroad grades, ditches) may be crossed or breached in areas where their features or characteristics clearly lack historic integrity, i.e., where those portions (taking into account any buffer zones related to setting) do not contribute to site eligibility or values.

a. Crossings are not to be made at the points of origin, intersection, or terminus of linear site features.

b. Crossings are to be made perpendicular to linear site features.

c. The number of crossings is to be minimized by project and amongst multiple projects in the same general location.

d. The remainder of the linear site is to be avoided, and traffic is to be clearly routed through designated crossings.

2. Accumulation of sufficient snow over archaeological deposits or historic features to prevent surface and subsurface impacts. Undertaking activities may be implemented over snow cover on historic properties under the following conditions:

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- a. The cover must have at least 12 inches depth of compacted snow or ice throughout the duration of undertaking activities on sites.
- b. All concentrated work areas (e.g., landings, skid trails, turnarounds, and processing equipment sites) shall be located prior to snow accumulation and outside historic property boundaries.
3. Placement of foreign, non-archaeological material (e.g., padding or filter cloth) within transportation corridors (e.g., designated roads or trails, campground loops, boat ramps, etc.) over archaeological deposits or historic features to prevent surface and subsurface impacts. Such foreign material may be utilized on historic properties under the following conditions:
 - a. Engineering will design the foreign material depth to acceptable professional standards;
 - b. Engineering will design the foreign material use to assure that there will be no surface or subsurface impacts to archaeological deposits or historic features;
 - c. The foreign material must be easily distinguished from underlying archaeological deposits or historic features;
 - d. The remainder of the archaeological site or historic feature is to be avoided, and traffic is to be clearly routed across the foreign fill material;
 - e. The foreign material must be removable should research or other heritage need require access to the archaeological deposit or historic feature at a later date; and
 - f. Indian tribe or other public concerns about the use of the foreign material will be addressed prior to use.
4. Placement of barriers within or adjacent to site boundaries to prevent access to or disturbance of deposits or historic features, or for protection of other sensitive resources on-site, when such barriers do not disturb subsurface deposits or lead to other effects to the site.
 - a. Nonintrusive barriers:
 - i. wooden and other barriers anchored with rebar;
 - ii. rocks/boulders or other items placed on the surface;
 - iii. weed-free straw bales or straw bales anchored with rebar;
 - iv. other nonintrusive barriers approved by HPMs or qualified Heritage Program staff.
 - b. Fencing:
 - i. "T"-post fencing;
 - ii. snow fencing;
 - iii. orange highway-type fencing; and
 - iv. other fencing approved by HPMs or qualified Heritage Program staff.
5. Placement of temporary structural support to stabilize and protect historic properties during

undertakings where vibrations or stress from equipment use can be effectively abated or to stabilize historic properties at risk of imminent collapse. Engineering staff will be consulted as appropriate to design supports.

B. The following activity-specific standard protection measures may be approved by HPMs or qualified Heritage Program staff delegated by HPMs under the conditions specified below:

1. Felling and removal of hazard, salvage, and other trees within historic properties under the following conditions:

a. Trees may be limbed or topped to prevent soil gouging during felling;

b. Felled trees may be removed using only the following techniques:

i. hand bucking, including use of chain saws, and hand carrying,

ii. rubber tired loader,

iii. crane/self loader,

iv. helicopter, or

v. other nondisturbing, HPM-approved methods;

c. Equipment operators shall be briefed on the need to reduce ground disturbances (e.g., minimizing turns);

d. No skidding nor tracked equipment shall be allowed within historic property boundaries; and

e. Where monitoring is a condition of approval, its requirements or scheduling procedures shall be included in the written approval.

2. For fire, and hazardous fuels and vegetation management projects, HPMs or qualified Heritage Program staff delegated by HPMs, in conjunction with fuels, vegetation management, or fire specialists as necessary, shall develop treatment measures for *at risk* historic properties (as defined in SHPO approved Region 5 modules and agreements) designed to eliminate or reduce potential adverse effects to the extent practicable by utilizing methods that minimize surface disturbance, and/or by planning project activities in previously disturbed areas or areas lacking cultural features.

a. The following standard protection measures apply to fire, hazardous fuels, and vegetation management projects:

i. Fire crews may monitor sites to provide protection as needed.

ii. Fire lines or breaks may be constructed off sites to protect *at risk* historic properties.

iii. Vegetation may be removed and fire lines or breaks may be constructed within sites using hand tools, so long as ground disturbance is minimized, and features are avoided, as specified by HPMs or qualified Heritage Program staff.

iv. Fire shelter fabric or other protective materials or equipment (e.g., sprinkler systems) may be utilized to protect *at risk* historic properties.

v. Fire retardant foam and other wetting agents may be utilized to protect *at risk* historic properties and in the construction and use of fire lines.

vi. Surface fuels (e.g., stumps or partially buried logs) on *at risk* historic properties may be covered with dirt, fire shelter fabric, foam or other wetting agents, or other protective materials to prevent fire from burning into subsurface components and to reduce the duration of heating underneath or near heavy fuels.

vii. Trees that may impact *at risk* historic properties should they fall on site features and smolder can be directionally felled away from properties prior to ignition, or prevented from burning by wrapping in fire shelter fabric or treating with fire retardant or wetting agents.

viii. Vegetation to be burned shall not be piled within the boundaries of historic properties unless locations (e.g., a previously disturbed area) have been specifically approved by HPMS or qualified Heritage Program staff.

ix. Mechanically treated (crushed/cut) brush or downed woody material may be removed from historic properties by hand, through the use of off-site equipment, or by rubber-tired equipment approved by HPMS or qualified Heritage Program staff. Ground disturbance shall be minimized to the extent practicable during such removals.

x. Woody material may be chipped within the boundaries of historic properties so long as the staging of chipping equipment on-site does not affect historic properties and staging areas are specifically approved by HPMS or qualified Heritage Program staff.

xi. HPMS shall approve the use of tracked equipment to remove brush or woody material from within specifically identified areas of site boundaries under prescribed measures designed to prevent or minimize effects. Vegetative or other protective padding may be used in conjunction with HPM authorization of certain equipment types within site boundaries.

b. HPMS or qualified Heritage Program staff shall determine whether fire, prescribed fire, or mechanical equipment treatments within site boundaries shall be monitored, and how such monitoring shall occur. .

c. Use of any standard protection measures on historic properties for fire, hazardous fuels, and vegetation experimental mechanical treatments shall be documented in Forest Annual Reports, detailing equipment type, extraction techniques, conditions of use, environmental conditions, project results, effectiveness of protection measures, need for changes, and recommendations for future use.

3. For motorized recreation projects, HPMS or qualified Heritage Program staff, in conjunction with motorized recreation specialists and engineers as necessary, shall develop treatment measures for *at risk* historic properties designed to eliminate or reduce potential adverse effects to the extent practicable by utilizing methods that minimize surface disturbance, and/or by planning project activities in previously disturbed areas or areas lacking cultural features. The following standard protection measures apply to motorized recreation projects:

a. Adoption or implementation of use controls:

i. Temporary (e.g., during wet season) or long-term closures;

ii. Signage (use restrictions, informational, etc.);

iii. Access exclusions via installation of gates when placed where HPMS or qualified Heritage Program staff determine there will be no effect or no adverse effect, such as placement in disturbed contexts, in road prisms, or at site boundaries;

iii. Adaptive management (protocol that proceeds through stages managed to reduce or eliminate any effect) that includes monitoring, education, signage, and closure in a sequential process.

b. Use of vegetative screening or surface treatments:

i. broadcast seeding;

ii. broadcast slash or straw, etc.;

iii. planting of vegetation to promote screening and natural fencing.

