



**FOREST SERVICE HANDBOOK
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FSH 2309.12 – HERITAGE PROGRAM MANAGEMENT HANDBOOK

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Superseded Document(s) by Issuance Number and Effective Date		

Digest:

2309.12 - Establishes new handbook “FSH 2309.12, Heritage Program Management Handbook.”

Zero code - Establishes codes, captions, and sets forth new direction for the management of the Heritage Program.

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Digest--Continued:

10 - Establishes codes, captions, and sets forth direction for the coordination and consultation requirements for the Heritage Program.

20 - Establishes codes, captions, and sets forth direction for the planning requirements for the Heritage Program.

30 - Establishes codes, captions, and sets forth direction for the identification, evaluation, and allocation for management use requirements for the Heritage Program.

40 - Establishes codes, captions, and sets forth direction for protection and stewardship requirements for the Heritage Program.

50 - Establishes codes, captions, and sets forth direction for public education and outreach requirements for the Heritage Program.

60 - Establishes codes, captions, and sets forth direction for the management of heritage collections for the Heritage Program.

70 - Establishes codes, captions, and sets forth direction for administering the permits, agreements, and contracts for the Heritage Program.

80 - Establishes codes, captions, and sets forth direction on the uniform guidance and procedures for Heritage professionals to manage and report cultural resource information.

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01 – AUTHORITY

See Forest Service Manual 2360.1 for laws, Executive Orders, regulations, and Federal guidelines governing the Forest Service Heritage Program. The following are additional authorities not listed in FSM 2360.1.

1. Alaska Native Claims Settlement Act (ANCSA) of 1971 (43 U.S.C. 1601-1642). The settlement extinguished *Alaska Native* claims to the land by transferring titles to twelve *Alaska Native Regional Corporations* and over 200 local village corporations. A thirteenth Regional Corporation was later created for Alaska Natives who no longer resided in *Alaska*. Public Laws 108-199 and 108-447 – Consolidated Appropriations Acts of 2004 and 2005 respectively, direct the Office of Management and Budget and Federal agencies to consult with Alaska Native Corporations on the same basis as Indian Tribes under E.O. 13175 – Consultation and Coordination with Indian Tribal Governments.
2. Food, Conservation, and Energy Act of 2008, Title VIII: Forestry, Subtitle B - Cultural and Heritage Cooperation Authority. The following sections affect the Heritage Program:
 - a. Section 8103 (25 U.S.C. 3051-3053): Reburial of Human Remains and Cultural Items. Authorizes the reburial of items repatriated under The Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.) on National Forest System lands, when they were originally recovered from National Forest System lands or an adjacent cultural resource site.
 - b. Section 8104 (25 U.S.C. 3054): Temporary Closure for Traditional and Cultural Purposes. It authorizes the Secretary of Agriculture to temporarily close from public access National Forest System land for traditional and cultural purposes.
 - c. Section 8105 (25 U.S.C. 3055): Forest Products for Traditional and Cultural Purposes. The legislation creates an exception to a National Forest Management Act (NFMA) of 1976 (16 U.S.C. 1600 et seq.) requirement and authorizes the Secretary of Agriculture to provide certain forest products free of charge to Indian Tribes and Alaska Native Tribes, when used for traditional and cultural purposes.
 - d. Section 8106 (25 U.S.C. 3056): Prohibition on Disclosure. The Secretary of Agriculture is exempt from Freedom of Information Act (FOIA) of 1966 as amended (5 U.S.C. 552) disclosure to allow for an increased level of confidentiality to protect information relating to reburials, sites, or resources of traditional or cultural importance, including human remains and information relating to traditional and cultural resources and practices provided in the course of research activities.

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4. Native American Technical Corrections Act of 2004 (25 U.S. C. 122).

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that— (1)(A) are in the possession of the Secretary of Agriculture; and (B) have been collected from the cemetery site or historical place; but (2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

04 – RESPONSIBILITY

FSM 2360.4 outlines the Heritage Program responsibilities for the Chief; Senior Policy Official; Director of Recreation, Heritage, and Volunteer Resources; Federal Preservation Officer, Regional Foresters; Station Directors, Area Director; Forest/Grassland Supervisors; and District Rangers.

Heritage Program personnel include Heritage professionals and archaeological technicians. A general description of the levels of responsibility for these personnel categories follows. Additionally, each chapter in this Handbook outlines detailed responsibilities of Heritage Program personnel for the specific activities covered in that chapter.

Heritage Program personnel advise Line Officers (Chief, Regional Foresters, Forest/Grassland Supervisors, and District Rangers), who are the decision makers and Responsible Officials. Throughout this Handbook, Agency Official is the Line Officer. See FSM 2360.4, exhibit 01, for the appropriate Agency Official for specific Heritage Program activities.

04.1 – Heritage Professionals

Section 112 of the National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470h-4(a)) and Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties, section 800.2(a)(1) requires each agency personnel who are responsible for historic resources including archeological resources to meet professional qualification standards established by the Office of Personnel Management in consultation with the Secretary of the Interior and appropriate professional societies of the disciplines involved.

Only Heritage professionals as defined at FSM 2360.91 may make management recommendations to an Agency Official concerning:

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1. National Register of Historic Places (National Register) eligibility,
2. Project effect(s) to historic properties, and
3. Management use categories for cultural resources.

Only Heritage professionals as defined at FSM 2360.91 may review and recommend the approval of heritage work performed by other Heritage professionals (for example, District, Zone, or seasonal Archaeologists), archaeological technicians, paraprofessionals, contractors, cooperators, and volunteers.

Heritage professionals fill positions at all organizational levels. The following are the most common position titles of Heritage professionals.

04.11 – National Heritage Program Leader/Federal Preservation Officer

The National Heritage Program Leader advises the Deputy Chief for the National Forest System and the Chief regarding National Heritage Program issues and opportunities and provides policy guidance and technical assistance to the Regional Heritage Program Leaders. It is the responsibility of the National Heritage Program Leader to:

1. Serve as the Federal Preservation Officer (FPO) for the U. S. Department of Agriculture, Forest Service.
2. Delegate FPO responsibilities to Regional Heritage Program Leaders.
3. Coordinate the Forest Service's activities under the National Historic Preservation Act (NHPA) of 1966 as amended (16 U.S.C. 470 et seq.).
4. Engage in out-year budget planning with the Washington Office Budget staff and the Regional Heritage Program Leaders to seek funding for NHPA Section 110 (16 U.S.C. 470h-2) implementation and Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.) compliance.
5. Develop Heritage Program performance measures in coordination with the Regional Heritage Program Leaders, Regional Recreation Directors, and the Washington Office Recreation and Budget staffs.
6. Engage in administrative functions affecting the Heritage Program including workforce planning, budget planning, program performance evaluation, and managing national agreements in I-Web.

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7. Provide Heritage Program information to other national program staffs to assist in work planning that requires Heritage Program compliance support pursuant to NHPA Section 106 (16 U.S.C. 470f), NAGPRA, Archaeological Resources Protection Act (ARPA) of 1979 as amended (16 U.S.C. 470aa-mm), and other Federal Historic Preservation laws.
8. Represent the Chief in meetings and coordination with the Advisory Council on Historic Preservation (Advisory Council), the National Trust for Historic Preservation (National Trust), the National Council of State Historic Preservation Officers (NCSHPO), and other historic preservation organizations to establish national priorities and program efficiencies.
9. Advise the Deputy Chief for National Forest Systems and the Chief on professional and technical matters and regulatory changes relating to the Heritage Program and provides technical advice and assistance with logistics to the Secretary of Agriculture's office.
10. Coordinate with other Federal bureaus, agencies, and departmental offices in Washington, D.C. and other areas of the country, regarding cultural resource issues and opportunities.
11. Provide Heritage Program policy guidance to Regional Heritage Program Leaders. A National Heritage Program Specialist, assisting the FPO and working under the direct supervision of the National Heritage Program Leader may be assigned some or all of these functions.

Other positions that may serve under the direct supervision of the National Heritage Program Leader include the National NAGPRA Coordinator and the National Heritage Natural Resource Manager (NRM) Data Steward.

04.12 – Regional Heritage Program Leader

A Regional Heritage Program Leader is a Heritage Professional who advises the Regional Forester on matters concerning the program at the Washington Office and Regional level and provides program leadership to the National Forests and Grasslands within a Region. It is the responsibility of the Regional Heritage Program Leaders to:

1. Advise the Regional Forester, Station Directors, Area Director, and Forest Supervisors on:
 - a. Regional and Washington Office Heritage Program priorities, goals, and policies.

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- b. Professional and technical matters relating to the Heritage Program including training, Secretary of the Interior Standards for Historic Preservation, NHPA Section 106 consultation and 110 guidelines, coordination of NHPA with the National Environmental Policy Act (NEPA) of 1979 (42 U.S.C. 4321-4347), and other cultural resource laws and regulations.
 - c. Heritage Program budget needs, accomplishments, and upward reporting.
2. Provide program guidance, oversight, consistency, and technical assistance to Forest/Grassland Heritage Program Leaders, including guidance on the implementation of cultural resource laws and regulations.
 3. Engage in administrative functions affecting the Heritage Program including workforce planning, budget planning, program performance evaluation, upward reporting, and managing regional NHPA and partnership agreements.
 4. Coordinate with the National Heritage Program Leader to ensure the Region is appropriately engaged in Washington Office initiatives and direction.
 5. Coordinate with other Regional Heritage Program Leaders to identify cross-region opportunities and challenges and develop coordinated responses where advantageous.
 6. Coordinate with the Forest Heritage Program Leaders to ensure the Forests are appropriately engaged in Regional and Washington Office initiatives and direction.
 7. Represent the Regional Forester in Regional or State programmatic consultation with the Advisory Council, State Historic Preservation Officers (SHPOs), and where appropriate with Tribes and Tribal Historic Preservation Officers (THPOs), and other appropriate historic preservation organizations to establish Regional program efficiencies and identify opportunities for collaboration.
 8. Represent the Regional Forester in developing partnerships with historic preservation organizations and other appropriate groups or individuals interested in the Heritage Program.
 9. Perform delegated FPO duties.
 10. Support Forests and Grasslands in providing opportunities for public involvement and education and interpretation on National Forest System lands under the national framework of Windows on the Past and Heritage Tourism.

An Assistant Regional Heritage Program Leader working under the direct supervision of the Regional Heritage Program Leader may be delegated some or all of these functions.

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04.13 – Forest or Grassland Heritage Program Leader

The Forest/Grassland Heritage Program Leader advises the Forest/Grassland Supervisor on matters concerning the program and provides program leadership. Alternative position titles include Forest/Grassland Archaeologist or Forest/Grassland Historian. In some situations, a Forest/Grassland Heritage Program Leader may support more than one Forest/Grassland unit. It is the responsibility of the Forest/Grassland Heritage Program Leaders to:

1. Provide oversight and guidance in the implementation of NHPA, NEPA, ARPA, NAGPRA, and other cultural resource laws and regulations.
2. Engage in administrative functions affecting the Heritage Program including workforce planning, budget planning, program performance evaluation (Heritage Program Managed to Standard), upward reporting, and managing NHPA and partnership agreements.
3. Provide program advice to the Forest Leadership Team.
4. Participate in Forest and project planning.
5. Assist the Forest/Grassland Supervisor to act as the primary contact with the SHPO, THPO, Indian Tribes, and the Regional Office in regards to cultural resource management.
6. Represent the Forest Supervisor under delegated authority in programmatic consultation with the Advisory Council, SHPOs, and (where appropriate) with Tribes and THPOs, and other interested historic preservation organizations to establish Forest/Grassland program efficiencies and identify opportunities for collaboration.
7. Represent the Forest Supervisor in developing partnerships with historic preservation organizations and other groups or individuals interested in the Heritage Program keeping with approved program goals and objectives.
8. Supervise and/or provide technical advice and guidance to Heritage professionals (District, Zone, or seasonal archaeologists), Archaeological Technicians (permanent and seasonal), students, and volunteers. Mentor student interns and entry/journey-level Heritage personnel in cultural resource management (CRM) skills and career development.
9. Support Forest/District projects in compliance with NHPA Section 106, which includes responsibilities from background research through survey and evaluation, to completion of reports, updating the Heritage NRM database, and preparing artifacts for curation.

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10. Review and approve NHPA Section 106 compliance documents for technical/professional adequacy prior to submittal to SHPO, THPO, Indian Tribes, and (when appropriate) the Advisory Council.
11. Ensure standardized maintenance and use of records, GIS data, and the Heritage NRM database including the compilation of information for upward reporting.
12. Serve as a Contracting Officer Representative (COR) or Inspector on contracts for cultural resource work.
13. Develop or provide oversight and leadership for the development of a Heritage Program Plan and Historic Property Plans as defined in FSM 2360 and the Heritage Program Managed to Standard. See chapter 20 of this Handbook.
14. Conduct condition surveys of Priority Heritage Assets (PHAs) and cultural resources.
15. Perform or oversee any needed stabilization of historic properties.
16. Conduct damage assessments of looted or vandalized cultural resources in cooperation with law enforcement and, when necessary, serve as a professional witness if qualified to do so.
17. Coordinate with the Regional Heritage Program Leader to ensure the Forest is appropriately engaged in Regional and Washington Office initiatives and direction.
18. Seek opportunities for public involvement, education, and interpretation on National Forest System lands under the national framework of Windows on the Past and Heritage Tourism.

An Assistant Heritage Program Leader (Assistant Forest Archaeologist), working under the direct supervision of the Heritage Program Leader, may be delegated some or all of these functions at the recommendation of the Forest Heritage Program Leader.

04.14 – District and/or Zone Archaeologist

District and Zone Archaeologists advise the District Ranger on matters concerning the Heritage Program and provide program leadership on the District or Zone. A District Archaeologist typically serves a single Forest management unit or District, whereas a Zone Archaeologist serves two or more units or Districts. It is the responsibility of the District or Zone Archaeologists to:

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1. Participate in District project planning through serving on interdisciplinary teams.
2. Support District projects in compliance with NHPA Section 106, which includes responsibilities from background research through survey and evaluation, to completion of reports, updating the Heritage NRM database, and preparing artifacts for curation.
3. Serve as a COR or Inspector on contracts for cultural resource work.
4. Write the cultural resource sections of District or Zone NEPA documents.
5. Conduct condition surveys of Priority Heritage Assets (PHAs) and cultural resources.
6. Perform or oversee any needed stabilization of historic properties.
7. Conduct damage assessments on looted or vandalized cultural resources in cooperation with law enforcement and, when necessary, serve as a professional witness if qualified to do so.
8. Oversee and approve the work of archaeological technicians, paraprofessionals, students, and volunteers.
9. Coordinate with the Forest Heritage Program Leader to ensure that the unit is appropriately engaged in Forest and Regional initiatives and direction.
10. Seek opportunities for public involvement, education, and interpretation on National Forest System lands under the National framework of Windows on the Past and Heritage Tourism.

04.2 – Archaeological Technicians

Under the direct supervision of a Heritage professional, GS-102 Archaeological Technicians may conduct cultural resource identification; monitor cultural resources; carry out data management; participate in Heritage stewardship projects; and assist Heritage Professionals in National Register evaluation, assessment of project effect, and recommendations for allocation of cultural resources to management categories.

04.3 – Heritage Paraprofessionals

Paraprofessionals are Forest Service employees from other program areas that may conduct cultural resource identification and participate in Heritage stewardship projects under the direct supervision of a Heritage professional after completing an in-house training and certification program. They may not evaluate cultural resources, make management recommendations, or implement heritage stewardship projects.

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05 – DEFINITIONS

Accession/Accessioning. The formal and legal process for establishment of legal title and/or custody of an incoming repository transaction, including a gift, purchase, exchange, transfer, or field collection.

Acquisition/Acquisitioning. A process to obtain custody of an object, document, or collection that involves physical transfer.

Adaptive reuse. Use of a historic property for other than its original purpose in order to extend its use life and maintain the attributes that make it historically significant. Examples include a lookout tower that is now a recreation rental, a guard station that is now a visitor center, and a historic railroad grade converted to a surfaced and interpreted hiking trail.

Adverse effect. Direct or indirect alteration of the characteristics that qualify a historic property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. See 36 CFR 800.5(a)(1) through 800.5(a)(2). Examples of adverse effects include but are not limited to:

1. Physical destruction or damage to all or part of the property.
2. Removal of a property from its historic location.
3. Alteration of the property's historically significant characteristics.
4. Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features.
5. Neglect of a property that causes its deterioration.
6. Transfer, lease, or sale of property out of Federal ownership or control without adequate, legally enforceable restrictions.

Advisory Council on Historic Preservation (Advisory Council). Title II of the NHPA (16 U.S.C. 470i) establishes the Advisory Council, which is an independent executive agency that reports to and advises the President and the Congress on historic preservation matters. The Advisory Council has legal responsibility to encourage Federal agencies to factor historic preservation into Federal project requirements, in accordance with NHPA and its implementing regulations. The Secretary of Agriculture is a permanent member of the Advisory Council.

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Allocation. A recommendation for the best use and treatment of a cultural resource to realize its greatest scientific, traditional, historical, and management potential. The purpose of allocation is to recommend management that protects and enhances the property's unique values for Agency and public benefit (FSM 2363.3).

Alternate procedures. See "Program Alternatives"

Archaeological resource. Any material remains of past human life or activities including but not limited to pottery, basketry, bottles, weapons, weapon projectiles, tools (or byproducts of stone tool manufacture), structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items (16 USC 470bb). For purposes of evaluating significance under NHPA, these materials must be, with certain exceptions, at least 50 years old (Title 36, Code of Federal Regulations, Part 60 – National Register of Historic Places, section 60.4). For coverage under the ARPA, materials must be at least 100 years of age, and of archaeological interest, which means capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

Area of potential effect (APE). The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character and use of historic properties, if such properties exist. The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

Artifact. Any object that shows evidence of human manufacture, modification, or use or are byproducts of human manufacture/use.

Associated records. "Original records (or copies thereof) that are prepared, assembled and document efforts to locate, evaluate, record, study, preserve or recover a prehistoric or historic resource" (36 CFR 79.4(a)(2)).

Avoidance. A site protection measure that provides for partial or complete redesign or relocation of a proposed undertaking to reduce or eliminate potential adverse effects from occurring to a cultural resource.

Collection. Material remains that are excavated or removed during a survey, excavation, or other study of a prehistoric or historic resource, and associated records that are prepared or assembled in connection with the survey, excavation, or other study (Title 36, Code of Federal Regulations Part 79 - - Curation of Federally-owned and Administered

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Archaeological Collections). Other types of collections include those acquired through Native American Graves Protection and Repatriation Act (NAGPRA) compliance, archival collections such as historic records and photographs, and Forest Service History collections (FSM 2366.1).

Collection management. The long-term physical well-being and safety of collections. Includes issues of conservation, access and use, inventory, and information management.

Consultation. Consultation is formal communication required in legislation and is between the Forest Service Responsible Official and specific parties indicated in the pertinent legislation. NHPA defines consultation as the process of seeking, discussing, and considering the views of other participants designated in statute or regulation, and where feasible, reaching agreement with them regarding matters affecting cultural resources on National Forest System lands. Notification may also be required in legislation, but unlike consultation, does not necessarily require discussion or agreement.

Corporate database. The Forest Service Natural Resource Manager (NRM) database, formerly and more widely known as the Forest Service Integrated Data Management System (Infra). The Heritage Program component includes all cultural resource information in a records and spatial (GIS) format.

Cultural landscape. As defined by the National Park Service, a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other prehistoric or historic cultural or aesthetic values. There are four general types of cultural landscapes, not mutually exclusive: prehistoric/historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

Cultural patrimony. An object having ongoing historical, traditional, or cultural importance to a Native American group or culture, rather than property owned by an individual and which cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian Tribe or Native American group. (See 25 U.S.C. 3001).

Culturally unidentifiable. Cultural items for which no culturally affiliated present-day Indian Tribe or Native Hawaiian organization can be determined.

Cultural resource. An object or definite location of human activity, occupation, or use identifiable through field survey, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures, places, or objects, and traditional cultural properties. In this Handbook, cultural resources include the entire spectrum of resources for which the Heritage Program is responsible from artifacts to cultural landscapes without regard to eligibility for listing on the National Register of Historic Places.

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Cultural Resource Overview. A synthesis of known cultural resources on a given unit, typically a National Forest or Grassland. The purpose of the overview is to compile, describe, summarize, and synthesize previously recorded information regarding prehistoric and historic sites and to establish historic contexts to assist in evaluating the significance of the cultural resources in the area.

Curation. The management and preservation of a collection according to professional museum and archival practices, including, but not limited to

1. Inventorying, accessioning, labeling, and cataloging a collection;
2. Identifying, evaluating, and documenting a collection;
3. Storing and maintaining a collection using approved methods and containers and under environmental conditions and physically secure controls following industry standards;
4. Periodically inspecting a collection and taking such actions as may be necessary to preserve it; and
5. Providing access and facilities to study a collection and handling, cleaning, stabilizing, and conserving a collection in such a manner as to preserve it.

Data recovery. As defined in the Advisory Council's archaeology guidelines, is a common mitigation measure that, through implementation of a treatment plan developed in consultation with the SHPO, THPO, Indian Tribes, the Advisory Council, and other consulting parties, retrieves the important information present within an archaeological site that makes it eligible for the National Register of Historic Places before the site's integrity is compromised or destroyed.

Deaccession. The legal, permanent removal of an object, document, specimen, or collection from a repository. Requires formal documentation of the process.

Effect. 36 CFR 800.16 defines effect as "alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register."

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

Evaluation. Assessment of a cultural resource's eligibility for listing on the National Register by applying the criteria at 36 CFR 60.4.

Exempted categories. See "Program Alternatives."

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Federal Land Manager. With respect to any public lands, the Secretary of the department, or the head of any other agency having primary management authority over such lands. (16 USC 470bb). In the context of this Handbook, a Federal Land Manager is a Line Officer (District Ranger, Forest Supervisor, Regional Forester, or the Chief of the Forest Service). The Federal Land Manager is the Agency Official.

Funerary objects. Items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by a preponderance of the evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian Tribe or as being related to specific individuals or families or to known human remains. See Title 43, Code of Federal Regulations, Part 10 - - Native American Grave Protection and Repatriation Regulations, section 10.4.

Heritage assemblage. See “Collection.”

Heritage assets. A Federal accounting term defined by the Federal Accounting Standards Advisory Board, as “property, plant, and equipment that are unique for one or more of the following reasons: historical or natural significance; cultural, educational, or artistic (for example, aesthetic) importance; or significant architectural characteristics.” This definition applies to all Federal accounting. See Priority Heritage Assets.

Heritage Program. The comprehensive Forest Service program of responsibilities related to historic preservation. The purpose of the Heritage Program is to manage prehistoric, historic, and ethnographic cultural resources for the benefit of the public through preservation, public use, and research. The Heritage Program also contributes relevant information and perspectives to natural resource management.

Heritage Program Plan. A comprehensive planning document that establishes goals, objectives, and desired outcomes for the Heritage Program on a given Forest Service unit. A Heritage Program Plan identifies and defines the activities necessary to understand, preserve, protect, enhance, and develop the interpretation of cultural resources. See FSM 2362.3

Heritage stewardship. Systematic, responsible management actions to recognize, maintain (conserve), protect, and use cultural resources for Agency and public benefit.

Historic context. An organization format that groups historic properties that share similarities of time, theme, and geography, for example, the Civil War period, railroad logging, or the North Cave Hills. The development of historic contexts is the foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties. The use of historic contexts in organizing major historic preservation activities ensures that those activities result in the preservation of the wide variety of properties that represent our history, rather than only a small, biased sample of properties.

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Historic preservation. A general term describing all activities related to management and stewardship of properties significant in American history, architecture, archaeology, or culture, including, but not limited to identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, reconstruction, or any combination of the foregoing activities.

Historic property. 36 CFR 800.16 defines historic properties as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria.”

Historic Property Plan. A written plan prepared by a Heritage professional for historic properties with an emphasis on Priority Heritage Assets. The plan documents the existing resource condition; management goals, objectives, and desired future condition; maintenance standards and guidelines; needed actions; proposed budget, and timeframes and schedules.

Human remains. In NAGPRA, the physical remains of the body of a person of Native American ancestry. For purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object, or object of cultural patrimony must be considered part of that item. More generally, the physical remains of a body of a person of any prehistoric, ethnographic, or historic culture found in an archaeological context. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets.

Identification. The general term for the component of cultural resource management that involves locating and recording the existence of cultural resources that may be eligible for listing on the National Register (as historic properties). The Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation further clarify identification as “activities undertaken to gather information about historic properties in an area. The scope of these activities will depend on: existing knowledge about properties, goals for survey activities developed in the planning process, and current management needs.”

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Indian Tribe. Federally recognized Indian or Alaskan native Tribe, band, nation, pueblo, village, or community included in Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a). NHPA defines Indian Tribe as “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.”

Inventory. The record of cultural resources known to occur within a defined geographic area. An inventory includes a compilation and synthesis of existing information and field surveys for evidence of past human activity. Inventory is sometimes used interchangeably with “survey”, but in FSM 2360 and FSH 2309.12 context, the term inventory is more inclusive (see Survey).

Keeper of the National Register. In the United States, a National Park Service (NPS) official who is responsible for deciding on the eligibility of historic properties for inclusion on the National Register of Historic Places. The Keeper may further delegate authority, as is deemed appropriate. (36 CFR 60.3)

Legacy data. Heritage Program paper records generated prior to widespread use of Forest Service computer (Infra and Heritage NRM application) and geospatial record management systems, including inventory reports, site forms, and maps.

Lineal descendant. In NAGPRA, an individual tracing their ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian Tribe or Native Hawaiian organization or by the common law system of descent. See 43 CFR 10.2(b)(1).

Memorandum of Agreement (MOA). A document that records the terms and conditions agreed upon by the Forest Service, State Historic Preservation Officer, Tribes, and other historic preservation groups or interests to meet an agreed upon objective such as phased identification and evaluation or to resolve the adverse effects of an undertaking upon historic properties.

Memorandum of Understanding (MOU). A document that provides a general cooperative framework for partnerships between the Forest Service and other historic preservation groups or interests. It is not a fund-obligating instrument.

Mitigation. Actions or treatments which lessen, eliminate, or compensate for adverse effects to historic properties. Such actions may include, but are not limited to, redesigning an undertaking to reduce or eliminate effects, recovering data to compensate for effects, or moving the historic property to a protected area.

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

National Historic Landmark (NHL). Nationally significant historic places designated by the Secretary of the Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States. National Historic Landmarks enjoy extra protections and consideration under the Historic Sites Act of 1935 as amended (16 U.S.C. 461-467), the NHPA, and 36 CFR 800.10.

National Register of Historic Places (National Register). The National Register is the Nation's official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, section 101(a)(1)(A) (16 U.S.C. 470a(a)), the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect historic and archaeological resources. Properties listed in the Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture. The Secretary's administrative responsibility for the National Register is delegated to the National Park Service.

Permit for archaeological investigation. A Federal permit issued under the Archaeological Resources Protection Act (ARPA) for ground-disturbing uses such as extensive subsurface testing and excavation; the Organic Act for non-ground disturbing archaeological activities, particularly field survey; and/or the Antiquities Act for cultural resources less than 100 years old. The application for a Permit for Archaeological Investigation is FS-2700-30. See FSM 2720 for permit processing.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. See Title 36, Code of Federal Regulations, Part 68 - - The Secretary of the Interior's standards for the treatment of historic properties.

Priority Heritage Asset. Heritage assets of distinct public value that are or should be actively maintained and meet one or more of the following criteria:

1. The significance and management priority of the property is recognized through an official designation such as listing on the National Register of Historic Places or on a State register.
2. The significance and management priority of the property is recognized through prior investment in preservation, interpretation, and use.

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3. The significance and management priority of the property is recognized in an agency-approved management plan.
4. The property exhibits critical deferred maintenance needs and those needs have been documented. Critical deferred maintenance is defined as a potential health or safety risk or imminent threat of loss of significant resource values.

Program alternatives. Alternatives for implementing NHPA Section 106 procedures, as defined in 36 CFR 800.14. Program Alternatives include Alternate Procedures, Programmatic Agreements, Exempted Categories, Standard Treatments, and Program Comment. See chapter 10, section 13.2 of this Handbook for a definition of each.

Rehabilitation. The act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey historical, cultural, or architectural values. See 36 CFR 68.

Repatriation. In NAGPRA, to transfer physical custody of and legal interest in Native American human remains, funerary objects, sacred objects, and/or objects of cultural patrimony to lineal descendants, culturally affiliated Indian Tribes, and Native Hawaiian organizations.

Restoration. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other time periods in its history and reconstruction of missing features from the restoration period.

Sacred site. Executive Order 13007 issued May 24, 1996 (E.O. 13007) – Indian Sacred Sites, defines an Indian Sacred Site as “any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian Tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the Indian Tribe or appropriately authoritative representative of an Indian religion has informed the Agency of the existence of such a site.”

Secretary's Standards and Guidelines. The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The Standards and Guidelines prepared under the authority of Sections 101(f), (g), and (h), and Section 110 of the National Historic Preservation Act, provide technical information about archaeological and historic preservation activities and methods for all Federal agencies. Go to www.nps.gov for a list of available standards and guidelines.

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Significant/Significance. In the context of this Handbook, terms with legal and regulatory application in the Historic Sites Act, the NHPA, and at 36 CFR 60, which mean that a cultural resource meets the eligibility criteria for listing on the National Register of Historic Places because of its significance at the local, State, or national level. The use of the term “significant or significance” in historic preservation legislation and by the historic preservation professional community predates and has little relation to the term “significantly affecting the human environment” used in the National Environmental Policy Act of 1969 as amended (NEPA) (42 U.S.C. 4321 and 4331-4335).

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

State Historic Preservation Officer (SHPO). Per NHPA Section 101, the Governor of a State may designate and appoint a State Historic Preservation Officer to administer the State's historic preservation program, to reflect the interests of the State and its citizens in the preservation of their cultural heritage, and to advise and assist Federal agencies in carrying out their NHPA Section 106 responsibilities.

Survey. In the context of this Handbook, survey is field work to identify and record cultural resources. Field survey may be of different intensities (reconnaissance, sampling, or intensive) depending on variables such as existing knowledge of the area and the management goals for the identification. In areas where the ground surface is difficult to see, field survey may include subsurface probing to determine the presence or absence of cultural material.

Traditional Cultural Property (TCP). A cultural resource that is associated with cultural practices or beliefs of a living community that (a) are rooted in the community's history, and (b) are important in maintaining the continuing cultural identity of the community. To be eligible for inclusion in the National Register, a traditional cultural property must be a tangible property, that is, a district, site, building, structure, or object as defined in 36 CFR 60.4 and must meet one or more of the criteria in 36 CFR 60.4.

Tribal consultation. The USDA Policy of Tribal Consultation, Coordination, and Collaboration provides an operation definition as follows: “The timely, meaningful, and substantive dialog between USDA officials who have delegated authority to consult, and the official leadership of federally recognized Indian Tribes, or their designated

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representative(s), pertaining to USDA policies that may have Tribal implications.” Tribal consultation is government to government as required under Executive Order 13175-- Consultation and Coordination With Indian Tribal Governments issued November 6, 2000 (E.O. 13175).

Tribal Historic Preservation Officer (THPO). The Tribal Official appointed by the Tribe’s chief governing authority or designated by a Tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of NHPA Section 106 compliance on Tribal lands in accordance with section 101(d)(2) of NHPA (16 U.S.C. 470a(d)). When Federal actions occur on reservation lands, the Agency consults the THPO rather than the SHPO.

Tribes. See Indian Tribe.

Undertaking. NHPA Section 301(7) (16 U.S.C. 470w) defines undertaking as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license, or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal Agency.”

Unmanaged use. A recreation term that describes visitor use in areas on National Forest System lands where no Agency direction exists to manage visitor access or activities. Unmanaged use leads to natural and cultural resource degradation.

Vandalism. In cultural resource management context, the willful destruction or spoiling of archaeological and historic sites, including graffiti, defacement, demolition, removal, and other criminal damage. The more forceful term looting is applied to illegal excavation and artifact theft at prehistoric and historic archaeological sites.

06 – QUALIFICATIONS FOR HERITAGE PERSONNEL

The Office of Personnel Management (OPM) Qualification Standards for General Schedule (GS) Positions describe the minimum qualifications for professional and technician positions at all grade levels. Use these standards to develop Position Descriptions for Heritage professionals and technicians at all GS levels.

06.1 – Heritage Professionals

A Heritage professional is a professionally qualified anthropologist, archaeologist, architectural historian, historian, historical architect, or similar professional who serves in a staff or advisory capacity. Heritage professionals provide technical expertise and

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recommendations to help Agency Officials meet their Heritage Program responsibilities and make informed land use decisions. The most common series for Heritage professionals are GS-190 Anthropologist, GS-193 Archaeologist, and GS-170 Historian. Some positions may require specialized skills (see below, section 06.3 - Specialized Heritage Personnel).

The National, Regional, and Forest/Grassland Heritage Program Leaders, and District or Zone Archaeologists are Heritage Professional positions (see ch. 04, secs. 04.11-14).

The Professional Qualification Standards in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Title 36, Code of Federal Regulations, Part 61 – Procedures for State, Tribal, and Local Government Historic Preservation Programs, Appendix A) are more rigorous than OPM Qualification Standards. Consider these standards when developing training plans for Heritage Professionals and when soliciting partners/cooperators and contracted services.

Skills beyond the minimum standard of education and experience may be necessary to successfully complete the full range of professional responsibilities (see 06, ex. 01). For example, specialized training is required to perform and prepare archaeological damage assessments and serve as a professional witness on behalf of the Agency in ARPA investigations. Address any identified deficiencies in the employee's Individual Development Plan, beginning the first year of employment.

06.2 – Archaeological Technicians

Archaeological Technicians in the GS-102 Social Science Aid and Technician Series shall have up to 1 year of specialized experience, academic study, or a combination of experience and study in archaeology (including a field school), anthropology, history, or closely related fields. Archaeological Technicians are generally working toward undergraduate or graduate degrees in those respective fields. A Heritage professional shall assign specific duties, approve reports, and accept professional responsibility for the technician's work.

06.3 – Specialized Heritage Personnel

Some positions may require specialized skills in historic preservation. Examples include GS-1010 Exhibits Specialist, GS-1015 Museum Curator, GS-1016 Curatorial Specialist, GS-1420 Archivist, and GS-1421 Archive Technician. There are also professionals who specialize as Architectural Historians and Historic Landscape Architects.

Given the right mix of education and experience, and depending on the job responsibilities, individuals in these series may also qualify for Heritage Program management positions on National Forest System lands.

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06.4 – Paraprofessionals

Paraprofessionals are Forest Service employees who have completed in-house training and a certification program conducted by a Heritage professional. Training includes a minimum of 40 hours of formal classroom training and 40 hours of supervised fieldwork on the trainee's duty Forest, performed under the direct supervision of a qualified Heritage professional. Certification must be renewed at a minimum of every 2 years. Paraprofessionals have other primary work responsibilities and are assigned Heritage Program work as part-time or as-needed collateral duties. The paraprofessional program is optional. A Heritage professional shall assign specific duties, directly supervise fieldwork, approve reports, and accept professional responsibility for the paraprofessionals' work.

06.5 – Recommended Competencies for Heritage Program Personnel

Heritage Program personnel shall meet the competencies of the position for which they are hired as described in the Agency Standard Position Descriptions. The following table shows many of the skills necessary for Heritage professionals and technicians. These are recommendations that should be used to develop training plans, upgrade skills, and inform potential new-hires of job expectations.

The training to attain and renew skills is available through a variety of venues, including most commonly the Advisory Council, the National Preservation Institute, colleges, universities, and professional societies.