C. Any specified activities within the boundaries of historic properties shall be reviewed in Forest Annual Reports to assess continuation of or need for changes in the protection measures.

D. If standard protection measures cannot provide appropriate protection, undertakings shall be subject to the provisions of 36 CFR part 800.

Class III: Historic Structure Treatments

Forest HPMS or qualified Heritage Program staff delegated by HPMS shall provide written approval (project approval documentation required) for the specific activities listed in section III.C, below, involving the routine repair and maintenance of historic structures. All activities performed under Section III Standard Protection Measures must be documented in Heritage Program Reports (HPRs), pursuant to this PA; none may be performed under exemptions.

A. Forests shall emphasize the repair of existing elements, rather than in-kind replacement, whenever prudent and feasible (i.e., where economical; or where materials and skills are available).

1. Where existing materials clearly are not the original and are not in-character with the original, nonhistoric and out-of-character materials may be removed and replaced with materials that match or are more compatible with original fabric, design, color, etc. of historic structures.

2. When applying these protection measures, Forest HPMS or qualified Heritage Program staff shall verify that the proposed work conforms to recommendations set forth in *The Secretary of the Interior's Standards for Rehabilitation, and Guidelines for Rehabilitating Historic Buildings*.

3. Where proposed repair or in-kind replacement, or other historic preservation activities, may affect structure historic character (i.e., adversely affect original fabric, materials, workmanship, or design):

a. case-by-case consultation pursuant to 36 CFR part 800 is required;

b. persons meeting the Secretary of the Interior's Standards and Guidelines for Professional Qualifications, or the Office of Personnel Management X118 standards at the journeyman level, for historian, historic archaeologist, architect, historic architect, landscape architect, or restoration engineer, must review, supervise, or complete the project, as preservation needs dictate.

B. All activities approved for the below listed protection measures shall be documented in Forest

Heritage Program reports.

C. Routine Repair and Maintenance Protection Measures

1. Structural Elements

- a. Repair or replacement of siding, trim, or hardware, when done in-kind to match historic material, design, and color.
- b. Repair of window frames or shutters by patching, splicing, consolidating, or otherwise reinforcing or replacing in-kind those parts that are either extensively deteriorated or are missing. The same historic configuration of panes shall be retained.
- c. Replacement of window frames to match historic material and design. The same historic configuration of panes shall be retained.
- d. Replacement of glass, when done in-kind to match historic form and design. Window panes may be double or triple glazed as long as the glazing is clear and replacement does not alter the historic window form. This excludes tinted glass, the use of which requires consultation.
- e. Maintenance of features, such as frames, hoodmolds, paneled or decorated jambs and moldings, through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems using historic color and texture.
- f. Repair or replacement of doors, when done in-kind to match historic material and form.
- g. Repair or replacement of porches, cornices, and stairs when done in-kind or to match historic material and design, and the style, materials, and character of the structure.
- h. Repair or replacement of foundations when the work does not change the structure's historic appearance.
- i. Repair or replacement of roofs or parts of roofs that are deteriorated, when done in-kind or where matching historic material and design. In areas of high fire danger, fire retardant roofing is allowed. If fire retardant materials are used, the materials must match the original roofing color and be as compatible with the design and character of the building as possible. Adequate anchorage for roofing material to guard against wind damage and moisture penetration shall be provided.

2. Surfaces:

- a. Painting interior or exterior surfaces, when the new paint matches the existing or historic color. If the existing paint color is not desirable and the historic color is not known, the color should be in keeping with historic color schemes for nearby or similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment.
- b. Replacement or installation of caulking and weather-stripping around windows, doors, walls, and roofs.
- c. Removal of hazardous materials or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the historic surfaces as closely as possible.

3. Interior Elements:

- a. Replacement of modern appliances and fixtures (e.g., ranges, refrigerators, and bathroom fixtures). When associated historic cabinetry is intact, and the interior, in general, retains its historic appearance, the cabinetry will be retained.
- b. Repair or replacement of floor coverings, when done in-kind to match historic material and design.
- c. Rendering inoperable, but not removing, gas lighting fixtures, when another inconspicuous light source is used.
- d. Floor, wall, or ceiling refinishing in-kind.

4. Utility Systems:

- a. Installation of mechanical equipment that does not affect the visual integrity or exterior fabric of the building.
- b. Replacement, removal, or upgrading of electrical wiring.
- c. Replacement of floor furnaces and floor registers with surface-mounted wall heating systems or hot water appliances. Repairs to the floors will be done with in-kind materials and design.
- d. Repair, replacement, removal, or upgrading of water and plumbing systems when historic features, such as hand pumps, are left in place. Historic plumbing fixtures should be retained and used if possible.
- e. Replacement of metal water tanks with ones of fiberglass, when the color and texture of the existing or historic tank are replicated or when landscaping camouflages the replacement tank. Redwood tanks with plastic inserts are also feasible. Construction of a structure around a tank to control temperature is allowed when landscaping camouflages the change.
- f. Replacement of and enlarging liquid propane gas systems, if tanks are screened with landscaping materials.
- g. Replacement of communications equipment, when the same size, shape, and general configuration are retained, excluding large antenna and communications dishes.
- h. Replacement of lightning rod wiring with new copper wire.

5. Surrounding Features (see Ground Disturbing Activities, section 7, below):

- a. Replacement of signs in-kind.
- b. Ongoing maintenance of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are maintained.
- c. Installation of interpretive signs or exhibit structures which are not attached to historic structures and do not visually intrude on the historic property. Signs should be constructed of materials and painted colors that harmonize with the historic property and its setting.

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d. Repair or replacement of driveways and walkways done in-kind to match existing or historic materials and design.

e. Repair or replacement of fencing done in-kind to match existing or historic material and design.

f. Repair, replacement, or addition of exterior lighting that blends with the landscaping and style of the building.

6. New Materials:

a. Installation of dry insulation.

b. Installation of fire or smoke detectors or burglar alarms.

c. Installation of skirting over a structure's crawl space, if constructed or painted a color to match or blend with the structure.

d. Installation of security systems or security devices, such as dead bolts, door locks, window latches, and door peep holes.

e. Installation of temporary door or window covers to secure structures from vandalism during the off-season or after visitor hours.

7. Ground Disturbing Activities (where no known conflicts with other historic properties, e.g., prehistoric archaeological deposits, may exist):

a. Excavations for repair or replacement of building footings or foundation work within two (2) feet of existing footings and foundations.

b. Installation of utilities, such as sewer, water, or storm drains, electrical, gas, or leach lines, and septic tanks, where installation is restricted to specific areas previously disturbed by installation of these utilities.

c. Tree planting or removal in areas that have been previously disturbed by these activities, including nursery beds and arboreta, provided historic landscaping is maintained.

APPENDIX F

REGIONAL PA SUPPLEMENTAL GUIDELINES FOR DETERMINATIONS OF ELIGIBILITY

In meeting its NHPA Section 106 responsibilities for historic preservation, Region 5 wishes to concentrate on determinations of eligibility to improve knowledge about cultural resources, increase the number of significance evaluations, improve management of historic properties, and facilitate planning for future undertakings. Region 5 would also like to increase the number of determinations of eligibility for undertakings being planned at the landscape scale (e.g., vegetation treatments, prescribed burning), as well as for other undertakings. Several different property types lend themselves to expedited determinations of eligibility, because of the historic characteristics they either obviously possess or lack. Region 5 shall use the documentation standards detailed below, minimizing subsurface testing and site disturbance, to complete consultation on these expedited determinations of eligibility.