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06.5 - Exhibit 01

Recommended Competencies for Heritage Program Personnel

Skills, Knowledge, & Abilities Recommended Competencies	Heritage Professional	Archaeological Technician *
Develop Heritage program plans	X	
Develop historic contexts and Historic Property Plans	X	
Participate in Forest and project interdisciplinary team planning	X	
Consult and coordinate with SHPOs, THPOs, Advisory Council, Indian Tribes, and other public groups	X	
Conduct cultural resource identification	X	X
Supervise and review professional/technician/paraprofessional NHPA Section 106 project and other program work prior to submittal to SHPO, THPO, and Indian Tribes	X	
Review and approve NHPA Section 106 work completed by contractors and cooperators	X	
Evaluate cultural resources for National Register eligibility and prepare nominations	X	
Recommend management use categories	X	
Participate in planning for managed and prescribed fires; develop cultural resource protection standards and measures	X	
Serve as a COR/Inspector/Contact for heritage contracts and agreements.	X	X
Complete NAGPRA inventories, assist in repatriation process	X	
Complete damage assessments for ARPA investigations/cases	X	
Provide technical advice/assistance to Law Enforcement; coordinate monitoring and protection activities	X	
Service as expert witness in ARPA cases	X	
Participate in fire suppression and post-suppression activities to identify, monitor and/or protect cultural resources	X	X

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06.5 - Exhibit 0--Continued

Skills, Knowledge, & Abilities Recommended Competencies	Heritage Professional	Archaeological Technician *
Conduct or supervise archaeological excavation	X	
Conduct historic structure recordation for HABS or HAER	X	
Perform routine maintenance on buildings and ruins	X	X
Stabilize, rehabilitate, restore, and maintain historic buildings	X	
Provide heritage interpretive services; develop interpretive media.	X	
Provide technical assistance to GIS coordinators	X	X
Prepare heritage accomplishment reports	X	
Manage information including Heritage NRM database	X	
Input heritage data in Heritage NRM database	X	X
Input data into GIS	X	X
Write Reports of Findings	X	X
Manage and conserve archaeological collections	X	

* Archaeological Technicians may assist a Heritage Professional with these responsibilities.

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06.6 – Paraprofessional Certification

See FSM 2360.91

The use of paraprofessionals is optional. A Regional Forester may elect to implement the program based on recommendations from the Regional Heritage Program Leader. Direction and guidance for training, certification, and use may be provided in Regional manual supplements. A paraprofessional program must be routinely monitored by the Forest or Grassland Heritage Program Leader to ensure adequacy and competency of paraprofessional work. A paraprofessional program that is not managed to Regional standards may be suspended or terminated by the Regional Forester based on recommendations from the Regional Heritage Program Leader.

Paraprofessionals shall complete a certification program and renew their certification every 2 years at a minimum. The Regional Heritage Program Leader and the Heritage professionals at the Forest/Grassland level customize the certification to the geographic area and determine the format and frequency of certification renewal. A paraprofessional who does not maintain their certification or has been decertified due to performance issues, as determined by the Forest or Grassland Heritage Program Leader and Regional Heritage Program Leader, may not continue to perform paraprofessional work.

The Regional Forester certifies paraprofessionals upon successful completion of the certification program as determined by the Regional Heritage Program Leader and the Heritage professional at the Forest/Grassland level. The Regional Forester may delegate paraprofessional certification to the Forest Supervisor; however, it may not be further delegated to an official acting in the capacity of the Forest Supervisor or a District Ranger.

Minimum requirements for paraprofessional certification include 40 hours of formal classroom training followed by 40 hours of field work accompanied by a Heritage professional. The classroom training covers at a minimum:

1. Historic preservation laws and regulations.
2. History and prehistory of the area.
3. How to recognize historic and prehistoric artifacts, features, and landscapes.
4. Unique geological and environmental features that have a bearing on the cultural history of the area.
5. How to conduct an existing data review.
6. How to conduct a field survey.

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7. How to record an archaeological site in the field including mapping and photography.
8. An introduction to the Heritage NRM database.
9. How to report findings to the Heritage Professional.

07 – HERITAGE PROGRAM OVERVIEW

For related direction see FSM 2360.7.

This section describes how the Heritage Program fits within the larger context of Forest Service management and the administrative tasks that are part of a Heritage professionals' responsibility, in addition to providing technical direction and guidance.

It also provides links to common non-Forest Service references for technical guidance that appear throughout the chapters of FSH 2309.12.

07.1 – Organizational Structure

The Heritage Program resides within the Recreation, Heritage, and Volunteer Programs staff in the Washington Office. Heritage Programs may reside within different staffs at the Regional and Forest/ Grassland organizational levels. All organizational configurations are subject to modification based on Federal mandates, Agency priorities, workforce planning, budgets, and other factors. Heritage professionals are responsible for setting Heritage Program priorities and identifying for resource staff and Line Officers the workforce and budget necessary to meet the Heritage Program and support (NHPA Section 106) workloads.

07.2 – Funding Structure

At all organizational levels, the Heritage Program shares an appropriated National Forest System budget line item with the Recreation and Wilderness programs. Funding is apportioned among the three programs and allocated to Regions and Forests/Grasslands based on Congressional and Agency direction, Regional priorities and emphases, and allocation models. The percentage of funding allocated to individual Heritage Programs varies among Regions and among Forests and Grasslands.

Heritage Program Leaders are responsible for working with their respective Recreation and Wilderness Program Resource staff and Line Officers to insure that funding is sufficient to support a base Heritage Program as outlined in FSM 2360 and the Heritage Program Managed to Standard performance measure (see below). Funding contributed through special earmarks, grants, and partnerships augments the base program.

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Base Heritage Program funding supports on-going activities necessary to appropriately care for and manage cultural resources for public benefit under the authority of NHPA Section 110, the Archaeological Resources Protection Act, and the Historic Sites Act, including cultural resource identification, evaluation, allocation, protection, stewardship, and public education. Base funding also supports coordination with other Forest Service programs and external organizations, information management, and collections management.

The cost of work done under the authority of NHPA Section 106 when Agency or Agency-authorized undertakings have the potential to affect cultural resources is borne by the program proposing or authorizing the undertaking (primary purpose). Heritage Program Leaders are responsible for requesting and negotiating funding from other Forest Service resource programs, based on annual programs of work that require Heritage support pursuant to NHPA Section 106. Support funding should cover all project-related costs, including but not limited to field work, report preparation, consultation with parties identified in 36 CFR 800.2(c), NEPA participation, Heritage NRM and GIS data entry, curatorial work, and overhead costs (for example, vehicles, supplies).

07.3 – Heritage Program Performance

To meet Federal accounting requirements, the Forest Service applies performance measures to Agency appropriated funds. “Heritage Program Managed to Standard” (HPMS) is the Heritage Program performance measure. The purpose of HPMS is to evaluate Forest/Grassland Heritage Program performance and identify individual program strengths and shortcomings where additional investment is needed.

HPMS include seven indicators that reflect a full range of cultural resource-benefitting activities described in FSM 2360. See chapter 21.

Forest/Grassland accomplishment in each indicator is counted using standard criteria. Points are awarded for the accomplishment of each. The Heritage NRM database (formerly known as the Forest Service’s Heritage Infra database) is used to measure performance and report accomplishment. HPMS guidelines and training are available through the Forest Service Intranet.

Heritage professionals are responsible for working with Forest/Grassland staff and Line Officers to address and meet the HPMS performance measure. This requires annual work planning to identify and budget for those activities, such as NHPA Section 110 survey or National Register nominations that will count toward the performance measure.

HPMS activities must be integrated with the NHPA Section 106, ARPA, NAGPRA and other Heritage Program work during annual program planning. Acres inventoried as part of project analysis and related compliance activities are not part of the HPMS but are accounted for in the

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Secretary of Interior's Annual Report to Congress on the Federal Archaeology Program ("DOI" report) and, in some cases, annual reports submitted to SHPOs under Regional programmatic agreements.

As part of NHPA Section 106 support to other resource programs, the Heritage Program also assists Forests and Grasslands in meeting integrated performance measures or targets for major projects, such as hazardous fuels reduction and travel planning. This requires interdisciplinary work planning involving Heritage professionals and other specialists.

07.4 – Common References and Sources for Heritage Program Management

The following links are useful tools for Heritage Program management on National Forest System lands:

1. Advisory Council on Historic Preservation (www.achp.gov) provides extensive guidance, information, and training in all facets of NHPA Section 106.
2. Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (www.nps.gov), which applies to all Federal agencies, includes the following topics:
 - a. Preservation Planning.
 - b. Identification.
 - c. Evaluation.
 - d. Registration (nomination).
 - e. Documentation and Treatment of Historic Properties.
 - f. Historical Documentation.
 - g. Architectural and Engineering Documentation.
 - h. Archaeological Documentation.
 - i. Historic Preservation Projects.
 - j. Qualification Standards.
3. National Park Service (www.nps.gov/history/hps). The National Park Service Heritage Preservation Services provides a variety of historic preservation information and training through its Preservation Briefs, Preservation Tech Notes, Technical Reports, co-published books, and training programs.

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4. The National NAGPRA website managed by the National Park Service (www.cr.nps.gov/nagpra/INDEX.HTM) provides extensive resources including templates for notices to be published in the Federal Register, national databases for culturally affiliated and culturally unidentifiable Native American inventories and Native American consultation, NAGPRA law and regulations, and training.
5. Society for American Archaeology (www.saa.org) recommends policy positions that influence Federal cultural resource management programs. The SAA site damage assessment guideline is one example.
6. National Trust for Historic Preservation (www.preservationnation.org) offers perspectives and forums in support of Federal stewardship of cultural resources on public lands and may conduct formal audits of Federal Historic Preservation Programs.
7. U.S. Army Corps of Engineers (www.usace.army.mil) Division of Historical Resources is a source of technical information and examples of archaeological site stabilization and erosion remediation projects throughout the United States.
8. Missoula Technology and Design Center (<http://fsweb.mtdc.wo.fs.fed.us>) offers a “Facilities Toolbox” for practical applications and Agency guidelines on restoration and rehabilitation.
9. The National Park Service’s Museum Management Program (www.cr.nps.gov/museum/) contains a wealth of information on the management and conservation of collections.
10. The Historic Preservation Learning Portal (<https://www.historicpreservation.gov/web/guest/home>) is a partnership initiative of the National Park Service and other Federal agencies to provide historic preservation information.
11. The U.S. General Services Administration (GSA) has a historic preservation website that offers guidance on the management of historic buildings. (<http://www.gsa.gov/portal/content/104441>).

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10.1 – Authorities

This section provides uniform guidance for Heritage Program coordination and consultation in accordance with the National Historic Preservation Act (NHPA) of 1966 as amended (16 U.S.C. 470 et seq.) and other Federal statutes. Use this direction in conjunction with FSM 2361, 2364, 1563 and FSH 1509.13. Detailed guidance on NHPA Section 106 compliance procedures can be found in chapter 42 of this Handbook. Information on coordinating NHPA Section 106 compliance with project planning under National Environmental Policy Act (NEPA) (42 U.S. C. 4321-4347) can be found in chapter 20, section 22.4 of this Handbook.

10.3 – Policy

1. Coordinate with other Forest Service programs; Federal, State, and local governments; Indian Tribes; and historic preservation organizations to identify opportunities for collaboration in cultural resource advocacy, education, protection, and stewardship.
2. Consult with State Historic Preservation Officers (SHPOs), Indian Tribes, and other parties as identified in specific statutes to provide the opportunity to comment on land use and project level planning.
3. Consult with Indian Tribes regarding land use planning and Heritage Program activities affecting cultural resources determined by the Indian Tribe(s) to be of interest to them.

10.4 – Responsibility

See Section 2361 of the Table of Delegated Authorities in FSM 2360.4 Exhibit 01. Heritage Professionals:

1. Coordinate Heritage Program activities with the SHPOs, State and Federal agencies, Tribal Historic Preservation Officers (THPOs), Indian Tribes, and other historic preservation groups to establish effective working relationships, create collaborative partnerships, and enhance program capacity.
2. Consult with the SHPOs, THPOs, Indian Tribes, the Advisory Council on Historic Preservation (Advisory Council), local governments, and historic preservation entities to meet legal requirements and create informed and positive outcomes.

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10.5 – Definitions

In addition to the definitions set out in section 05 (Zero Code of this Handbook), the following terms are specific to this chapter.

Coordination. Coordination is for the purpose of general program management to address mutual concerns and opportunities and may be between any level of the Agency and the other entity(s). Coordination or collaboration with Indian Tribes is not government-to-government consultation and may be, for example, between entities such as Forest Service Resource Specialists and a Tribal cultural committee.

Consultation. Consultation is formal communication required in legislation and is between the Forest Service Responsible Official and specific parties indicated in the pertinent legislation. The National Historic Preservation Act defines consultation as the process of seeking, discussing, and considering the views of other participants designated in statute or regulation, and where feasible, reaching agreement with them regarding matters affecting cultural resources on National Forest System lands. Notification may also be required in legislation, but unlike consultation, does not necessarily require discussion or agreement.

Indian Tribe. Throughout this chapter, the term Indian Tribe refers to Federally recognized Tribes and includes Alaska Natives as defined in the Alaska Native Claims Settlement Act (ANCSA) of 1971 (ANCSA) (43 U.S.C. 1601-1642). See the full definition of Indian Tribe in definitions.

Tribal Consultation. The USDA Policy of Tribal Consultation, Coordination, and Collaboration provides an operation definition as follows: “The timely, meaningful, and substantive dialog between USDA officials who have delegated authority to consult, and the official leadership of Federally recognized Indian Tribes, or their designated representative(s), pertaining to USDA policies that may have Tribal implications.” Tribal consultation is government to government as required under Executive Order 13175-- Consultation and Coordination With Indian Tribal Governments issued November 6, 2000 (E.O. 13175).

11 – HERITAGE PROGRAM COORDINATION

For related direction see FSM 2360.8.

Heritage Program coordination occurs at all Agency levels with entities that share cultural resource issues, concerns, and opportunities, including but not limited to other Forest Service program areas, other Federal agencies, Indian Tribes, educational institutions, local historical societies, and other community and historic preservation groups.

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General guidelines for coordination with internal and external partners include:

1. Identify existing and potential partners in National, Regional, and Forest/Grassland strategic and program plans.
2. Build working relationships and partnerships to increase Heritage Program visibility, viability, and capacity.
3. Leverage Heritage Program funding with other organizations to coordinate historic preservation efforts and implement mutually beneficial projects and activities.
4. Work with preservation partners to solicit grant and other external funding.
5. Use partnership agreements, including memoranda of understanding and participating agreements, as necessary to define projects of mutual interest and benefit, and establish agency and cooperator roles and work tasks (see FSM 2367.2 and ch. 70, sec. 72.2 of this Handbook). Use the appropriate cooperative agreement when Agency funding is involved.
6. Engage in community programs and projects that support mutual preservation interests including, but not limited to outreach and education, (such as volunteers, school curricula, media, public events, heritage tourism); preservation planning (for example State-wide historic context development); and site protection (such as a site steward programs).
7. Monitor educational and interpretive materials provided by internal and external partners regularly to ensure the information is accurate and current.

12 – COORDINATION BETWEEN HERITAGE AND TRIBAL GOVERNMENT RELATIONS PROGRAMS

The Forest Service Office of Tribal Relations (OTR) is a Washington Office staff located within the State and Private Forestry Deputy Area. OTR oversees the Tribal Government Relations Programs in the Regions. For purposes of this Handbook, the Tribal Government Relations Program includes OTR. FSM 1563 and FSH 1509.13 provide policy and guidance for the Forest Service Tribal Government Relations Program.

On some Forest Service units, the Heritage Program Leader has collateral duties as the Tribal Government Relations Program Manager or Liaison. When this is the case, follow FSM 2360 and FSH 2309.12 when carrying out Heritage Program responsibilities, and FSM 1563 and FSH 1509.13 when carrying out Tribal Government Relations Program responsibilities.

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Heritage Program personnel with collateral duties as the Tribal Government Relations Program Leader or Liaison should have training in treaty rights, sovereignty, trust responsibilities, government to government protocols, and other Tribal issues to carry out these duties.

12.1 – Program Leads and Mutual Responsibilities

The Heritage and Tribal Government Relations Programs have shared as well as distinct responsibilities under different Federal statutes and Executive Orders. The following table is only a guideline. Determine the lead program on a case-by-case basis.

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12.1 – Exhibit 01

Heritage & Tribal Government Relations Programs: Leads & Responsibilities

Heritage Lead	Mutual Responsibilities	Tribal Government
<u>FSM 2360 & FSH 2309.12</u>		<u>FSM 1563 & FSH 1509.13</u>
NHPA • Tradition Cultural Properties (TCP) • Consultation • Compliance • Nomination • Confidentiality EO 11593 – Inventory	Government to government relationships FOIA – confidentiality EO13007 - Sacred Sites NAGPRA – compliance review Food, Conservation and Energy Act of 2008 - Confidentiality	Treaty rights American Indian Religious Freedom Act Religious Freedom Restoration Act EO13007 - Sacred Sites • Identification • Access • Protection
ARPA • Permitting • Consultation • Law enforcement • Public education • Confidentiality	Research Intellectual property rights Fire management – BAER	EO13175 – consultation & coordination Tribal Forest Protection Act
NAGPRA • Inventories • Repatriation • Excavation • Protection	Information & technology sharing Contracts, grants, and agreements	Food, Conservation & Energy Act of 2008 • Reburial • Temporary closures • Forest products
EO13287-Preserve America • Partnerships • Stewardship • Public benefits		NFMA – consultation & coordination NEPA – consultation & coordination
NFMA – Heritage planning		Traditional ecological knowledge
NEPA – NHPA compliance		Subsistence rights Special forest products

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12.2 – Identifying Tribal Representatives for Consultation and Coordination

Seek the assistance and advice of Tribal Government Relations staff to identify the appropriate Tribal representative with whom to consult or coordinate for specific management activities. The Tribal Government Relations staff contacts Tribal governments to learn who is officially designated by the Tribe to represent them in various circumstances. Contingent on the type of activity, the Tribal representative may be the THPO or a designate, a religious leader, or a specific individual.

Activities that trigger Tribal coordination or consultation include but are not limited to:

1. Agency or agency-authorized undertakings that require NHPA Section 106 review.
2. Development of Heritage Program plans.
3. Issuance of Permits for Archaeological Investigation under the Archaeological Resources Protection Act (ARPA) of 1979 as amended (16 U.S.C. 470aa-mm).
4. Discovery of human remains.
5. Identification and evaluation of Traditional Cultural Properties.
6. Planning and implementation of site protection measures.
7. Development of interpretive materials and programs.

13 – HERITAGE PROGRAM CONSULTATION

For related direction see FSM 2360.4 – Exhibit 01, and FSH 1509.13, chapter 10, Consultation with Tribes.

Contact Indian Tribes, SHPOs, and other historic preservation interested parties early in annual work planning to identify potential issues and concerns.

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347) Schedule of Proposed Actions (SOPA) and annual Program of Work are important sources of information about proposed, planned, or on-going Agency projects and activities. The Forest/Grassland Planning or NEPA Program staff usually provides a quarterly SOPA to the public and Indian Tribes. The annual Program of Work is an internal planning tool that a Heritage professional may share and discuss with Indian Tribes during coordination and consultation meetings.

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Follow these guidelines when consulting about Heritage Program activities and Agency projects:

1. Determine the consulting parties identified in the pertinent legislation under which you are consulting. Contact those parties for the name and title of their responsible official or their designated representative.
2. Be prepared to discuss all facets of the project(s).
3. Set realistic expectations and timeframes when initiating consultation.
4. Document all contact and correspondence.
5. Respect consulting parties' social and cultural customs and business practices and accommodate their scheduling of consultation requests as much as possible.
6. Maintain confidentiality of culturally sensitive information received during consultation.

13.1 – NHPA Section 106 Consultation

For related direction see FSM 2361.2

See FSM 2364.1 and chapter 42 of this Handbook for NHPA Section 106 compliance procedures. See chapter 20, section 22.4 of this Handbook for information concerning the timing and interaction between NHPA Section 106 and NEPA compliance.

NHPA Section 106 and its implementing regulations at Section 800.2 of Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties, identify consulting parties as the SHPO, Indian Tribes and Native Hawaiian organizations (including THPOs designated per NHPA Section 101[d][2]), representatives of local governments, applicants for Federal assistance, and additional consulting parties including the public and other interested parties.

The level of consultation with Indian Tribes, local governments, applicants for Federal assistance, and other interested parties should reflect the nature and complexity of each undertaking, its potential effects on historic properties, and the likely interest of the consulting parties.

As soon as possible during annual work planning, provide a program of work and project list to SHPOs, Indian Tribes, and other consulting parties to facilitate scheduling of consultation and coordination meetings.

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The following exhibit shows which consulting parties are involved in the steps identified in 36 CFR 800. The Advisory Council on Historic Preservation and the Keeper of the National Register are not generally involved in NHPA Section 106 consultation for routine Forest Service undertakings. They are included in the table to illustrate specific situations in which they may be a consulting party.

13.1 - Exhibit 01

Consulting Parties under NHPA
Section 106

Forest Service Undertaking	SHPO	Indian Tribes	Other*	Advisory Council	Keeper
NHPA project compliance	A	C	C	C	
NHPA alternative procedures	A	C	C	A	
National Register evaluation & nomination	A	C	C		
Forest Service and SHPO failure to agree on eligibility					A
Determination of Effect	A	C	C	C	
Forest Service and SHPO failure to agree on effect	A			A	
Adverse effect to Historic Property	A	C	C	A	
Mitigation Measures	A	C	C	C	

A = Always; C = Contingent on specific undertaking or affected cultural resource(s)

*Other = representatives of local governments, applicants for Federal assistance, and additional consulting parties including the public and other interested parties (36 CFR 800.2)

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13.11 – NHPA Section 106 Consultation with SHPO

Unless a program alternative such as a programmatic agreement is in effect, consult with the SHPO according to 36 CFR 800 Subpart B – The Section 106 Process.

Consultation with SHPO may be required at each step outlined at 36 CFR 800.3 – 800.6:

1. Section 800.3. Determine if the proposed Federal action is an undertaking as defined in 36 CFR 800.16 and if it has the potential to affect historic properties. If it does not, the Agency Official has no further obligations under NHPA Section 106. If it does, identify consulting parties.
2. Section 800.4. Consult with the SHPO to determine the scope of identification needs and Area of Potential Effect (APE) to report the results of identification and evaluation of historic properties.
3. Section 800.5. Consult with the SHPO to apply the criteria of adverse effect to historic properties.
4. Section 800.6. Consult with the SHPO to resolve adverse effects.
5. Section 800.7. Terminate consultation if there is a failure to agree on the resolution of adverse effects and if the Agency Official determines that further consultation will not be productive. Either the Agency Official, the SHPO/THPO, or the Advisory Council may terminate consultation.
6. Section 800.8. Coordination with the National Environmental Policy Act when the Agency Official wishes to use the NEPA process to satisfy NHPA Section 106 responsibilities. See chapter 20, section 22.42 of this Handbook.
7. Section 800.14. When an Agency Official develops alternate procedures to comply with NHPA Section 106. See section 13.2 of this Handbook.

Initiate SHPO consultation for each step or combination of steps with a formal letter signed by the appropriate Agency Official (see FSM 2360.4 ex. 01).

The SHPO has 30-days in which to comment on information provided at each step. Seek expedited review pursuant to 36 CFR 800.3(g) when possible, which collapses subsections 800.3 through 800.6 and can reduce the time spent in the consultation process.

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13.12 – NHPA Section 106 Consultation with Indian Tribes

Consultation with Indian Tribes in accordance with NHPA Section 106 is between the Agency Official and the Tribal Official. The Tribal Official may designate a representative for NHPA Section 106 consultation. If an Indian Tribe has a THPO designated under NHPA Section 101(d)(2), the Tribal Official sometimes designates that individual as the appropriate contact for purposes of NHPA Section 106. For purposes of this discussion, the term Indian Tribe implicitly includes the representative designated by the appropriate Tribal authority to be the point of contact for NHPA Section 106.

Identify Indian Tribes with potential concerns or interests in proposed undertakings. Include Indian Tribes who may no longer reside in the area, but who have ancestral ties to it.

Conduct regular meetings with Indian Tribes to describe annual agency work plans, including Heritage Program activities affecting cultural resources such as subsurface testing and ruin stabilization. Involve the Agency Official and project planners as necessary to fully explain projects.

Conduct meetings in places that meet accessibility standards for that type of facility, especially if Tribal elders are involved. Incorporate field visits as necessary. Always involve an Agency Official during field reviews and consultation meetings. Follow culturally-sensitive protocol and document consultation efforts.

In accordance with 36 CFR 800.2(c)(2)(ii), provide Indian Tribes the opportunity to:

1. Identify concerns about historic properties.
2. Advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance.
3. Articulate views on the undertaking's effects on historic properties.
4. Participate in the resolution of adverse effects.

Initiate consultation in a formal letter signed by the appropriate Agency Official that describes the undertaking, defines the Area of Potential Effect using maps and photographs as applicable, and provides as much known cultural resource information for the project as possible.

As warranted, meet with the Tribal officials to discuss the undertaking and seek their help in identifying TCPs or other areas important to the Tribe for religious or cultural purposes.

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Include the following minimum elements in a written record of consultation with Indian Tribes (from the USDA Policy on Tribal Consultation, Coordination, and Collaboration):

1. The subject of the consultation.
2. Materials provided to and received from the Indian Tribe relevant to the consultation topic.
3. Name, title, and contact information of the consulting officials for both the Agency and the Indian Tribe.
4. Name and title of other individuals or staff from the Agency and the Indian Tribe that were involved in the consultation process.
5. How the consultation was conducted (by phone, meeting, field trip, or other means).
6. The consultation schedule (dates, times, locations).
7. The outcome(s) of the consultation, including follow-up commitments, and agreements, or points of disagreement.
8. How the results of the consultation were considered in any decision-making process by the agency and whether they were incorporated or rejected in the final decision(s).
9. Additional steps, as necessary.

13.13 – NHPA Section 106 Consultation with Local Governments, Land Use Applicants, and Other Interested Parties

Consult with local governments that have jurisdiction over the area where an undertaking will occur. Meet with city or county Historic Preservation Officers and local Historic Preservation Planning Commissions to obtain information about cultural resources on NFS lands that are important to local communities. Incorporate this information into project plans and designs, as appropriate.

Land use applicants (applicants for Federal assistance, permits, licenses, or other approvals) may also participate in the NHPA Section 106 process as a consulting party. The Forest Service always retains the responsibility for NHPA Section 106 consultation with the SHPO, Advisory Council on Historic Preservation, Indian Tribes, local governments, and other consulting parties to the project unless the applicant is a Federal agency. If the applicant is another Federal agency, then the Forest Service and the Federal agency agree in writing on which agency will take the lead in NHPA Section 106 consultation.

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Seek and consider the views of the public in a manner that reflects the nature and complexity of each undertaking. Consider using the procedures for public involvement under the National Environmental Policy Act (NEPA) to solicit information and concerns from members of the public.

Cultural resource consultation with the public and other interested parties may be formal (such as a Federal Register notice) or informal (such as a meeting, field visit).

Local government and community review of Forest/Grassland NEPA documents may also identify cultural resource issues and concerns. The Agency Official responds formally to public comments on NEPA documents through the NEPA process rather than NHPA Section 106.

13.14 – NHPA Section 106 Consultation with the Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation (Advisory Council) is usually not involved in NHPA Section 106 consultation for routine Forest Service projects. Any consulting party may request the Advisory Council's participation and the Advisory Council itself may elect to consult on its own behalf.

In accordance with 36 CFR 800, notify the Advisory Council and invite them to participate in consultation when:

1. Section 800.6(a)(1). It is determined that a project will have an adverse effect on a historic property;
2. Section 800.7. The Agency Official or SHPO decides to terminate consultation after failing to resolve adverse effects;
3. Section 800.8(c). The Agency Official intends to use the NEPA process for NHPA Section 106 purposes;
4. Section 800.10. A project may adversely affect a National Historic Landmark;
5. Section 800.12(b)(2). An emergency situation requires an undertaking that could adversely affect a historic property and no pre-approved procedures are in place (as in a Programmatic Agreement or Heritage Program Plan) for taking historic properties into account during operations which respond to a disaster or emergency;
6. Section 800.13(b)(3). The discovery of a historic property is made post-NHPA Section 106 review, the project has commenced, and there is no Programmatic Agreement in place that governs the actions taken when historic properties are discovered during the implementation of an undertaking; or

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7. Section 800.14. The Agency Official wishes to develop alternative procedures to the NHPA Section 106 process, such as a Programmatic Agreement.

Consultation with the Advisory Council is advantageous when projects are complex or controversial, for example, an energy corridor crossing multiple agency boundaries.

13.2 – NHPA Section 106 Program Alternatives

For related direction see FSM 2364.12.

Options for developing alternative processes for consultation under NHPA Section 106 include:

1. Alternate procedures. Agency-wide procedures to substitute for compliance with NHPA Section 106. Alternate procedures must be consistent with regulations pursuant to NHPA Section 110 and are typically developed at the National level.
2. Programmatic agreements. An agreement among the Agency Official, the Advisory Council, the appropriate SHPO or the National Conference of SHPOs, and THPOs where Tribal lands are involved to govern the implementation of a particular program or the resolution of adverse effects from complex project situations or multiple undertakings. A programmatic agreement may be Forest, State, Regional, or National in scope.
3. Exempted categories. The Advisory Council or an Agency Official may propose a program or category of undertakings that may be exempted from review under the provisions of NHPA Section 106, if the program or category meets the criteria listed in 36 CFR 800.14(c)
4. Standard treatments. Standard methods established by the Advisory Council for the treatment of a category of historic properties, undertakings, or effects on historic properties.
5. Program comment. An Agency Official may request the Advisory Council to comment on a category of undertakings in lieu of conducting individual reviews under NHPA Section 106 for the identification of historic properties, assessment of adverse effects, and resolution of adverse effects.

Program alternatives, including programmatic agreements, involve considerable negotiation with consulting parties and reviewing agencies. Allow sufficient time for alternative procedure development, internal review, external review, and Agency Official signature. The Regional Office must review and approve all Forest/Grassland Programmatic Agreements.

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Programmatic agreements may be at the National, Regional, State, or Forest/Grassland levels. All other program alternatives are National or Regional only. All consulting parties and signatories to a program alternative monitor the activities carried out under that alternative to ensure the stated intent and purposes are being met.

The Forest/Grassland Heritage Program Leader should ensure that the Agency Official and Forest/Grassland Heritage Program personnel receive information and training on new protocols and processes in any NHPA Section 106 program alternatives that are developed.

13.3 – Traditional Cultural Properties Consultation under NHPA

Traditional Cultural Properties (TCPs) are associated with cultural practices or beliefs of a living community, are rooted in the community's history, and are important in maintaining the continuing cultural identity of the community.

To be eligible for inclusion in the National Register, a traditional cultural property must be a tangible property, such as a district, site, building, structure, or object as defined in Section 60.4 of Title 36, Code of Federal Regulations, Part 60 – National Register of Historic Places, and must meet one or more of the criteria in 36 CFR 60.4.

Follow National Register Bulletin 38 guidance for the identification of and consultation on TCPs. The brochure entitled "Traditional Cultural Properties: Questions and Answers" produced as a joint project of the Forest Service and the NPS, also provides additional guidance and examples of TCPs.

Groups or communities may not require the Forest Service to conduct survey primarily for the purpose of identification of TCPs. However, the Forest Service should include identification of potential TCPs during scheduled cultural resource surveys under NHPA Section 106 or 110.

See FSM 2361.5 for guidance on when it is appropriate to compensate individuals and groups including Indian Tribes for information that the Forest Service requests.

13.4 – NAGPRA Consultation with Tribes

For related direction see FSM 2361.3

Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.) requires Federal agencies to prepare inventories and summaries of Agency collections, provide notification of planned excavations that may result in the discovery of NAGPRA items, and prepare inadvertent discovery protocols in consultation with Indian Tribes.

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13.41 – Consultation on NAGPRA Summaries and Inventories

Federal agencies and museums must consult with lineal descendants, Indian Tribes, and Native Hawaiian organizations regarding the identification and cultural affiliation of the cultural items listed in their NAGPRA inventories and summaries.

Federal agencies and museums must send notices to lineal descendants, Indian Tribes, and Native Hawaiian organizations describing cultural items and lineal descendancy or cultural affiliation, and stating that the cultural items may be repatriated. The law requires the Secretary of the Interior to publish these notices in the Federal Register. See chapter 60 and the Zero Codes, section 07.4 of this Handbook for additional information and online resources to assist with preparing NAGPRA notices.

13.42 – Consultation on Planned Excavations and Archaeological Permitting

Consultation with Indian Tribes is required for planned excavations (research, data recovery) that may result in the discovery or excavation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony (Title 43, Code of Federal Regulations, Part 10- - Native American Graves Protection and Repatriation Regulations).

Notify all Indian Tribes with aboriginal or historic ties to NFS lands involved in any Applications for a Permit for Archaeological Investigations (FS 2700-30) at least 30 days before the issuance of a Permit for Archaeological Investigations (FS 2700-32). Issuance of a Permit for Archaeological Investigation does not require notification of non- Federally recognized Tribes, however, consider permit applications on a case-by-case basis and include those Tribes when appropriate.

If the discovery of human remains or associated funerary or other objects is anticipated, prepare a written Plan of Action in accordance with 43 CFR 10.3. The Plan of Action must be developed in consultation with affected Tribes and signed by the Agency Official (Forest Supervisor in most cases).

The Plan of Action should contain, at minimum, the following information:

1. Description and location of the planned activity.
2. The sources used to determine that human remains, funerary objects, sacred objects, or objects of cultural patrimony may be excavated.
3. The basis for determining likely custody pursuant to NAGPRA.
4. Proposed time and place for further meetings or consultation.

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5. Forest Service proposed treatment of human remains, funerary objects, sacred objects, or objects of cultural patrimony.
6. Proposed disposition of any excavated human remains, funerary objects, sacred objects, or objects of cultural patrimony.

If the planned activity is subject to NHPA Section 106 review, the Agency Official should coordinate consultation and any subsequent NHPA compliance agreement with NAGPRA requirements in 43 CFR 10.3 and 10.5.

13.43 – Consultation on Inadvertent Discoveries

Follow the notification and consultation protocols in NAGPRA Section 3 and 43 CFR 10.4 in the event of an inadvertent discovery. This protocol also applies to excavations under a Permit for Archaeological Investigation when a Plan of Action is not in place.

Upon inadvertent discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on NFS lands, the Agency Official shall cease any activity that may affect the remains and make a reasonable effort to protect them.

As soon as possible, but no later than 3 working days after receipt of written notification, the Agency Official shall notify by telephone with written confirmation, the Indian Tribes likely to be affiliated with the remains.

The Agency Official shall initiate consultation on an inadvertent discovery, in accordance with NAGPRA Section 3 and 43 CFR 10.4, with known lineal descendants and the Indian Tribe or Tribes likely to be affiliated with the remains.

Construct an action plan and/or agreement to determine treatment, disposition, and custody of the human remains or cultural items.

Continue consultation until all questions regarding the status and custody of the remains and cultural objects have been resolved.

13.5 – Coordination for the Reburial of Human Remains on NFS Lands

The Food, Conservation, and Energy Act of 2008 authorizes the reburial of human remains repatriated under NAGPRA on NFS lands under certain conditions. The Tribal Government Relations Program is the lead Forest Service program for policy regarding reburial of repatriated remains. Coordinate with Regional Tribal Government Relations Program Leaders for questions regarding reburial of repatriated remains.

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13.6 – Consultation on Sacred Sites

For related direction see FSH 2309.12 chapter 46.17

It is the responsibility of an Indian Tribe or appropriately authoritative representative of an Indian religion to notify an agency of the existence of a sacred site. Notification may occur during routine or project-specific consultations with Line Officers, Tribal Government Relations staff, or Heritage Program staff. See chapter 80, section 86.4 of this Handbook for information on confidentiality of sacred sites.

Occasionally sacred sites may be or may contain archaeological sites, historic or prehistoric structures, traditional cultural properties, or be part of cultural landscapes that may or may not be eligible for listing in the National Register. Sacred sites that are not or do not contain historic properties (cultural resources eligible for listing in the National Register of Historic Places) fall under the management purview of Forest Service Tribal Government Relations program, while those that do contain historic properties need to be coordinated with both the Heritage and Tribal Government Relations programs.

Work closely with Forest Service Tribal Government Relations staff when a sacred site is or contains an historic property. Additional government to government consultation may be necessary to discover the full scope of Tribal concerns about the site, including discussions to determine the limits of the sacred site, the range of activities that may be acceptable in the vicinity, environmental conditions, and access periods when the site will be used by Tribal members.

14 – CONFIDENTIALITY

Refer to FSM 2361.4 for laws that provide for protection of sensitive information from public disclosure, including NHPA Section 304(a), ARPA Section 9, the Freedom of Information Act (5 USC 552 [b](3)), and the Food, Conservation, and Energy Act of 2008. Regard all Forest Service cultural resource data as confidential. See also chapter 86 of this Handbook.