When historic properties shall be managed and maintained in manners which ensure that their prospective NRHP values are preserved or where no historic properties are affected by an undertaking (e.g., use of the Standard Protection Measures listed in Appendix C), then their eligibility for inclusion in the NRHP can be assumed for purposes of the undertaking, and the prescribed Standard Protection Measures implemented and conditional on the approval of the undertaking.

If undertakings may diminish prospective historic property NRHP values, Forests shall evaluate cultural resources for eligibility for inclusion in the NRHP (36 CFR 60.4). Forests may choose to evaluate cultural resources for eligibility to the NRHP even where they can be protected. Determinations of Eligibility may be completed by forests under the conditions and stipulations in this programmatic agreement, or through consensus determinations with the SHPO (36 CFR 800.4(c)(2)), or through consultation and determinations made by the Keeper of the NRHP. The Forest Heritage Program Manager will certify all determinations of eligibility performed by the forest under Stipulation VII.G.3 of this agreement.

Forests will consult with federally recognized tribes where evaluations involve cultural resources that may have cultural or traditional importance to a tribe, and to provide an opportunity for the tribe to comment on a Forest's determination prior to completing the evaluation. Forests may also consult with non-federally recognized tribes, tribal groups, communities, or organization as interested parties to identify similar values that may be associated with resources being evaluated.

There are eight requirements in the Evaluation Process (adapted from the Secretary of the Interior's Standards for Evaluation, National Park Service, 1983):

1. Evaluation should not be undertaken using documentation that may be out of date. The current condition of the property should be determined and previous analyses evaluated in light of any new information.
2. Evaluation must be performed by person qualified by education, training, and experience in the application of the criteria. Where feasible, evaluation should be performed in consultation with other individuals experienced in applying the relevant criteria in the geographical area under consideration.
3. Evaluation is completed with a written determination that a property is or is not significant based on provided information. This statement should be part of the

record.

4. Evaluation criteria are identified (e.g, NRHP Criteria).
5. Adequately developed historic contexts, including identified property types.
6. Sufficient information about the appearance, condition, and associative values of the property to be evaluated to:
 - a. Classify it as to property type;
 - b. Compare its features or characteristics with those expected for its property type; and
 - c. Define the physical extent of the property and accurately locate the property.
7. Describe the property and its significance in the historical context, and how the criteria would apply to properties in that context, based on the important patterns, events, person, and cultural values identified.
8. Describe the integrity of the property relative to that needed to represent the context. The evaluation should state how the particular property meets the integrity requirements for its type. The integrity of the property is its current condition, rather than its likely condition after a proposed treatment should be evaluated.

I. EVALUATION OF HISTORIC PROPERTIES

A. General Guidance

REGION 5 shall use the National Register criteria (36 CFR 60.4) when making determinations of eligibility; and/or Region 5 evaluation strategies for specific types of cultural resources, or Forest procedures that are or have been approved by the SHPO (Stipulation VII.G).

REGION 5 may use NRHP evaluation procedures documented in thematic studies or cultural resource modules previously approved by the California SHPO as individual evaluation and management programs or under prior programmatic agreements. These thematic studies and modules also may be used in Nevada if approved by the Nevada SHPO. Such studies and modules are adopted herein by reference or may be amended to this agreement pursuant to Stipulation XII.C. Adopted thematic studies include:

On the Track of Railroad Logging History: A Contextual History for Railroad Logging in California Sonia A. Tamez, Dana E. Supernowicz, and James T. Rock. USDA-Forest Service, Pacific Southwest Region. 1988 (revised).

Contextual History: Forest Service Administration Buildings in the Pacific Southwest Region 1905-1970. Dana E. Supernowicz. Edited by Linda Marie Lux and Judy Rose. USDA Forest Service, Pacific Southwest Region. 1989

Fixed Point Fire Detection: The Lookouts. Mark V. Thornton. Ms. on file, U.S. Forest Service, Region 5, San Francisco. 1986

Contextual History and Classification for Fire Lookouts in California. Adapted from "Fixed Point Fire Detection: The Lookouts" (Mark V. Thornton 1986). USDA Forest Service,

Pacific Southwest Region.

Strategy for Inventory and Historic Evaluation of Recreation Residence Tracts in the National Forests of California from 1906 to 1959. Linda Lux, Judy Rose, Dana Supernowicz, Mike McIntyre, Pam Conners, Jon Brady, Jan Cutts, Joan Brandoff-Kerr and Steve McNeil. USDA Forest Service Pacific Southwest Region and Department of Environmental Design, University of California Davis. 2003 (revised).

Some types of properties can be managed using the California Archaeological Resource Identification and Data Acquisition Programs (CARIDAPs) (**California Only**). These programs employ specific criteria to classify archaeological properties that contain limited but easily retrieved information, and whose eligibility under 36 CFR 60.4(d) as individual properties or classes of properties is often problematic. Properties managed according to CARIDAPs are considered ineligible for the NRHP, and need no further consideration under the terms of this PA.

B. Consensus and Expedited Determinations of Eligibility:

To facilitate REGION 5's determinations of eligibility when planning undertakings, and to improve accomplishments for determinations of eligibility under the Section 110 requirements of this PA, expedited evaluation protocols apply for the classes of cultural resources listed below, or for which protocols are detailed in programs or procedures previously approved by SHPO.

II. Ineligible Properties

Some types of cultural resources are obviously ineligible for the NRHP because of their lack of substantive constituents or features, or because of their lack of integrity; these sites do not meet the NRHP criteria at 36 CFR 60.4. Standardized documentation of such properties provides sufficient information to determine them ineligible for the NRHP and provides information needed for agency management purposes. Properties determined ineligible need no further consideration under the terms of this PA. Determinations of Eligibility completed by forests under Stipulation VII.G.3 of this PA may use the following standards, and when certified by HPMs, these expedited determinations meet the consensus requirements of 36 CFR 800.4(c)(1).

A. Ineligible Property Documentation Standards

1. HPMs, or qualified Heritage Program staff delegated by HPMs, shall determine appropriate data collection procedures commensurate with the cultural materials identified.
2. General Data Collection Procedures include:
 - a. Cultural resource sites shall be recorded using approved documentation standards, or existing records shall be updated to current standards.
 - i) Provide general location maps, and site location maps using USGS 7.5' or comparable maps. Prepare cultural resource site sketch maps, as necessary, to show locations of any sampling units, features, or loci.
 - ii) Take digital or film based photographs of cultural resource site overviews and any features or loci, as appropriate.
 - iii) For cultural resource sites with features, document all features.
 - iv) In sites with artifacts, document artifacts in small, single locus areas. Use sampling strategies

for larger sites or sites with multiple loci. Use professional judgment to select adequate sample sizes, and describe rationale. Sample loci within sites; document artifacts within samples. Document artifacts by including provenience information; providing descriptions; making illustrations or taking photographs of unique or diagnostic artifacts; measuring, illustrating or photographing, and describing artifacts only once where there are multiple occurrences in sites (or units/loci), and counting thereafter.

3. Background Research:

Conduct background research to confirm the lack of meaningful historic associations. In addition to standard historical references, review available and applicable atlases, planting records, range condition inventories, historic maps and photographs, ethnographies, oral histories, etc. Incorporate brief narratives of results of background research into site records. If research reveals historic contexts clearly tied to specific events and entities of significance (e.g., named mines associated with the Gold Rush or Nevada's Comstock), exclude sites from this protocol.

B. Ineligible Property Consultation Protocols

1. Forests shall summarize findings of evaluations in determination of eligibility and include brief:

a. discussions of the methodology of data collection and documentation;

b. descriptions of the cultural resource sites;

c. justifications for why sites are ineligible to the NRHP specifying why they do not meet criterion a, b, c, or d, and/or why they no longer retain integrity of location, design, setting, materials, workmanship, feeling, or association.