15 – COMPENSATION

For related direction see FSM 2361.5 for guidance on when it is appropriate to compensate individuals and groups including Indian Tribes for information the Forest Service requests.

Consult with the SHPO, Indian Tribes, and other interested parties as necessary if scientific investigation, and interpretive development, or preparation of a historic structure for adaptive reuse have the potential to affect historic properties.

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This chapter provides uniform guidance for Heritage professionals performing Heritage Program and land use planning and analysis. Use this direction, in conjunction with FSM 2362, to:

1. Integrate Heritage Program goals and objectives in land use and program planning at all Forest Service organization levels, coordinating with other Federal, State, Tribal, and local agencies, and historic preservation organizations to include current issues and opportunities. (FSM 2362.1 and 2362.2)
2. Develop Heritage Program Plans to support long-term management of Priority Heritage Assets and to meet the Heritage Program Managed to Standard performance measure (FSM 2362.3 and 2362.4).

20.4 – Responsibility

Heritage professionals shall:

1. Develop Heritage Program Plans as defined in FSM 2362.3 to identify priorities and guide implementation of projects and activities, public awareness and education, and cultural resource protection and conservation.
2. Coordinate with other Forest Service resource programs to develop a program of work that meets the Heritage Program Managed to Standard performance measure.
3. Prepare Historic Property Plans for Priority Heritage Assets and historic properties to guide their long-term protection, management, and public use.
4. Coordinate and integrate short- and long-term historic preservation planning with other Federal and State agencies, Indian Tribes, and local historic preservation interests.
5. Participate in all scales of Agency land use and project planning using current cultural resource data and best available technologies.
6. Develop predictive models, site identification strategies, and inventory plans to assist in planning and in designing and implementing field surveys. See chapter 30 of this Handbook, section 32.12.

21 – HERITAGE PROGRAM PLANNING

Heritage Program Planning is the basis of program management and should reflect the three primary areas of Heritage Program responsibility as described in FSM 2360.6, include a written Heritage Program Plan as described in FSM 2362.3, and ultimately result in a Heritage Program Managed to Standard.

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The following Exhibit displays elements of Heritage Program responsibility, a Heritage Program Plan, and the Heritage Program Managed to Standard performance measure to show how each supports and reflects the others.

21 - Exhibit 01

Relationship of Heritage Program Responsibilities, Plans, & Performance Measure

FSM 2360.6 – Heritage Program Responsibilities	FSM 2362.3 – Heritage Program Planning	FSH 2309.12, Chapter Zero Code, Section 07.3 – Heritage Program Managed to Standard
Protect historic properties. <i>Stewardship:</i> the identification, formal recognition, protection, and management of historic properties on National Forest System lands Share their values with the American people. <i>Public Service:</i> the development, enhancement, interpretation, and use of cultural resources for Agency and public benefit. Contribute relevant information and perspectives to natural resource management. <i>Contribution to natural resource management:</i> the use of cultural resource data to help understand the evolution and condition of ecosystems.	1. A synthesis of known cultural resources, traditionally known as a Cultural Resource Overview. 2. A synthesis of projected cultural resource numbers, types, and locations based on predictive modeling, site identification strategies, and known cultural resources. 3. Goals and objectives for managing cultural resources with projected annual accomplishments through preservation, research, education, interpretation, and tourism. 4. Annual monitoring targets to assess site conditions and to measure success of treatment or mitigation measures. 5. Protocols for responding to unanticipated discovery of cultural resources or human remains, as required by 36 CFR 800.13 and NAGPRA. 6. Protocols for responding to damage to or theft of cultural resources. 7. Direction for the protection of cultural resources vulnerable to catastrophic fires or other natural or human-caused damage or emergencies.	1. Heritage Program Plan is in place that includes the 7 items in FSM 2362.3. 2. Field Survey of National Forest System lands where cultural resources are most likely to occur is conducted on a scheduled basis. 3. Legacy cultural resources are evaluated for National Register eligibility. Legacy historic properties are nominated for special designations. 4. Condition assessments on Priority Heritage Assets (PHAs) are current and include allocation to management categories. 5. Cultural Resource stewardship activities are accomplished to protect and maintain PHAs. 6. Opportunities for study and/or public use are offered including scientific investigation, public dissemination of research results, adaptive reuse of historic properties, traditional use, interpretation, or other public outreach through Windows on the Past. 7. Volunteer hours are contributed to activities that enhance cultural resource stewardship and conservation and expand the capacity, visibility, and delivery of the Heritage Program.

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Integrate Heritage Program planning with historic preservation initiatives, plans, and policies of other Federal, State, Tribal, and local agencies, and historic preservation organizations.

Develop a National Heritage Program Plan that includes guidance for implementation of all three areas of Heritage Program responsibilities.

Include specific Heritage Program direction in other sections of the FSM.

Develop Regional Heritage Program Plans based on Regional priorities and issues.

Regions may develop programmatic agreements, policy, and direction as Regional supplements to FSM 2360.

Develop Forest/Grassland Heritage Program Plans that incorporate National and Regional goals and strategies, and that include individual program needs, issues, and opportunities.

21.1 – Heritage Program Plans

Heritage Program Plans describe the desired condition and objectives of the Heritage Program on the Forest Service unit. Heritage Program Plans contain information that can be used to inform Forest/Grassland land management plans, facility master plans, and other broad-scale land use assessments.

Heritage Program planning should be interdisciplinary, collaborative, visible, and continuous. At a minimum, a Heritage Program Plan should include the following information.

1. A synthesis of known cultural resources, traditionally known as a Cultural Resource Overview.
 - a. Archaeological, historical, and ethnographic background.
 - b. Cultural resource distribution, density, and diversity.
 - c. Physical condition of cultural resources.
 - d. Existing and foreseeable threats to cultural resources.
 - e. Traditional values ascribed to cultural resources.
 - f. Historic contexts represented by the cultural resources on the unit.

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2. A synthesis of projected cultural resource numbers, types, and locations based on predictive modeling, site identification strategies, and known cultural resources.
3. Goals and objectives for managing cultural resources with projected annual accomplishments through preservation, research, education, interpretation, and tourism.
 - a. Management Category allocation.
 - b. Cultural resource uses and socioeconomic benefits.
 - c. National Register eligibility and other special designation status.
 - d. Public education, interpretation, and involvement potential.
 - e. Study, research, and professional contribution potential.
4. Annual monitoring targets to assess site conditions and to measure success of treatment or mitigation measures.
5. Protocols for responding to unanticipated discovery of cultural resources or human remains, as required by section 800.13 of Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties and the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.).
6. Protocols for responding to damage to or theft of cultural resources.
7. Direction for the protection of cultural resources vulnerable to catastrophic fires or other natural or human-caused damage or emergencies (36 CFR 800.12).
8. A collections management plan.
9. Schedules and protocols for information management in Heritage NRM and GIS.

A Forest/Grassland Heritage Program Plan must be reviewed by the Regional Heritage Program Leader and approved by the Forest/Grassland Supervisor before it can be counted toward satisfying the Heritage Program Plan performance indicator of the Heritage Program Managed to Standard.

21.2 – Historic Property Plan

For related direction see FSM 2362.4.

Develop a Historic Property Plan (HPP) for Priority Heritage Assets (PHAs), individual historic properties, and classes of similar historic properties to guide their long-term management and protection. An HPP should tier to Heritage Program desired conditions, objectives, issues, and

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opportunities in the Forest or Grassland plan, Cultural Resource Overview, broad-scale National Forest Management Act of 1976 as amended (NFMA)(16 U.S.C. 1600-1614) analyses, or other heritage planning documents, as appropriate.

1. Incorporate views and concerns of other Forest Service Resource Specialists, the State Historic Preservation Officer (SHPO), Indian Tribes, local governments, and other interested parties, as appropriate.
2. Insure that maintenance standards, protection measures; and conservation proposals are appropriate, achievable, and consistent with management use allocation.
3. Omit legal descriptions and maps if there is sufficient reason to expect that public disclosure would lead to unauthorized activities.
4. Contain monitoring provisions to evaluate the effectiveness of treatments implemented and need for revision.

FSM 2362.4 defines minimal HPP content and format. In addition, an HPP may include provisions for site development, interpretation, disaster planning (such as for wildfire or hurricanes), business-financial operations, and other considerations.

An HPP content varies based on the scale and attributes of the individual or collection of properties. The existing condition, long-term management goals and objectives and desired future condition, and maintenance standards are critical. Include these in all HPPs. Develop other HPP components based on management need and priority.

Seek SHPO and other external review of an HPP when appropriate. A Line Officer shall approve all completed HPPs.

The Freedom of Information Act as amended (FOIA) (5 U.S.C. 552) and Title 36, Code of Federal Regulations, Part 296 – Protection of Archaeological Resources: Uniform Regulations, provide for confidentiality if disclosure of site information in the HPP could lead to its degradation or loss. Clearly identify information within the HPP that warrants confidentiality.

For a historic property managed by another program area (for example, historic rental cabins managed by the Recreation Program), ensure that the managing program incorporates the property's HPP (or its content) into the appropriate Facility Master Plan or similar management direction and guidance.

Update, revise, and expand HPPs as necessary to stay current with on-going activities and management issues related to the historic property(s). Ensure other programs incorporate changes in the Facility Master Plans or other management guidelines when the Heritage Program is not responsible for management of the historic property.

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21.3 – Priority Heritage Assets and Heritage Program Planning

The Statement of Federal Financial Accounting Standards 29 (see FSM 2360.1) defines cultural resources as Heritage Assets. The Forest Service has further defined Priority Heritage Assets (PHAs) as those Heritage Assets of distinct public value that are or should be actively maintained and meet one or more of the following criteria:

1. The significance and management priority of the property is recognized through an official designation such as listing on the National Register of Historic Places or other designations. Example: Listing an important military wagon road as a National Historic Trail.
2. The significance and management priority of the property is recognized through prior investment in preservation, interpretation, and use. Example: Intensive investigation, stabilization, and interpretation of Gold Rush-era Chinese mining ruins.
3. The significance and management priority of the property is recognized in an agency-approved management plan, with a schedule for on-going maintenance, indicating that the agency intends to protect and use the property. Example: Development and implementation of a Historic Property Plan for an area containing extensive galleries of prehistoric rock art.
4. The property exhibits critical deferred maintenance needs and those needs have been documented. Critical deferred maintenance is defined as a potential health or safety risk or imminent threat of loss of significant resource values. Example: Woodland village cultural deposits slumping and eroding from a riverbank which require bank stabilization.

A multiple-use asset (MUA) is a historic property that is managed and maintained by another Forest Service resource program, such as a historic administrative facility that is still in use and maintained by Engineering. MUAs can also be PHAs; however, maintenance items for MUAs are captured in the work items area of the buildings and bridges modules of Infra/NRM. Like PHAs, the PHA/MUA must be linked to a condition assessment every 5 years.

Determine which historic properties and cultural resources meet the definition of a Priority Heritage Asset (PHA) based on archaeological, historical, architectural, or cultural values, and PHA criteria as part of Heritage Program planning.

Identify PHAs in the Heritage NRM database.

PHA designation is a continuous planning and evaluation process. Evaluate newly identified cultural resources for PHA designation. Evaluate previously identified cultural resources and/or PHAs whose condition changes due to natural events, public use, or Agency activities.

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Monitoring and condition assessment of PHAs at least once every 5 years is necessary and is a Heritage NRM reporting requirement.

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For related direction see FSM 2362.2.

Participate as a member of Interdisciplinary Teams to provide Heritage Program and cultural resource information in:

1. Forest/Grassland planning (National Forest Management Act);
2. Broad-scale assessments or analyses;
3. Other resource program plans of work; and
4. Project planning (National Environmental Policy Act), as applicable.

Each planning scale has different cultural resource information and analysis requirements, as summarized in the following exhibit.

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22 – Exhibit 01

Cultural Resource Information Needs by Planning Scale

	Cultural Resource Overview	Desired Conditions	Compliance (NHPA, ARPA, NAGPRA)	Cultural Resource Description	Field Survey	Monitoring Plan
Forest- Grassland	A	A	A	A	C	A
Broad- Scale	C	A	A	A	C	C
Other Resource Programs	C	C	A	C	C	C
NEPA Project	C	C	A	A	A	C

A = always; C = contingent on intent, scope, and goals of planning effort.
 Desired condition describes the intended condition of cultural resources.

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22.1 – Forest/Grassland Planning under National Forest Management Act

Participate as an Interdisciplinary Team member in Forest/Grassland plan assessment, development, implementation, monitoring, revision, and amendment as set forth in the National Forest Management Act (NFMA) and its implementing regulations at Title 36, Code of Federal Regulations, Part 219 – Planning, Subpart A – National Forest System Land and Resource Management Planning.

Include the following information in Forest/Grassland land management plan documents:

1. A synthesis of known cultural resources and descriptions of historic properties and other categories of cultural resources in the planning area as part of the assessment (see FSH 1909.12, ch. 10, sec. 13.8 Cultural Resource Overview);
2. Desired conditions, objectives, standards, and guidelines related to cultural resources in the plan (see FSH 1909.12, ch. 20, sec. 23.23g);
3. Other plan content, as appropriate, for inclusion in a land management plan such as distinctive role and contribution, monitoring questions, indicators, and agreement, management approaches, partnerships, and other coordination opportunities (36 CRR 219.7(f) and FSH 1901.12, ch. 20, secs. 22.3 and 22.4); and
4. Description of the effects of the planning decision and any alternatives considered on cultural resources in any applicable environmental documentation.

Use existing cultural resource site data in Heritage NRM, GIS layers, legacy data, and predictive models to describe cultural resources in the planning area. A field survey is usually not part of Forest/Grassland planning under NFMA; however, if the plan includes land use decisions or recommendations, some level of field survey may be necessary.

Assist as requested in soliciting the views and perspectives of Indian Tribes, local communities, and historic preservation interests at the appropriate points in the NFMA planning process. See chapter 10 of this Handbook for guidance on coordination and consultation.

22.2 – Broad-scale Assessments

Landscape-Watershed analyses and other broad-scale or integrated resource assessments or studies are a component of ecosystem management. They describe interactions among ecosystems, resources, and humans within a specific geographic area and are often the basis for planning and implementing site-specific projects that require NEPA review.

Participate as an Interdisciplinary Team member in broad-scale, integrated resource assessment efforts.

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Conduct reconnaissance and/or sample surveys as warranted to fill in data gaps and identify potential resource conflicts. An intensive survey is usually impractical and inappropriate at this scale.

In addition to the cultural resource information included in Forest/Grassland land management plans described above, include the following information in broad-scale, integrated resource land management analyses and studies:

1. Description of cultural resources known to exist on non-National Forest System lands such as in-holdings of land adjacent to the planning area or of the surrounding non-National Forest System lands if the Forest/Grassland tract is isolated from contiguous properties.
2. Prioritized needs and opportunities for cultural resource protection and stewardship. See chapter 50, section 54.1 for information on the use of the Heritage Opportunity Spectrum for Tourism to identify opportunities for public use, interpretation, and development of historic properties that are appropriate to specific planning areas.

Coordinate with SHPO, Indian Tribes, and other interested parties as appropriate only when at least one of the following situations is present:

1. Findings in the analysis/study trigger a proposed amendment to the Forest/Grassland plan.
2. The analysis/study includes a site-specific undertaking.

22.3 – Other Resource Program Planning

Coordinate with other Forest Service resource Program Managers to identify cultural resources issues and opportunities in their resource and program planning. For example, a facilities master plan developed by the Engineering Program should incorporate provisions for the protection, maintenance, and NHPA Section 106 compliance review of historic buildings and structures. Wilderness and Wild and Scenic Rivers comprehensive management plans typically require the input of Heritage professionals regarding all cultural resource within the planning area boundaries and their preservation values.

22.4 – Project Planning and Analysis under National Environmental Policy Act

The National Environmental Policy Act includes provisions for the consideration of the human environment, including the historic, cultural, and natural aspects of our national heritage (sec.1508.14 of Title 40, Code of Federal Regulations, Chapter V – Council on Environmental Quality, Part 1508 – Terminology and Index). Processes for environmental review under NEPA may be coordinated with NHPA Section 106 process when analyzing the effects of Federal actions.

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Assist the Forest/Grassland Planning staff in all facets of NEPA project planning, analysis, and implementation, including:

1. Participate as a member of the project's NEPA Interdisciplinary Team.
2. Determine the need for NHPA Section 106 review of actions categorically excluded from NEPA and identify those that may be excluded from NHPA Section 106 review per 36 CFR 800.3 (a) (1).
3. Provide assistance to the Agency Official for consultation required by NHPA Section 106 with SHPO, Indian Tribes, Advisory Council, and other consulting parties. See chapter 13 of this Handbook.
4. Complete the NHPA Section 106 review process prior to a signed Record of Decision, Decision Notice/Finding of No Significant Impact, or Categorical Exclusion under NEPA, unless phased compliance procedures have been negotiated in a Memorandum Of Agreement under 36 CFR 800.4(b)(2) and are in place.
5. Implement cultural resource protection and mitigation measures.
6. Assist with analysis and response to public comments during NEPA document review, appeals, and litigation.
7. Schedule and implement project monitoring where protection measures and mitigation of adverse effects are required.

The Tribal Government Relations Program assists the Agency Official and planning staff with matters related to government to government relationships, treaty rights, religious freedom, and other issues (see FSM 2360.81). Assist as appropriate and at the request of Tribal Government Relations Program managers.

22.41 – Cultural Resource Information Needs

Provide at a minimum, the following cultural resource information during NEPA project planning:

1. Cultural overview of the project area (prehistoric, historic, ethnographic).
2. The Area of Potential Effect (APE) subject to NHPA Section 106 review. See 36 CFR 800.4(a).

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3. Description of the cultural resource identification efforts and other Heritage Program activities within the APE (both previous and current for the project under consideration). Examples of Heritage Program activities include, but are not limited to ARPA investigations, past or current opportunities for Heritage stewardship projects, and potential Traditional Cultural Property (TCP) or NAGPRA issues.
4. Description of the cultural resources known to exist in the APE, including their National Register eligibility and management use potential (allocation to management category).
5. Description of the potential for undiscovered cultural resources to exist within the APE.
6. Effects analysis (adverse and beneficial) for each alternative developed, including direct, indirect, and cumulative effects to historic properties and unevaluated cultural resources. An effects analysis for cultural resources is required in an Environmental Analysis (EA) or Environmental Impact Statement (EIS) if there are any known cultural resources located within the APE even if they will be avoided during project activities in order to mitigate adverse effects.
7. Recommendations for resolution of adverse effects, including project design criteria and standard treatments as appropriate.
8. Monitoring requirements.

Provide cultural resource information in a report to the project Interdisciplinary Team (IDT) Leader. The report is the basis of the cultural resources section in the NEPA document unless alternate Forest/Grassland NEPA procedures are in place.

Cultural resource data, including NHPA Section 106 reports and cultural resource records, are considered part of the NEPA project record. Before filing cultural resource data in the NEPA project record, determine what material may be exempt from Freedom of Information Act (FOIA) disclosure and clearly mark this material as FOIA exempt. See chapter 86 of this Handbook.

If NEPA analysis is contracted with an environmental or cultural resource consulting firm:

1. Include all cultural resource information components described above in the contract Statement of Work.
2. As a Contracting Officer's Representative (COR) or a Contract Inspector, ensure the adequacy and accuracy of all NEPA cultural resource reports.

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3. The Forest Service retains responsibility for NHPA Section 106 consultation with SHPO, Indian Tribes, and other consulting parties.

22.42 – Using the NEPA Process for NHPA Section 106 Purposes

The Agency Official may use the NEPA process to fulfill NHPA Section 106 and 36 CFR 800.3 through 800.6 requirements. This does not reduce or eliminate NHPA Section 106 review, but may provide flexibility in the planning and review process, especially for large projects with multiple alternatives.

Follow the substitution/integration procedures in 36 CFR 800.8 (c) and Council on Environmental Quality Executive Office of the President and Advisory Council on Historic Preservation guidelines in: NEPA and NHPA A Handbook for Integrating NEPA and Section 106 (March 2013). Consult and coordinate with the SHPOs, Tribes, the Advisory Council and other preservation interests, as appropriate, when NEPA is substituted for NHPA Section 106.

When substitution procedures are used, ensure that the legal, definitional, and procedural differences between the NEPA and NHPA Section 106 are understood by Heritage Professionals, NEPA planners, and Line Officers. For example, the term “significance” has different connotations under each law. An Undertaking which is categorically excluded (CE) from NEPA review is not automatically exempt from NHPA Section 106 review.

If the effects of an undertaking on historic properties will be adverse, identify measures in the Categorical Exclusion (Decision Memorandum), Environmental Assessment (Finding of No Significant Effect, FONSI) or Environmental Impact Statement (Record of Decision, ROD) to avoid, minimize, or mitigate such effects. NHPA Section 106 responsibilities are considered satisfied when binding commitment to such proposed measures is incorporated into the Agency decision documents or a Section 106 MOA.

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This chapter provides uniform guidance and procedures for Heritage professionals conducting cultural resource identification and evaluation, and recommending allocation of cultural resources to management categories. The direction applies to these activities regardless of whether they are conducted under Section 106 and 110 of the National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.), or the Archaeological Resources Protection Act of 1979 as amended (16 U.S.C. 470aa-mm), or other authorities. Use this direction in conjunction with FSM 2363.

30.4 – Responsibility

Heritage professionals:

1. Complete cultural resource identification on National Forest System lands to meet planning, management, and research needs.
2. Evaluate cultural resources for eligibility to the National Register in accordance with Section 60.4 of Title 36, Code of Federal Regulations, Part 60 – National Register of Historic Places.
3. Allocate cultural resources to management use categories and identify Priority Heritage Assets.

31 – SEQUENCE OF EVENTS

There are three steps involved in the proper documentation of cultural resources for effective management and consideration in land use decisions:

1. Identification of cultural resources on National Forest System lands. This includes records and archival research, communication with Indian Tribes and local informants, as well as field survey.
2. Evaluation of cultural resources to determine their archaeological, historical, or cultural values, and eligibility for listing on the National Register in accordance with 36 CFR part 60. Ideally, complete evaluation during field survey or shortly thereafter to avoid creating a backlog of unevaluated cultural resources.
3. Allocation of cultural resources to appropriate management uses that preserve and protect those attributes that make them archaeologically, historically, architecturally, or culturally significant and that maximize their agency and public benefit.

Recognize that the tools and methodology used may change depending on the location of the cultural resource inventory or evaluation activity. See section 33.6.

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32 – IDENTIFICATION

For related direction see FSM 2363.1.

Identify cultural resources on National Forest System lands to:

1. Locate and document historic properties that illustrate the history, prehistory, and cultural diversity of the United States.
2. Provide cultural resource information relevant to land use planning, research, public interpretation, and conservation education.

NHPA Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties. Cultural resource identification is usually a prerequisite for complete review of Forest/Grassland undertakings.

NHPA Section 106 identification focuses on cultural resources vulnerable to the potential effects of a proposed undertaking and, therefore, may not necessarily consider all cultural resources in a geographic area. For example, a survey carried out in advance of a prescribed burn may focus primarily on historic structures and other fire-sensitive sites, and may not be adequate for an undertaking involving substantial ground disturbance.

When the NHPA Section 106 process is completed for an undertaking, the geographic area is not automatically exempt (“cleared”) from review for all future undertakings. Each new undertaking, even if an identical, previously reviewed activity is proposed at a later time, requires some level of NHPA Section 106 compliance review. Similarly, an undertaking may be categorically excluded or not require review under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347), but may still be subject to a NHPA Section 106 compliance review. See FSH 1909.15.

Identification may be done under NHPA 110, the Archaeological Resources Protection Act of 1979 as amended (ARPA) (16 U.S.C. 470aa-mm), and other authorities to address Heritage Program management goals and objectives, including research and cultural resource protection. For example, NHPA Section 110 identification is one indicator of the Heritage Program Managed to Standard performance measure.

Use contractors and/or cooperators to complete large-scale, complex, or time-sensitive cultural resource identification projects. Clearly identify requirements and products in the statement of work (see ch. 73 of this Handbook). When using cooperators (such as a university field school), incorporate their objectives (for example, student training) and schedules when identifying mutual goals, expectations, schedules, and products in the agreement.

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32.1 – Existing Data Review

Complete reviews of existing cultural resource data to:

1. Determine further identification needs, including the need for and appropriate intensity of field survey.
2. Assess the level of previous inventory and investigation in a planning area.
3. Provide cultural and paleo-environmental context for a land use planning area.
4. Identify known and potential cultural resources that require field verification or monitoring.

Scale existing data reviews to the scope and intent of the planning purpose. An exhaustive data review may be unnecessary for an undertaking that affects a small, well-defined area such as an oil well pad. Whereas a multi-year fuels reduction project involving thousands of treatment acres will require more extensive data review and analysis.

Existing data reviews draw on a diverse range of sources, including but not limited to:

1. Cultural resource overviews and historic context statements.
2. Published and unpublished literature that addresses regional and local history and prehistory.
3. Inventory records, site forms, and maps.
4. Heritage NRM and GIS databases.
5. State Historic Preservation Office (SHPO) files of past inventories (including on non-National Forest System land as appropriate).
6. Historic maps, historic aerial photographs, Government Land Office maps, land plats, and Agency records.
7. Predictive models for the area or for geographically-similar areas.
8. State and county record searches (to identify previous landowners and persons who may be locally important that may be associated with cultural resources on National Forest System land).
9. Local informants, including Tribes, with knowledge of the planning/project area.

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32.11 – Use of Legacy Survey Data

Survey data accumulated during the initial years of Forest Service cultural resource management may not meet current standards or conform to modern technologies (for example, GPS coordinates). Field conditions and surface visibility also change. These older data provide useful information for broad-scale land use planning and for cultural resource identification strategies, but do not negate the requirement for further identification and field survey.

When reviewing legacy data for planning or project purposes, Heritage professionals should:

1. Review past and current survey coverage using project maps, survey designs, transect interval maps, GIS, survey descriptions, photographs, and related field data.
2. Identify those areas with substandard or inadequately documented survey coverage or areas where additional field survey is warranted due to better ground visibility, new cultural resource information, or other relevant factors as identified by the Heritage professional.
3. Verify that those areas with substandard coverage are within the current project Area of Potential Effect (APE).
4. Conduct targeted field survey in the project APE following current Forest /Grassland site identification strategies, inventory plans, or predictive models.
5. Document the survey according to Regional, State, or programmatic agreement protocols and enter in GIS and Heritage NRM.
6. Monitor cultural resources within planning and treatment areas and update site records as necessary in Heritage NRM and GIS.
7. Modify Forest/Grassland site identification strategies, inventory plans, or predictive models as appropriate to reflect new data, inventory technologies, and methods.

32.12 – Predictive Models, Site Identification Strategies, and Inventory Plans

Develop site identification strategies, inventory plans, and predictive models to:

1. Assess cultural resource probability and sensitivity to meet an intended planning purpose.
2. Design thorough and cost-effective field surveys.

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3. Determine appropriate intensity of field survey based on identified cultural resource sensitivity or probability zones and extent of anticipated impacts when survey is part of NHPA Section 106 compliance.
4. Define cultural resource and human land use patterns for research, monitoring, or other purposes.

These planning tools apply basic sampling techniques to extrapolate and estimate the density and distribution of cultural resources in a planning area. All use observable environmental and topographic variables including slope, aspect, elevation, hydrology, soil classification, flora, ecosystem classification, and other landscape attributes and natural features to identify cultural resource sensitivity or probability zones. Some of these planning tools may also include cultural/social variables to predict the locations of human use on the landscape.

Predictive models are formal quantitative tools that offer statistically valid predictions of cultural resource probability within a specified confidence level and a known margin of error. Predictive models are valuable for broad-scale Forest/Grassland planning and analyses, and are useful in planning and implementing field surveys.

Site identification strategies and inventory plans are non-statistical, qualitative, intuitive, and pragmatic in structure. Like statistically sophisticated predictive models, these models are also developed on the basis of known cultural resource distributions and key environmental variables, as well as professional experience and judgment.

Predictive models, site identification strategies, and inventory plans should be capable of incorporating new data, methods, and technology. They require testing, validation, and refinement as new information is acquired. New information to consider in updating models includes, but is not limited to, cultural resource data from surveys and investigations; changes in landscape conditions, such as increased ground visibility due to fire; and increased human activity potentially affecting cultural resources, such as dispersed recreation, increased access, and illegal activity.

Do not extrapolate information from a predictive model or site identification strategy that goes beyond the model's original intent. Consider these limitations:

1. A model to predict the location of prehistoric-era human activities may not be adequate to identify historic-era resources such as mining or logging operations.
2. A model to predict the location of human activities associated with prehistoric agricultural groups may not be adequate to identify/predict resources associated with hunter-gatherer groups.

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3. A summary of existing cultural resources generated by a site identification strategy or inventory plan does not necessarily predict the potential for cultural resources in un-surveyed areas.
4. Modern environmental conditions may not serve to identify sensitive areas that contain cultural resources tied to past environments.

32.2 – Field Survey

The purpose of a field survey is to:

1. Characterize the range of cultural resources in a geographic area.
2. Locate and document cultural resources.
3. Develop recommendations for further identification or survey needs.
4. Address specific management issues or needs.
5. Aid in developing and testing inventory plans and predictive models.
6. Answer pertinent research questions.

The scope of a field survey will depend on existing knowledge about cultural resources in the planning area, management purpose and need for the cultural resource information, scope of a proposed undertaking, and the type of potential adverse effect or impact. Use predictive models, site identification strategies, or inventory plans as appropriate to design field surveys.

See FSM 2363.15 for conditions under which field surveys may be waived.

32.21 – Reconnaissance Survey

Conduct reconnaissance surveys to gather general information about the presence, location, distribution, and condition of cultural resources across a landscape for broad-scale planning and research purposes. Use probabilistic and non-probabilistic sampling methods (see following section) in reconnaissance surveys. A reconnaissance survey may be the first step in addressing NHPA Section 106 compliance within a project planning area, but it is not a complete survey.

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Examples:

1. Use a reconnaissance survey to determine the potential of an area for a rock art survey and recordation project using Passport in Time volunteers.
2. Use a reconnaissance survey to estimate the number and type of fire-sensitive (combustible) cultural resources in a large planning area targeted for a prescribed burn.

32.22 – Sampling Survey

Conduct sampling surveys using either probabilistic or non-probabilistic sampling methods to obtain statistical representations of cultural resource distributions in a planning or research area.

Consult the academic and cultural resource management literature when designing sampling surveys or when developing predictive models, inventory plans, or site identification strategies.

1. Probabilistic sampling is appropriate when it is necessary to have a representative sample of cultural resources in a large planning area. Survey an appropriate percentage of the area to allow for the use of statistical methods to make generalizations about cultural resource distributions across the entire planning area. Random, stratified-random, and systematic sampling are all probabilistic survey strategies.
2. Non-probabilistic sampling is appropriate if previous survey and/or historic documentation identifies the distribution and probability of cultural resources across the landscape, or if the cultural resources are highly visible on the landscape.

Examples:

1. Use a sampling survey to predict the range and types of cultural resources in mountainous landscape proposed for natural gas leasing and development.
2. Use a sampling survey to determine distribution of cultural resources in a livestock grazing allotment proposed for a change to a more intensive grazing system.

Consider the following limitations of sampling surveys:

1. Probabilistic sampling may overlook significant cultural resources in the planning or research area and, therefore, do not preclude the need for field survey if management activity should be planned in the future.
2. Non-probabilistic sampling may introduce surveyor bias and, thus, overlook rare or unusual cultural resources.

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32.23 – Intensive Survey

Intensive survey is a pedestrian survey to locate historic properties within a defined area using site identification strategies appropriate to the geomorphology, vegetation, and potential for the existence of cultural resources.

The Secretary of the Interior’s Guidelines for Identification further define intensive survey as “most useful when it is necessary to know precisely what historic properties exist in a given area or when information sufficient for later evaluation and treatment decisions is needed on individual historic properties. Intensive survey describes the distribution of properties in an area; determines the number, location, and condition of properties; determines the types of properties actually present within the area; permits classification of individual properties; and records the physical extent of specific properties.”

Follow Forest/Grassland predictive models, site identification strategies, inventory plans, programmatic agreements, and Regional or State guidelines as applicable, to ensure intensive survey meets the goal of locating all historic properties in an efficient and logical manner.

Document survey boundaries on a topographic map or with GPS instruments and follow Regional, State, or other guidelines as necessary for further documentation, such as transect routes and spacing.

Examples:

1. Use an intensive survey within the APE of a proposed electronic facility.
2. Use an intensive survey in a canyon heavily targeted by artifact collectors and looters.

32.3 – Subsurface Probing During Field Survey

For related direction see FSM 2363.14.

In some Regions and specific areas, subsurface probing may be necessary to determine the presence or absence of cultural resources where dense vegetation, rapid soil accumulation, dune activity, or other natural processes or human-caused disturbances obscure the ground surface.

Where Regional or State direction and professional convention includes probing as a standard survey practice, ensure that an unanticipated discovery protocol is in place (FSM 2362.3), and treat recovered cultural resource materials in accordance with Regional or Forest/Grassland field collection standards. See chapter 40, section 42.2; chapter 10, section 13.4; and chapter 63 of this Handbook.

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32.4 – Remote Sensing

Use aerial photography, satellite imagery, LiDAR, and terrestrial geophysical prospecting methods (such as ground penetrating radar, metal detecting) when practical and available to enhance field survey accuracy, especially in areas of high cultural resource probability/sensitivity that are obscured or hidden by dense vegetation, soil deposition, or difficult terrain.

Remote sensing equipment requires special training to operate. Consider agreements and contracts with remote sensing specialists to conduct this work.

When appropriate and cost-effective, use metal detectors to identify proto-historic and historic sites and their boundaries and features.

Where remote sensing methods include collection of cultural materials, ensure that an unanticipated discovery protocol is in place (FSM 2362.3), and treat recovered cultural resource materials in accordance with Regional or Forest/Grassland field collection standards. See chapter 40, section 42.2; chapter 10, section 13.4; and chapter 63 of this Handbook.

32.5 – NHPA Section 106 Phased Identification

A phased approach to identification and evaluation in accordance with Section 800.4 (b)(2) of Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties, may be appropriate in the following situations to facilitate work planning, scheduling, and analysis:

1. Where alternatives under consideration consist of corridors or large land areas.
2. Where access to properties is restricted.
3. Where deferred final identification and evaluation of historic properties is specifically provided for in a memorandum of agreement pursuant to 36 CFR 800.6, a programmatic agreement pursuant to 36 CFR 800.14(b), or the documents used by the Agency Official to comply with NEPA pursuant to 36 CFR 800.8.

For example, phased identification may be appropriate for a power transmission corridor or an integrated forest restoration project where treatment must be at large (landscape) scale to be effective and when multi-year planning, analysis, and implementation are required. NEPA analyses and review of such projects are usually documented in an Environmental Analysis (EA) or Environmental Impact Statement (EIS).

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Consult as early as possible with the SHPO, THPO, Indian Tribes, and Advisory Council regarding the use of phased identification and evaluation.

If phased identification and evaluation per 36 CFR 800.4(b)(2) is followed:

1. Include the signed agreement used to meet NHPA Section 106 review requirements in the NEPA Record of Decision (ROD) or Finding of No Significant Impact (FONSI).
2. Include in the ROD or FONSI, the specific design criteria and standard treatments that would lessen or eliminate adverse effects to known or potentially-identifiable at risk cultural resources.
3. Track and report cultural resource identification progress within the APE.
4. Consult on a regular basis with SHPO, Indian Tribes, and other interested parties. Determine the schedule in coordination with the NEPA project leader and SHPO.
5. Identify cultural resource protection and mitigation needs in a project implementation plan to ensure that these actions occur.
6. Ensure that all phased NHPA Section 106 is completed prior to implementation of the project or project component.

32.6 – Field Survey Preparation and Implementation

Prepare a field survey design based on criteria in a Forest/Grassland predictive model, inventory plan, or site identification strategy, indicating all areas targeted for survey. The design may delineate a range of cultural resource probability or sensitivity areas and key those to the intensity of coverage (transect intervals) appropriate in each.

Educate and train all field-going personnel in field survey and site recording procedures, and in emergency, safety, land navigation, and communication protocols.