2. Append current site records with general location, site location, and sketch maps, photographs, and any other supporting documentation.

C. The following property types may be considered potentially ineligible.

1. Severely Damaged Sites

Severely damaged sites are sites that have been subjected to erosion, decay, looting, project activities, or other impacts to such a degree that they no longer contain recognizable features, unaltered historic characteristics, or substantial in-tact deposits of cultural materials that may contribute information to understanding history or prehistory. With these degradations, they have lost integrity of design, materials, workmanship, feeling, and association as verified by limited testing or field assessments (e.g., shovel test probes, auguring). Or, their historic environments have been altered or they have been isolated from their original historic environments so that characteristics of location, setting, feeling, and association are lost.

2. Isolated Sites

Some isolated sites consist of ephemeral cultural remains or lack associations meaningful in broader historic contexts. Examples of isolated site types include: alignments lacking associated historic contexts or archaeological deposits; fire altered rock concentrations; tree carvings; borrow pits; tailings piles or adits/shafts; isolated historic ditches; hunters camps/dispersed recreation camps; fire rings; minor trails and associated features not part of identified systems or historically significant trails; minor roads and associated features not part of identified systems or historically significant roads; log decks, landings, sawdust piles, and mill debris; logging stumps/high cut

stumps not associated with other logging sites or not features as parts of cultural landscapes in districts or sites; skid trails; fences and fence posts; and utility lines and associated features unconnected to identified or historically significant systems.

D. Certified Ineligible Property Types

Recording standards and consultation for the following property types are approved under this Programmatic Agreement or through previously SHPO-approved cultural resource programs or procedures. Once appropriately documented and certified by the HPM, they may be determined ineligible for the NRHP under Stipulation VII.G.3.

1. Isolated Historic Refuse Deposits

Isolated historic refuse deposits are small trash scatters unassociated with other historic remains, that contain only refuse materials with no features suggesting other functions, and that date from after the Gold Rush or Nevada's Comstock to 1950; sites dating more recently than 1950 are considered modern and not historic. See the Isolated Historic Refuse Deposit Determination of Eligibility protocol, Appendix F - 1, for suggested recording and evaluation details.

2. Isolated Historic Prospect Pits

Isolated historic prospect pits are small pits dug in exploration for valuable minerals. They are generally small sites, unassociated with other historic remains, contain only excavated pits and associated tailings piles with no artifacts or features suggesting other functions, and date throughout the historic period up to the 1950s, but are generally impossible to date because of lack of associated diagnostic materials. Isolated prospect pits dating more recently than the 1950s are considered modern and not historic. See the Isolated Historic Prospect Pit Determination of Eligibility strategy, Appendix F - 2, for suggested recording and evaluation details.

3. Isolated Historic Ditches

Isolated historic ditches are small earthen ditches unassociated with other historic remains, with no associated features such as rock work or flumes, and with contiguous segments totaling no more than 25 meters in length, and little remaining integrity.

III. Eligible Properties

A. Certain types of cultural resources are eligible for the NRHP because they obviously meet at least one of the NRHP criteria at 36 CFR 60.4. Some have visible constituents or features with known historic values. Some classes of sites already have historic contexts established. Standardized expedited documentation of such properties, without test excavating subsurface deposits or conducting specialized analyses, provides sufficient information to determine them eligible. Determinations of Eligibility completed by forests under Stipulation VII.G (excluding properties determined ineligible under Stipulation VII.G.3) of this PA may use the following standards, and when certified by HPMs, these determinations meet the consensus requirements of 36 CFR 800.4(c)(1).

B. Integrity:

The key to eligibility for these sites frequently is integrity. Thus, the primary goal of recording and evaluating such sites is determining if they retain sufficient integrity of location, design, setting, materials, workmanship, feeling, and/or association to be eligible.

C. Eligible Property Documentation Standards

1. Documentation standards will be developed in consultation with the SHPO.
2. The following information is required:
 - a. Specifically describe:
 - i) historic property characteristics,
 - ii) contributing and noncontributing elements, and
 - iii) site integrity.
 - b. Provide general location maps, site and/or district location maps on 7.5' USGS quadrangles (or comparable quality maps), and detailed site sketch maps showing site boundaries and location of all associated features.
 - c. Include photographs or illustrations of features that warrant detailed documentation.
3. Provide concise but specific:
 - a. descriptions of boundaries for sites and/or districts;
 - b. descriptions and locations of associated features;
 - c. descriptions of site/district historic characteristics, contributing and noncontributing elements, and integrity; and
 - d. statements of significance about how all pertinent NRHP criteria apply, and about how identified sites, elements, and historic characteristics contribute or do not contribute to property eligibility (e.g., identify relationships to documented historic contexts, or compare to similar site types in areas where more extensive data are available from excavations).

D. Eligible Property Consultation Protocols

1. Each Forest shall document its determinations of eligibility, including information about integrity, along with specific arguments for and citations of the applicable criteria. Summary information should be entered into the Forest Service's corporate heritage database. Each Forest will provide summary findings of its determinations of eligibility to the SHPO in accordance with Stipulation VII.G of this PA, and copies of these determinations to the SHPO when requested.
2. SHPO shall respond within 30 calendar days if there is agreement or disagreement with a Forest's eligibility determination (Stipulation VII.G.5), provided sufficient documentation has been provided, or if additional documentation or clarification is needed. SHPO may also notify the forest that it needs additional time to provide its response (Stipulation VII.G.5).

E. Eligible Property Types

1. Sites with visible constituents or features generally considered meeting the eligibility criteria at 36 CFR 60.4, and for which integrity of historic characteristics is to be documented:

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- a. prehistoric archaeological sites with visible structural remains (e.g., house pits, rock rings);
 - b. complex rock art sites or rock art sites with accompanying archaeological deposits;
 - c. prehistoric quarries with distinct geochemical source signatures demonstrated through trace element studies;
 - d. prehistoric midden sites with features or constituents that can be dated;
 - e. prehistoric/ethnohistoric archaeological sites with ethnographic names (excluding place names lacking physical archaeological evidence).
2. Sites with historic contexts that establish eligibility under 36 CFR 60.4, and for which integrity of historic characteristics is to be documented:
- a. *piagi* sites (based on Piagi Programmatic Agreement (1987));
 - b. contributing segments of National Historic Trails (based on Congressional designation);
 - c. administrative buildings, including lookouts (based on regional thematic studies);
 - d. recreation residence tracts (based on Recreation Residence Strategy);
 - e. railroad logging districts (based on regional thematic study).

F. Where an assessment of effects to a historic property's characteristics from proposed undertakings is required, test excavations or specialized analyses of constituents or features may be necessary to identify potential adverse effects and mitigation measures.

APPENDIX F- 1

PROTOCOL

FOR

ISOLATED HISTORIC REFUSE DEPOSITS
DETERMINATIONS OF ELIGIBILITY

PROGRAMMATIC AGREEMENT

AMONG THE

U.S.D.A. FOREST SERVICE, PACIFIC SOUTHWEST REGION (REGION 5)
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
NEVADA STATE HISTORIC PRESERVATION OFFICER, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING THE

PROCESSES FOR COMPLIANCE WITH THE
NATIONAL HISTORIC PRESERVATION ACT
FOR MANAGEMENT OF HISTORIC PROPERTIES BY THE
NATIONAL FORESTS OF THE PACIFIC SOUTHWEST REGION

Isolated Historic Refuse Deposits Determinations of Eligibility

The following abbreviated methodology applies to recording and making determinations of eligibility for the very common class of historic sites known as isolated historic refuse deposits. Generally, isolated historic refuse deposits are small sites unassociated with other historic remains, contain only refuse materials with no features suggesting other functions, and date from after the Gold Rush or Nevada's Comstock to 1950; isolated trash dumps dating more recently than 1950 are considered modern and not historic.