Ensure personnel have all equipment necessary to identify, record, and map cultural resources including, but not limited to maps of survey area and legacy cultural resource data (such as site forms), GPS, I-Mobile Recorder, and camera.

Prepare and use a job hazard analysis to educate field-going personnel about safety issues and accident prevention measures. Ensure that field personnel have necessary safety items including, but not limited to a first aid kit, communication devices, and appropriate personal protective equipment, and that they are aware of current field conditions and emergency response procedures.

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32.61 – Field Notes

Document survey progress and cultural resource discoveries in field notes that include, at a minimum:

1. Author name.
2. Crew names.
3. Survey dates.
4. Project name and/or designation.
5. Project location and setting (access, landform, topography, vegetation).
6. Survey methodology, logistical issues, contingencies (field conditions).
7. Discoveries (brief description of sites with sketch maps to correlate with site forms).
8. Issues and recommendations.

32.62 – Maps

Use scaled maps to document the project boundaries, the APE, and the location of identified cultural resources.

Follow Regional or State survey mapping protocols, which may require documentation of survey transect routes. Record survey transects and/or subsurface probe locations with GPS instruments or by accurately marking their locations on the project map while in the field.

32.63 – Photographs

When logical or meaningful to do so or required by Regional or State protocol, document the project area and cultural resources with photographs. Label and catalogue all photographs according to provenience (project, site, date) and with all appropriate descriptive information (orientation, view, content, scale).

32.64 – Artifacts

Carefully consider the collection of artifacts during a field survey, taking into account the vulnerability of the item if left and the disposition/curation of the item if collected. Follow Regional collection policies or the collection policies in the Forest/Grassland's Collection Management Plan (see ch. 60, sec. 62.3 of this Handbook).

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When artifacts are collected as part of field survey, include all relevant provenience information (for example, surveyor, temporary or permanent site number, date) on the project map and in field notes, and place the artifact in a suitable field container with the corresponding provenance information. Process, label, and appropriately store the artifact(s) immediately following completion of the field survey.

32.65 – Cultural Resource Site Forms

Document all discovered cultural resources on Forest Service or State site forms. Follow State guidelines when using State site form templates and protocols. Use electronic handheld data recorders if available to expedite field recordation and entry into the Heritage NRM database.

Include a map at a scale sufficient to accurately show topography, site boundaries, architectural features, locations of subsurface probes (if performed), and artifact locations and/or concentrations.

Use GPS instruments to locate and define site boundaries. In absence of GPS, hand-drawn maps are acceptable. Include a legend on all maps that shows site name and designation, recordation date, recorders, direction arrow, map scale, and site features.

32.7 – Inventory Reporting

Document cultural resource inventories completed for NHPA Section 106 and 110, ARPA or other purposes in accordance with Regional or State guidelines or Programmatic Agreement standards. See FSM 2363.16.

NHPA Section 106 inventory documentation must be sufficient to allow SHPOs and Indian Tribes as appropriate, to review and comment on survey adequacy, National Register eligibility, and determination of effect. See chapter 40, section 42.12 of this Handbook for documentation requirements related to the NHPA Section 106 process.

A cultural resource inventory report should include, but is not limited to:

1. Inventory purpose, need, and location;
2. Results of existing data review;
3. Description of the area inventoried, including boundaries;
4. Survey methods including an estimate of the extent of survey coverage;
5. A record of the precise location of all cultural resources identified;

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6. Updated information on any previously recorded cultural resources in the inventoried area;
7. Information on the appearance, significance, integrity, and boundaries of each property;
8. An assessment of the effect(s) of the proposed undertaking (if applicable) on cultural resources;
9. Artifact catalogues; and
10. Maps, drawings, and photographs.

Enter all inventory data into Heritage NRM and on GIS data layers.

Retain all field survey documentation, per above, and maintain as part of the permanent record. These items may be attached electronically in the Heritage NRM database.

33 – NATIONAL REGISTER EVALUATION

Evaluate archaeological, historical, or cultural importance of cultural resources on National Forest System lands to:

1. Increase understanding of prehistory, history, and past human land uses.
2. Determine National Register eligibility under NHPA and 36 CFR 60.4.
3. Assist in determination of project effect in accordance with 36 CFR 800.5
4. Recommend appropriate management uses of cultural resources.

When feasible, complete National Register evaluations in conjunction with a field survey to avoid creating a back log of unevaluated cultural resources. When this is not possible, implement a schedule to evaluate recently discovered cultural resources and any backlog of unevaluated cultural resources.

Treat all unevaluated cultural resources as National Register-eligible properties until a formal evaluation is completed, and the SHPO has had the opportunity to review and comment.

The research necessary to evaluate a cultural resource may include:

1. Detailed recordation and mapping,

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2. Aerial photography,
3. Remote sensing,
4. Subsurface testing (excavation),
5. Technical analyses of artifacts,
6. Specialized studies,
7. Archival and comparative research, and
8. Oral history and informant interviews.

In some cases, National Register evaluation may not require extensive investigation when enough is known about the area and cultural resource site type to make an accurate field assessment. In other cases, evaluation will require excavation, laboratory analysis, and archival research.

33.1 – Preparing for National Register Evaluation

Complete all necessary fieldwork, laboratory analyses, research, and documentation to evaluate cultural resources. Poorly documented cultural resources contribute to the National Register eligibility evaluation backlog.

Use contractors and/or cooperators to complete large-scale, complex, or time-sensitive cultural resource evaluation projects. Clearly identify requirements and products in the statement of work (SOW) (see ch. 73 of this Handbook). When using cooperators (for instance, a university field school), incorporate their objectives (for example, student training) and schedules when identifying mutual goals, expectations, schedules, and products in the agreement.

33.2 – National Register Evaluation Standards

Follow the Secretary of the Interior's Standards for Evaluation. Prepare a research design when the evaluation involves substantial subsurface testing and field recordation beyond subsurface probing used in survey and site identification. See FSM 2363.14 and section 32.3 of this chapter. Provide opportunity for Agency peer, SHPO, and Tribal review, as appropriate.

Prepare a research design and detailed statement of work (SOW) for cultural resource excavations done under contract by a professional cultural resource management consultant (see FSM 2367.3 and ch. 70 of this Handbook). Include a SOW as part of the stipulations in a partnership agreement.

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Contracts and agreements must clearly describe evaluation standards, timeframes, and deliverables. An ARPA Permit for Archaeological Investigations is required for both contractors and cooperators when the evaluation work involves testing of an archaeological site beyond subsurface probing used in survey and site identification. See FSM 2363.14 and section 32.3 of this chapter. An ARPA permit may be issued in addition to a contract or the permit requirements may be incorporated into the contract stipulations. See FSM 2367.15 and chapter 70 of this Handbook.

Contractors and cooperators should provide recommendations of National Register eligibility, but the Forest Service retains the responsibility of the official recommendation to SHPO.

Follow SHPO evaluation standards and guidelines when applicable. To insure State-wide consistency, some SHPOs require specific evaluation thresholds (for example, minimum number of test units) and/or eligibility thresholds (for instance, minimum artifact density per cubic meter of excavated fill) for specific property types. This information assists the SHPO in the application of National Register criterion D.

33.3 – National Register Evaluation Documentation

Follow Regional or State guidelines, as appropriate, when documenting cultural resource evaluations. Cultural resource evaluation documents or Determination of Eligibility Statements (DOE) may include but are not limited to:

1. Cultural resource description,
2. Purpose and need for evaluation, when appropriate,
3. Environmental and cultural context,
4. Methods (field, laboratory, archival),
5. Results,
6. Interpretation and conclusions,
7. Application of National Register (see section 33.2 below) and other (State) criteria,
8. Bibliography, and
9. Maps and photographs.

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Regard all Determinations of Eligibility reports as confidential information (see FSM 2361.4). When appropriate, disseminate information derived from Agency cultural resource evaluation and investigation in Agency publications or other publications for Agency and public benefit.

33.4 – Application of National Register Criteria

See FSM 2363.21 – 2363.23 and chapter 40, section 46.11 of this Handbook.

Apply the criteria for National Register eligibility listed in 36 CFR 60.4 to all identified cultural resources, whether archaeological, historical, architectural, or traditional use. Use SHPO resources (for instance, context statements) and expertise to assist in National Register evaluations.

Refer to evaluation and nomination guidelines in National Park Service (NPS) National Register Bulletin #15 *How to Apply the National Register Criteria for Evaluation* and National Register Bulletin *Guidelines for Evaluating and Registering Archaeological Properties*.

33.5 – Cultural Landscapes

Refer to NPS Preservation Brief 36 – *Protecting Cultural Landscapes* for general information on identifying cultural landscapes, which are defined as “a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person exhibiting other cultural or aesthetic values.”

33.6 – Cultural Resources in Specially Designated Areas

Regardless of the special designation of an area, evaluate cultural resources in accordance with National Register criteria in 36 CFR 60.4 and follow the standard procedures of documentation and consultation with SHPO and Indian Tribes.

When evaluating cultural resources within a specially designated area, follow the policy and guidelines for the specific designation that may affect the tools and methodologies used to carry out the evaluation. For example, Wilderness policy prohibits the use of motorized equipment or mechanical transport.

34 – ALLOCATION TO MANAGEMENT USE CATEGORIES

For related direction see FSM 2363.3.

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Allocate cultural resources to management categories to:

1. Identify the unique values of each cultural resource.
2. Recommend appropriate management uses of each cultural resource that protects its unique value and realizes its greatest management potential.
3. Characterize management issues, concerns, and needs.

34.1 – Management Use Categories

Allocate cultural resources to the following management use categories. Not all cultural resources are of equal value, and these allocation recommendations are meant to assist in the organization of the management of these resources. Management use category allocations are not land use decisions and do not bind the Agency to a certain course of action. These allocations may be re-evaluated and revised as appropriate.

34.11 – Preservation

Cultural resources whose primary value warrants protection in place:

1. Traditional Use Areas: Cultural resources important to groups as traditional gathering places for religious or spiritual practices, or for collection of natural resources for traditional purposes. Traditional use areas may not be recognizable by the presence of archaeological remains or ruins, but they must be tangible locations and have defined boundaries. Some resources may be sacred sites in accordance with the American Indian Religious Freedom Act of 1978 as amended (AIRFA) (42 U.S.C. 1996 and 1996a) and Executive Order 13007 issued May 24, 1996 (E.O.13007) – Indian Sacred Sites. They may or may not be subject to compliance requirements in NHPA. Traditional use areas that are determined to be Traditional Cultural Properties (TCP) fall under NHPA. See chapter 10, sections 13.3 and 13.6 of this Handbook for guidance on consulting with Indian Tribes concerning TCPs and Sacred Sites.
2. Rare and Unique Cultural Resources: Cultural resources that are rare, scarce, or unique to the Forest/Grassland. These may include, but are not limited to, the remains of an early Ice Age- mammoth kill, a rare aboriginal paint source, a Trail of Tears removal fort, prehistoric mines and quarry pits, or perfectly sealed archaeological deposits within rockshelters. Their uniqueness warrants preservation above all other management interests.
3. Cultural Resources with Future Research Value: Cultural resources that, because of their potential to yield abundant and significant data, are “banked” for future research as new technologies and ideas for scientific inquiry and analyses are developed. These

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cultural resources principally involve highly significant archaeological properties, for example, a prehistorically-used cave with deeply buried intact cultural deposits, extensive prehistoric masonry ruins, or the intact remains of an early mining camp. Resource-consumptive investigation of such properties now would severely limit opportunities for discovering new information in the future with new technologies. Consider looting risks when allocating cultural resources to this subcategory.

34.12 – Enhancement

Cultural resources that have the potential to provide public educational, informational, or recreational benefit above other uses include those whose primary value is:

1. Interpretive: Cultural resources that could provide valuable public interpretation and conservation education opportunities through brochures, signs, trails, infrastructure, and other media. Sites suitable for on-site interpretation and where heavy visitor use is expected are often accessible and in close proximity to urban areas. Cultural resources that experience heavy visitation may need to have hardened surfaces, designated trails, signage, and other infrastructure to withstand such public attention and use. In some cases, a property's integrity may have been previously compromised, making it a suitable candidate for interpretation.

The interpretive and educational value of these cultural resources outweighs preservation concerns, although protective and monitoring measures may be necessary to balance the two. In some cases, interpretation is a deterrent to vandalism, theft, and inadvertent damage. Cultural resources allocated to this category may include standing buildings, visible structures and ruins, rock art, trails, and cultural landscapes.

2. Sustained Use and Adaptive Reuse: Cultural resources that are maintained and used or that have the potential to be used as administrative or recreational facilities. Examples include historic Forest Service Ranger Stations still in use, or backcountry guard stations or fire lookouts that are or could be recreation rentals.

Adaptive reuse extends the use-life of buildings that might otherwise fall into disrepair and become too expensive to stabilize and maintain for Agency or public benefit. Preparing a historic property for adaptive reuse often involves rehabilitation or restoration, which requires a careful balance between the modifications necessary for public safety and protecting the historic integrity of the property.

National Register nomination and other recognition is a standard treatment for cultural resources assigned to this category.

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34.13 – Scientific Investigation

Cultural resources whose primary value lies in their ability to reveal significant information about past human cultures and environments fall into this category. Unlike the unique cultural resources preserved for future research, cultural properties in this category are usually well represented, although their exact character, content, and context may not be well understood.

Archaeological sites consisting primarily of subsurface cultural deposits may contain significant scientific information relevant to understanding Pleistocene-Holocene climate and environment, wildfire regimes, vegetative composition, wildlife distributions, and other past conditions. These data, in turn, may assist in broadening understanding and formulating Agency policy and initiatives related to climate change, environmental health, and ecosystem restoration.

1. Data Recovery: Research and recordation carried out in a planned and orderly fashion on cultural resources suitable for scientific investigation, with compliance and research goals clearly explained. SHPO and Tribal consultation and Advisory Council notification (if the resource is a historic property) are required before data recovery is initiated. The results of these investigations are made available to researchers and the public in popular reports. These data may be integrated with off-site interpretive programs and media and added to Cultural Resource Overviews and context documents.
2. Experimental Study: Research to resolve management problems such as the effects of an activity on a type of cultural resource or the effectiveness of a treatment to protect cultural resources. A surface lithic scatter may be used to test the impacts of timber felling atop frozen ground or a historic trail may be used to assess the effects of off-highway-vehicle use.

In most cases, the integrity of cultural resources allocated to this subcategory has been previously compromised. Experimental projects atop or within the boundaries of cultural resources should only be initiated with well-conceived research designs and the results should be documented and reported so that the findings have broader management benefit. Contingent on site condition, type, and National Register eligibility, SHPO and/or Tribal consultation may be necessary.

34.14 – Release from Management under NHPA

Cultural resources recommended for allocation to this category are (or have become) ineligible for National Register listing; have little to no integrity of location, design, setting, materials, workmanship, feeling, or association; and have negligible potential for Agency or public use. Such cultural resources generally have received little or no Heritage Program management interest, attention, or investment.

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Examples:

1. A thoroughly looted rockshelter with no remaining cultural evidence or cultural value to an Indian Tribe.
2. A small homestead largely destroyed by past logging.
3. An isolated and dilapidated cabin ruin that has no written or oral documentation and no subsurface remains.
4. A Forest Service warehouse less than 50-years old, in poor condition, and that is not the only or best example of others still in existence throughout the Forest or Region.

Cultural resources released from active management may still be protected from theft, vandalism, and unauthorized uses under ARPA if older than 100 years and under Title 36, Code of Federal Regulations, Part 261 – Prohibitions, if between 50 and 100 years old. Exercise pragmatism in dealing with such situations and carefully advise Agency Officials and Law Enforcement.

A historic property may lose its integrity or value that made it National Register-eligible and, thus, be appropriately allocated to this management category. Relinquish State or Smithsonian trinomial site designations in such cases, if State guidelines allow or require it.

Manage cultural resources with little or no retention value according to Regional or State guidelines, where they exist. In all cases, document the current condition of the cultural resource on a site form and in Heritage NRM.

34.2 – Determining the Appropriate Management Use Category

Recommend management uses based on individual site evaluation, professional judgment, and Agency priorities. Recommendations may be for individual properties or for classes of similar properties.

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

1. Site type and archaeological or historic context.
2. Site characteristics.
3. Site location and setting, including public access.
4. Site condition and potential impacts and threats.

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5. Site significance and potential National Register eligibility.
6. Perceived values and potential uses.

Identify the recommended management use category on the Cultural Resource Record in the Heritage NRM database.

Re-evaluate and revise management use recommendations as necessary when circumstances change or new data become available.

34.3 – Management Use Categories and National Register Nomination

Once evaluated as eligible, any historic property may be nominated to the National Register. However, other management decisions concerning the relative value and future management of that property affect the decision to formally nominate it to the National Register.

The following exhibit displays relationships among management use categories, possible management treatments or prescriptions, and whether nomination to the National Register is appropriate.

See FSM 2363.21 – 2363.23 and chapter 40, section 46.11 of this Handbook for information on nominating historic properties to the National Register of Historic Places.

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34.3 - Exhibit 01

Management Use Categories, National Register Listing, & Management Prescriptions

Management Use Category	National Register Nomination	Possible Management Prescriptions
Preservation Traditional Use - TCP	Possible	Protection, monitoring, continued consultation with affiliated cultural group
Preservation Traditional Use - Sacred Site	Possible	Protection, monitoring, continued consultation with affiliated cultural group
Preservation Rare, Scarce, Unique	Yes	Protection, monitoring, limited investigation
Preservation Future Research	Possible	Protection, monitoring
Enhancement Interpretation	Possible	Stabilization, rehabilitation, restoration, protection
Enhancement Adaptive Reuse	Yes	Stabilization, rehabilitation, restoration, protection
Scientific Investigation Data Recovery	Possible	Protection, monitoring, excavation, stabilization
Scientific Investigation Experimental	Possible	Excavation, collection, experimentation
Released from Management under NHPA	No	Long-term preservation and management is not a consideration

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40.1 – Authority

1. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (CERCLA) (42 U.S.C. 4321-4370), popularly known as the Superfund. A Federal statute designed to clean up abandoned hazardous waste sites, including historic placer and lode mines containing toxic heavy-metals laden tailings, waste rock, buildings, and equipment. The law is administered by the Environmental Protection Agency. NEPA analysis is considered unnecessary under CERCLA procedures, though NEPA values, including cultural resources, must be integrated into the CERCLA process where feasible and appropriate. CERCLA was amended by the Superfund Amendments and Reauthorization Act in 1986.

2. Federal Water Pollution Control Act of 1948 as amended (Clean Water Act) (33 U.S.C. 1251-1387). A comprehensive Federal statute aimed at restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters. Enacted originally in 1948, the Act was amended numerous times until it was reorganized and expanded in 1972. It continues to be amended almost every year. The Act is administered by the Environmental Protection Agency in cooperation with Federal and State agencies and municipalities. Watershed reclamation projects initiated under this Act on Federal lands have the potential to affect cultural resources, including historic mining ruins.

40.2 – Objectives

This chapter provides uniform guidance and procedures for cultural resource protection and stewardship. Use this direction in conjunction with FSM 2364 to accomplish the following objectives:

1. Eliminate, reduce, or mitigate harm to cultural resources that result from Agency or Agency-authorized actions, natural processes, illegal or unauthorized activities, or unmanaged public use.
2. Recognize cultural resources through official designation and implement actions that stabilize, restore, enhance, and interpret cultural resources for Agency and public benefit.
3. Ensure the protection, conservation, and public use of cultural resources on National Forest System lands into the future.

The direction applies to these activities regardless of whether they are conducted under Section 106 and 110 of the National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.), or the Archaeological Resources Protection Act of 1979 as amended (16 U.S.C. 470aa-mm), the Historic Sites Act of 1935 as amended (16 U.S.C. 461-467), or other authorities.

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40.4 – Responsibility

Heritage professionals shall:

1. Monitor the condition of cultural resources to document unauthorized or unmanaged use and environmental damage.
2. Evaluate the effects of Agency and Agency-authorized undertakings on cultural resources and identify appropriate protection and mitigation measures.
3. Implement programs and measures to recognize, protect, enhance, interpret, and allow for public use of cultural resources.

40.5 – Definitions

Historic Property. Section 800.16 of Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties defines historic properties as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria.”

Undertaking. NHPA Section 301(7) (16 U.S.C. 470w) defines undertaking as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license, or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal Agency.”

41 – CULTURAL RESOURCE MONITORING

For related direction see FSM 2364.31 – 2364.32.

Systematically monitor Priority Heritage Assets (PHAs), historic properties, and unevaluated cultural resources and document their physical condition in a condition assessment. Follow programmatic agreements and project memoranda of agreement for State or project specific monitoring and reporting requirements.

Follow these steps for cultural resource monitoring:

1. Develop a monitoring plan and schedule, including sensitivity maps that identify at-risk historic properties, cultural landscapes, and unevaluated cultural resources.

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2. Enlist Agency employees, Tribal partners, and public volunteers in routine monitoring of cultural resources when appropriate.
3. Coordinate with Forest Service, State, county, and other cooperative law enforcement agencies to implement patrols, surveillance, and other measures to monitor highly vulnerable and at-risk historic properties and unevaluated cultural resources.
4. Update cultural resource condition information in Heritage Program records and the Heritage Natural Resource Manager (NRM) database and submit updated site data to the State Historic Preservation Officer (SHPO) according to Regional or State standards and guidelines.
5. Report damage or potential threats to historic properties and unevaluated cultural resources to the Agency Official and Forest Service Law Enforcement if it is the result of illegal activity or unauthorized use.
6. Incorporate cultural resource protection needs into Heritage Program Plans and Historic Property Plans (with risks, priorities, costs) and address them in broader land management decisions and actions when applicable.
7. Report damage to historic properties and unevaluated cultural resources in the Secretary of the Interior's Annual Report to Congress on the Federal Archaeology Program and in annual reports submitted to the SHPO under programmatic agreements. If the damage is severe, or if there is no programmatic agreement in place, notify the SHPO as soon as practicable. In addition, see FSH 2309.12, chapter 10, section 13.14 for a list of those instances when Advisory Council notification is required.
8. Integrate cultural resource monitoring data with other Forest/Grassland monitoring reports as required by Forest Plans and related planning documents.

41.1 – Condition Assessment

At the time that a cultural resource is designated as a PHA, develop a baseline condition assessment for the PHA for use in subsequent monitoring.

Prepare and update condition assessments for PHAs including all heritage assemblages to:

1. Identify protection and management needs and corrective actions, including costs.
2. Maintain condition assessments that are no older than 5 years for all PHAs.
3. Document the condition of the resource in NRM Heritage and in Heritage Work items.
4. Link all condition assessments performed in a fiscal year to an event created for this purpose in NRM Heritage.

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Condition assessments may be qualitative (narrative) or quantitative (metrics, ratings), or both, and usually include a description, photographs, drawings, and maps. Some cultural resources show little change over time and require limited documentation. Others vulnerable to severe environmental change or human-caused impacts require more extensive documentation.

Use the Forest Service Monitoring report form in the Heritage Natural Resource Manager (NRM) database to produce a paper copy documentation of the condition assessment. If applicable, State or programmatic agreement protocols and forms may also be used for condition assessments. Include condition assessments in end-of-year reports required by States or programmatic agreements.

Qualified Facility Engineers and Historic Preservation Specialists may develop baseline condition assessments for prehistoric ruins and historic buildings and structures. A qualified contractor or cooperator may also complete condition assessments.

National Register districts and cultural landscapes require condition assessments of both the overall (historic, architectural, cultural) landscape and its individual cultural resource components. Districts and landscapes often contain facilities managed by other program areas such as Recreation or Range. Coordinate with these programs, especially if their proposed program activities could result in changed conditions to a National Register district or cultural landscape and require review under Section 106 of the National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.). Consult management guidelines in the Historic Property Plan, as appropriate.

41.2 – Volunteers and Site Stewardship Programs

Enlist Forest Service employees, volunteers, and cooperators (for example, local universities, Tribes, and archaeological societies) to assist in cultural resource monitoring and documenting site conditions. Integrate and coordinate with other agency and State-wide monitoring programs and efforts where possible.

Participate in State, Tribal or local stewardship programs (see FSH 2309.12, ch. 50, sec. 53.23 for examples of existing State stewardship programs). If none exist, coordinate with community preservation organizations to establish one. If a State site stewardship program exists, consult with the Program Coordinators before developing a local site stewardship program.

42 – PROTECTION FROM THE EFFECTS OF AGENCY AND AGENCY-AUTHORIZED ACTIONS

For related direction see FSM 2364.1.

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The Forest Service initiates and authorizes a wide range of undertakings on National Forest System lands that have the potential to affect historic properties. See section 42.1 - Exhibit 01. The NHPA Section 106 process is designed to consider these effects during project planning and analysis in consultation with the SHPO, Indian Tribes, and other historic preservation interests. See the NHPA Section 106 Consultation process described in chapter 10, section 13.1.

The NHPA Section 106 process ensures that during the planning process for proposed undertakings, the Agency considers the potential effects of its actions on historic properties. The process usually leads to agreed upon measures to protect historic properties from those effects through avoidance, protection, or mitigation of adverse effects. See sections 42.14 and 44 below for a description of the protection measures.

42.1 – NHPA Section 106 Compliance Process

The Heritage professional works closely with the Project Manager and/or Agency Official to identify potential cultural resource issues and opportunities early in the planning process. Consult Forest/Grassland annual Programs of Work to identify undertakings that have the potential to affect cultural resources and that require NHPA Section 106 review. Plan, coordinate, and schedule NHPA Section 106 review and fieldwork based on annual Forest/Grassland funded work priorities in the Program of Work.

Request from Agency Officials and/or Resource Staff Officers or other Program Managers, a list of planned routine activities that may not be in the annual programs of work but which also have potential to affect cultural resources, such as trail maintenance, small-scale mineral exploration permits, and range improvements.

The Agency Official may elect to pursue a program alternative described at 36 CFR 800.14 to replace these standard NHPA 106 compliance procedures. See FSM 2364.12, chapter 10, section 13.2 of the Handbook.

Exhibit 42.1 – 01 lists examples of general categories of undertakings that require NHPA Section 106 review. The specific types of undertakings within these broad categories vary widely.

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42.1 – Exhibit 01

Examples of Agency Undertakings Requiring NHPA Section 106 Compliance Review

Program	Actions
Emergency response/recovery	• Natural disasters • Wildfire • Other Federal emergencies (for example, hazardous material spills, plane crashes) Note: Immediate rescue and salvage operations conducted to preserve life or property are exempt from NHPA Section 106 review (see 36 CFR 800.12)
Facilities	• Administrative facility conveyance and removal • Administrative facility maintenance and improvements • Administrative facility construction and permits
Fire	• Fire management plans • Fire recovery and BAER • Fuels reduction / vegetation or wildlife improvement (prescribed
Heritage	• Building rehabilitation, restoration, enhancement • Archaeological excavation • Interpretive facilities construction
Lands & Special Uses	• Hydropower facility licensing, operations and improvements • Land exchanges, purchases and sales • Special use authorizations and permits • Utilities licensing, maintenance and construction
Minerals	• Abandoned mine reclamation • Minerals exploration-plans of operation • Mine development and extraction • Oil and gas exploration, leasing and development
Range	• Allotment operations and improvements • Allotment management plan revision • Adaptive management actions • Range permit issuance

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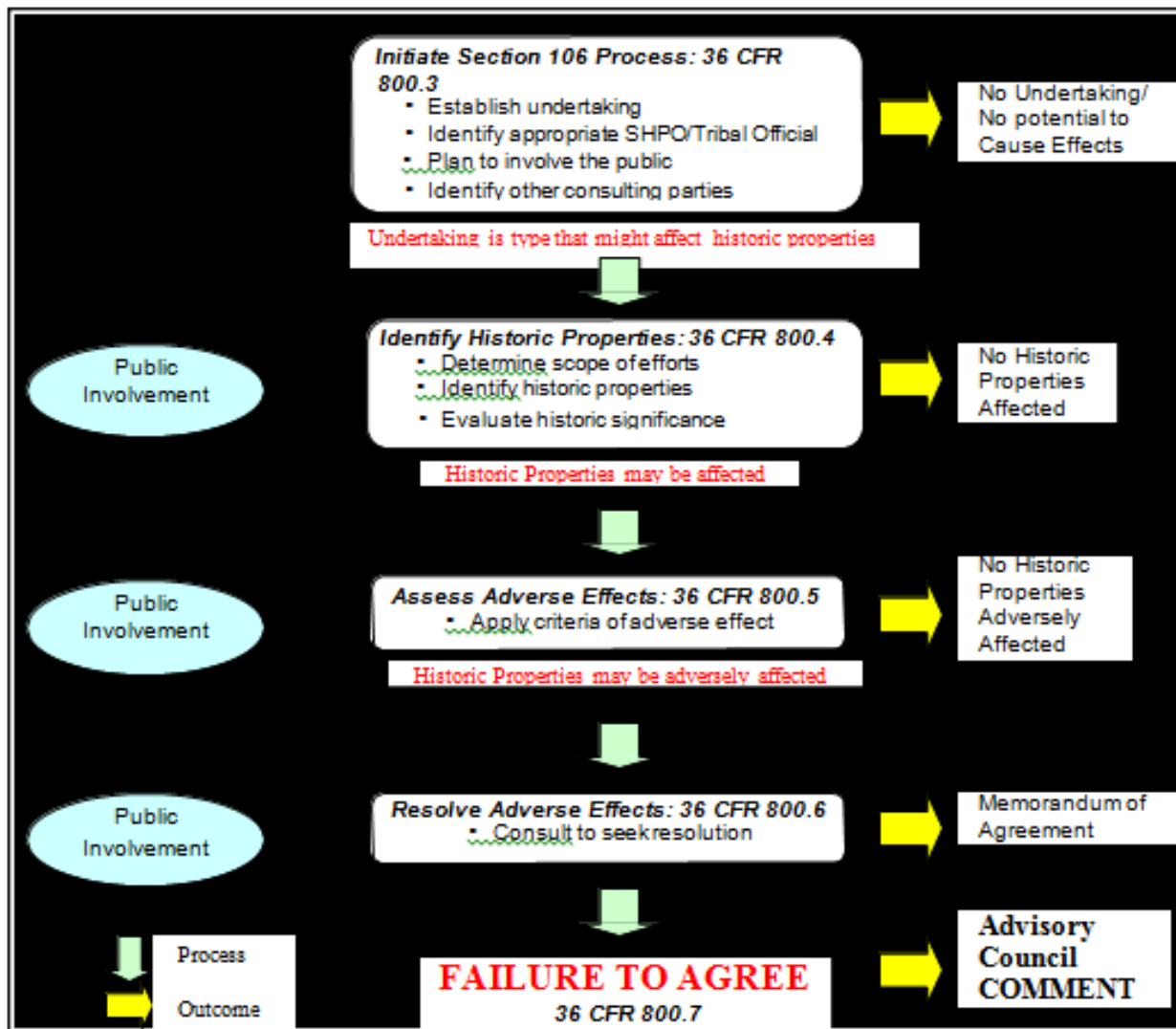
42.1 – Exhibit 01--Continued

Program	Actions
Recreation	• Facilities operations and improvements • New recreation facility construction • Trail maintenance, reconstruction and construction • Recreation special use permit issuance
Transportation	• Road maintenance, reconstruction and construction • Bridges, culverts and structural improvements • Travel management planning (route designation) and implementation
Vegetation	• Hazardous fuel reduction • Noxious weed abatement • Special Forest products • Timber management to benefit various resources
Watershed and Fisheries	• Channel and structural improvement • Riparian improvement and enhancements • Road and trail rehabilitation • Fisheries habitat improvements
Wilderness and Wild and Scenic Rivers	• Wilderness operations and improvements • Wild and Scenic Rivers operations and improvements
Wildlife	• Wildlife exclosures • Habitat improvement (see Vegetation) • Wildlife food plot construction and maintenance • Wildlife pond construction

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42.1 – Exhibit 02

NHPA Section 106 Compliance and Review Process Flow Chart



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42.11 – Determine an Undertaking’s Potential to Affect Historic Properties

For related direction see section 800.3 of Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties.

Determine the undertaking’s geographic Area of Potential Effect (APE). The APE includes the land area to be directly disturbed by the proposed undertaking and any outlying areas that are used to stage or implement the project, such as for parking and maintaining heavy equipment. The APE could also include areas indirectly affected by visual, audible, or other intrusions (see sec. 42.14).

Unless alternate procedures are in place, initiate formal consultation with the SHPO if the proposed Agency action is an undertaking and has the potential to affect historic properties. Include, at a minimum, the following information in a formal letter to SHPO:

1. Description of the proposed or authorized undertaking.
2. The area of potential effect (APE), using maps and photographs, if applicable.
3. Known cultural resource information for the APE gathered from previous surveys, recorded sites, ethnographic information, existing data reviews, and other resources.

42.12 – Report the Results of Identification and Evaluation

For related direction see 36 CFR 800.4.

Follow identification and evaluation procedures and guidelines in FSH 2309.12, chapter 30, sections 32 and 33. Prepare a project inventory (identification) report whether or not cultural resources are found within the APE.

Document negative inventories either through standard NHPA Section 106 consultation with the SHPO or according to procedures in programmatic agreements. Negative inventories do not require National Register evaluations or assessment of project effect. Upon receipt and review of negative inventory documentation by the SHPO and any other consulting parties as appropriate, NHPA Section 106 compliance requirements have been met.

When cultural resources are identified within the APE, the resulting project inventory and evaluation report should include, at a minimum, the following information in a report to the SHPO and Indian Tribes (as appropriate) signed by the Agency Official:

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1. Description of the undertaking, its location and setting, and its overall potential to adversely affect historic properties within the APE.
2. Description of identification method used, including the scope and intensity of a field survey if applicable. Include maps and photographs as necessary.
3. Description of newly identified cultural resources within the APE. Include maps, drawings, and photographs as necessary.
4. Description of previously recorded cultural resources within the APE. Include references to previous investigations, reports and recommendations, along with any new information collected while revisiting these resources.
5. Determinations of National Register eligibility of cultural resources within the APE, using the criteria at section 60.4 of Title 36, Code of Federal Regulations, Part 60 – National Register of Historic Places.
6. Assessment of adverse effects to each historic property or unevaluated cultural resource identified in the APE (see sec. 43.13).
7. Recommendations for cultural resource protection and treatment.
8. Forest or Grassland Heritage Program Manager review and signature.
9. A formal cover letter prepared in the Forest Service Correspondence Database with an Agency Official signature that briefly summarizes the findings and recommendations in the report.

When there is a disagreement between the SHPO and the Forest Service regarding National Register eligibility, consult the Keeper of the National Register for a final determination. Initiate consultation with the Keeper in a formal letter that includes at a minimum:

1. Determination of National Register eligibility for the cultural resource in question.
2. Copies of correspondence between the Forest Service and the SHPO that illustrate the difference of opinion.
3. Request for a final determination of eligibility for the cultural resource in question.

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42.13 – Assess Adverse Effects

For related direction see 36 CFR 800.5.

Upon completion of evaluation of cultural resources within the project APE, apply the Criteria of Adverse Effect in 36 CFR 800.5(a) (1) to historic properties and unevaluated cultural resources. Consider direct, indirect, and cumulative impacts.

A finding of no adverse effect is appropriate when none of the undertaking's anticipated effects meet the criteria of adverse effect or, after consultation with the SHPO and Indian Tribes, as appropriate, the Forest Service agrees to modify the undertaking to avoid adverse effects. Upon receipt and review of no adverse effect evaluation documentation by the SHPO and any other consulting parties as appropriate, NHPA Section 106 compliance requirements have been met.

A finding of adverse effect is appropriate when one or more of the undertaking's anticipated direct or indirect effects meet the criteria in 36 CFR 800.5 (1), including physical destruction; alteration; removal; change; introduction of visual, atmospheric, or audible elements; neglect; or transfer, lease, or sale.

Propose findings of no adverse effect or adverse effect to historic properties within the APE, following 36 CFR 800.5.

Coordinate with Project Planners to identify opportunities to protect cultural resources through integrated project activities. In the early stages of planning, modification of the undertaking is often possible to avoid affecting a historic property or unevaluated cultural resource. This is most often the case when the planning area is sufficiently large to accommodate a change without altering the overall project intent.

42.14 – Resolve Adverse Effect

For related direction see 36 CFR 800.6.

There are no standard protection or mitigation measures or treatments to resolve adverse effect for every type of project or class of cultural resources. Resolve adverse effect through consultation with the appropriate Agency Official, Project Planners, other Heritage professionals, Agency Resource Specialists, the SHPO, and Indian Tribes as appropriate.

When an undertaking will adversely affect a historic property or an unevaluated cultural resource, prepare documentation that includes at minimum:

1. Description of the project and implementation schedule, including maps and designs.
2. Description of cultural resource identification methods used.

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3. Description of the affected historic properties.
4. Assessment of project effect per 36 CFR 800.5(a)(1) and discussion of alternatives.
5. Proposed treatments or mitigation measures, which are:
 - a. Forest Service-formulated or Forest Service-approved.
 - b. Commensurate with the nature and significance of the historic properties involved and the extent of possible effects.
 - c. Consistent with standardized treatments in programmatic agreements for specific property types, when applicable.
6. Correspondence with SHPO, Indian Tribes, the Advisory Council, and other interested parties.

A project report and, in some cases a Memorandum of Agreement (MOA) signed by the Agency Official, SHPO, and Advisory Council, identifies the range of adverse effects and mutually agreed upon methods to protect cultural resources and mitigate the adverse effects of the undertaking. At a minimum, the Memorandum of Agreement would include:

1. Project name, location, jurisdiction, description, and schedule.
2. Summary description of project effects on cultural resources.
3. National Register status of affected cultural resources.
4. Agency mitigation measures-treatment stipulations.
5. Agency project monitoring and reporting requirements.
6. Signatures.
7. Other project information as appropriate (appended maps, designs).

The Agency Official and the SHPO are signatories. Consult 36 CFR 800.6 for guidelines on other signatories including the Advisory Council, Indian Tribes, land use applicants, local governments, and other interested parties. Send a copy of the MOA to the Advisory Council if they decided not to be a signatory earlier in the process.

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Execution of an MOA constitutes completion of the NHPA Section 106 process provided that:

1. All mitigation measures-treatment stipulations are implemented.
2. Cultural resources are monitored during project activity, if it is specified in the MOA.
3. Mitigation-treatment effectiveness is documented.
4. Cultural resource record(s) are updated to reflect any change in site condition or setting as a result of the project.
5. The results of the project activity and mitigation effectiveness are reported to the Agency Official, SHPO, and Indian Tribes as appropriate.

Use one or more of the following protection and mitigation methods. Incorporate protection and mitigation measures in project plans, contract clauses, and other relevant planning and implementation documents as appropriate. Ensure that those involved in project implementation are aware of any protection and mitigation measures by participating in pre-work meetings and on-site visits when necessary.

42.14a – Protection through Avoidance

Modify the project APE to reduce or eliminate direct and indirect project effects on cultural resources. This is usually the easiest protection method and is typically called “site avoidance”. Modification of the project APE is a mutual decision of the Heritage professional, Project Leader, and Agency Official.

Adjust the APE boundaries to ensure that the affected cultural resource(s) lies completely outside the area of project activity. Cultural resources may be marked for avoidance using flagging, tags, signs, marking paint, or other methods appropriate to specific areas. Ensure that cultural resource identification is not confused with other project area marking, such as timber stand or streamside zone flagging.

Develop protocols to safeguard cultural resource location information while allowing for effective communications between Project Managers and Heritage professionals. Assist Project Planners, Contracting Officers, and other project personnel involved to ensure that cultural resources are clearly part of the project design, implementation plan, and contract stipulations, as appropriate.

Monitor cultural resources during and after the project to assess and document mitigation treatment effectiveness.

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42.14b – Protection through Alternative Methods

There are no standard protection or mitigation measures for every type of undertaking or class of cultural resources. Use alternative physical and administrative protection methods when site avoidance through project modification is not prudent or feasible. Develop alternative protection methods in consultation with Agency Resource Specialists, the SHPO, and Indian Tribes when appropriate. Physical conservation measures, which maintain cultural resource integrity, are preferable to relocation and data recovery.

Alternative methods vary depending on the cultural resource involved, the type of project activity, and the outcome of SHPO, Tribal, and public consultation. Stipulate alternative methods in programmatic agreements or project memorandum of agreement as appropriate. Some examples of alternative protection methods include:

1. Protect a subsurface cultural resource by removing timber when the ground is frozen, under specified snowfall and temperature conditions.
2. Protect a subsurface cultural resource by conducting low-energy prescribed burns under specified fuels and weather conditions.
3. Cover or cap a subsurface cultural resource with filter cloth and a specified amount of soil that is compacted to a specific standard. See section 44.27 for additional guidance and cautions.
4. Designate specific portions of a dispersed historic property where certain project activities would not affect physical features of the property. For example, allow timber skid trails in portions of a historic mining district where no physical features contributing to the historic value of the property exist, and the activity will not affect surface or subsurface artifacts.
5. Allow light treatments within certain areas of historic properties. For example, allow hand-trimming of tree limbs and brush as part of a hazardous fuels reduction project or light burning to remove fuel.

42.14c – Data Recovery

Use data recovery to resolve (mitigate) adverse effects at prehistoric and historic archaeological sites when they are threatened by unavoidable physical destruction or damage and when preservation in place is not practical or feasible. Data recovery involves the recovery of significant archaeological information through controlled excavation and other scientific recording methods. It may be applied to structures and ruins. Examples:

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1. Data recovery of a prehistoric occupation on Federal land as resolution of adverse effect for a proposed land exchange between the Forest Service and a private landowner.
2. Data recovery of a historic homestead for construction of a boat launch in a popular river corridor where alternative launch sites are unfeasible due to terrain and other environmental constraints.

Proposals to use data recovery require the SHPO, Advisory Council, and Tribal review and consultation. A Memorandum of Agreement is a prerequisite for recovery of significant information and resolution of adverse effect.

Issue a Permit for Archaeological Investigations for cooperators or contractors conducting data recovery for Forest Service or Forest Service-authorized projects. A permit may be issued under the Archaeological Resources Protection Act of 1979 as amended (ARPA) (16 U.S.C. 470aa- mm) in addition to a contract, or the permit requirements may be incorporated into the contract stipulations. See FSM 2367.15 for additional direction.

Follow the Secretary of the Interior's Standards for Archaeology and Historic Preservation, the Advisory Council on Historic Preservation's Section 106 Archaeology Guidance (<http://www.achp.gov/archguide/>), Regional or State guidelines, and any applicable programmatic agreements.

Since, in most cases, the prehistoric or historic archaeological property will be partly or completely destroyed as it is excavated-investigated, data recovery should be based on these principles:

1. The site is primarily significant for its information value.
2. The site does not contain or is unlikely to contain human remains and items protected under the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.), otherwise known as NAGPRA items.
3. The site does not have long-term preservation value, such as traditional or cultural importance to Tribes, and does not possess special significance to an ethnic group or community.
4. The site is not valuable for permanent in-situ display or public interpretation.
5. A research design-data recovery plan has been prepared by the Agency Official in consultation with the SHPO/ Tribal Historic Preservation Officer (THPO).

Data recovery plans may be developed by Forest-Grazland Heritage professionals in consultation with the SHPO/THPO, or by cooperators/contractors in consultation with the Forest-Grazland Heritage professionals and the SHPO/THPO.

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Data recovery plans must be developed in accordance with current research issues, research methods, and analytical techniques, as identified in the academic and cultural resource management (CRM) literature; Regional and State historic contexts; and Forest-Grassland cultural resource overviews and Heritage Program plans. Seek peer review of data recovery plans when necessary.

A data recovery plan should, at a minimum, describe:

1. The property, properties, or portions of properties where data recovery will be carried out.
2. Any property, properties, or portions of properties that will be destroyed or altered without data recovery.
3. Specific kinds of data that will be collected in response to the research questions-problems addressed through data recovery, with an explanation of their relevance and importance.
4. The proposed field and laboratory analysis methods with an explanation of their relevance to the research questions.
5. The proposed methods for data management and dissemination of data, including a schedule.
6. The proposed disposition of recovered materials and records.
7. Project schedule, including progress reports and deadlines.

Follow Historic American Building Survey (HABS), or Historic American Engineering Record (HAER) or Historic American Landscape (HALS) Standards or standards in a programmatic agreement or project memorandum of agreement when documenting buildings and structures. HABS, HAER, and HALS are national archival programs that gather drawings, photographs, and documentation for architectural and engineering works.

Data recovery costs are borne by either the Forest Service program area responsible for the undertaking or the land use applicant. Because of the time commitment and frequently the need for specialized services, data recovery and HABS/HAER/HALS recordation is often done under contract with a qualified consulting firm.

Actively monitor all data recovery work, analysis, and reporting to ensure that the terms of the MOA are met, and that all Forest/Grassland requirements and contract stipulations, as applicable, are followed.

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42.2 - Discovery of Human Remains

For related direction see FSM 2361.3, FSM 2364.1, and chapter 10, section 13.4 of this Handbook.

Heritage professionals are often the first point of contact when human remains are discovered on National Forest System land. Advise the Agency Official to follow State burial laws or protocols. In general, these guidelines will apply:

1. Treat all human remains with dignity and respect.
2. Leave human remains in place; secure the area; and stop project activity as necessary until a plan of action is developed.
3. Promptly notify Forest Service Law Enforcement, the SHPO, the appropriate Indian Tribe(s), and the County Coroner/Medical Examiner, who will officially determine the nature of the remains (forensic or archaeological).
 - a. If the remains are not forensic and non-Native American, leave the remains in place until a plan for avoidance (in place preservation) or removal is developed. Consult with the SHPO and other interested parties as appropriate.
 - b. If the remains are not forensic and Native American, follow NAGPRA regulations at Section 10.4 of Title 43, Code of Federal Regulations, Part 10 - - Native American Graves Protection and Repatriation Regulations or pre-negotiated inadvertent discovery protocols. Notify the appropriate Indian Tribe(s) by telephone followed by written confirmation as soon as practicable.
 - c. If the remains are forensic, Forest Service Law Enforcement and/or the County Coroner/Medical Examiner take control of the situation.

43 – PROTECTION FROM UNAUTHORIZED USE AND ENVIRONMENTAL DAMAGE

For related direction see FSM 2364.2.

Unauthorized use includes deliberate cultural resource vandalism, illegal excavation (looting), arson, demolition, and other illegal activities. Inadvertent human-caused damage to cultural resources is also unauthorized use.

Environmental damages includes natural processes and events such as aging and weathering, erosion, mass slumping and slides, vegetation encroachment, flooding, hurricanes, hazardous spills, high-wind events, and wildfire.

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43.1 – Investigation of Unauthorized Uses

Investigation of unauthorized uses requires specialized training and coordination with Law Enforcement Officers (Special Agents). A vandalized or looted site is a crime scene. The Heritage professional assists Law Enforcement in the investigation of the crime. Ensure that Heritage professionals assisting Law Enforcement have the formal training to assist in crime scene investigation, site damage assessment, and courtroom procedures as necessary. Refer to Zero Code 06, Exhibit 06.5 - 01 for recommended skills.

Apprise the appropriate Agency Official of the status of active investigations and damage assessment as requested by the Law Enforcement Officer in charge and the U.S. Attorney's Office. Inform Indian Tribes and SHPOs of casework on a need-to-know basis.

Label, catalogue, and curate all artifacts seized during the course of a law enforcement investigation and prosecution. Artifacts remain the property of the defendant until the case is officially adjudicated and artifacts are released to the Forest Service. Following case adjudication, artifacts with known Forest Service provenience should be included with the appropriate site collection. Artifacts lacking site-specific provenience may be used for educational purposes and interpretive displays following case adjudication.

Documentation of cultural resource damage, law enforcement investigations, and Federal prosecutions can be complex and time consuming, especially when these activities involve other public lands and land management agencies. Coordinate with the Agency Official(s) and Law Enforcement Officers to identify Heritage Program workload commitments and funding needs for cultural resource damage assessments, forensic analyses assigned by Law Enforcement (for example, processing of seized collections), SHPO-Tribal consultation as appropriate, and related activities. See section 42.2 for general guidelines to follow if human remains are encountered.

43.2 – Site Damage Assessment

Document unauthorized use and damage to a cultural resource in a site damage assessment to establish the amount of damage to a cultural resource and set criminal and civil penalty amounts in accordance with ARPA Section 7(a)(1-2) and Title 36, Code of Federal Regulations, Part 296 – Protection of Archaeological Resources: Uniform Regulations. The Forest Service Special Agent, the U.S. Attorney, and/or the Agency Official make the decision to pursue casework.

Follow Society for American Archaeology Professional Standards for the Determination of Archaeological Value (2003), NPS Technical Brief 20 – Archaeological Resource Damage Assessment: Legal Basis and Methods, and existing Regional or Forest/Grassland site damage assessment guidelines. Model the site damage assessments after successful examples from other Forest Service administrative units and agencies. Consult National and Regional experts in cultural resource damage assessments as necessary and appropriate.

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A site damage assessment includes:

1. Incident background.
2. Description of affected cultural resource, including its importance.
3. Qualitative and quantitative assessment of damage.
4. Application of ARPA criteria.
5. Description of resource values lost (archaeological and commercial values).
6. Research design and data recovery plan.
7. Damage amount calculation, as based on the data recovery plan.
8. Restoration and repair needs.
9. Maps, drawings, and photographs.

When a cultural resource violation is recent and under active investigation, site damage assessment is usually done in coordination with Forest Service Law Enforcement Officers (Special Agents). A complete damage assessment is needed, per the listed items. Treat as confidential all site damage assessment and related forensic work during an active investigation. Maintain a chain of custody on all artifacts and evidence.

Do not share the site damage assessment or file information until after the case is fully adjudicated. However, with the prior approval of the Special Agent and U.S. Attorney, the Heritage professional should seek peer review of the damage assessment by archaeologists that have prior experience, and Tribal liaisons that may have special knowledge to convey on the damage to cultural values.

When a cultural resource violation is old and an active investigation is not underway, a complete damage assessment (determination of resource values, research design, and data recovery plan) and Law Enforcement involvement are not necessary. In this case, field documentation may include field description and photographs of site damage, and recommendations for stabilization, monitoring, or other protection measures.

Include all site damage assessment data with the corresponding cultural resource record and update the Heritage NRM database to reflect both old and newly reported damage.

Submit site damage assessment data to the National Park Service Listing of Outlaw Treachery (LOOT) Clearinghouse and include relevant information regarding the incident in the Secretary of the Interior's Report to Congress on the Federal Archeology Program. Report all site damage in annual reports when it is a State or programmatic agreement requirement.

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43.3 – Damage to Unevaluated Cultural Resources

Complete a National Register Determination of Eligibility of a damaged cultural resource as time and the situation permit, to establish its scientific, historical, or cultural values, and legal significance under NHPA.

National Register eligibility is not necessary for a cultural resource to be the focus of a law enforcement investigation; however, it may play a role in explaining resource values during case investigations and judicial proceedings.

43.4 – Using the Appropriate Legal Statute

Advise the Agency Official, Special Agent, and U. S. Attorney, as requested, regarding appropriate legal statutes for unauthorized use, excavation, removal, damage, alteration, defacement, or illegal transport of cultural resources.

43.41 – Archaeological Resources Protection Act

For related direction see ARPA (16 U.S.C. 470aa-mm), 36 CFR 296, Title 43, Code of Federal Regulations, Part 7 – Protection of Archaeological Resources, and FSM 2364.22.

Apply the following criteria to determine if ARPA is the appropriate legal authority for a cultural resource damaged by unauthorized activity:

1. The archaeological resource is located on Federal or Indian lands.
2. The remains of past life or human activity are at least 100 years old.
3. The remains are of archaeological interest.
4. The unauthorized activities meet the definition of prohibited acts in 36 CFR 296.4.
5. The activity was not otherwise authorized in a Permit for Archaeological Investigation. Artifacts obtained illegally and transported across State lines fall under the interstate artifact trafficking provisions of ARPA.

When violations of the Act are committed knowingly, the criminal provisions of ARPA apply. The Special Agent and U.S. Attorney make the decision to pursue criminal prosecution. Example: A person purposely excavates an ancient habitation site to obtain artifacts for trade, sale, or personal use.

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When violations are committed unknowingly, inadvertently, or negligently, the civil provisions of ARPA apply. The Forest Supervisor makes the decision to pursue civil penalties, and shall first ensure that civil penalties are not assessed if an active criminal investigation or prosecution is underway. Example: A utility company constructs a short segment of road across National Forest land to access private property and inadvertently disturbs a cultural resource.

The process involved in a civil ARPA case is the same as described above for a criminal case. The Heritage professional conducts a field assessment, writes a report showing that the elements of ARPA have been met, and prepares a Site Damage Assessment. A Notice of Violation and Proposed Penalty is prepared by the Forest Supervisor, assisted by Agency counsel, the Heritage professional, and the Special Agent. A civil violation of ARPA is a strict liability offense meaning that proof of intent is not required. Refer to ARPA and its implementing regulations at 36 CFR 296 for criminal and civil penalties, monetary restitution, and other provisions.

Consult the published site protection and ARPA literature (Elise Foster, NPS and Intermountain Region, Forest Service, 2007. Using ARPA Civil Penalties to Protect Archaeological Resources on Public and Indian Lands).

43.41a – Archaeological Resources Protection Act Exemptions

ARPA implementing regulations at 36 CFR 296 exclude paleontological remains, coins, bullets, and un-worked minerals and rocks from material remains of archaeological interest covered by the Act, unless these items are found in a direct physical relationship with archaeological resources as defined in the Act. However, the Antiquities Act and other statutes discussed below still apply.

The criminal and civil penalties provisions in ARPA do not apply to removal of arrowheads located on the surface of the ground unless these items are found in direct physical relationship with archaeological resources as defined in the Act. However, other statutes and regulations do apply if the resource was located on Federal or Indian land.

43.42 – Other Federal Statutes and Regulations Regarding Damage, Theft, or Destruction of Government Property

Other Federal statutes and regulations cover unauthorized activity involving theft and damage of property including cultural resources and also establish penalties, including fines and incarceration. The Agency Official on the advice of Heritage and Law Enforcement Specialists may pursue theft and/or damage under these regulations in addition to ARPA or instead of ARPA when the illegal activity does not meet one or more of the ARPA criteria.

The Antiquities Act of 1906 (16 U.S.C. 431-433), is a general statute that provides for permits, for misdemeanor-level penalties for unauthorized use, and for presidential designation of national monuments for long-term preservation. The Archaeological Resources Protection Act has replaced the Antiquities Act as the authority if the resource involved is 100-years-old or

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greater. Uniform regulations at Title 43, Code of Federal Regulations, Part 3 – Preservation of American Antiquities, implement the Act. Use caution when using the Antiquities Act to cite theft or damage. The Ninth Circuit Court of Appeals declared some of its provisions constitutionally vague in 1974.

Theft of Government Property (18 U.S.C. 641), is a general statute that applies to Government property that has been stolen. Section 1632 specifically applies to the protection of Government property in National Parks and National Forests and Grasslands.

Damage to Government property (18 U.S.C. 1361), is a general statute that applies to actual destruction of Government property. It protects "any property" of the United States from willful depredation or attempted depredation, which is characterized as the act of plundering, robbing, pillaging, or laying waste.

Title 36 CFR 261.9 (g) and (h) are General Prohibitions on National Forest System lands that prohibit theft and/or damage of any prehistoric, historic, or archaeological resource, structure, site, artifact, or property.

43.43 – Native American Graves Protection and Repatriation Act (NAGPRA)

For related direction see NAGPRA (25 U.S.C. 3001et seq.) and 43 CFR Part 10.

Apply NAGPRA when a violation involves illegal trafficking of American Indian human remains and their associated funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA establishes penalties including fines and incarceration.

44 – ADMINISTRATIVE PROTECTION AND CONSERVATION MEASURES

Prior to implementing administrative measures to protect cultural resources from damage or destruction, complete a vulnerability or risk assessment to determine the most appropriate indirect or direct protection measures.

The Agency Official shall authorize all administrative measures, which may also require review and evaluation by other Agency staff including Law Enforcement Officers and other Resource Specialists. The Heritage Program may be responsible for some or all of the associated implementation and administrative costs, depending on what is causing the need for protection.

44.1 – Administrative Protection Measures

For related direction see FSM 2364.35.

Sometimes referred to as indirect protection measures, administrative protection measures are those that do not physically affect the historic property, but protect it from harm through limited access, increased presence, or heightened security.

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44.11 – Withdrawal

Use administrative withdrawals to withhold an area from settlement, sale, location, or entry under the general land and mining laws where applicable. Administrative withdrawal allows transfer of jurisdiction to other Federal agencies. Example: Withdraw Forest Service-managed canyon lands containing extensive galleries of American Indian rock art from mineral leasing.

44.12 – Closure to Public Access

Close areas to public use, travel, or certain activities to protect cultural resources. Public lands may be designated as indefinitely limited or closed to the use of motor vehicles.

Examples:

1. Close an area to motor vehicle use to protect vulnerable prehistoric stone “medicine wheel” alignment atop a mountain ridge.
2. Close an area known to contain Civil War battle and skirmish sites to metal detecting.
3. Close an area containing a recently-discovered, highly-significant, and sensitive cultural resource site to all public use until proper measures can be put in place to ensure its protection.

44.13 – Special Designations

Nominate cultural resources to the National Register of Historic Places and other special designations such as National Historic Landmark (NHL) or National Historic Trail (NHT) to recognize and reinforce their special management status (36 CFR Part 60; FSM 2364.41). Example: Nominate a trail in continuous use for 2,000 years to the National Register and develop a Historic Property Plan to guide its management.

44.14 – Land Acquisition and Easements

Acquire non-National Forest System lands through land exchange, purchase, deed, or easement to maintain the integrity of a historic property on adjacent National Forest System lands or to provide buffer areas. Easements are authorizations for non-possessory, non-exclusive use of lands. The Forest Service may acquire an easement to ensure administrative access to a historic property for patrolling, monitoring, or other purposes. Example: Purchase private land containing a portion of an early 19th Century military fort ruin that is partly located on National Forest System lands, and develop a Historic Property Plan to develop it as an interpretive site and arrest further decay of the ruins.

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44.15 – Cooperative Law Enforcement

Conduct regular patrols and surveillance to protect cultural resources. Because of vast geographic distances and limited resources, cooperate and coordinate these activities with other Federal, State, and local agencies and law enforcement personnel. Use vehicle and foot patrols, aerial fly-overs, and surveillance and detection equipment. Prepare and share site vulnerability-sensitivity maps to show where cultural resources are most vulnerable or at risk. Example: Implement systematic patrols by the BLM, Forest Service, and the County Sheriff's office in an area containing remains of prehistoric villages and human burials that is frequented by artifact collectors.

44.16 – Public Education and Awareness

Inform and educate the public, including local media, about local cultural resources to encourage a conservation ethic, ensure compliance with use restrictions, and decrease vandalism, looting, and other depreciative behaviors. Example: Involve qualified local site stewards and volunteers in monitoring of vulnerable or sensitive cultural resources.

44.2 – Direct Protection Measures

For related direction see FSM 2364.36.

Direct protection includes measures applied to the property itself, methods that restrict or discourage public access to a property, or actions that highlight a property's importance, and thereby encourages greater respect and concern for its preservation. Direct protection measures should consider the overlay of management area direction and guidance.

Consult with the SHPO, Indian Tribes, and other interested parties if direct protection measures modify the affected historic property in any way. Some measures will require interdisciplinary review and some level of environmental (NEPA) analysis and documentation. Direct protection measures include but are not limited to those identified below.

44.21 – Stabilization, Rehabilitation, Restoration, Interpretation, and Adaptive Use

Stabilize, rehabilitate, and restore historic properties and unevaluated cultural resources to address structural and maintenance problems and to prepare historic properties for public enjoyment, education, and beneficial use. When possible, engage volunteers through Passport in Time or other Windows on the Past programs in these projects, to foster a sense of ownership in the preservation and care of historic properties.

Continued use and Agency-public presence is the best protection measure against natural and human-caused degradation to a historic property. Choose adaptive use as the first option for

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protection and maintenance of a historic structure before more potentially invasive protection methods such as relocation. Example: Restore a historic lookout tower to preserve its history and include it in the Forest Service Recreation Rental program to provide for public use and to fund its continued maintenance.

When adaptive use is not practical, consider actions to interpret historic properties to further their preservation. Example: Provide materials for a self-guided interpretive trail along a historic railroad route with portions of the railroad grade and other features still visible.

44.22 – Relocation

Relocate especially vulnerable or threatened historic properties and unevaluated cultural resources when protection in place is not feasible. Example: Relocate a historic lookout tower to a Forest Service Visitor Center or the grounds of an active Ranger Station and provide interpretation and exhibits for visitors

If context is not critical to the property's inherent value, relocation may have minimal effect. In most cases however, relocation will adversely affect the property's cultural or historic value. Consult with the SHPO, Indian Tribes, and interested parties through the NHPA Section 106 process prior to relocation.

Relocation of a historic property listed on the National Register will result in the removal of that property from the National Register unless specific procedures described in 36 CFR 60 are followed.

44.23 – On-Site Administrative Signing

Install on-site administrative signing, identifying the protection afforded by law (ARPA, and/or other statutes), when active or potential vandalism threatens a cultural resource. If the cultural resource is in a frequently visited area, interpretive signs may also act as a deterrent to vandalism and promote a conservation ethic.

The placement of interpretive signs should not intrude on the property's setting. In the case of remote areas where interpretation is not present, administrative signs should not draw unwarranted attention to cultural resources. Monitor and routinely replace administrative or interpretive signs that are frequently vandalized or removed. If this depreciative activity is representative of a larger management problem, more frequent law enforcement presence and other measures may be necessary. Example: Install an interpretive sign adjacent to a historic recreation rental cabin which includes a strong protection and law enforcement message.

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44.24 – Physical Barriers

Install fences, gates, or rock alignments alone or in combination with other methods to restrict public access and motor vehicles. Select designs and materials that do not pose unwarranted intrusion on the cultural resource.

Like administrative signs, physical barriers may encourage rather than abate depreciative behavior including attempts to remove cultural resources by aggressive force. Install barriers at enough distance from the cultural resource to discourage such behavior. Consult with Forest Service Engineering, Recreation, and other staffs to determine what works best in each situation.

Examples:

1. Construct a rail fence to keep off-highway vehicles from a meadow containing the archaeological remnants of an 18th Century farm.
2. Construct a fence around an interpreted historic homestead, using a style that is in keeping with the historic period of the homestead, such as a worm fence.

44.25 – Erosion Control-Stabilization

Implement erosion control measures to reduce or eliminate the effects of natural erosion from flooding, seepage, surface water run-off, and wind on historic properties and unevaluated cultural resources. When possible, implement erosion control measures off site, that is, upstream to limit disturbance to the cultural resource. Off-site erosion control measures are also generally less costly than those within the cultural resource boundary.

Erosion control measures include abutments and cribbing to prevent a cultural deposit from slumping or collapsing, diversions and check dams to route water around a site, re-contouring a slope and planting vegetation to prevent run-off, and creating windbreaks.

Consult with other Forest Service Specialists, including Hydrologists, Soil Scientists, Fisheries Biologists, and Engineers, to determine the appropriate method on a case-by-case basis. Implementation of erosion control projects to protect historic properties and unevaluated cultural resources may require administrative, National Environmental Policy Act of 1979 (NEPA) (42 U.S.C. 4321-4347), and NHPA Section 106 review depending on their location and potential effects on other resources. Erosion control frequently benefits multiple resources. Example: Construct a rebar and boulder retaining wall in a stream channel to prevent undercutting and erosion of an adjacent prehistoric masonry ruin.

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44.26 – Vegetation Management

Reduce vegetation to create defensible space around historic structures of wood or other combustible materials to protect them from wildfire or controlled burns. Creating defensible space also often maintains the visual integrity of a historic structure.

In those areas of the country where rapid natural re-seeding, seasonal re-sprouting, and thick shrub-layer development are not an issue, consider reducing vegetation on or adjacent to a historic property or unevaluated cultural resource with buried archaeological materials to avoid or minimize disturbance by encroaching tree roots or the threat of wind-thrown timber that exposes roots and artifacts.

Decaying stumps and roots from trees and large shrubs removed from mounds and earthworks can result in adverse effects of slumping, erosion, and soil deflation. Consult with the SHPO, Indian Tribes, and interested parties through the NHPA Section 106 process prior to removing vegetation on a historic property or unevaluated cultural resource.

Projects to remove forest vegetation will usually require interdisciplinary review and NEPA analysis.

Examples:

1. Removing small-diameter timber surrounding a historic Ranger Station to reduce the amount of hazardous fuels and the corresponding threat of wildfire.
2. Use low intensity fire to remove brush and fuel on a buried archaeological site located in an area regularly burned-over in the past.

44.27 – Covering and Camouflage

Cover or camouflage cultural resources to protect them from unmanaged or unauthorized use. Some kinds of archaeological sites can be hidden from public view by capping them with a layer of soil, screening them with vegetation, or otherwise obscuring them on the landscape.

Record site boundaries and content prior to capping the site with a layer of soil. Recognize that capping may alter soil chemistry or have other unintended effects, so use this method judiciously. Place a filter cloth or a similar durable fabric between the archaeological deposit and the soil. Consult with the SHPO, Indian Tribes, and interested parties through the NHPA Section 106 process prior to burying or capping a site with soil.

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Vegetation screening is less invasive and can be effective for certain kinds of cultural resources. Both covering and camouflage are most effective in combination with other protection measures at highly sensitive or threatened sites. Example: Plant trees and bushy vegetation in front of a small cave containing intact buried cultural deposits to limit visibility and discourage public use, if increased fuel loading and fire potential will not threaten the site.

44.28 – Data Recovery

Data recovery may take many forms depending on the type of historic property, its physical condition, and management need or purpose. It may mean detailed architectural recordation (HABS/HAER/HALS), archaeological excavation, surface collection, or other measures to recover data from a property before it is lost through adverse effects of an undertaking, natural processes, or unauthorized human activity.

Archaeological data recovery may be appropriate when other protection measures are not adequate or feasible to protect and conserve the integrity and value of a historic property over the long-term. Consult with the SHPO, Indian Tribes, and interested parties through the NHPA Section 106 process prior to data recovery. See Section 42.14c of this Handbook for additional information. Example: Conduct data recordation, including mapping and excavation, of an early 19th Century farm, which is rapidly disappearing due to vandalism despite concerted monitoring and law enforcement efforts.

45 – WILDFIRE AND NATURAL DISASTER RESPONSE

Response to wildfire and natural disasters requires specialized and recurrent training. Coordinate with other Fire and other emergency resource staffs to identify the skills, training, or experience necessary and ensure that Heritage professionals assisting in disaster response have the required qualifications. Unqualified Heritage professionals may not participate in most fire and emergency field assignments.

Refer to Resource Advisor's Guide for Wildland Fire (2004) published by the National Wildfire Coordinating Group. Heritage professionals work under the direct authority and supervision of Incident Command Teams (ICT) or similar emergency organizational structures.

Response to wildfire and natural disasters is subject to NHPA Section 106 review, but generally necessitates expedited review. Follow the guidelines at 36 CFR 800.12 – Emergency situations, which describe procedures used for any undertaking that is implemented within 30 days after the disaster is formally declared by the appropriate authority.

Follow existing programmatic agreements, direction, and policies that define NHPA Section 106 roles, responsibilities, and protocols in response to wildfire and natural disasters. These protocols usually define consultation requirements with SHPO and Tribes during and after emergency response.

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Fire suppression and natural disaster recovery efforts sometimes spill over to private lands adjacent to National Forest System land. Previously identified (via the SHPO file searches) or newly discovered cultural resources may be recorded to the extent that time and funding allow. Any observed artifacts are private property and should not be collected.

Burned area emergency response (BAER) and long-term recovery projects (trail reconstruction, burnt timber salvage) are also subject to NHPA Section 106 review.

45.1 – Wildfire Preparedness and Response

For related direction see FSM 2364.33.

Evaluate the risk of wildfire and its effects on cultural resources, including historic properties and districts, cultural landscapes, traditional cultural properties, and identified sacred sites during short- and long-range Heritage Program planning. See chapter 20, section 21 of this Handbook.

Participate in the formulation of fire management plans by Forest/Grassland Wildfire Specialists to identify cultural resources of concern in the fire use planning area. Identify cultural resource protection priorities.

Develop emergency response protocols to prioritize and defend historic properties. Ensure those materials (such as fire wrap) identified in protocols for specific types of historic properties are available in readily accessible fire cache locations. Coordinate with Fire Management in this effort.

Provide Land Managers and Incident Commanders with information necessary to protect cultural resources during a wildfire event.

Participate in fire suppression, rehabilitation, and BAER team work to the extent that training and qualifications allow.

Wildfire and Heritage Program activities are outlined in the following exhibit.

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45.1 – Exhibit 01

Wildfire and Heritage Program Activities

Wildfire Situation	Support Activities
Wildfire Preparedness and Prevention	• Assist in preparation of Forest-Grazlands fire management plans • Complete cultural resource vulnerability assessments and identify priorities for protection - o defensible space measures at historic properties - o emergency fire caches for use on historic properties • Complete Section 106 in support of wildfire abatement
Wildfire Response and Suppression	• Participate in Wildfire Situation Assessments - o Identify cultural resources at risk - o Provide protection recommendations • Assist in protection activities as requested by ICT • Implement Agency procedures under 36 CFR 800.12 for formally declared disasters. Follow programmatic agreement protocols and/or notify the Advisory Council and inform the SHPO, Indian Tribes, and local preservation interests of protection activities
Wildfire Suppression Rehabilitation	• Inventory areas impacted by suppression activities • Complete cultural resource damage assessments • Implement protection-mitigation treatments in advance of fire rehabilitation • Inform the SHPO, Indian Tribes, and local preservation interests of rehabilitation activities
Burned Area Emergency Response	• Assess risk to cultural resources vulnerable to hydrologic and other burn-related events • Request expedited review under 36 CFR 800.3(g) • Evaluate fire-affected cultural resources • Implement protection treatments • Monitor for post-treatment effectiveness • Complete Section 106 in support of BAER projects • Inform the SHPO, Indian Tribes, and local preservation interests of BAER activities

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45.1 – Exhibit 01--Continued

Wildfire Situation	Support Activities
Long-term Wildfire Recovery	• Monitor cultural resources • Assess risks to wildfire-exposed cultural resources • Implement protection treatments as necessary • Complete Section 106 in support of post-wildfire activities • Evaluate fire-affected resources for National Register eligibility

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45.2 – Natural Disaster and Declared Emergency Response

Include measures to protect and armor cultural resources, to the extent possible, from natural disaster events in Heritage Program Plans and Historic Property Plans.

Prepare Rapid Assessments (see FSM 2030) in response to natural disasters that harm cultural resources such as severe windstorms, hurricanes, earthquakes, ice storms, and floods. Include at a minimum:

1. Compilation of information about known cultural resources and areas of high probability for cultural resources within the emergency response area.
2. Damage assessments for affected historic properties and unevaluated cultural resources, including PHAs, National Register listed or eligible properties, NHLs, NHTs, and TCPs.
3. Notification and consultation with the SHPOs, Indian Tribes, Advisory Council, and other parties as necessary concerning cultural resource damage and emergency response-recovery plans.
4. Short- (emergency) and long-term protection, rehabilitation, reconstruction, or restoration plans for historic properties and unevaluated cultural resources adversely affected by the natural disaster.
5. Protocols and schedule for completing NHPA Section 106 and Section 110 work in support of recovery and restoration actions.
6. Cost estimates to implement protection measures and to complete related activities.

Hazardous substance spills present unique considerations in addition to the above:

1. Responses may include mechanical recovery (skimmers, booms, and sorbents), *in situ* burning, and use of dispersants, protective booming, covering an area with protective material, construction of berms or trenches, and on-scene inspections, monitoring, and cleanup by response teams.
2. The Heritage professional responding to a hazardous substance spill shall have training in compliance with the standards set at Title 29, Code of Federal Regulations, Part 1910 – Occupational Health and Safety Standards, section 1910.120 -- Hazardous Waste Operations and Emergency Response (commonly referred to as HAZWOP training) and be familiar with the Incident Command System.

When necessary, consider extending declared emergencies beyond 30 days through a programmatic agreement (36 CFR 800.12).

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46 – STEWARDSHIP

For related direction see FSM 2364.4

Recognize historic properties through special designations.

Conserve and maintain historic properties and allow for their continued use for Agency and public benefit.