I. Context:

Sullivan and Griffith (2005) have completed a context statement for Arizona waste management practices and refuse deposits. The context covers storage and transfer, final depositories, and treatment for all types of waste properties, everything from kitchen garbage primary transfer stations to regional land fills and processing plants. This is a much more comprehensive study than needed here; but, it provides some basic information about the role of isolated historic refuse deposits. The context statement may be found on the Arizona State Parks website at: www.azstateparks.com.

Historic refuse deposits represent the end products, the final depositories, of the simplest waste management behavior, dumping trash. They are most often waste piles, representing single or minimal uses of areas by individuals or groups. Waste piles are roughly bounded, open, mostly surficial deposits of trash. They are more variable than other waste depositories. When found in proximity to the historic properties generating the trash, they are to be treated as features of those properties (Ibid.:15-16). When isolated from their sources, they qualify under this protocol.

More complex sites may be open dumps, representing multiple uses of areas by individuals or groups. Open dumps are areas generally larger than waste piles, where trash has been repeatedly dumped by multiple individuals or communities. Like waste piles, they are roughly bounded and open; but, open dumps represent long-term deposition from many sources, and may contain multiple loci or considerable depth from trash build-up over time (Ibid.:16). Only the simplest open dumps are included in this protocol, specifically those with surficial deposits.

By definition, isolated historic refuse deposits have no physical proximity to the sources of the waste that establish associations with historic contexts. In addition, the deposits may be mixed with other trash. As such, they have limited or no research potential (Ibid.:15-16, 27). Isolated historic refuse deposits, both waste piles and open dumps separated and located at distances from the sources that generated their rubbish, are commonly found throughout the National Forests in Region 5.

II. Nonsignificance:

A. Isolated historic refuse deposits lack integrity of location, design, setting, materials, workmanship, feeling, and, most importantly, association. Isolated historic refuse deposits are disassociated from their sources and thus from their historic contexts. They are ineligible to the National Register of Historic Places as they do not meet NRHP criteria by being:

- a) associated with specific events important in history;
- b) associated with persons important in history;

- c) characteristic of types, periods, or methods of construction; representative of masters; of high artistic value; or contributing parts of distinguishable entities; or
- d) able to yield information important in history.

B. The waste in isolated historic refuse deposits has been removed from its source and may be mixed with other deposits. Thus, the key to ineligibility of isolated historic refuse deposits is that trash dumps have no integrity of association with adjacent or nearby eligible properties for which historic contexts are or can be established. They represent variable and idiosyncratic behavior by unknown persons or groups. Without historic contexts, isolated trash dumps do not contribute to property significance.

1. Earlier drafts of a refuse deposit CARIDAP and an agreement document allowed associations with linear sites such as ditches and railroad grades. With the exception of roads (see I.B.2, below), this determination of eligibility protocol does not include such associations. If associations are established between refuse deposits and historic properties, be they linear features such as ditches or sites such as homesteads, integrity of location and possibly association exist (if these deposits have been severely affected, they may not retain integrity of association). In any case, such potentially associated refuse deposits, those within proximity of other sites, do not meet the criteria for isolated historic refuse deposits.

2. The exception for integrity of association is that for roads, and particularly road use. Many refuse deposits are found at the ends of or adjacent to roads. In most cases, the only association is that for road use; the roads were used to access generally remote areas in order to dump trash well removed from the sources of the trash. The roads themselves may have been originally built long before their use to dump trash, or reengineered many times since original construction and subsequent use for dumping trash, or only be incidental to the use for dumping trash. HPMS, or qualified Heritage Program staff delegated by HPMS, need to apply professional judgment to determine if shared relationships exist between trash dumps and historic roads that together may otherwise make refuse deposits eligible to the NRHP.

III. Characteristics:

A. Isolated Historic Refuse Deposits may:

- have a single locus or multiple loci;
- have only surficial deposits (less than 10 centimeters soil accumulation/deposition), unless they clearly represent single events (no layering/stratigraphy) where holes may have been dug to bury trash or where large artifacts such as buckets may be buried deeper;
- contain discarded metal, glass, ceramics, bone, rubber, leather, and other historic items;
- contain from fewer than ten to thousands of items;
- contain diagnostic artifacts (e.g., maker's marks or labels);
- date from post-Gold Rush or Nevada's Comstock to 1950;
- be associated with generalized events or themes such as generic mining, logging, ranching, recreation, hunting, etc.

B. Isolated Historic Refuse Deposits cannot:

- contain loci larger than 500 square meters;
- contain subsurface deposits (depth of more than 25 centimeters below the ground surface (not the trash pile's surface)) if they are multi-event trash dumps;
- be associated with or contain any structures or features that suggest functions other than refuse disposal (excluding intrusive features younger than 45 years of age);
- date from the Gold Rush or Nevada's Comstock to earlier times;
- be of modern, post-1950 derivation;
- be associated with specific persons, households, commercial entities, or specifically identified local, regional, or national events.

C. Characteristics clarification:

1. Single episode trash deposits or waste piles:

Isolated historic refuse deposits frequently represent single episodes of trash disposal. In some cases, trash may have been buried by digging holes and scattering dirt over the top of the debris. Such single event, buried, trash deposits qualify as isolated historic refuse deposits.

2. Multiple episode trash deposits or open dumps:

a. Other isolated historic refuse deposits may represent multiple episodes of trash disposal, with multiple loci or detectable layering/stratification. Such multiple event trash disposal sites must contain only surficial deposits to qualify as isolated historic refuse deposits.

b. Refuse deposits with discernable horizontal and/or vertical stratification plus subsurface deposition are considered too complex to qualify under this isolated historic refuse deposit protocol; they may contain sufficient information value to contribute to historic contexts.

3. Dating:

Refuse deposits frequently can be dated, at least roughly, through mean dates derived from artifact typology. Those that date to the Gold Rush or Nevada's Comstock are of value to understanding one of the most significant historic events in California's or Nevada's history. They are excluded from this protocol. Refuse deposits that can be dated earlier than the Gold Rush or Nevada's Comstock are sufficiently rare that in and of themselves they may contribute information important to history; they are excluded from this protocol. Both may contribute information to historic contexts for the region. HPMS or qualified Heritage Program staff delegated by HPMS shall use professional judgment and decide to exclude other refuse deposits from this protocol when they determine those deposits may contribute to historic contexts.

4. Refuse deposit sites:

a. Refuse deposits that date up to the end of World War II are to be recorded as sites.

b. Trash dumps that date more recently than 1950 are considered modern, and need not be recorded as sites. Those that have been previously recorded as sites may be evaluated under this protocol.

i. 1950 is used as the cut-off date because of its significance in history and the multitude of

historic properties thematically associated with it, and because of the subsequent proliferation of modern hunting and recreation uses of (and associated material remains in) the forests after that time.

ii. The 50 year guideline is generally considered unnecessary for application to modern trash dumps unless HPMs or qualified Heritage Program staff identify unusual artifacts or other historic characteristics that may contribute to historic contexts.

IV. Data Collection Procedures:

A. The following are minimal site recording guidelines. Forest HPMs or qualified Heritage Program staff shall determine appropriate data collection procedures commensurate with the historical remains identified.

B. Based on HPM or qualified Heritage Program staff recommendations, use metal detectors, augers, shovel probes, or other means to minimally test (i.e., generally < 1 cubic meter of soil removed) for buried materials more extensive than are visible and/or verify likely absence of buried deposits.