Identify stewardship goals and objectives in land use plans, Heritage Program Plans, and Historic Property Plans for individual properties or classes of properties (see ch. 20 of this Handbook).

46.1 – Special Designation and Recognition

Nominate cultural resources to the National Register of Historic Places. Assist in seeking National Historic Landmark and National Historic Trail status and other special designations as appropriate. Integrate these cultural resource designations and management guidelines into Forest planning and land use decisions.

46.11 – National Register of Historic Places

National Register-eligible and National Register-listed historic properties are afforded the same legal consideration in Agency planning and management. The decision to formally nominate a historic property to the National Register is contingent on its characteristics, significance, and management allocation.

Follow these guidelines:

1. Consider cultural resources for National Register nomination based on the property's order of importance, allocation recommendation, and long-term plans for retention.
2. Consider nominating properties in groups according to historic or cultural themes or associations. Sometimes a site may not appear to be eligible when considered in isolation but may be eligible as part of a district or group of sites.
3. Do not nominate properties that are of marginal significance and would normally be subjected to data recovery when threatened.
4. Where documentation of a property is necessary for interpretive purposes or as part of the planning process, combine it with nomination requirements and avoid redundancy.

Nominate properties individually using the National Register Registration Form (NPS-10-900) or collectively using the Multiple Property Documentation Form (NPS-10-900-b).

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Describe and state the significance of the nominated property as it relates to the National Register criteria. Identify which resources within the nominated area contribute and do not contribute to its significance. Include properties with defined boundaries. The registered area should be large enough to include all historic features but should not include buffer zones or acreage not directly contributing to its historical significance.

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

Objects and collections may contribute to the significance of sites, buildings, structures, or districts qualifying for National Register listing. Describe these objects and collections in the National Register form. The significance statement of the National Register form must assess the collections’ value in relation to the property in terms of the National Register criteria.

National Register nomination information about property ownership and location or character may be withheld if disclosure would cause a significant invasion of privacy, impede the use of a traditional religious site by practitioners, or risk harm to the historic resource.

Follow these steps to nominate a property to the National Register:

1. Prepare the nomination following requirements in 36 CFR 60 and NPS guidelines. Obtain Agency Official (Forest Supervisor, District Ranger) approval and signature.
2. Submit the completed nomination for review to the SHPO. Notify the chief elected of local officials of the county in which the property is located (or equivalent government unit) and municipal political jurisdiction and provide 45-days to comment.
3. If the SHPO concurs with the eligibility recommendation, submit the nomination to the Regional Heritage Program Leader as delegated by the Forest Service Federal Preservation Officer for final review, signature, and submittal to the Keeper of the National Register (Keeper).
4. The SHPO returns technically or professionally deficient nominations to the Forest Supervisor for data additions and clarifications. The Regional Heritage Program Leader submits nominations to the Keeper, who shall act on the nomination within 45 days of receipt.
5. The Keeper provides notice in the Federal Register that the nominated property is being considered for listing in the National Register. If approved, the nomination will be included in the National Register within 45 days of receipt by the Keeper.

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6. When a property does not appear to meet the National Register criteria for evaluation, or exhibits technical or professional deficiencies, the Keeper will return the nomination with an explanation as to why the property does not meet the National Register criteria for evaluation or has not been accepted to the National Register.

46.12 – National Historic Landmarks and National Historic Sites

A National Historic Landmark (NHL) is a nationally significant historic property designated by the Secretary of the Interior because it possesses exceptional value or quality in illustrating or interpreting the heritage of the United States. The NPS maintains the NHL inventory. A Cultural Resource Management Plan is developed by the Federal agency on whose land the NHL is located with the technical assistance of the NPS.

In response to a request from the NPS for assistance in the designation of an NHL on National Forest System lands, provide the archaeological and historic context, inventory and evaluation data, and related cultural resource information to the NPS in a formal letter signed by the Agency Official.

Like National Historic Landmarks, National Historic Sites are derived from the Historic Sites Act of 1935. A National Historic Site usually contains a single historical feature directly associated with its subject. A number of historic sites were established by Secretaries of the Interior, but most have been authorized by acts of Congress. Grey Towers, the home of Forest Service founder Gifford Pinchot, is a prime example of a National Historic Site managed by the Forest Service.

46.13 – World Heritage Sites

The Convention Concerning the Protection of the World Cultural and Natural Heritage established the World Heritage list, which was adopted at the 17th General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO). State parties submit cultural and natural properties that are considered of outstanding universal value.

The Agency role in designation of World Heritage Sites is similar to that for NHLs. Upon request from a State for information about a potential World Heritage Site on National Forest System land, provide the necessary context and information about the site in a formal letter signed by the Agency Official.

46.14 – Congressional and Presidential Designations

The most common Congressional and Presidential designations pertaining to the Forest Service Heritage Program are National Historic Trails and National Historic Monuments. These designations have no direct connection to the NHPA.

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46.14a – National Historic Trails

A National Historic Trail is authorized under the National Trails System Act of 1968 (16 U.S.C. 1241 – 1251) and is designated by an act of Congress. They are part of the National Trails System. The Forest Service collaborates in the management of a National Historic Trail when it crosses National Forest System lands. The Nez Perce National Historic Trail, administered by the Forest Service, is one example crossing several National Forests and Grasslands in Oregon, Idaho, Wyoming, and Montana. National Historic Trails are administered and managed in accordance with an approved Comprehensive Management Plan (CMP).

46.14b – National Monuments

A National Monument is a Presidential designation authorized under the Antiquities Act of 1906 and does not require Congressional approval. National Monuments can be managed by one of several Federal agencies including the Forest Service. National Monuments are protected areas, although they often receive less funding and protections than National Parks. The Gila Cliff Dwellings National Monument in New Mexico, Mount St. Helens National Volcanic Monument in Washington, and Misty Fiords National Monument in Alaska are Forest Service examples.

46.15 – NHPA Section 106 and Special Historic Designations

The Forest Service is responsible for NHPA Section 106 review of any cultural resource affected by a Forest Service proposed or permitted undertaking that is within or is a contributing element to a special historic designation made by another agency. For example, National Historic Landmarks are designated by the Secretary of the Interior; National Monuments are designated by the President; and special designations may be created by State, local, or Tribal governments.

Where a proposed agency or agency-authorized undertaking has the potential to affect a cultural resource within a special historic designation:

1. Determine if the cultural resource is eligible for or listed in the National Register.
2. If the property is not listed in the National Register either as a separate entity or as a contributing feature of the landmark, trail, or monument, but a portion or all of the property could be affected by the undertaking, evaluate the property for National Register eligibility.
3. If the property is ineligible in its own right or as a contributing property, then the portion that would be affected should not be considered a historic property as defined by the NHPA.
4. If the property is eligible, apply the criteria in 36 CFR 800.5 to assess project effect, develop mitigation measures, and consult with the SHPO and Advisory Council. See section 42 of this Handbook.

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5. Notify the Secretary of the Interior of any consultation involving a National Historic Landmark and invite the Secretary to participate where there may be an adverse effect (36 CFR 800.10(c))

46.16 – State, Local, and Tribal Designations

States, local governments (for example, preservation organizations, historical societies), and Indian Tribes may designate cultural resources on National Forest System lands as historically or culturally significant. Properties do not automatically attain National Register eligibility status because of these designations.

Where a proposed agency or agency authorized undertaking would potentially affect specially designated site, such as a State historic register property or a community commemorative site, determine if it is listed in or eligible for the National Register. Implement the appropriate procedures to comply with the NHPA based on whether or not it is National Register-eligible.

46.17 – Sacred Sites

The 1996 Executive Order 13007 (Indian Sacred Sites) charges Federal agencies to facilitate reasonable access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and to avoid adverse physical effects to sacred sites. Only an Indian Tribe or an “Indian individual” who is an “appropriately authoritative representative” of an Indian religion can designate a sacred site. The site designation must be a “specific, discrete, narrowly delineated” location on Federal land.

It is the responsibility of an Indian Tribe or appropriately authoritative representative of an Indian religion to notify an agency of the existence of a sacred site. Notification may occur during routine or project-specific consultations with Agency Officials, Tribal Government Relations staff, or Heritage Program Leaders. See chapter 80, section 86.4 of this Handbook for information on the confidentiality of sacred sites.

Occasionally sacred sites may be or may contain archaeological sites, historic or prehistoric structures, traditional cultural properties, or be part of cultural landscapes that may or may not be eligible for listing in the National Register. Work closely with the Forest Service Tribal Government Relations staff when a sacred site is or contains a historic property (a cultural resource eligible for listing in the National Register of Historic Places). Sacred sites that are not historic properties fall under the management purview of the Forest Service's Tribal Government Relations program, while those that do contain historic properties need to be coordinated with both the Heritage and Tribal Government Relations programs.

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46.2 – Conservation and Maintenance

The Forest Service is responsible for protecting, conserving, managing, and using cultural resources on Forest Service System lands. Actions related to these responsibilities are based on the primary value of the cultural resource and its management use allocation. Cultural resources in Wilderness Areas, National Historic Landmarks, and other specially designated areas may have management requirements and guidelines specific to the legislation designating that area.

Heritage Program Plans and Historic Property Plans are the foundations of all conservation and management activity on National Forests and Grasslands; see FSM 23602.4 and chapter 20, section 21 of this Handbook. In lieu of these plans, describe conservation and preservation activities in a treatment plan, research design (as appropriate), or project statement of work.

Architectural preservation plans, structural analyses, and/or an engineering evaluation should precede all proposed preservation work to determine the degree of intervention and work needed on standing historic buildings and prehistoric structures when there is an above-ground component.

Consult on a case-by-case basis with the SHPO, Advisory Council, Indian Tribes, and interested parties when the operation, maintenance, repair, enhancement, or use of cultural resources may have an effect on eligible or listed National Register properties. The exception is when such work is carried out under an existing programmatic agreement that may exclude certain routine maintenance work from NHPA Section 106 consultation.

Use qualified Historic Preservation Specialists (Historical Architect, Master Craftsman, Master Carpenter, or Archaeologist) to direct and supervise preservation activities whether carried out by Forest Service personnel, private contractors, cooperators, public volunteers, or some combination.

Monitor work progress and report to the SHPO following protocols in 36 CFR 800.9 or under a programmatic agreement.

46.21 – Archaeological Resources

Conservation and maintenance of archaeological sites include but are not limited to erosion control, structure stabilization, vegetation control, protective structures (such as roofing and shelters), graffiti removal, and hardening for interpretation and public use. See section 44.2 for additional direction.

Identify conservation, protection, and management objectives and standards in Heritage Program Plans and Historic Property Plans for archaeological resources.

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Complete NHPA Section 106 consultation with SHPO and Indian Tribes as appropriate for archaeological site conservation and protection projects unless following alternate procedures in a programmatic agreement. Interdisciplinary and NEPA review may be necessary for some archaeological conservation projects, for example, stabilization of cultural deposits in an eroding riverbank.

Consult the archaeological conservation literature prior to planning and implementing conservation projects, including sources such as NPS technical series and briefs, U.S. Army Corps of Engineers stabilization/erosion literature, academic references (including international sources), and State and Regional guidelines.

Enlist Conservation Specialists when the proposed work exceeds Agency expertise or capacity, for example, graffiti removal at rock art sites or repair of fragile masonry ruins.

Apply these general guidelines:

1. Prepare a detailed preservation plan and scope of work prior to implementing repair, stabilization, or restoration on a historic property. The project intent and need may be identified in a Historic Property Plan, see FSM 2362.4 and chapter 20, section 21.2 of this Handbook.
2. Complete only necessary treatment consistent with the property's National Register values and intended use.
3. Ensure that all work conforms to the property's original appearance, as based on historical or archaeological evidence.
4. Conceal all new structural material from view.
5. Do not significantly alter or add architectural elements where there is no credible or historic evidence for such alterations or additions.
6. Prepare a photographic record of the property before, during, and after restoration with a descriptive narrative that includes the methods and materials used.

46.22 – Historic Buildings and Structures

Historic buildings and structures on National Forest System lands are often used for a variety of Agency administrative purposes, including offices, work stations, information/visitor centers, and recreation rental facilities.

Facility master plans and individual site development plans (see FSM 7300) guide the management of Agency buildings. Ensure that these plans incorporate goals, objectives, and standards from Heritage Program Plans and Historic Property Plans for associated historic

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properties. Link historic building and structure data in the Engineering Program's building application of the Heritage NRM database to the corresponding Heritage Asset data in the Heritage NRM application.

The Forest Service Engineering staff conducts periodic condition assessments on Agency buildings and structures to identify structural and health and safety concerns (such as lead-based paint or Hantavirus), management issues, and corrective measures needed. These assessments may result in proposals to repair or modify historic buildings. The program area that uses and manages the building is responsible for the cost to repair or modify it.

Maintenance, repair, modification, stabilization, rehabilitation, and restoration of historic properties are all NHPA Section 106 undertakings. Unless a programmatic agreement covers these actions, consult with the SHPO and interested parties through the NHPA Section 106 process on these activities.

Stabilization, rehabilitation, and restoration, and in some cases maintenance and repair, require designs and work plans. Work with Forest Service Engineers and Historic Preservation Specialists, or qualified Historic Architects, Architectural Historians, and Preservation Planners to develop the designs and work plans and make them available for review by SHPO during NHPA Section 106 consultation.

Complete a Job Hazard Analysis prior to implementing work on historic buildings and structures. Be especially safety-conscious when historic building work involves public volunteers.

Enlist public volunteers through Passport in Time, HistoriCorps, or other volunteer programs to help with historic building and structure projects as appropriate. Volunteers interested in historic restoration often have construction skills and knowledge that significantly augment the Agency workforce.

The International Existing Building Codes (2009, and subsequent revisions) address most accessibility and code issues for historic buildings. See the Missoula Technology and Design Centers "Facilities Toolbox" for practical applications and Agency guidelines on restoration and rehabilitation (<http://fsweb.mtdc.wo.fs.fed.us/toolbox/>).

Manage historic buildings and structures according to Forest Service policy (FSM 7300) and Title 36, Code of Federal Regulations, Part 68 - - The Secretary of the Interior's standards for the treatment of historic properties. Refer to FSM 2320 – Wilderness Management for special guidance on structures in designated Wilderness areas.

Under NHPA, Federal agencies may withhold grants, licenses, approvals, or other assistance to applicants who intentionally adversely affect historic properties (16 U.S.C. 470h-2[k]). This provision, known as the "anticipatory demolition" section, is designed to prevent applicants from destroying historic properties prior to seeking Federal assistance in an effort to avoid the NHPA Section 106 process.

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46.22a – Maintenance and Repair

Identify maintenance objectives and standards in Heritage Program Plans, Historic Property Plans, and facility management plans.

Coordinate review of proposed maintenance and repair with the program area that uses or manages the historic building. Ensure that the proposed work does not alter the historic fabric or integrity of the building.

When considering possible maintenance solutions consider preservation first; repair, second; replacement with in-kind materials, third; and replacement with substitute material, fourth.

46.22b – Preservation

Preservation is the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. In addition to the standards in 36 CFR 68.3(a), apply these guidelines:

1. Preserve and record all physical evidence and objects related to the historic property and label items removed for protective storage with the item's provenience.
2. Conduct normal housekeeping and minor repairs on a regular basis insuring that they do not change or adversely affect the fabric or historic appearance of the property.
3. Take measures to arrest the slow deterioration of the historic fabric.
4. Take measures to control vegetation growth in the historic environment.
5. Take measures to control pest or insect infestations.
6. Replace items such as paint or roof coverings in-kind unless a change is required to return the property to its historic appearance.
7. Ensure that intrusions such as roads and necessary utilities do not seriously affect the historic integrity of the structure or its environment.
8. Retain the natural accretions of time such as Forest growth, unless they are incongruous with the historic environment or seriously hamper visitor understanding.

46.22c – Rehabilitation

Rehabilitation is the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values. In addition to the standards in 36 CFR 68.3(b), apply these guidelines:

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1. Determine first that the property's historical significance, condition, and management use allocation do not justify full restoration and preclude preservation in its existing form.
2. Make every reasonable effort to provide a compatible use that will require minimum alteration to the structure.
3. Ensure that major alterations do not destroy those portions of the structure that are important in illustrating cultural values.
4. Design installation of modern utilities and appliances to create minimum intrusion on the historic environment and to show appropriate respect for the historic fabric.
5. Removal of the historic fabric is held to a minimum and is consistent with its allocated use.
6. Record existing conditions and design prior to commencing rehabilitation.

46.22d – Restoration

Restoration is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time. This occurs by means of the removal of features from other time periods in its history and reconstruction of missing features from the restoration period.

Adequate documentary and physical evidence must be in evidence to facilitate an accurate re-creation of the visual historic conditions.

In addition to the standards in 36 CFR 68.3(c), apply these guidelines:

1. Restore both the building interior and exterior (full restoration) when the entire building or structure and its component features are historically significant and representative of a cultural pattern or lifeway, architectural style, or the work of a master craftsman.
2. Restore only that part of the building or structure, (for example, interior or exterior) when only parts of the structure illustrate cultural values or contribute to the values that make the historic property significant.
3. Prepare a Restoration Plan (may be the same as or part of the Historic Property Plan (see FSM 2362.4 and ch. 20, sec. 21.2 of this Handbook) that includes at a minimum:
 - a. Graphic record of existing conditions prior to commencing restoration.
 - b. Detailed and graphic report of the proposed work.

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- c. Description of all techniques necessary to reproduce accurate design, color, and texture.
4. Preserve remaining original fabric as feasible and practical.
5. Prepare a documentary and graphic record of existing conditions prior to commencing restoration.
6. Prepare a documentary and graphic report of the proposed work, including the techniques necessary to reproduce accurate design, color, and texture.
7. Eliminate man-made features introduced after the date or period of the event commemorated unless they are compatible with the historic property and setting; have achieved significance in their own right, and are not an impediment to public understanding of the property.
8. To the extent deemed practical and desirable for public understanding, restore elements of the historic setting, including man-made features, vegetation, and historic land uses.
9. Do not significantly alter or add architectural elements where there is no historical or archaeological evidence for such alterations or additions.

46.22e – Reconstruction

Reconstruction is the act or process of accurately depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Examples of opportunities for reconstruction include:

1. Reconstruction for interpretive purposes, such as a replica of a cupola style fire lookout for Agency events.
2. Reconstruction of a historic property that was in use and destroyed by wild fire, vandals, or natural disaster. The subsequent reconstruction replicates the look and feel of the historic property.

Reconstruction requires careful evaluation of purpose, need, and long-term function. Only qualified Architectural Historians, Exhibit Specialists, or similarly qualified personnel should plan and execute reconstruction of a historic property.

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46.23 – Administrative Building Conveyance, Decommissioning, and Removal

Unneeded or under-utilized Forest Service administrative buildings and structures may be subject to decommissioning, conveyance, and removal. These actions are subject to NHPA Section 106 review when a historic property is involved.

Complete National Register evaluations of administrative buildings and structures if they are 45 to 50 years old or more. Use Regional or State administrative histories and historic context documents when available. Consider developing thematic (Forest/Grassland-wide) evaluations for thoroughness and efficiency. Enlist the necessary expertise (for example, Architectural Historian) to complete National Register evaluations of Forest Service administrative buildings.

Develop a Regional or Forest/Grassland strategy with Agency Officials, Facility Engineers, and other Resource staff to address administrative building management, including decommissioning and conveyance proposals. Identify National Register-eligible administrative buildings and structures that are a priority for retention and preservation and those that may be considered for other management purposes.

Complete NHPA Section 106 effects assessment and mitigation for historic properties subject to decommissioning, conveyance, or removal. The Agency must consider alternatives (for example, adaptive use, rental, sale) prior to removal. Mitigation measures will, at minimum, involve architectural recordation and historical documentation.

Allow the SHPO opportunity to review and comment on these measures in accordance with 36 CFR Part 800 or existing programmatic agreements. A NHPA Section 106 MOA among the Forest/Grassland, SHPO, Advisory Council, and other interested parties may be needed to mitigate the adverse effect of decommissioning, conveyance, or removal of historic properties.

In some cases, a historic property may be transferred out of Federal ownership with a historic preservation covenant, easement, or deed restriction. In this way, the historical character of the property is protected by title restrictions upon legal transfer of ownership. Protective restriction language is tailored to Federal property and State real estate law.

Consider all available options prior to encumbering a federally transferred historic property with title restrictions or covenants. While title restrictions may offset the immediate adverse effect of property transfer under NHPA Section 106 and discourage its neglect and destruction, they are complicated, legalistic, and difficult to enforce over the long-term. Consult with Lands Specialists before proposing protective covenants and title restrictions.

46.24 – Recreation Residences and Isolated Cabins

Many private recreation residences on National Forest System lands under a Forest Service Special Use Permit (SUP) are rustic-style buildings constructed early in the 20th Century. Some are National Register-eligible because of their association with the formative years of the Forest

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Service and early recreation development, or they embody the distinctive characteristic of a type, period, or method of construction. The Forest Service Recreation program retains responsibility for managing recreation residence SUPs.

Modifications to historically significant recreation residences, or the permit area where other cultural resources may be located (such as archaeological sites), are actions subject to NHPA Section 106 under the terms of the SUP.

Complete National Register evaluations of individual SUP recreation residences and residence tracts. Use Regional historic contexts for recreation residences if available. Consider developing thematic (Forest/Grassland-wide) evaluations for thoroughness and efficiency. Enlist the necessary expertise from an Architectural Historian to complete National Register evaluations of recreation residences.

Complete NHPA Section 106 review of proposals that would modify the integrity of a recreation residence that qualifies as a historic property. Coordinate this review with Recreation or the appropriate Forest Service staff.

Seek ways to avoid, minimize, or mitigate adverse effects to historic properties with the Permit Holder and the appropriate Forest Service staff. Allow the SHPO an opportunity to review and comment on these measures in accordance with 36 CFR 800 or existing programmatic agreements.

Isolated cabins not located on planned or designated recreation residence tracts are authorized under the Organic Act and require a Special Use Permit (see FSH 2721.21). These privately-owned cabins originated from situations other than occupancy trespasses or invalid mining claims on National Forest system lands. Isolated cabins may be historic in origin. In most circumstances, Forest Service policy is to phase out isolated cabin special use permits.

Conduct NHPA Section 106 review when an isolated cabin is proposed for SUP reauthorization or termination. This information will inform agency-property owner discussions about the ultimate disposal of the cabin. The owner is required to remove the building and return the area to its original condition. In some cases, where there are historic or recreation values, the cabin may be quit claimed to the Forest Service for use as recreational rental cabin, contingent on feasibility and capacity analyses conducted by Heritage, Recreation and Lands program staff.

46.25 – Historic Mines and Mine Waste Cleanup

Historic placer and lode (underground) mining properties are a common cultural resource site type on National Forest System lands. Abandoned mines laden with toxic heavy-metals and other pollutants are the focus of mine waste remediation actions under the Clean Water Act and CERCLA (aka Superfund).

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CERCLA removal actions may be emergency, time-critical, or non-time critical. CERCLA abandoned mine reclamation projects usually do not qualify as emergency actions under 36 CFR 800.12. The Environmental Protection Agency (EPA) administers Superfund and may coordinate or assist in mine waste cleanup with Federal and State agencies.

In general, NEPA does not apply to CERCLA cleanups but NEPA values, including cultural resources, must be integrated into the CERCLA process where feasible and appropriate. In order to not impede timely cleanup, NHPA Section 106 work may be expedited by State programmatic agreements, memorandum of agreements, or through SHPO consultations.

The Forest Service and other Federal and State agencies collaborate on non-CERCLA cleanup actions on National Forest and adjacent public and private lands. In this case, NEPA applies to Agency actions.

Follow NHPA Section 106 procedures or State programmatic agreements for historic mine properties affected by abandoned mine cleanup. In some cases, National Register and project effects evaluation will require consideration of the historic mining district in which the property is located.

Whether initiated under CERCLA or other authorities, use contractors with qualifications and experience in mining history and historical archaeology as necessary to complete NHPA Section 106 compliance work.

Develop project design criteria, mitigation measures, and project MOA in collaboration with Project Leaders, Environmental Engineers, the appropriate Agency Official, and the SHPO. Record and document historic ruins and features scheduled for removal/obliteration prior to construction activities.

Seek opportunities to stabilize and protect mining ruins and features as part of the project design and mitigation of impacts. For example, brace and support a mill structure or tram system following removal of mine waste rock or tailings.

Seek opportunities to fund and develop interpretive opportunities for historic mining, including signage, brochures and other media, as appropriate. For example, a reclaimed historic mining site with standing structures may be included in a historic mining auto tour.

Follow all safety protocols and the project Job Hazard Analysis when working within and around abandoned mine sites. No one can enter a mine opening unless they have successfully completed Underground Mine Safety Training. Mine safety training is available through the Forest Service Minerals and Geology program.

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46.26 – Cultural Resources in Specially Designated Areas

Identify and evaluate cultural resources in specially designated areas in accordance with NHPA Section 106 and 110 and 36 CFR 60.4.

When evaluating cultural resources within a designated area, take into consideration the unique characteristics of the designation in addition to the criteria of eligibility to the National Register in 36 CFR 60.4.

For example, an early 20th Century moonshine manufacturing still that is located within the corridor of the Trail of Tears National Historic Trail might be considered ineligible for listing in the National Register because of the designated area's historic context. However, a historic cabin in a Wilderness that is closely associated with a prominent proponent of the designation of that Wilderness or the "back to nature" movement might be considered eligible.

Follow the guidelines of the specific designated area's management plan or policy when conducting cultural resource identification and evaluation within that designated area. For example, wilderness policy restricts the use of motorized equipment, therefore, conduct a Minimum Requirements Decision Guide process before deciding on the use of motorized equipment or mechanized transport to access a historic property or in the process of identification and evaluation of historic properties within a Congressionally-designated Wilderness (see FSM 2320).

Coordinate with other Forest Service Resource Managers to include goals, objectives, and standards for historic properties within management plans and Forest Service directives for specially designated areas.

46.3 – Study and Use of Cultural Resources

Scientific investigation, public interpretation, and continued or adaptive re-use of historic properties are all stewardship measures that help protect historic properties through public awareness and education. Use these measures whenever feasible to maintain and realize the values that make a historic property significant. See FSM 2364.43a-c for criteria to consider when using these stewardship measures.

Consult with the SHPO, Indian Tribes, and other interested parties as necessary if scientific investigation, and interpretive development, or preparation of a historic structure for adaptive reuse have the potential to affect historic properties

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This chapter provides uniform guidance for developing and implementing programs to deliver cultural resource information and opportunities to the recreating or visiting public. See chapter 40 for guidance on methods to prepare cultural resources for public use and access. Use this direction in conjunction with FSM 2364 and FSM 2365.

50.4 – Responsibility

50.41 – National Heritage Program Leader

It is the responsibility of the National Heritage Program Leader to:

1. Coordinate public education and outreach programs with Recreation, Heritage, and Volunteer Resources staff in the Washington Office, internal national initiatives and with organizations such as the Advisory Council on Historic Preservation (Advisory Council), and the National Trust for Historic Preservation (National Trust).
2. Ensure that Heritage Program information on the Forest Service World Wide Web is accurate and current.

50.42 – Regional Heritage Program Leaders

It is the responsibility of the Regional Heritage Program Leaders to:

1. Identify historic, prehistoric, cultural themes that are unique or important to the Forest Service Region.
2. Identify Regional priorities for public education and outreach in consultation with Regional office Interpretation and Conservation Education Specialists.

50.43 – Forest/Grassland Heritage Program Managers

It is the responsibility of the Forest/Grassland Heritage Program Managers to:

1. Identify opportunities for interpretation, education, and public use of historic properties in land use plans, other resource program plans, historic contexts, Heritage Program Plans, and Interpretive and Conservation Education Plans.
2. Develop Historic Property Plans for historic properties slated for public visitation or use.
3. Implement Windows on the Past and other public outreach or volunteer projects.
4. Coordinate with Forest Service Recreation and Interpretive Specialists and Volunteer/Partnership Coordinators.

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51 – IDENTIFYING PUBLIC EDUCATION AND OUTREACH OPPORTUNITIES

See FSM 2365.1 for criteria to identify public education and outreach opportunities.

Determine public interest and demand for cultural resource information and heritage experiences using State and local tourism data, Forest Service visitor use surveys, and existing Heritage program data.

Include heritage public education and outreach goals, objectives, and opportunities in every stage of planning identified in FSM 2362 and chapter 20 of this Handbook.

51.1 – Planning with External Partners

Coordinate with the Advisory Council, the National Trust, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and National and Regional archaeological and historic preservation professional organizations to ensure Forest Service public Heritage programs and information reflect Regional and National historic preservation initiatives as well as any concerns or issues.

Participate in the “Preserve America” program in coordination with the Advisory Council. Examples include, but are not limited to:

1. Identify projects and programs that exemplify the spirit of Preserve America.
2. Nominate appropriate projects for the Preserve America Presidential Awards.
3. Work with the Advisory Council to recognize site stewardship programs.
4. Contribute information to support identification of a local community as a Preserve America Community.

Coordinate with State-sponsored historic preservation events, such as Archaeology Month and Historical Society Living History events.

Collaborate with Indian Tribes to identify opportunities for education and outreach. Coordinate with Resource Advisory Committees for potential Heritage fee programs. Coordinate with National, Regional, State and local special interest groups and certified local governments to identify opportunities for mutually beneficial public education opportunities.

51.2 – Integration with Forest Service Planning

Incorporate Heritage Program education and outreach goals in

1. National, Regional, and Forest/Grassland strategic plans.

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2. Forest /Grassland Management Plans in addition to inventory data.
3. Interpretative Services, Conservation Education, and Tourism program plans.
4. Other program plans and tools, such as the Recreation Opportunity Spectrum (see FSM 2390), to facilitate informed decisions regarding multiple uses.

Include cultural resource education and outreach opportunities in Forest Service project planning as part of National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.) Section 106 and National Environmental Policy Act of 1979 (NEPA) (42 U.S.C. 4321-4347) compliance.

51.3 – Heritage Program Planning

The Heritage Program Plan on a Forest/Grassland guides the overall management of cultural resources on that unit. The identification of cultural themes and opportunities for interpretation is the piece of the plan that guides the unit's public education and outreach efforts.

1. Formulate cultural themes and opportunities as a broad vision or desired future condition for cultural resource education and outreach and include it in a Forest/Grassland interpretive plan or in the Forest/Grassland Heritage Program Plan.
2. Incorporate the broad vision in subsequent strategic plans, Cultural Resource Overviews, historic contexts, Historic Property Plans, and related documents.
3. Include specific recommendations for developing cultural themes through a diversity of public outreach methods, opportunities, and actions.

51.4 – Historic Property Plans

Include public education and outreach recommendations in Historic Property Plans for individual historic properties with public interpretive value.

Consider the following for historic properties recommended for public use or interpretation:

1. What is the long-range vision or desired future condition of the property? How will the public benefit from its use or interpretation?
2. Is the property safe for public visitation?
3. Does it offer something unique that is not available in the surrounding area?
4. Does it meet a known public demand?

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5. Does it offer an opportunity to talk about natural and/or cultural resource stewardship?
6. Has it been nominated for listing on the National Register?
7. What has been done to prepare it for public use or visitation?
8. What remains to be done to prepare it for public use or visitation and what is the projected cost?
9. Is there potential to develop a partnership to assist in long-range monitoring and maintenance?
10. How will you make the public aware of the property/opportunity? Consider vehicles such as electronic or print media, Forest Service maps, or Forest Service Visitor Information Specialists.

If the historic property requires remedial actions to prepare it for public interpretation or use,

1. Initiate consultation if the actions (repairs, stabilization, and restoration) are undertakings under NHPA Section 106. See section 42 of this Handbook.
2. Provide guidance regarding alterations to historic properties to the Forest Service Staff(s) responsible for administration of the facility.
3. Ensure that personnel, including contractors, cooperators, or consultants preparing preservation plans or implementing maintenance, stabilization, or restoration of a historic structure, have adequate training in preservation technology and historic architecture.

52 – RELATIONSHIP OF PUBLIC EDUCATION AND OUTREACH TO MANAGEMENT USE CATEGORIES

Cultural resources in all management categories may have public education or outreach potential. The primary value of historic properties in the Enhancement Category is for public education and outreach through interpretation, continued use, or adaptive reuse. The intended audience is the general recreating or visiting public. Heritage Program public education and outreach activities should be coordinated with Recreation, Interpretive, and Conservation Education Specialists, and follow FSM 2365 and FSM 2390 policy, direction, and guidelines. Contingent on the environmental setting, the Recreation Opportunity Spectrum (ROS) may be used to evaluate the utility and appropriateness of some Heritage projects, such as interpretive kiosks and facilities.

Historic properties in other management categories may have benefits for other audiences or publics including, but not limited to scientists, agency personnel, and specific groups such as Indian Tribes.

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The following exhibit illustrates public education and outreach values and possible other public benefits of cultural resources in each Management Use Category.

52 - Exhibit 01

Management Use Categories/Public Education and Outreach Value/Public Benefit

Category	Public Education and Outreach Value for the General Recreating or Visiting Public	Other Public Benefit
Preservation: Traditional Cultural Properties (TCPs) and Sacred Sites	Typically not appropriate for public education and outreach, but there are exceptions.*	Specific groups' use of property for traditional purposes.
Preservation: Rare and Unique Sites or Features	Secondary Value: Possible for visitation with some degree of static interpretation or off-site information.	Scientific access to study rare or unique properties.
Preservation: Future Research	Secondary Value: Possible for visitation with some degree of static interpretation or off-site information.	Scientific opportunity to apply improved investigative technology new research questions.
Enhancement: Interpretation	Primary Value: Access to property and/or to information about its history.	Forest Service use of property for other resource education.
Enhancement: Continued Use or Adaptive Reuse	Primary Value: Access to historic properties serving as visitor centers, living history museums, recreation rentals, and such.	Forest Service continued use of historic properties as working administrative units.
Scientific Investigation:	Secondary Value: Possible for volunteer involvement in the investigation, such as through PIT.	Scientific public access to new research. Forest Service access to environmental data extracted from research.
Release from Mgt. under NHPA	Optional: May choose to interpret property if it's in a frequently visited area and is visible on the landscape.	Forest Service modification of an historic building for continued use.

* The Medicine Wheel, a TCP on the Bighorn National Forest is an example. The Forest and Indian Tribes collaboratively manage the site for public benefit, with specific considerations such as hours of operation that protect exclusive Tribal use, incorporation of Tribal perspectives in the interpretive literature, and employment of Tribal members as on-site hosts.

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53 – WINDOWS ON THE PAST

For related direction see FSM 2365.2.

Windows on the Past is the Forest Service umbrella program for delivery of Heritage information and experiences to the general recreating and visiting public. It encompasses a wide range of public programs and activities at the National, Regional, or Forest/Grassland levels. They may be one-time activities or on-going programs.

When developing material, a project, or a program with public education or outreach as its goal, identify it as a “Windows on the Past” program or project. Examples of National Windows on the Past programs in which all Forest Service units may participate include fee programs such as Heritage Expeditions or Recreation Lodging and volunteer programs such as Passport in Time (PIT) and HistoriCorps.

53.1 – Fee Projects

The Federal Lands Recreation Enhancement Act of 2004 (REA) (Public Law 108-447) authorizes the Secretary of Agriculture to establish, modify, charge, and collect recreation fees at Federal recreation lands and waters. Under the terms of the REA, the Forest Service is authorized to charge three types of recreation fees: standard amenity, expanded amenity, and special recreation permit fees.

Standard amenity fees may be charged for areas which provide significant opportunities for outdoor recreation and which contain a high level of amenities (see the REA for full terms and conditions). Most often, these areas are destination visitor centers, interpretive centers, or highly developed picnic sites. Within the Heritage program, many visitor centers and picnic sites are significant, because they include historical structures, such as CCC-era picnic shelters, or they focus on public education of heritage resources.

Expanded amenity fees may be charged for specialized facilities or services, such as the use of developed campgrounds or participation in an enhanced interpretive program or special tour (see the REA for full terms and conditions). Like standard amenity fee sites, many expanded amenity fee sites are significant, because they include historical facilities and structures. Additionally, expanded amenity fees can be applied to the interpretation of heritage resources through a well-developed program or tour.

Special recreation permit fees can be charged in connection with the issuance of a special recreation permit for specialized recreation uses of Federal recreational lands and waters, such as group activities. Most commonly, special recreation permit fees are charged for outfitter-guide services.

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To submit a proposal for a new fee or to make a change to an existing fee, contact your Regional Fee Coordinator for assistance or visit the REA Toolbox on the Forest Service Intranet for further information.

53.11 – Considerations for Heritage Fee Projects

Consider the following when proposing a Heritage fee project:

1. Seek the cooperation of partners such as historical societies, State tourism boards, outfitter guides, or Indian Tribes to provide unique and educational heritage experiences.
2. Prepare a management plan that includes, at a minimum, the fee structure, expected revenue, market research showing the demand for the type of experience you are proposing, and any existing programs offering similar experiences or benefits.
3. If the proposed project will have an effect on any historic properties, consult with SHPO, Indian Tribes, and other interested parties as required by NHPA Section 106 and 110 prior to submitting the proposal to the fee board.

53.12 – Recreation Lodging Program

The Forest Service Recreation Program manages the Recreation Lodging Program under the authority of REA, providing opportunities for the public to rent Forest Service facilities for over-night stays. Many recreation lodging facilities are historic properties such as remote guard stations, homesteads, and lookout towers. Revenues from Recreation Lodging support maintenance of the lodging facilities or preparation of additional properties for inclusion in the program.

Because Recreation manages the lodging program, historic properties included in the program are not considered Priority Heritage Assets. Instead, identify them in Heritage NRM as cultural resources or historic properties that require Heritage Program monitoring for over-use, damage, and maintenance needs (also known as Multi-Use Assets or MUAs).

Assist Recreation Program Managers in the maintenance, repair, rehabilitation, and restoration of historic properties in the recreation lodging program, including:

1. Consult as necessary per NHPA Section 106 or alternative procedures in a programmatic agreement.
2. Use qualified Historic Preservation Specialists (for example, Carpenters, Masons) to guide all building maintenance, rehabilitation, or restoration.
3. Consider conducting maintenance, repair, and restoration as a Windows on the Past (HistoriCorps and/or Passport in Time, for example) public volunteer project.

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4. Work closely with Forest/Grassland Recreation staff and Facilities Engineers to ensure that necessary maintenance, upkeep, repair, and enhancement occur and that it is consistent with historic preservation guidelines. See section 46.22 for additional direction.
5. Participate in recreation facility analysis and formulation of recreation lodging business plans, when historic properties are involved.

Prepare a Historic Property Plan (HPP) for historic buildings in the recreation lodging program. Incorporate HPP historic preservation standards and guidelines in Recreation and Engineering facility master plans or individual site plans for the buildings as appropriate. See chapter 20, section 21.2 and chapter 40, section 46.22 of this Handbook.

Consider public health and safety issues (such as Hantavirus, lead-based paint, asbestos, structural concerns) when proposing inclusion of a historic property in the recreation lodging program, preparing an HPP or other guidelines for a historic property currently in the recreation lodging program, or conducting on-site building maintenance or preservation. Consult with Regional and Forest/Grassland Facility Engineers and Safety Officers as appropriate.

Seek opportunities to bring historic buildings into the recreation lodging program.

Identify and implement interpretive opportunities at historic rental facilities, including signs, photographs, brochures, and other media that explain the history of the facility and its unique values that require protection.

53.2 – Heritage Volunteer Programs

Engage volunteers in Heritage Program activities to supplement personnel and budget capacity while also meeting public outreach and education responsibilities under NHPA Section 110 and the Archaeological Resources Protection Act of 1979 as amended (ARPA) (16 U.S.C. 470aa- mm).

All volunteers, regardless of the program in which they are engaged, shall sign an Agreement for Individual Voluntary Services (FS-1800-7). Volunteers who are not U.S. citizens sign an agreement through coordination with the Washington Office International Programs Office.

The following programs enlist volunteers to help with Heritage Program activities. It is not an exhaustive list.

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53.21 – Passport in Time

Passport In Time (PIT) is a volunteer program that offers opportunities varying from 2 days to 2 weeks (and sometimes longer) for the public to assist Forest Service Heritage professionals with archaeological and historical research and management on National Forest System lands. PIT is open to other Federal and State agencies.

The Forest Service, Washington Office, funds a PIT Clearinghouse contract that maintains the public web site posting the opportunities (www.passportintime.com) and a web site restricted to Agency PIT project leaders (www.pitleader.org) for general program administration. The Clearinghouse also accepts and distributes the applications; sends materials to the project leaders such as the passports, brochures, pins, and project banners, and tracks volunteer contributions.

53.21a – Proposing PIT Projects

The PIT Leader web site, www.pitleader.org, has detailed program instructions including schedules; contacts; and requirements for proposing projects, selecting volunteers, and reporting volunteer hours.

Consider what is appropriate for volunteer participation on a case-by-case basis using the PIT Guidelines on www.pitleader.org. The guidelines include the following, repeated here because they are the most frequently misunderstood.

1. PIT projects must be open to the public and posted on www.passportintime.com. Heritage volunteer projects arranged for specific groups or individuals and not offered to the general public come under the umbrella of Windows on the Past, but do not qualify as PIT projects.
2. You may enlist PIT volunteers for a wide range of Heritage Program activities. If the work volunteers will conduct is on a deadline (as is the case for some project work) it may not be appropriate as a PIT project; volunteer accomplishments cannot be guaranteed or volunteers cannot be forced to meet deadlines. Some SHPOs may not allow non- professional participation in certain projects. Coordinate with the appropriate SHPO to determine the parameters.
3. Any necessary NHPA Section 106 consultation with the SHPO, Indian Tribes, and other interested parties should be completed before submitting a PIT project proposal to the Clearinghouse.

53.21b – Funding PIT Projects

Heritage professionals at the Field level propose, implement, and fund the projects using the local unit's allocated funds. The funding source depends on the purpose of the activity conducted during the project.

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For most PIT projects, funding will be a combination of Heritage Program funds, other resource program funds if work in support of a proposed undertaking is involved, and partnerships with community organizations, other Federal or State agencies, or local historic preservation groups.

53.22 – Heritage Volunteers

Heritage volunteers are interested members of the public who often have an enthusiastic amateur's depth of knowledge about their area of interest. Volunteers can serve for any length of time, as described in a Volunteer Agreement. Those that will be accessing Forest Service computers or databases will need to complete the appropriate security training. Those working in the field will need to complete the appropriate safety training.

Serving as a Forest Service volunteer for a field season is an excellent way for a college student to gain experience and help determine their future career path.

Heritage volunteers may assist with general Heritage Program management on a Forest Service unit. A Heritage professional assigns responsibilities to volunteers and accepts professional responsibility for their work. They may assist with office or field work and always under the direct supervision of a Heritage professional.

53.23 – Volunteer Site Stewards

Site stewards are Agency volunteers who focus primarily on monitoring cultural resources including archaeological sites, historic buildings, trails, bridges, and structures and inspect for signs of erosion, wear and tear, vandalism, and looting. Site stewards may become interpreters contingent on their interest, availability, and training. Volunteer Site Steward programs are an excellent way to engage communities, create a sense of ownership of the historic properties, and broaden the support of historic preservation.

Many States, including Arizona, California, Colorado, Montana, New Mexico, Nevada, Oregon, and Utah have well-established Site Steward programs that train citizen volunteers to assist agencies in the protection of cultural resources near their communities. Check with the SHPO to see if a program exists and collaborate where possible.

Incorporate education and training in all Site Steward programs. Education should be continuous and involve frequent training and occasional workshops and events with people knowledgeable about the cultural resources the site stewards are monitoring.

53.24 – HistoriCorps

HistoriCorps is an Agency-funded program that engages volunteers and students in the preservation trades to save public places on public lands and their gateway communities. Established in 2009, HistoriCorps helps public land managers preserve important historic

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structures by enlisting volunteers and helping teach them traditional building skills during the course of the project. Types of projects that HistoriCorps can facilitate include emergency stabilization, repair, rehabilitation, and restoration of historic structures. Visit the web site at www.HistoriCorps.org to learn more about the organization, its ability to facilitate preservation projects on National Forest System lands, and how to host a project.

53.3 – Interpretive and Educational Activities

Interpretive and education activities usually involve collaboration and coordination with the Conservation, Education, Recreation and other Agency programs. Contingent on the type of activity, event plans, designs and/or media content, and format are typically reviewed by Engineers, Interpretive Specialists, Graphic Designers, and Public Affairs staff, Safety Officers, and the involved Line Officer, and other staff as appropriate.

Develop interpretive projects to educate and involve the public. Some examples are:

1. Interpretive signs at a historic cabin. The signs inform visitors about the history of the cabin and the laws protecting such resources.
2. A self-guided interpretive trail in a historic mining town with stops along the way to view and read about relevant mining features. The information could be on signs at each stop or in a brochure.
3. An open house and interpretive tour of a historic Ranger Station that is still in Agency or public use.
4. Historical re-enactments, such as the Civil War re-enactments popular in the Eastern and Southern Regions.
5. A presentation at a school or community organization.
6. Participation in State-sponsored events such as Archaeology Week or State historical society living history presentations.
7. A Heritage Celebration in a local community that involve displays, exhibits, presentations, and activities for school children, teachers, and the community at large. These are often co-sponsored with other agencies, historical societies, or museums, usually last for a week, and allow many children and teachers to participate.
8. Moonlight Walks, a night time event sponsored and hosted by many Forests during the full moon. Include natural or cultural resource themes that are enjoyable, as well as educational.

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

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

54 – HERITAGE TOURISM

The Forest Service Tourism Program focuses on sustainable tourism as a tool to protect resources and engage communities. Its goal is to create opportunities for public visitation that encourage natural and cultural resource stewardship as well as provide social well-being and economic prosperity to local communities. Windows on the Past projects and programs are all tourism in the broader sense of the word, while Heritage Tourism focuses on cultural resource stewardship. This section includes guidance on aspects of Heritage Tourism that are not as familiar as existing Windows on the Past programs and projects.

The National Trust defines cultural heritage tourism as traveling to experience the places, artifacts, and activities that authentically represent the stories and people of the past and present. It includes cultural, historic, and natural resources. The Trust's Heritage Tourism Program provides assistance ranging from "how-to" publications on heritage tourism development, management, and marketing, to paid consulting services.

Many States have Heritage Tourism programs that include sustainability guidelines. The Texas Cultural Tourism Council and the Cultural Tourism Resources Program of the Oregon Arts Commission are comprehensive sources of information.

Consider the following when proposing a Heritage Tourism project:

1. Identify opportunities that are unique or important at a Regional or Forest/Grassland scope.
2. Seek partners in local communities and within local economies to deliver the opportunity to the public.
3. Use REA authority if proposed Heritage Tourism projects involve fees.

54.1 – The Heritage Opportunity Spectrum for Tourism

The Heritage Opportunity Spectrum for Tourism (HOST) is based on the observation that visitors to National Forest System lands seek a spectrum of experiences from completely undeveloped, to rustic, to highly developed, and convenient. The applicable accessibility

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standards are integrated into any new construction or alteration of facilities and recreation sites while not changing the experience and setting of that location or substantially impairing the historic significance of a structure.

HOST is a planning tool similar to the Recreation Opportunity Spectrum (ROS) that helps determine the appropriate and most effective method of public interpretation or use of historic properties in specific types of environments. It is particularly useful at the landscape planning level. An example of a HOST analysis is available at <http://fsweb.wo.fs.fed.us/eng/facilities/heritage.htm>. Use HOST as one tool for conducting site and area planning for future public use, interpretation, and development of historic properties.

55 – WEB-BASED HERITAGE INFORMATION

The Forest Service, Office of Communications, manages Forest Service web-based media and information. Work with this staff to develop the information to support the Heritage Program. Examples include (be advised that web site addresses may change over time):

1. Heritage Program pages in Regional and National Forest/Grassland web sites for information about stewardship projects, historic context, and management activities, with links to neighboring sites (for example, Passport in Time, SHPOs) or heritage attractions.
2. Forest Service National Heritage Information Management Initiative (NHIMI) intranet web site and SharePoint site is a source for direction, user guides, tips, and other information helpful in the management of Heritage Program Information. <http://fsweb.wo.fs.fed.us/rhwr/heritage/nhimi/> or <https://ems-team.usda.gov/sites/fs-nfs-himt/SitePages/Home.aspx>.
3. Forest Service Photo Gallery for Forest Service images, including historic photos for online viewing and downloading. <http://www.fs.fed.us/photovideo/>.
4. Forest Service Geospatial Portal and Interface and Remote Sensing Application Center for current geospatial and geographic information, technology, practices, applications, and training. <http://fsweb.geoportal.fs.fed.us/> and <http://fsweb.rsac.fs.fed.us/>.
5. National Geographic Geotourism web sites for heritage and other information supplied in partnership with the Forest Service.

Consider submitting proposals for outreach tools and information products to the Missoula Technology and Development Center, whose mission is to design, build, and test prototype systems for land and resource managers. <http://fsweb.sdtcd.wo.fs.fed.us/>.

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Consider putting Agency information on user-generated systems (such as mobile devices, wikis and blogs, Podcasts, YouTube) that the Forest Service does not subsidize or sponsor. Consult with Forest Service Information Specialist prior to pursuing these technological venues.

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This chapter provides uniform guidance and procedures for Heritage professionals and technicians managing Heritage collections. Use this direction, in conjunction with FSM 2366 to:

1. Develop plans and protocols to identify, maintain, and use Heritage collections for Agency and public benefit.
2. Implement programs and activities to ensure long-term conservation and appropriate use of Heritage collections.

The term “Heritage Assemblage” used in the Heritage Natural Resource Manager (NRM) database is synonymous with “Heritage collection” used in FSM 2366 and this Handbook chapter. All Heritage collections are Priority Heritage Assets.

60.4 – Responsibility

It is the responsibility of the Heritage professionals to:

1. Develop and implement Collection Management Plans.
2. Identify appropriate curation facilities.
3. Identify curation needs and initiate agreements with curation facilities.
4. Prepare items for curation.
5. Maintain permanent or temporary curation facilities.

61 – TYPES OF COLLECTIONS

Manage Heritage Program collections in accordance with Federal property and records laws and regulations; Title 36, Code of Federal Regulations, Part 79 - Curation of Federally-owned and Administered Archaeological Collections; and FSM 1680, FSM 2360, FSM 6200 and FSM 6400. In Federal terminology, heritage reports, documents, books, catalogues, maps, photographs, and related written material are considered to be records. Archaeological and historical artifacts and objects are considered to be property.

Heritage Program collections include a wide range of written, photographic, and electronic records and data relating to program activities and cultural resources. Some records must be maintained in perpetuity, such as cultural resource site records, while others have shorter retention value; for example cultural resource effects analyses required for a project by the National Environmental Policy Act of 1979 (NEPA), (42 U.S.C. 4321-4347).

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Heritage Program collections include a wide range of prehistoric and historic artifacts along with Forest Service history memorabilia and objects held by the Heritage Program on behalf of the Forest Service History Program. Records must be associated with collected or acquired property (artifacts) to be of permanent curation value.

Heritage Program collection needs, requirements, and uses diverge from other types of Forest Service records and property described in FSM 6200 and FSM 6400. Clarifying and reconciling Heritage Program collection needs with Federal records and property requirements is an on-going process. Consult and coordinate with Regional or Forest/Grassland Records Management and Property Management Specialists as necessary.

For purposes of FSM 2360 and this Handbook, Forest Service Heritage collections include Archaeological Collections, Heritage Program Administrative Records, Archival Records, and Forest Service History, each with separate requirements for records management and curation.

Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq.) collections are included to address the occasional need for temporary or in some cases, long-term curation of certain NAGPRA items prior to final transfer of custody.

61.1 – Archaeological Collections

Archaeological collections are the material remains from archaeological investigations such as components of structures and features, intact or fragmentary artifacts, natural objects used by humans, lithic debitage, organic material, rock art and other symbolic representations, components of shipwrecks, environmental specimens to assist in dating a site or sourcing materials within a site, and paleontological specimens if recovered from an archaeological context. See the definition of material remains in 36 CFR 79.

Also included in this category are the paper, photographic, and electronic records associated with the archaeological investigation yielding material remains, including, but not limited to, field notes, reports, maps, drawings, artifact inventories, diaries, photo logs, photographs and film, oral interview tapes, and digital records and images. See the definition of associated records in 36 CFR 79.

Manage the materials and records in this category according to the requirements in 36 CFR 79 unless they fall under NAGPRA.

61.2 – NAGPRA Collections

NAGPRA collections consist of human remains, funerary objects, sacred objects, and objects of cultural patrimony as defined in Section 10.2 of Title 43, Code of Federal Regulations, Part 10 -- Native American Graves Protection and Repatriation Regulations. Treat all NAGPRA collections with dignity and respect.

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Manage these items according to 43 CFR Part 10 and the requirements provided in 36 CFR 79 until repatriation and transfer of custody are complete.

When possible, store NAGPRA collections separately from other types of Heritage collections. Whenever possible, store human remains together with the funerary objects associated with that individual.

61.3 – Heritage Program Administrative Records

Heritage Program Administrative Records result from managing cultural resources under Federal laws, Executive Orders, and regulations for historic preservation. These include the National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.), the Archaeological Resources Protection Act (ARPA) of 1979 as amended (16 U.S.C. 470aa-mm), NAGPRA, The Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 – 469c), and before 1965, collections and records generated by the Historic Sites Act of 1935 as amended (16 U.S.C. 461-467), or the Reservoir Salvage Act of 1960 (16 U.S.C. 469-469c-2). Examples include documents such as a survey report submitted to a State Historic Preservation Officer (SHPO) pursuant to NHPA Section 106, a damage assessment for an ARPA investigation, or a NAGPRA inventory.

Manage administrative records in this category according to the requirements provided in 36 CFR 79.

61.4 – Archival Records

Archival records include but are not limited to documents, photographs, maps, audio and video recordings, and other records that are not the result of activities under cultural resource statutes, but rather are part of the Forest Service management record.

Archival records as defined here are mostly Forest Service administrative records. As such, they are not a primary Heritage Program responsibility and are not subject to the curatorial standards in 36 CFR 79. However, many Heritage Specialists are also responsible for administrative history at the Forest/Grassland level and therefore, are also responsible for archival collections.

Manage archival collections under the Records Management guidelines for Forest Service archival documents in FSH 6209.11 and History Program policy in FSM 1681.2. Additional guidance is available from the National Archives and Records Administration (NARA) at <http://www.archives.gov/>.

There are some archival records, such as old aerial photographs and some land records, which do not qualify for long-term preservation according to NARA regulations or Forest Service Records Management guidelines but are frequently used to assist Forest Service Heritage professionals in

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the inventory and management of cultural resources. In these instances, the Heritage professional should work with local Forest Service Records and/or Property Management personnel to reconcile the continued use of these records by Heritage professionals with the other needs of the administrative unit, such as storage space.

Follow these guidelines for archival records that are part of the Forest Service management record:

1. Identify Forest Service administrative documents that tell part of the Agency's history. Take care that such documents and records are not lost or discarded when Forest Service personnel move or retire or during office space alterations or moves.
2. Coordinate with the Forest Service History Program and Regional Records Manager for assistance with transfer of Forest Service historic administrative records to the National Archives and Records Administration (NARA) or another Federal Records Center in accordance with Title 36, Code of Federal Regulations, Part 1235 – Transfer of Records to the National Archives of the United States or Title 36, Code of Federal Regulations, Part 1232 – Transfer of Records to Records Storage Facilities. It is not appropriate to place such records permanently in university or other private archives.
3. Original administrative documents of historical significance should not be permanently stored in Forest Service offices. Carefully make a copy and/or electronic scan of the original for retention in Heritage Program reference libraries, but do not retain the original. Work with the Regional Records Manager to prepare original documents for submission to NARA or another Federal Records Center. Periodically submit a listing of such records to the Forest Service Chief Historian.

61.5 – Forest Service History Collections

Forest Service History Collections are materials such as uniforms, badges, patches, machinery, photographs, slides or other images, books, furniture, tools, telephones, dishes, alidades/fire finders, budget records, timber volume reports, and Agency newsletters and memorabilia that document the history of the Agency. Former Agency employees and their families often donate these items. Examples include:

1. Items or records associated with or signed by a significant figure. A significant figure can be nationally important (a President, Chief, prominent conservation figure), or a State or local person important in the history of a Forest, cause, or program (such as a Forest Supervisor or District Ranger). Give special attention to documents, including handwritten notes or documents, with annotations by a significant figure.
2. Items or records associated with a significant event, program, or activity.

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3. Representative samples of items used in a common activity that is part of the Forest Service mission. Offer duplicate items to other Forest Service units for their collections, rather than disposing of them.
4. Items or records that capture the history of the land of a Forest, Grassland, or Research Station.

Follow the requirements in 36 CFR 79 in the absence of guidance in FSM 1680 for curation of these collections and artifacts.

62 – FUNDING

Include cost estimates for collection management in all applicable plans of work and scopes of work for Heritage Program activities including those conducted under NHPA Sections 106 or 110 and those conducted under contract or agreement. See 36 CFR 79.7 for methods to fund curatorial services.

The Forest Service Resource program or a non-Forest Service entity implementing an undertaking under Forest Service authority that requires NHPA Section 106 review bears the cost of the management of collections resulting from the work done under that authority.

63 – COLLECTION MANAGEMENT PLAN

Prepare a Collection Management Plan (CMP) to guide the long-term management and care of Heritage collections. CMPs may be for individual Forests/Grasslands, a group of Forests/Grasslands, or an entire Region. The Regional Heritage Program Leader determines which is appropriate and reviews all CMPs for adequacy and consistency.

Follow Federal property laws, regulations, and guidelines when developing and implementing a CMP. A CMP should include at a minimum:

1. Standards and guidelines for field collections.
2. Comprehensive inventories of items in the Forest Service unit's Heritage Collections, organized by collection type and Heritage NRM Assemblage designation case file number and site number (and Smithsonian or other institution number if available).
3. Standards for protection of collections against fire, flood, and other environmental elements.
4. Security standards to protect collections from theft and unauthorized use.
5. Protocols for access and Agency use of collections.

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6. A legally binding agreement or contract for institutions curating the Forest Service unit's collections.
7. Standards and protocols for loans, accessions, monitoring, and use including internal Agency use.
8. Staffing and funding needs.

63.1 – General Guidelines for All Heritage Collections

Follow the following guidelines when dealing with Heritage collections:

1. Accession Heritage collections as soon as they are in Forest Service custody and catalog them promptly thereafter. Provide adequate temporary storage and security according to the guidelines for permanent curation facilities in 36 CFR 79.
2. All archaeological and historical artifacts and records should be securely stored. It is inappropriate for Forest Service employees, including Heritage Program staff, to display historical and archaeological items in Agency offices (atop desks, cabinets, window sills) unless they are part of a formal interpretive-educational exhibit. Unsecured artifacts are especially vulnerable to theft or discard when employees transfer or retire, or during office space alterations or moves.
3. It is never appropriate to return back to the ground archaeological material that has been excavated, collected, and accessioned. Items repatriated under NAGPRA that are subsequently re-buried at the request of an Indian Tribe under the authority of the Food, Conservation, and Energy Act of 2008, Title VIII: Forestry, Subtitle B - Cultural and Heritage Cooperation Authority (P.L. 110-246) and items conveyed under the Native American Technical Corrections Act of 2004 (25 U.S.C. 122), are exceptions.
4. Discourage Agency employees from collecting artifacts during their work duties (for example while timber cruising, trail construction, or other activities) on behalf of the Heritage Program unless specifically requested to do so by the Heritage professional (for example vulnerable artifacts). Encourage employees to mark the location of any cultural resource they encounter or observe on scaled maps so that the site can be visited and recorded by Heritage Program staff.
5. Identify all curatorial facilities that house Heritage collections in the Heritage Assemblages Module in the I-Web database.
6. Keep all associated materials resulting from systematic research projects together in the same repository unless separation is necessary for security, protection, analysis or exhibition, or when on temporary loan for specific use elsewhere.

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7. Ensure that non-Forest Service institutions receiving or housing Forest Service Heritage collections meet the standards in 36 CFR 79. Qualified institutions must be able to catalog and accession collections adequately and in a timely manner.
8. Execute a curation agreement with an appropriate curatorial facility that includes legal responsibility for the physical safety of the collection.
9. Provide access to collections held in Forest Service or other curatorial facilities to qualified researchers who demonstrate a need to use them.
10. Document loans in a loan agreement that includes a list of the loaned items, and conditions for preserving, handling, and shipping.
11. Monitor the condition of collections in either Forest Service or external curatorial facilities at least once every 5 years and complete a monitoring report with findings and any proposed actions.

The Forest Service currently has no statutory authority to deaccession collections from National Forest System lands, except Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that have been repatriated under NAGPRA or Native Alaskan objects conveyed under the Native American Technical Corrections Act of 2004 Section 122.

63.2 – Archives and Curation Facilities

Include procedures in the CMP to properly accession and house all Heritage collections owned and administered by the Forest Service in curatorial facilities that meet standards and guidelines in 36 CFR 79.

Include a schedule in the CMP to transfer all collections temporarily stored in Forest Service facilities that do not meet 36 CFR 79 standards to appropriate curatorial facilities that do.

Ensure that all Heritage collections housed in non-Forest Service facilities have a loan agreement.

Work with the curatorial facility and Forest Service Grants and Agreements personnel to develop a legally binding agreement for all curatorial services pursuant to 36 CFR 79. A Memorandum of Understanding is not legally binding; however the template for a Memorandum of Understanding for Curatorial Services for a Federally-Owned Collection template in 36 CFR 79, Appendix B may serve as an interim instrument until a legally binding agreement is signed.

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The terms and conditions to include in contracts, memoranda, and agreements for curatorial services are described in 36 CFR 79.8. These include but are not limited to:

1. Statement that identifies the collection or group of collections to be covered and any other U.S. Government-owned personal property to be furnished to the repository.
2. Statement that identifies who owns and has jurisdiction over the collection.
3. Statement of work to be performed by the repository (explicit, detailed).
4. Statement of the responsibilities of the Forest Service and any other appropriate party.
5. When the collection is from a site on National Forest System lands that the Agency Official (Forest Supervisor) has determined (based on the recommendation of the Heritage professional) is of religious or cultural importance to any Indian Tribe having aboriginal or historic ties to such lands, such terms and conditions as may have been developed pursuant to other Federal regulations.
6. Term of the contract, memorandum, or agreement; and procedures for modification, suspension, extension, and termination.
7. Statement of costs associated with the contract, memorandum, or agreement; the funds or services to be provided by the repository, the Forest Service and any other appropriate party; and the schedule for any payments.
8. Any special procedures and restrictions for handling, storing, inspecting, inventorying, cleaning, conserving, and exhibiting the collection.
9. Instructions and any terms and conditions for making the collection available for scientific, educational and religious uses, including procedures and criteria to be used by the Repository Official to review, approve or deny, and document actions taken in response to requests for study, laboratory analysis, loan, exhibition, use in religious rituals or spiritual activities, and other uses. When the Repository Official is to approve consumptive uses, this should be specified; otherwise, the Agency Official should review and approve consumptive uses.
10. Instructions for restricting access to information relating to the nature, location, and character of the prehistoric or historic resource from which the material remains are excavated or removed.
11. Statement that copies of any publications resulting from study of the collection are to be provided to the Agency Official.

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12. Statement that specifies the frequency and methods for conducting and documenting the inspections and inventories.
13. Statement that the Repository Official shall redirect any request for transfer or repatriation of a federally-owned collection (or any part thereof) to the Federal Agency Official, and redirect any request for transfer or repatriation of a federally administered collection (or any part thereof) to the Agency Official and the owner.
14. Statement that the Repository Official shall not transfer, repatriate, or discard a federally- owned collection (or any part thereof) without the written permission of the Agency Official, and not transfer, repatriate, or discard a federally administered collection (or any part thereof) without the written permission of the Agency Official and the owner.
15. Statement that the Repository Official shall not sell the collection.

Use recent Federal agency examples when developing repository contracts, memoranda, and agreements. Exercise caution when borrowing a repository template from another Forest Service unit or agency because repository (institutional) charters, missions, operational capacities, and other contingencies vary. Repository contracts, memoranda, and agreements should be reviewed by the Regional Heritage Program Leader.

Funding is an essential part of a repository contract, memorandum, or agreement. During out-year work planning and budgeting, include repository funding and funding for any related Forest Service work (funding may be provided by the agency program that generated the collection, as well as by the heritage program). Ensure that a funding mechanism is in place for repository memoranda and agreements.

64 – LOANS

Allow for loans of Forest Service Heritage collections to appropriate institutions for research, exhibits, and interpretive programs in accordance with 36 CFR 79 and agency guidelines. Loans may only be to institutions and may not be made to individuals.

Coordinate with Forest Service property specialists regarding the loan of the Federal government property.

Use standard loans agreements signed by the Agency Official and a representative of the receiving organization for loans to appropriate entities including, but not limited to:

1. Nonprofit educational, historical and cultural institutions (such as museums, historical societies, Indian Tribes)

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2. Organizations providing curatorial services (such as conservation treatment and exhibit preparation).
3. Other Forest Service units or non-Forest Service repositories (museums and universities) for curation and appropriate use of collections.

Use form AD-107 (Report of Transfer or Other Disposition or Construction of Property) or the sample loan form in 36 CFR 79, Appendix C for loans to museums and institutions. Track loans in the Heritage NRM Assemblages module and monitor the condition of Heritage collections under long-term loans.

Collections obtained under permit and housed in non-Forest Service facilities remain the property of the Federal government.

Collections housed by the Smithsonian Institution are in Federal ownership and control and not on loan.

64.1 – Research

Follow these guidelines when loaning Forest Service collections for research purposes:

1. Authorization requires a written request to the Agency Official and should include a proposal detailing the purpose, methods, and expected results of the research and the qualifications of the individual researchers for handling the materials within the collection. For collection materials appearing on the internet, authorization and written request are not required as posting to the World Wide Web implies permission to use.
2. Ensure the loan agreement provides for security and preservation of the materials, including adequate staff supervision.
3. Destructive analysis, such as radiocarbon dating and DNA analysis, may be a legitimate research use of collections when the impact is minor or when the object is common. Before recommending or implementing destructive analysis, consult with SHPO, Indian Tribes, and other interested parties under NHPA, ARPA, or NAGPRA as appropriate.
4. Allow reproductions of original objects if the reproduction process will not harm the original object. If reproductions are retained in the collection, label them indelibly as reproductions.

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64.2 – Education and Interpretation

Follow these guidelines when loaning Forest Service collections for education and interpretation purposes:

1. Consider age, condition, rarity, and other attributes of the items if the intended use involves extensive handling or exposure to damaging elements (particularly historic documents).
2. Consult with Indian Tribes before loaning items or collections that may be of religious or cultural significance to those Tribes.
3. Include explicit guidelines, limits, and safeguards in the loan agreement for how items will be used and protected in educational or interpretive activities.

65 – ACQUISITIONS

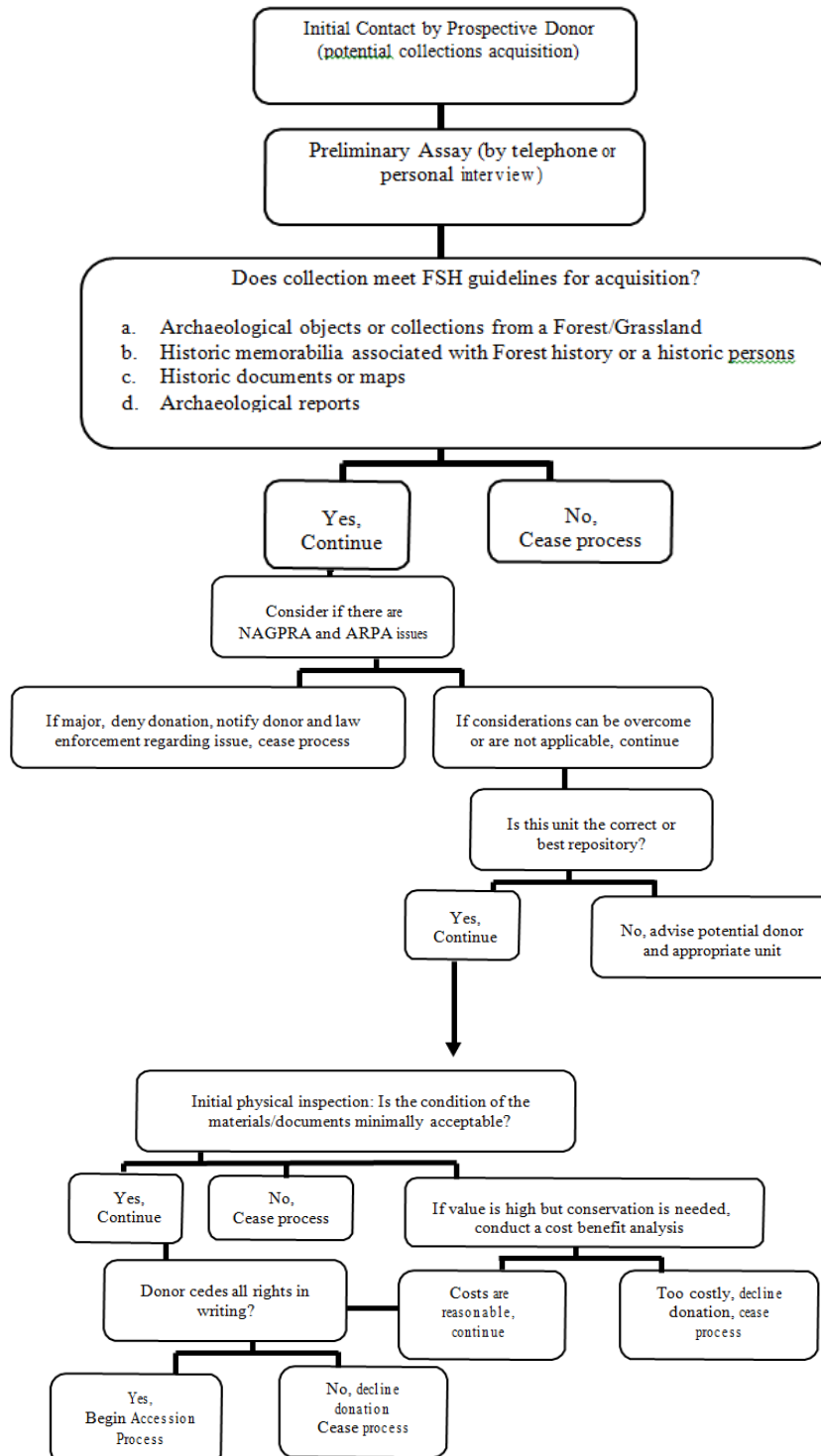
When considering acquisitions of materials or records:

1. Evaluate the need for and/or benefits of acquiring Archival and Forest Service History collections using 65 Exhibit 01.
2. Do not accept donations of materials that are not from National Forest System lands, unless they meet the criteria above for Forest Service History artifacts and records.
3. The return of items that were removed from National Forest System lands is not a donation or a gift; it is a return of Federal property.
4. Consult with appropriate Indian Tribes regarding any acquisition that involves human remains and associated funerary objects, or potential unassociated funerary objects, sacred objects, or objects of cultural patrimony.
5. Determine the copyright status of any archival and manuscript collections, including photographic materials and sound recordings or works of art acquired through gift, purchase, or exchange. All works published prior to 1928 are in the public domain.
6. Document Federal ownership and custody of acquired collections; the potential donor must provide a complete release for donated materials; use the Deed of Gift template provided in Appendix A of 36 CFR 79 to document releases.
7. Record the acquisition, accessioning, cataloguing, and other associated records for Heritage Collections in the Assemblages module of Heritage NRM and in the Forest Service unit's Collections Management Plan.

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65 – Exhibit 01

Decision Tree for Acquisition of Donated Heritage Collections



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66 – DEACCESSIONING (RESERVED)

67 – NAGPRA REPATRIATION

Follow NAGPRA Section 7 and 43 CFR 10.10 when repatriating Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony.

Manage these items as NAGPRA collections according to 43 CFR Part 10 and the requirements provided in 36 CFR 79 until repatriation and transfer of custody are complete.

See FSM 1563 and FSH 1509.13 for guidance on NAGPRA collections. Go to the NPS National NAGPRA website for more information (www.nps.gov/history/nagpra).

67.1 – Repatriation of Culturally Affiliated Native American Remains

Initiate repatriation only upon receipt of a written request from the culturally affiliated Indian Tribe or from one of the culturally affiliated Indian Tribes when there is more than one Tribe. Repatriation may begin 30-days after publication of a Notice of Intent to Repatriate.