C. Record isolated historic refuse deposits on Cultural Resource Records (CRRs) or update existing records to current standards.

- In California: complete the USDA-Forest Service (Region 5) Primary Record (comparable to DPR 523A Primary Record and DPR 523C Archaeological Site Record).
- In Nevada: complete the IMACS Site Form, Part A Administrative and Environmental Data, and Part C Historic Sites records.

1. Maps:

- a. Provide general location maps, plus site location maps using USGS 7.5' or comparable maps.
- b. For sites larger than 100 artifacts or with multiple loci, prepare site sketch maps, showing locations of sampling units and any loci.

2. Photos:

a. As needed, take digital or film based photographs of sites:

- site overviews,
- views of loci.

b. Use regional photographic standards.

3. Artifact documentation:

a. For small (fewer than 100 artifacts), single locus sites, sample and list artifacts, noting unique artifacts and those with diagnostic characteristics, and covering the various classes of artifacts.

b. Use sampling strategies for sites with more than 100 artifacts or multiple loci:

- Use professional judgment to select adequate sample size; describe rationale;

- Sample all loci within the sites;
- Document artifacts within samples.

c. Document artifacts by:

- Including provenience information;
- Listing artifacts by types;
- Measuring, illustrating or photographing, and describing artifacts only once where there are multiple occurrences in sites (or unit/loci); counting thereafter;
- Identifying and describing, making illustrations, or taking photographs of unique or diagnostic artifacts (e.g., maker's marks, labels, manufacturing characteristics, or other diagnostic attributes);
- Noting if broken artifacts (such as broken dishware) can be determined to be represented by multiple pieces;
- Describing artifacts with terminology widely used by historic archaeologists.
- See Appendix F -1, Attachment B for example of Historic Artifact Sheet for optional use in documenting artifacts.

V. Background Research:

A. Conduct background research to confirm the lack of meaningful historic associations (i.e., those that may render the properties eligible to the NRHP). If historic associations are identified, the refuse deposits do not qualify for this protocol.

B. Review available:

- atlases (e.g., cut-over atlases, timber sale atlases, etc.),
- planting records, range condition inventories, and other records,
- historic maps,
- historic photographs,
- ethnographies, oral histories,
- standard historical references.

C. Incorporate brief narratives of results of background research into site records.

VI. Attachments

Appendix F - 1, Attachment A: References to Consult for Historic Artifact Terms

Appendix F - 1, Attachment B: Example of Historic Artifact Sheets (Optional)

**Appendix F 1
Attachment A**

References to Consult for Historic Artifact Terms

This list is not meant to be exhaustive but is a good foundation on which to build a historic reference library and knowledge of historic artifacts.

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Appendix F – 1
Attachment B

Example of Historic Artifact Sheets

Historic Artifact Sheet		
Date: Recorder: Site: Locus: Unit: Depth:		
Material	Description of Artifact	# of Artifacts
Photos/Drawings of Artifacts		

APPENDIX F - 2

PROTOCOL

FOR

ISOLATED PROSPECT PITS
DETERMINATIONS OF ELIGIBILITY

PROGRAMMATIC AGREEMENT

AMONG THE

U.S.D.A. FOREST SERVICE, PACIFIC SOUTHWEST REGION (REGION 5)
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
NEVADA STATE HISTORIC PRESERVATION OFFICER, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING THE

PROCESSES FOR COMPLIANCE WITH THE
NATIONAL HISTORIC PRESERVATION ACT
FOR MANAGEMENT OF HISTORIC PROPERTIES BY THE
NATIONAL FORESTS OF THE PACIFIC SOUTHWEST REGION

Isolated Prospect Pits

Determinations of Eligibility

The following abbreviated methodology applies to recording and undertaking determinations of eligibility for the very common class of historic sites known as isolated prospect pits. Prospect pits are small pits dug in exploration for valuable minerals. Generally, isolated prospect pits are small sites unassociated with other historic remains, contain only excavated pits and associated tailings piles with no artifacts or features suggesting other functions, and date throughout the historic period up to the 1950s, but are generally impossible to date because of lack of associated diagnostic materials; isolated prospect pits dating more recently than the 1950s are considered modern and not historic.

I. Context:

Evidence of historic mining is scattered throughout the National Forests in Region 5. Numerous minerals have been, and are still being, mined, e.g., copper, tungsten, cinnabar for mercury, silver, and, of course, gold. These are all hard rock minerals; similar extraction techniques tend to be used to mine them. The material remains resulting from exploration for and extraction of these hard rock minerals include everything from towns and mines and equipment, to isolated cabins, shafts and adits, and prospect pits.

Mining for precious metals has played a significant role in California's and Nevada's history. The following is a sketch highlighting the importance of mining to Region 5's history. It is solely meant to provide an understanding of how prospect pits fit into general mining history, and not to provide a contextual history for specific mining events. Much of the following was first submitted in a context prepared for prospect pits on the Stanislaus National Forest (Moskowitz 2004). The literature on the Gold Rush, the Comstock, and other mining is exhaustive.

The earliest documented discovery of gold in California was at Placeritas Canyon near San Fernando Mission in 1842. The first gold sent from California to the United States Mint came from there. Those deposits were limited, however, and exhausted after only a few years (Bean and Rawls 1988:82; Moskowitz 2004).

The seminal event in California's history, the California Gold Rush, began on January 24, 1848. James W. Marshall discovered gold in the tail race of Captain John Sutter's sawmill being built at Coloma on the South Fork of the American River (Bean and Rawls 1988:82; Moskowitz 2004; Pittman 1995:79). Within months, the news of the discovery had spread throughout California, and miners were rushing to the western foothills of the Sierras, where new discoveries were being found almost daily. By the end of 1848, 6,000 miners had extracted \$10 million worth of gold (Bean and Rawls 1988:92). The first miners then were Californians who had abandoned their homes and jobs and mined the placer fields of the foothills before winter set in and inhibited travel. Included were many California Indian and Mexican miners, frequently working as laborers for the Euro-Americans, but some working independent claims (Ibid.:85-86). With California being isolated by mountains, desert, and ocean, the news did not generally reach the States until later.

In July of 1848, Military Governor Colonel Richard B. Mason traveled from his post in Monterey to the gold fields to confirm the discoveries and report to the United States War Department. His report reached the States at the end of the year, and President James K. Polk confirmed the discoveries in his annual message to Congress on December 5, 1848. Then, the largest migration in American history, the California Gold Rush, began in earnest (Bean and Rawls 1988:86; Moskowitz 2004; Pittman 1995:11).

Braving months long arduous journeys on overland emigrant trails, around Cape Horn by sea, or by sea and land via the Isthmus of Panama, forty-niners poured into California and the gold fields. In 1849, 40,000 miners extracted some \$30 million worth of gold. With the influx of miners, competition for claims resulted in discrimination against Indians and foreigners, particularly Mexicans and Chinese; exclusionary laws and foreign miner taxes were enacted that kept control in the hands of Euro-Americans. In 1852, the peak year of the Gold Rush, \$80 million worth of gold was extracted by 100,000 miners. Following that, the output steadily declined until 1865, when it stabilized at about \$17 million per year until the turn of the 20th century (Bean and Rawls 1988:92, 125-127).

Gold deposits were discovered in numerous locations throughout the state, from the Klamath, Trinity, and Shasta Rivers in northern California to many scattered areas throughout southern California. None was as big as the Mother Lode of the western Sierra Nevada foothills, but all contributed to gold fever. After a century, a total of about \$2 billion worth of gold was mined from California (Bean and Rawls 1988:89, 92; Beck and Haase 1974: Map 50).

As the California Gold Rush was slowly declining, the Comstock was being discovered, a mere 20 miles east of Lake Tahoe and the California-Nevada border. Gold placers were being mined in the area in the 1850s; but, it was not until 1859 that the blue waste material clogging the rockers was assayed in Nevada City, CA, as silver worth \$3,200 per ton, more than twice the value of the gold in the same sample. Then, the great rush of Comstock fifty-niners commenced, into Virginia City, NV, mostly from California. Development was largely financed by major investments from San Francisco's banking interests. The Comstock had two major booms, the first that ended in 1864, and the big bonanza that began in 1873 and ended in 1879. Some \$400 million of silver and gold were mined before the Comstock's decline in the 1880s (Bean and Rawls 1988:148-149, 172-174).

Three mining technologies were commonly used: placer, quartz or lode, and hydraulic. Placer gold is a generally surficial, secondary, loose, mineral deposit, eroded and washed down from the lode. It could be mined by individuals using picks, shovels, and pans, and rockers, long toms, and sluices. Placer mining was back-breaking work that involved long hours of digging out deposits and washing them in streams to capture the heavy metals; but, placer deposits could be easily mined by individuals or small groups of miners (Bean and Rawls 1988:89-90; Moskowitz 2004; Pittman 1995:80).

Once placer deposits were largely exhausted by the early 1850s, quartz or lode mining was needed to dig and drill beneath the surface, sometimes deep underground into bedrock, to access the quartz veins containing gold. Then, the gold had to be separated from the rock; this was done at stamp mills and arrastras that crushed the rock, which was then processed with mercury to separate the gold from the dross. Quartz or lode mining required capital investment, expensive machinery, and a significant workforce; these requirements were often met by organized corporations (Bean and Rawls 1988:145-146; Moskowitz 2004; Pittman 1995:80).

Hydraulic mining began in 1853. It used huge water cannons made of canvas water hoses and tapered metal nozzles, called monitors, to water blast tons of soil, deposited by ancient Tertiary streams, from hillsides. Hydraulic mining was so destructive that it flooded downhill streams and rivers with debris, caused widespread flooding in the Central Valley, and even interfered with navigation in San Francisco Bay. It was essentially outlawed in 1884, in a case brought by valley farmers against Malakoff Diggins, with a federal judge's ruling that prohibited disposal of runoff in public waterways, the first environmental legal decision issued in the United States (Bean and Rawls 1988:145-146; Moskowitz 2004; Pittman 1995:80, 104-105).

Prospect pits are the result of mining exploration. Pits are dug to test subsurface deposits for buried minerals. They vary in size and type from a few feet in diameter dug by pick and shovel to large gouges left by bulldozers, and from a single pit in any location to several. Some have tailings piles left next to them; some do not. The tailings may have been hauled off to stamp mills or processing areas elsewhere to test for minerals content. They may be used to explore for all three types of mining technology, but are most commonly associated with lode mining. If minerals potential is discovered, other mining features such as adits and shafts are frequently developed, and equipment and artifacts accumulated over longer periods of occupation are often deposited. If no minerals potential is revealed, the prospectors abandon the tests and move on to explore other areas. Thus, prospect pits represent transitory mining behavior. Time spent at their locations is limited, and few artifacts are left to help determine their ages. They are common features on mining landscapes throughout the National Forests in Region 5 (Moskowitz 2004).

II. Nonsignificance:

A. Isolated prospect pits frequently retain integrity of location, design, setting, materials, and workmanship. They sometimes maintain integrity of feeling. However, and, most importantly, they generally lack integrity of association. They are not associated with sites and features that may provide historic contexts. Isolated prospect pits are ineligible to the National Register of Historic Places as they do not meet NRHP criteria by being:

- a) associated with specific events important in history;
- b) associated with persons important in history;
- c) characteristic of types, periods, or methods of construction; representative of masters; of high artistic value; or contributing parts of distinguishable entities; or
- d) able to yield information important in history.

B. The key to ineligibility of isolated prospect pits is that they have no associations with eligible properties for which historic contexts are or can be established, nor do they individually meet the NRHP criteria through documented associations. Without historic contexts, isolated prospect pits cannot contribute to property significance. If associations are established between prospect pits and historic properties, be they linear features such as ditches or sites such as mines, integrity of location and association exist. Such associated prospect pits do not meet the criteria for isolated prospect pits.

1. With the exception of roads (see II.B.2, below), this determination of eligibility protocol does not allow associations with other features or sites. If associations are established between prospect pits and historic properties, be they linear features such as ditches or sites such as mines, integrity of location and association exist. Such associated pits do not meet the criteria for isolated prospect pits.

2. The exception for integrity of association is that for roads, and particularly road use. Many prospect pits are found at the ends of or adjacent to roads. In most cases, the only association is that for road use; the roads were used to access areas to prospect. The roads themselves may have been originally built long before their use to prospect, or may have been reengineered many times since original construction and subsequent use for prospecting, or may only be incidental to the use for prospecting. HPMs, or qualified Heritage Program staff delegated by HPMs, need to apply professional judgment to determine if integrity of association exists between adjacent prospect pits and the significance or context of historic roads.

III. Characteristics:

A. Isolated prospect pits may:

- consist of excavated pits and associated tailings piles;
- have a single locus or multiple loci;
- contain minimal scattered trash in the immediate vicinity;
- date throughout the historic period;
- be associated with generalized mining activities.

B. Isolated prospect pits cannot:

- contain subsurface deposits (excluding excavated pits and associated tailings piles);
- be associated with or contain any mining features other than prospect pits and associated tailings piles (excluding intrusive features less than 45 years of age);
- be associated with or contain features that suggest functions other than mineral prospecting (excluding intrusive features less than 45 years of age);
- be associated with prehistoric quarrying or date to the prehistoric period;
- be of modern, post-1950s derivation;
- be associated with specific mines or mining complexes, or specific persons, households, or other specific entities or events.

C. Characteristics clarification:

1. Numbers of prospect pits:

Isolated prospect pits may be single features or multiple pits scattered proximally around defined areas. Multiple pits within isolated prospect pit sites shall be recorded as features or activity loci. No limits are placed on the numbers of pits that may be included within and defined as sites. HPMs, or qualified Heritage Program staff delegated by HPMs, shall use professional judgment to interpret site boundaries based on common forest or regional standards.

2. Distances of prospect pits:

No specific limits are defined for the distances allowed among prospect pits within sites or between sites. Distances between isolated prospect pit sites and other sites, such as mines, for which associations may be established should be reasonable and based on common practices on the forests or regionally, and using guidelines established by HPMs or qualified Heritage Program staff. Prospect pits that may be associated with mines or other sites for which historic contexts can be or have been established shall be considered features of those sites rather than isolated prospect pits.

3. Associated trash:

Minimal, scattered, historic trash may be present, but not in quantities that would otherwise qualify as isolated historic refuse deposits. Prospect pits are features representing transitory behavior; associated historic trash is uncommon but possible. The Isolated Prospect Pit and Isolated Historic Trash Deposit Determination of Eligibility protocols should not be combined; each is to be used separately for independently isolated resources. Trash that post-dates 1950 is considered modern and intrusive, not historic (see Isolated Historic Refuse Deposit protocol, Appendix F- 1); its presence in isolated prospect pits still allows for the use of this strategy.

4. Dating:

a. Most prospect pits cannot be dated. In some cases, associated scattered trash may provide time sensitive clues. Any isolated prospect pits that can be dated to the 1950s or later are considered modern. They need not be recorded as sites. The 50 year guideline is generally considered unnecessary for application to modern prospect pits because of the lack of information value and historic contexts.

b. Prehistoric quarries do not qualify as isolated prospect pits. Unless historic quarrying or mining, such as that associated with registered claims, can be identified, quarry holes for commonly used prehistoric lithic materials, such as obsidian, basalt, or chert, are excluded from the isolated prospect pit determination of eligibility protocol.

IV. Data Collection Procedures:

A. The following are minimal site recording guidelines. Forest HPMS, or qualified Heritage Program staff delegated by HPMS, shall determine appropriate data collection procedures commensurate with the historical remains identified.

B. Record isolated historic refuse deposits on CRRs or update existing records to current standards.

- In California: complete the USDA-Forest Service (Region 5) Primary Record (comparable to DPR 523A Primary Record and DPR 523C Archaeological Site Record).
- In Nevada: complete the IMACS Site Form, Part A Administrative and Environmental Data, and Part C Historic Sites records.

1. Maps:

Provide general location maps, plus site location maps using USGS 7.5' or comparable maps. For sites with multiple loci, prepare site sketch maps, showing locations of loci. GPS location data are recommended.

2. Photos:

a. As needed, take digital or film based photographs of sites:

- site overviews,
- views of loci.

3. Measure:

- Circumferences and depths of prospect pits, or representative sample according to Forest guidelines;
- Circumferences and heights of associated tailings piles, or representative sample.

4. Artifacts:

a. Document all historic artifacts in sites.

b. Document artifacts by:

- Including provenience information;
- Providing descriptions;
- Making illustrations or taking photographs of unique or diagnostic artifacts (e.g., maker's marks, labels, manufacturing characteristics, or other diagnostic attributes);

c. Note modern refuse by documenting general data, e.g., general quantities and types.

V. Background Research:

A. Conduct background research to confirm the lack of meaningful historic associations (i.e., those that may render the property eligible to the NRHP). If associations are identified, the prospect pits do not qualify for this protocol.

B. Review available:

- mining claims,
- atlases (e.g., cut-over atlas, timber sale atlas, etc.),
- planting records, range condition inventories, and other records,
- historic maps,
- historic photographs,
- ethnographies, oral histories,
- standard historical references.

C. Incorporate brief narratives of results of background research into site records.

VI. References Cited:

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APPENDIX G

**CERTIFIED PARAPROFESSIONAL ARCHAEOLOGICAL SURVEYOR PROGRAM
STANDARDS AND REQUIREMENTS**

I. Certified Paraprofessional Archaeological Surveyor Program

A. Certified Paraprofessional Archaeological Surveyors are Forest Service employees or volunteers who have satisfactorily completed a regionally approved program designed to provide them with the skills to assist professionals in the management of the heritage resource program.

B. Region 5 recognizes two classes of Certified Paraprofessional Archaeological Surveyors:

1. Class I Certified Paraprofessional Archaeological Surveyor:

a. Class I training is designed to acquaint Forest Service employees with the Heritage Program in sufficient depth to enable them to incorporate cultural resource awareness into their normal functions and program activities;

b. The Class I level is particularly useful for specialists who must consider historic properties during planning, and for sale administrators and contract inspectors who monitor undertakings.

2. Class II Certified Paraprofessional Archaeological Surveyor:

a. Class II training is designed to train Forest Service employees and volunteers to assist Heritage Program professionals with specific program tasks.

b. Persons who have successfully completed Class II training may be certified as Certified Paraprofessional Archaeological Surveyors.

c. Under the direct supervision of qualified Heritage Program staff (see clause II.A, below), and subject to qualified heritage professional approval, Class II Certified Paraprofessional Archaeological Surveyors may perform intensive surveys within undertaking APEs and assist with other program objectives.

II. Program Operations

A. Class II Certified Paraprofessional Archaeological Surveyors shall work under the direct supervision of HPMS or qualified Heritage Program staff delegated by HPMS.

1. HPMS or delegated qualified Heritage Program staff shall determine program participation and permitted activities for Certified Paraprofessional Archaeological Surveyors.

2. HPMS or delegated qualified Heritage Program staff shall determine whether proposed undertakings may be surveyed by a Class II Certified Paraprofessional Archaeological Surveyor.

3. HPMS or delegated qualified Heritage Program staff shall determine strategies, methods, and other requirements for intensive surveys.

4. HPMS or delegated qualified Heritage Program staff shall review all reports prepared by Certified Paraprofessional Archaeological Surveyors.

B. Monitoring

1. HPMs or delegated qualified Heritage Program staff shall field check at least 10% of all Certified Paraprofessional Archaeological Surveyor surveys completed during the year if HPM or professional staff not present during inventory.
2. Monitoring results shall be documented in Forest cultural resources reports.
3. For undertakings where historic properties are found within APEs, HPMs or delegated qualified Heritage Program staff shall prepare site documentation. Only qualified Heritage Program staff may approve the use of Standard Protection Measures (Appendix E of this PA) at specific historic properties within APEs, and the use of this PA for specific undertakings.

III. Certified Paraprofessional Archaeological Surveyor Training

A. Certified Paraprofessional Archaeological Surveyor training consists of a minimum of 40 hours of classroom training.

1. This training shall be approved by the Region 5 Regional Heritage Program Leader.
2. The training shall follow the course syllabus outlined in a regional heritage resource Certified Paraprofessional Archaeological Surveyor training guide, or another syllabus approved by the Region 5 Regional Heritage Program Leader.
3. The training shall be presented by the Region 5 Regional Heritage Program Leader, Forest Heritage Program Managers, or other qualified professionals.

B. Class II Certified Paraprofessional Archaeological Surveyor training includes the above minimum classroom training plus a Forest specific field course composed of:

1. a minimum of forty hours of archaeological survey field work on the trainee's duty Forest, performed under the direct supervision of the HPM or delegated qualified heritage professional;
2. completion of two acceptable heritage program surveys and reports, and one acceptable site form.

IV. Certification

A. Certification is achieved through:

1. satisfactory completion of all requirements;
2. formal examination and evaluation of the trainee by the HPM to assess the trainee's abilities to meet the skills necessary to the Certified Paraprofessional Archaeological Surveyor program;
3. formal certification by the Regional Forester based on Forest Supervisor recommendation once requirements met and documented by the HPM.

B. Maintenance of certification is attained by:

1. attendance at periodic Certified Paraprofessional Archaeological Surveyor update training sessions, offered on regional or Forest levels, at least every two years;

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2. participation in at least one acceptable heritage program inventory per year, with direct involvement in both field work and report preparation.

C. Decertification results from either:

1. work related deficiencies:

a. moving to a new Forest or location different from that in which the Certified Paraprofessional Archaeological Surveyor received field training;

b. inability of Certified Paraprofessional Archaeological Surveyor to meet required maintenance activities described above;

c. identification of serious deficiencies in the Certified Paraprofessional Archaeological Surveyor's work (e.g., inability to identify or adequately record historic properties); or

2. ethical violations:

a. violations of ethical behavior related to confidentiality of heritage program information;

b. behavior that compromises resource or program integrity.

3. The Forest Supervisor shall report any serious work deficiencies or ethical violations to the Region 5 Regional Heritage Program Leader in a timely manner upon notification of such by the HPM; the HPM shall not accept any survey reports under review until the matter is fully resolved at the Forest and/or Regional levels.

D. Recertification may be achieved only for work related deficiencies, other than falsification of records, by:

1. completing field training updates to correct locational deficiencies;

2. completing training updates specially designed to correct any deficiencies resulting from program inactivity;

3. completing update training specially designed to alleviate identified deficiencies in field or report work.

APPENDIX H
AMENDMENTS