Repatriation of human remains of known cultural affiliation and associated funerary objects may begin 30-days after publication of the Notice of Inventory Completion.

67.2 – Repatriation of Culturally Unidentifiable Native American Remains

Repatriation of culturally unidentifiable remains occur under 43 CFR 10.11. Initiate repatriation only upon receipt of a written request from an Indian Tribe from whose aboriginal lands the remains were removed.

Consult the Forest Service's National NAGPRA Coordinator prior to consultation with Indian Tribes regarding repatriation of culturally unidentifiable remains.

Repatriation of human remains may begin 30-days after publication of the Notice of Inventory Completion.

67.3 – Transfers of Custody (Repatriation) of Native American Remains

Follow NAGPRA Section 3 and 43 CFR 10.6 for transfer of Native American remains and NAGPRA objects from existing collections.

Initiate transfers of custody only upon a written request from the culturally affiliated, aboriginally occupying, or culturally related Indian Tribe, or from one of these three when there is more than one Tribe, after consultation with all potentially affected Tribes.

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Publish a Notice of Intended Disposition in the local newspaper of record prior to transfer of human remains and NAGPRA objects. Transfer of custody may begin 30-days after publication of the second Notice of Intended Disposition.

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This chapter provides uniform guidance and procedures for Heritage professionals responsible for administering permits for archaeological investigations, National Historic Preservation Act of 1966 as amended (NHPA) (16 U.S.C. 470 et seq.) and partnership agreements, and contracts. Use this direction in conjunction with FSM 2367, FSM 2710, and FSH 2709.1.

70.1 – Authority

Antiquities Act of 1906 (16 U.S.C. 431-433), the Archaeological Resources Protection Act of 1979 as amended (16 U.S.C. 470aa-mm) and its uniform regulations at Title 36, Code of Federal Regulations, Part 296 – Protection of Archaeological Resources, and the Organic Act of 1897 as amended (16 U.S.C. 473-478, 479-482 and 551). The Forest Service authorizes Special Use Permits (FS 2700-32 - Permit for Archaeological Investigations) under these Acts.

Cooperative Funds and Deposits Act of 1975 (16 U.S.C. 565 a1-a3), and the Interior and Related Agencies Appropriations Act of 1992 (Public Law 102-154). These two laws as well as a number of other laws authorize the Forest Service to develop partnership agreements. For related direction see FSM 1580 and FSH 1509.

The Federal Acquisition Regulations (FAR), Agriculture Acquisition Regulation (AGAR), FSM 6300, and FSH 6309. AGAR uniform regulations are at Title 48, Code of Federal Regulations, Chapter 4 – Department of Agriculture. All acquisitions made by the Forest Service are regulated by these authorities.

Small Business Act of 1953 (P. L. 85-536, as amended). This Act is a Federal law that established the Small Business Administration (SBA) to encourage and develop small business growth in the United States, and to aid minorities and other disadvantaged peoples in securing loans and learning management techniques. Section 8(a) established a program that authorizes the SBA to enter into all types of contracts with other agencies and to let subcontracts for performing those contracts to firms eligible for program participation, including economically disadvantaged Indian Tribes. The Heritage Program may enter into Section 8(a) contracts with Tribes to complete cultural resource work.

Tribal Forest Protection Act of 2004 (P.L. 108-278). This Act is a Federal law that provides a means for Indian Tribes to propose work and enter contracts and agreements with the Forest Service and Bureau of Land Management to reduce threats from Federal lands to adjacent Indian trust lands and Indian communities. The Law was passed in response to devastating wildfires that crossed from Federal onto Tribal lands. Tribal proposals must focus on Forest Service lands that border or are adjacent to Tribal lands; pose a fire, disease, or other threat to Indian trust land or community or is in need of restoration; and involve a feature or circumstance unique to the proposing Tribe, including cultural, archaeological, and historical resources.

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70.4 – Responsibility

It is the responsibility of Heritage professionals to:

1. Review Applications for Permits for Archaeological Investigations for approval by the Agency Official.
2. Assist, once the application has been approved, in the preparation of the Permit for Archaeological Investigations for signature and issuance by the Agency Official. Monitor the permit to insure that all conditions are met.
3. Prepare and administer programmatic and project memoranda of agreement to comply with the NHPA, Section 106 and Section 110.
4. Identify Heritage Program partnership opportunities and assist in the development and administration of partnership agreements.
5. Identify Heritage Program contracting needs and assist the Contracting Officers in the development and administration of procurements and contracts.

71 – PERMIT FOR ARCHAEOLOGICAL INVESTIGATIONS

For related direction see FSM 2367.1.

Issue a Permit for Archaeological Investigations to control and regulate archaeological activities on National Forest System lands. The permit defines the intent, scope, and methodology of the archaeological activity and specifies conditions under which the permit may be suspended or terminated.

Refer to FSM 2367.11 through 2367.16 for activities requiring a permit; whether the permit is issued under ARPA, the Organic Act, or the Antiquities Act; who must have a permit; and when a permit is not required. See chapter 10, section 13.42 of this Handbook for Tribal consultation requirements prior to issuing a Permit for Archaeological Investigations for planned excavations.

Any qualified professional may apply for a permit by submitting an Application for Permit for Archaeological Investigations form (FS-2700-30, OMB No. 0596-0082) and required supporting documentation, in person or by mail, to the address of the responsible Agency Official (Forest/Grassland Supervisor).

An ARPA permit may be issued in addition to a contract or the permit requirements may be incorporated into the contract stipulations. See FSM 2367.15.

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71.1 – Applicant Qualifications

Review the permit application to determine if the applicant is qualified to conduct archaeological work. The applicant shall:

1. Hold a graduate degree in anthropology or archaeology, or have equivalent training and experience (documented in a complete resume).
2. Demonstrate ability to plan, organize, outfit, staff, implement, and supervise the activities in the proposed scope of work.
3. Demonstrate ability to carry the project to completion, as evidenced by the timely completion of other research reports or similar compliance-related documents.
4. Have completed at least 16 months of professional experience and/or training in the archaeological field, laboratory, or in library research, administration, or management, including at least 4 months experience and/or specialized training in the type of activity proposed under the permit.

Applicants shall have the demonstrated academic/CRM training and research experience to investigate the types of prehistoric or historic archaeological sites covered by the permit.

71.2 – Description of Proposed Work

Review the permit application to determine if all aspects of the proposed work are sufficiently described, including, but not limited to:

1. Location of proposed work.
2. Proposed work, benefits, and products.
3. Statement of the applicant's capability, past experience, and performance.
4. Resume of the Principal Investigator(s) and Project Director(s).
5. Operating plan and work completion schedule.
6. Documentation confirming curatorial facility to house resulting artifacts, samples, and records.

Review the application only after all necessary documentation is provided.

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A permit application may be denied when it fails to meet minimum qualifying criteria; the applicant has a demonstrated history of noncompliance with past permits or Federal laws and/or regulations; or the applicant is non-responsive to a request for missing information. When this occurs, prepare a letter for the Agency Official's signature describing the reasons for denial in detail.

71.3 – Issuance

Recommend to the Agency Official that a Permit for Archaeological Investigations (FS-2700-32, OMB No. 0596-0082) be issued when an application meets all permit requirements and conditions. Permits may not be issued for a term longer than 5 years.

Notify and consult with the appropriate Indian Tribe(s) when an application for a permit issued under ARPA could potentially affect cultural resources or areas that have Tribal, cultural, or religious importance. See 36 CFR 296.7 and chapter 10, section 13.42 of this Handbook.

Coordinate the permit application review and permit issuance when the permit activity covers more than one Forest Service administrative unit.

See FSH 2709.11, chapter 30 and FSM 2367.17 for guidance on the permit fee. Ensure that an issued permit includes the:

1. Name(s), addresses, phone numbers, and email addresses of the qualified individual(s) and the institutions/organizations responsible for conducting the permitted work.
2. Project scope of work (operating plan).
3. Detailed location.
4. Specific activities to be accomplished.
5. Project schedule and duration.
6. Products and deliverables (report schedule).
7. Logistical or other issues of concern.
8. Name of repository where any collected materials, data, and records will be deposited.
9. Plans for discovery and disposition of human remains, funerary objects, and objects of cultural patrimony.
10. Requirements to restore the land after the activity is completed.

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11. Confidentiality requirements.
12. Conditions to protect workers or public safety.
13. Additional terms required by the Forest Service, such as travel or fire restrictions. Identify performance standards and rating system to objectively evaluate the permit holder's performance, including adherence to the operating plan and timely delivery of the service, product, or document resulting from the permitted activity. The performance rating is one basis for determining whether the holder will be authorized to do future archaeological fieldwork on National Forest System lands.

71.4 – Administration

Monitor the permit holder's performance throughout the life of the permit. Provide information to the Agency Official to amend, extend, suspend, or terminate the permit.

Review the multi-year permits annually. The permit holder is required to submit an annual report enumerating all activities conducted under the permit to the Agency Official. See FSM 2709 and Title 36, Code of Federal Regulations, Part 251 – Land Uses, for guidance on permit extension, suspension, termination, and appeals.

71.5 – Collections, Records, and Reports

Ensure that all cultural resource documents and products resulting from the permitted activity are submitted to the Forest Service according to the performance schedule and meet professional standards including any applicable programmatic agreement or State requirements.

The permit holder is required to submit the following to the Agency Official within 90-days of the date of the final report:

1. All artifacts, samples, and collections and original or clear copies of all records, data, photographs, and other documents resulting from activities authorized by the permit with the curatorial facility named in the permit.
2. Catalogue and description of all materials deposited with the curatorial facility named in the permit, including the facility's accession or catalogue numbers, and confirmation signed by an authorized curatorial facility official.

Provide copies of final reports resulting from agency-permitted work to the State Historic Preservation Officer (SHPO), Indian Tribe, and other suitable professionals as appropriate.

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71.6 – Information Confidentiality

The permit holder is required to keep the specific location of cultural resources confidential. Without prior Forest Service written approval, the holder cannot publish any location or other information identifying archaeological sites that could compromise their protection and management by the Federal Government.

The Heritage professional, with the consent of the Agency Official, should use appropriate means to make final reports and documentation resulting from permitted work available to the public, as appropriate.

Any published article, paper, or book containing results of work conducted under an archaeology permit must specify on which National Forest or Grassland that work was performed. The holder is required to submit a copy of any published or unpublished report, article, paper, or book resulting from the permitted activities to the Agency Official and the appropriate official of the curatorial facility named in the permit. See chapter 80, section 86 of this Handbook.

71.7 – Discovery of Human Remains

If human remains are discovered during approved excavation or other permitted activities, the permit holder immediately notifies and coordinates actions with the Agency Official and Heritage professional to follow procedures outlined in the permit conditions and procedures described in FSM 2364.13 and chapter 40, section 42.2 of this Handbook.

72 – AGREEMENTS

For related direction see FSM 2367.2.

Develop agreements on behalf of the Heritage Program to meet legal compliance responsibilities under NHPA Section 106 and Section 110 and to develop cooperative partnerships that provide mutual benefit to the Forest Service and the cooperator.

72.1 – NHPA Agreements

Programmatic agreements and memoranda of agreement are routinely executed between the Forest Service and the SHPO, and in some cases the Advisory Council, to comply with NHPA Section 106 and Title 36, Code of Federal Regulations, Part 800 – Protection of Historic Properties. These agreements are part of a regulatory process outside the purview of the Forest Service Grants and Agreement program (see FSH 1509.11.61.23). The Regional Office must review and approve all Forest/Grassland NHPA Programmatic Agreements. Provide copies of these agreements to the Grants and Agreements program for tracking purposes.

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Develop a programmatic agreement to:

1. Define standards and specific procedures to expedite parts of the standard NHPA Section 106 process while assuring quality performance and control. Example: A Regional programmatic agreement requires Forests/Grasslands to have qualified professional heritage staffing, adequate cultural resource records systems, and extant predictive models or inventory plans in order to expedite the SHPO review of certain types of Agency projects, including “negative” inventories.
2. Define management specifications from identification and through protection treatments for a specific class of cultural resources. Example: A Forest programmatic agreement describes identification, evaluation, consultation, protection, and conservation procedures for its abundant prehistoric petroglyphs and pictographs.
3. Address specific types of projects or undertakings that are extensive and multi-year; procedurally and legally complex; or have the potential to affect numerous cultural resources. Such agreements stipulate planning, inventory, and evaluation requirements and treatment options. Example: A programmatic agreement outlines uniform cultural resource identification, evaluation, consultation, and protection procedures for landscape-scale integrated ecosystem restoration projects.

Develop Memoranda of Agreement (MOA) to avoid, minimize, or mitigate the adverse effects of an Agency or Agency-authorized action on a historic property or unevaluated cultural resource. See chapter 40, section 42.14 for elements of an MOA to resolve adverse effects.

72.2 – Partnership Agreements

Establish partnerships between the Forest Service and the public or private sector cooperators or partners to accomplish mutually benefitting Heritage Program work. A partnership is voluntary, mutually beneficial, and entered into for the purpose of accomplishing specific objective(s) between the Forest Service and its partner(s). The Grants and Agreements (G&A) program administers partnership agreements.

Agreements commonly executed on behalf of the Heritage Program include, but are not limited to: Memorandum of Understanding (MOU), Challenge Cost-Share (CCS), Participating Agreements, and Inter-Agency Agreements.

Follow these steps when developing and implementing a partnership agreement:

1. Discuss potential partnership with G&A Specialists to ensure proper use of appropriations, availability of authority, and selection of the appropriate instrument to accomplish a specific action.

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2. Prepare an agreement with G&A assistance using the appropriate Agency agreement form, including work requirements, expected products, and a financial plan detailing all Forest Service and cooperator costs and obligations.
3. Issue a Permit for Archaeological Investigations to the cooperator if the proposed archaeological activities fall under the purview of the Organic Act, Antiquities Act or ARPA.
4. Monitor partnership agreements and work closely with the cooperator and G&A staff to address any issues or deficiencies.

73 – PROCUREMENT AND CONTRACTS

For related direction see FSM 2367.3.

Use Federal procurement and contracting to purchase goods and services beneficial to the Heritage Program. The Integrated Acquisition System (IAS) is the tracking system for Forest Service requisition and contract processes.

Acquire all necessary training to qualify as certified requisitioners and/or to participate in the Federal procurement process as a Technical Specialist, Contracting Officer's Representative (COR), or Inspector.

Federal and Agency procurement regulations define required training, roles, and responsibilities for Forest Service personnel involved in the acquisition process. Training is recurrent to maintain COR qualifications.

The Small Business Act (SBA) and the Tribal Forest Protection Act (TFPA) provide mechanisms for Tribes to enter into contracts and agreements with the Forest Service. Section 8a of the SBA applies to Native Americans. The TFPA proposals apply to Forest Service lands when they: border or are adjacent to Tribal lands; pose a threat to the Indian trust land; or involve a feature or circumstance unique to the proposing Tribe, including cultural resources.

Consider Tribal contracting opportunities under the SBA and TFPA project proposals based on Forest/Grassland heritage program needs and priorities. Consult and coordinate with Forest/Grassland Procurement Specialists, the appropriate Agency Official, and Tribal Government Relations Program staff as appropriate when developing contracts under the SBA or TFPA.

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73.1 – Heritage Program Roles

A designated Contracting Officer (CO) is responsible for administering all facets of the acquisition process. Qualified Heritage professionals may assist the Contracting Officer as a Technical Specialist and/or a Contracting Officer's Representative and Inspector.

73.11 – Technical Specialist

It is the responsibility of a Technical Specialist to:

1. Identify procurement or project need, enter it into Work Plan, and obtain necessary approval.
2. Develop the Statement of Work (SOW) with technical specifications and provide a government estimate of procurement or contract cost.
3. Ensure that the SOW conforms to the Agency mission and need, and has received NHPA Section 106 compliance, Tribal, engineering, administrative, or other necessary reviews/approvals and funding.
4. Input procurement data into the Integrated Acquisition System (IAS), if identified as the requisitioner.
5. Provide SOW, government estimate, maps, drawings, photographs, specifications, mailing lists of potential contractors, copy of work plan, copy of the IAS requisition, a list of government-furnished property if applicable, and other required solicitation (contract package) documentation to the Procurement Official.
6. Assist the Contracting Officer, as requested, to review the solicitation and provide technical review/evaluation of quotes or proposals for contract award.

73.12 – Contracting Officer's Representative and Inspector

It is the responsibility of a Contracting Officer's Representative (COR) and Inspector to:

1. Monitor contractor performance and work progress through all contract phases and document the performance and work in contract daily diaries or field logs.
2. Apprise the CO about changed conditions, contract delays, contract non-compliance, work stoppages or suspensions, payment authorizations, and proposed contract modifications, as necessary.
3. Participate with the CO in all or a portion of the technical aspects of contract modification and negotiations.

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4. Advise the CO in resolution of potential disputes, finding remedies, analyzing contract claims, and recommending settlement positions.
5. Closeout the COR or Inspector file, including all daily diaries and other documentation and submit the completed file to the CO, and facilitate the return of any government furnished property and all artifacts, artifact catalogues, data sheets, maps, photographs, and report copies, and so forth to the Forest Service.
6. Distribute completed reports to the SHPO, Indian Tribes, other agencies, universities, curatorial facilities, and interested parties, as required or appropriate.

73.2 – Contract Administration Guidelines

In addition to the regulations in the FAR, AGAR, and FSM 6300 and FSH 6309, follow these guidelines when involved with Federal procurement and contracting as a Heritage Program Technical Specialist, COR, or Inspector.

1. Prepare a thorough statement of work with clear technical requirements.
2. Document in writing all contacts and communications with the contractor in a daily diary or field log.
3. Report contract problems in writing and in person immediately to the CO.
4. Decisively implement corrective measures as necessary to prevent project delays and problems.
5. Expect that contract change orders and modifications may be necessary to successfully complete some (especially complex) projects.

73.3 – Statement of Work and Prospective Contractors List

Develop a clear and thorough statement of work (SOW) that includes purpose and need, methodologies, technical requirements, schedules, and deliverables.

Consult with all appropriate experts and Technical Specialists to ensure that the SOW and its intended outcome or products are realistic and can be accomplished within the contract time frame.

Seek peer review of the SOW when new field methodologies are being proposed (for example, remote sensing).

Consult with the SHPO and Indian Tribes as appropriate.

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The following exhibit shows the necessary components of a SOW for standard Heritage Program work: survey, testing, and data recovery. Other components may be required for building restoration, interpretive exhibits, and other types of projects, or for performance-based contracts.

73.3 – Exhibit 01
Statement of Work Components

Component	Content
Project Description	Project name and type State and county National Forest or Grassland, Ranger District Geographic area Legal location Legal authority Description of the undertaking Purpose & need
Agency Contacts	CO, COR, CI, Heritage professional (technical advisor)
Government-furnished Property	Maps, cultural resource records, field reports, other data essential to meeting contract specifications
Contractor-furnished Items	Technical equipment essential to meeting contract specifications (GPS, Total Station, special software)
Standard & Technical Definitions	Key terms to understanding contract requirements
Technical Specifications	Critical tasks, Work elements, Technical requirements, Performance standards, Quality assurance plan
Performance Schedule	Work activities Deadlines-due dates
Deliverables	Reports, field data & catalogues, other products
Permit Requirements	Permit for Archaeological Investigations, other
Human Remains	NAGRA protocol Unanticipated discovery plan
Disposition of Collections	Curation requirements
Information Management	Requirements for security & dissemination
Health and Safety	Specific job hazards & safety requirements
Evaluation Criteria	Criteria for evaluating technical proposal, qualifications, price
Payment Procedures	Payment schedule and amounts
Exhibits	Maps, photographs, records, etc.

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Provide the CO with a list of qualified and prospective contractors. This list may be derived from professional consultant lists prepared by the SHPOs or archaeological and historical organizations. Procurements advertised in Federal Business Opportunities and other Federal sources are open to all qualified bidders.

Consult with the CO, before providing additional information to prospective contractors with questions about technical work requirements. If this additional information deviates from the technical specifications in any way, share it with all prospective contractors.

All quotes/proposals are submitted to the CO and are confidential.

73.4 – Procurement Types

Federal procurement regulations identify the procedures by which agencies receive a quote/proposal for a specific commodity or service.

Consult FAR, Agency purchase card regulations, and Contracting Specialists for micro-purchase amounts and limits. Acquisition of products and services above those micro-purchase limits requires competition to secure the best value and price for the Government.

Consult FAR and Contracting Specialists for all regulations and requirements related to competitive procurement types. A general description of each follows.

73.41 – Request for Quotation

Use the Request for Quotation (RFQ) process for cultural resource work such as field survey and small-scale subsurface testing that is highly standardized with set and predictable outcomes. An RFQ is often the best choice for time-critical work if the limitations of the process (lowest bid-best value requirement) are fully understood.

An RFQ invites consultants to submit a quote on a specific service or product according to set technical requirements and within a set timeframe. It includes exact work specifications to insure that all consultants are quoting on the same service and to ensure that the Government receives the required work. Proposals may be part of the RFQ process.

73.42 – Request for Proposal

Use the Request for Proposal (RFP) process for cultural resource projects that are large-scale or complex, or where innovation, experience, performance, timing, and quality are essential. Major data recovery work (excavation) and building restoration are two examples.

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An RFP invites consultants to submit a proposal for a specific service or product. In addition to the price quote, the proposal specifically describes how the work will be accomplished. A Forest Service review panel evaluates the proposals and makes the selection based on the quality of the proposal and the price. The RFP is a lengthier process than the RFQ.

73.5 – Contract Types

Consult FAR and Contracting Specialists for all regulations and requirements related to contract types. A general description of each follows.

73.51 – Fixed-Price

Use a fixed-price contract for cultural resource projects with a fixed schedule, outcome and termination date, such field survey, building stabilization, or interpretive exhibit construction.

This is the primary method of contracting in which a specified price is paid for the specified product or service (deliverables) regardless of the contractor's actual costs. The price is usually not subject to any adjustment unless certain provisions are included in the contract. A fixed-price contract places minimum administrative burden on the contracting parties, but subjects the contractor to risks arising from full responsibility for all cost escalations.

73.52 – Indefinite Delivery-Indefinite Quantity Contract

Use an Indefinite Delivery-Indefinite Quantity (ID-IQ) contract for cultural resource work that is highly standardized and routine but is multi-year in scope, such as NHPA Section 106 survey where thousands of acres of timber are being treated annually to combat insect and disease infestation.

An ID-IQ contract provides for an indefinite quantity within stated limits, of supplies or services during a fixed period of time. Multiple awards may be made under an ID-IQ contract. Once awarded, the Government submits task orders to the contractors for individual work requirements. An ID-IQ is appropriate when the Government cannot predetermine, above a specified minimum, the precise quantities of supplies or services required during the contract period.

73.53 – Performance Based Contracts

A performance-based contract allows the Agency to define the desired results (product, deliverables) rather than the process or method used to obtain them, allowing the contractor more flexibility in how to achieve the results. A detailed SOW is not necessary. Describe the work in a performance based contract in terms of objectives and include quality assurance provisions.

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Use performance-based contracting to complete a wide range of NHPA Section 106 and 110 projects.

73.54 – GSA Schedule Contracts

Use GSA Schedule Contracts when available and appropriate for the procurement need. The GSA has established long-term Government contracts, precluding the need for competition. See www.GSA.gov to review the list of qualified vendors that provide archaeological services.

73.55 – 8a Contracts

An 8a Contract is a sole source contract with a certified vendor administered by the Small Business Administration (SBA). The CO works with the SBA and the vendor to negotiate a fair price per project. See www.SBA.gov to review the list of qualified vendors that provide archaeological services.

73.6 – Cultural Resource Deliverables

Cultural resource products delivered under Federal contracts are the property of the United States Government.

Treat all products such as field reports, maps, or notes that contain site locations or descriptions as confidential information. These data are protected under The Freedom of Information Act as amended (FOIA) (5 U.S.C. 552) and other regulations and may not be disclosed in publications, presentations, or other media without prior written approval of the Forest Service. A contractor does not retain any proprietary rights to the resulting deliverables unless otherwise legally specified. For related direction, see section 71.6 and chapter 80, section 86 of this Handbook.

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This chapter provides uniform guidance and procedures for Heritage professionals managing and reporting cultural resource information.

80.3 – Policy

In conjunction with FSM 2368 to:

1. Maintain and manage cultural resource information to all national database and reporting requirements.
2. Use and share cultural resource information for Agency and public benefit.

80.4 – Responsibility

It is the responsibility of Heritage professionals to:

1. Obtain necessary training to enter and update Heritage information in the Natural Resource Manager (NRM), the Agency's corporate data system.
2. Document and enter cultural resource data into Heritage NRM's application and its components. Ensure that data are current and accurate.
3. Report required data elements in the Heritage NRM application to satisfy all upward program and Agency reports.
4. Use the Heritage NRM application to store and retrieve tabular and spatial data pertaining to Heritage program management.
5. All Heritage spatial data is located in the NRM SDE for Heritage program management.
6. Use the Heritage NRM application at fiscal year-end to determine Heritage program accomplishments, heritage assets for reporting purposes, including the Agency financial statement, and the Secretary of the Interior's Report to Congress on the Federal Archeology Program.
7. Stay informed of current required data for national reporting purposes, listed in the latest "Heritage Core Data for National Reporting" paper. Access this document through the National Heritage Information Management Initiative on the Forest Service Intranet, Recreation and Heritage Program web site or on its SharePoint site.

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81 – NATIONAL HERITAGE INFORMATION MANAGEMENT INITIATIVE

The Forest Service National Heritage Information Management Initiative (NHIMI) develops and implements a corporate information management environment that provides Heritage and other Resource Specialists, Managers, and partners with reliable and consistent Heritage information for analysis, reporting, and decision-making. The goal of the NHIMI is to design and maintain a corporate strategy for heritage information management that meets Agency and Heritage Program business needs.

The purpose of the NHIMI is to:

1. Provide data collection tools for the collection of cultural resource data in the field in a reliable, consistent, and automated format.
2. Coordinate and communicate with local, State, and Tribal partners to make possible an electronic data transfer and production of standardized data sets.
3. Meet the Agency's cumulative national reporting needs.
4. Integrate with other corporate information management efforts to meet heritage business needs.
5. Establish relevance to all Regions and all staffing levels through active participation and solicitation of feedback throughout the development process.
6. Facilitate implementation of national Heritage spatial and tabular data standards.
7. Provide direction for the development of Internet/Intranet tools and web sites.
8. Facilitate Heritage tourism and interface with other aspects of recreation.
9. Facilitate standardization in the capturing of heritage data across all NRM applications.

82 – HERITAGE PROGRAM RECORDS

Use hard copy files and NRM (which includes GIS) to store and manage Heritage Program records and tabular and spatial data, including:

1. Information on the attributes and locations of cultural resources.
2. Documentation of Heritage Program work activities, including National Historic Preservation Act of 1966 as Amended (NHPA) (Public Law 89-665; 16 U.S.C. 470 et seq.) and the National Environmental Policy Act of 1979 (NEPA) (42 U.S.C. 4321-4347)

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compliance files, such as field notes, reports, maps of surveyed areas, and NHPA Section 106 correspondence with the SHPOs, THPOs, Indian Tribes, Advisory Council, Keeper of the National Register, and other interested parties.

3. Information about archived materials, collections, and objects (collectively referred to as “assemblages”). For related direction see chapter 60.

82.1 – Types of Heritage Program Records

Retain the following types of records and information in Heritage program hard files and electronic databases:

1. Hardcopy inventory, cultural resource documentation, maps, collections, and compliance files held in secured storage.
2. Electronic inventory, collections, and compliance files held in an appropriate file container, including a folder with restricted access permissions on Agency file servers.
3. Inventory, collections, and compliance data stored in the Heritage NRM application, and other supporting documentation and files created as or converted to electronic format are stored in NRM’s Attachments application.
4. Electronic geospatial data (GIS data), held in an appropriate file container, including a folder with restricted permissions on the NRM SDE.

Duplicate paper records in electronic format (either as a scanned image or default file format used by the software application) for all current projects, and where feasible for past projects, and include them in the corporate database as attachments to the Heritage NRM application for the activity, cultural resource, or assemblages component.

82.2 – The Heritage NRM Application

Use the Heritage NRM application to manage and employ all Heritage Program information. NRM is the means by which all Forest Service Heritage Program data are correlated, manipulated, and used for management purposes. Using a simple numbering system, Heritage NRM can relate inventory, site documentation, collections, and compliance records. NRM Heritage is a search tool to identify and locate information.

The Heritage NRM application contains several components: Activities, Cultural Resources, and Assemblages, a spatial component, and a field data collection tool (mobile) to collect and upload all new and edited tabular and spatial data. The application contains a variety of tools, reports, and outputs that assist in resource management and required reporting.

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Organize all cultural resource records in Heritage NRM using a Forest Service's Heritage number (ID) for the cultural resource (the Smithsonian or other locally used number can also be retained, in a separate field). Organize collections records into assemblages and repositories and provide them with an Assemblage identification number (ID) for each Repository.

Use the Forest Service's Heritage numbering convention (ID) for all Heritage Program activities (projects). Compliance records are organized into their constituent event records, related with sites and other activities in Heritage NRM, and then filed by Reporting Year and ID.

83 – HERITAGE INFORMATION REQUIREMENTS

Follow these steps to meet national Heritage Program information requirements:

1. Use the Heritage NRM application to track Heritage Program activities, accomplishments, and to maintain a record of heritage data to satisfy Agency compliance requirements and upward reporting.
2. Follow national data standards, requirements, and conventions, which are sent to the Forest Service Recreation Directors every spring in a 2300/2320 letter (see sec. 83.1). The NHIMI web site, SharePoint sites, and NRM support web site include guidance for meeting the reporting requirements. Manuals and NRM training are also available.
3. Maintain heritage asset records in the Heritage NRM application and related NRM applications (such as the Buildings, Dams, Trails, Attachments) incorporating all necessary and mandatory Agency tabular and narrative data (commonly referred to as the core data fields) for national, State, and local reporting requirements, resource management, and project planning. Link all multi-use heritage assets to the appropriate building, bridge, trail, or dam. Enter the most recent National Register status information for multi-use assets in the Heritage NRM application by August of each year.
4. Document Priority Heritage Asset (PHA) condition survey data in Heritage NRM by September 30 of each year. Link the PHA site to the condition survey event in the Heritage NRM application, and report observed maintenance needs or maintenance accomplishments on the Work Items screen in the module. Enter any other condition updates. The objective is to maintain current condition surveys that are no more than 5-years old for each PHA.
5. Document newly discovered or updated cultural resources electronically using the Heritage NRM application. Export electronic cultural resource data to standard Agency paper cultural resource forms unless a specific Regional or State business protocol states otherwise. Companion maps, field sketches, photograph and artifact logs, informant information, and related data should be clearly linked to the cultural resource record in

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Heritage NRM application and the printed paper documentation. Mark all paper cultural resource records with the Forest Service and Smithsonian numbers, and State, or other ID numbers as appropriate for easy retrieval and use.

6. Establish and maintain the necessary corporate tabular and geospatial data for national, State, and local reporting requirements, and for resource management and project planning.
7. Ensure historical and management status of all cultural resources is accurately portrayed in the Heritage NRM application, according to current standards as defined by the U. S. Department of Agriculture, the Forest Service, and pursuant to the NHPA.
8. Maintain documentation to support all additions and withdrawals of heritage assets during the fiscal year.
9. Maintain heritage assemblage assets that are subject to reporting requirements. Assemblage data are reported in the Heritage NRM application, the Assemblage component.

83.1 – National Annual Reporting Requirements

Annual reports required by Forest Service Program Direction are accomplished through the Heritage NRM application with the “data pulls” run in August for Multi-Use assets and on October 1 of each year for all other heritage assets. The National System of Record for all heritage data is the Heritage NRM application.

The Washington Office issues an annual 2300/2320 data call notification letter to the Regional Recreation Directors every spring. When all of the core data fields are completed, the national reports are complete and accurate, and the Agency can then meet its national reporting requirements.

Enter all data in the Heritage NRM application by the close of business, September 30, of each year. The Heritage NRM application generates data for the following reports:

1. The Secretary of the Interior’s Report to Congress on the Federal Archeology Program.
2. Performance Accountability System (PAS) Target Accomplishment Report.
3. Deferred Maintenance Report.
4. Required Supplementary Information for Agency Stewardship Assets report.

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84 – STANDARDS AND GUIDELINES

For related direction see FSH 6509.11k – Service-Wide Finance and Accounting Handbook, chapter 50.

Follow Forest Service standards and guidelines for the recording and storage of all required Heritage Program information. All Forest Service units must adhere to the national data standards, requirements, and protocols in the NRM database system, which includes Heritage tabular and spatial data. These standards and additional guidance are available on the NHIMI web site and SharePoint site. Additionally, follow Regional, State, or National Forests and Grasslands protocols that govern data entry, as applicable.

Information management, including data input into Heritage NRM is part of the final stages of any Heritage project. Funding for information management follows guidance in Zero code, section 07.2 of this Handbook. If projects require Heritage support under the authority of NHPA Section 106, the program proposing or authorizing the undertaking funds the data entry into the tabular and spatial dataset of the Heritage NRM application. If the data are the result of work completed under the authority of NHPA Section 110, the Heritage program funds the data entry.

84.1 – Cultural Resource Records

Label all hardcopy cultural resource records with the standard Forest Service ID number and when available, the Smithsonian, State, or other ID number for easy retrieval and use.

Document new and updated information related to cultural resources including monitoring information, condition assessments, and other field data needs in Heritage NRM.

Retain hardcopy cultural resource records in a secure, fireproof storage unit with ample room for additional information. Until fireproof storage is available, store copies of all cultural records in offsite repositories, such as the SHPO or other appropriate or sanctioned repositories, to provide redundancy as a means to protect against loss from natural disasters. Restrict access to records to protect confidential information.

84.2 – Field Survey Records

Enter all field survey data into Heritage NRM. . All hard copy field survey report forms and formats should follow national, Regional, or State standards and conventions. Survey records should describe the nature and intensity of the survey and describe project results (both positive and negative) with the pertinent cultural resource record forms, survey notes, project maps, and photographs attached.

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84.3 – Atlas and Master Maps

Record all cultural resources and cultural resource survey areas in one of the NRM SDE Cultural Feature classes for cultural resources or surveys. A cultural resource atlas is a compendium of USGS 7.5' (or suitably-scaled) topographic maps, also referred to as the National Forest's and/or Grassland's "master maps". The atlas-map set has been a traditional way to record geospatial information for Heritage program reporting, planning, and project purposes.

NRM SDE is the primary repository for cultural resource and survey spatial information. A paper atlas-map can serve as a backup to the database as storage for cultural resource and survey spatial information. If the paper atlas-map is being retained as a backup, ensure that it is updated on a regular basis and stored in a secure place. If maintaining two spatial tracking systems becomes time consuming, the paper atlas-map may be archived. Ensure that the archived copy is preserved according to direction in chapter 60, section 61.2 of this Handbook.

All Heritage spatial data is required to be stored in NRM SDE. When spatial information is stored electronically in the corporate geospatial system, document the metadata in accordance with Forest Service and Federal Geospatial Data Committee (FGDC) spatial data requirements. Hardcopy maps showing cultural resource and project locations can be printed at any time or scale needed.

Regions have the option of selecting an appropriate projection for their area, but all spatial references should use the current Forest Service standard horizontal datum, North American Datum 1983 (NAD83) (see FSH 6609.15, ch.30). All spatial data must conform to Agency direction and standards and to the Cultural Properties data dictionary which can be found at the NRM GIS Data Dictionary web site and reached through the NRM home page.

84.4 – Project and Historic Maps

NRM SDE is the repository for all survey spatial information. Project maps created outside NRM SDE will need to meet Agency direction for long-term storage and meet Agency reporting requirements. Project maps created in NRM SDE are automatically preserved as an attachment to the NRM project record and immediately available to reporting and emergency response. When feasible, electronically scan historic maps and save them as a feature class in NRM SDE. Coordinate as needed with the Forest Service History National Program Leader to submit the original to the National Archives. For related direction see chapter 60, section 61.4 of this Handbook.

If it is necessary to maintain the original paper map locally, maintain a flat file and use protective sleeves, covers, and dividers as appropriate.

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84.5 – Photographs, Slides, and Negatives

Catalogue all film and digital photographs and cross-reference to the pertinent cultural resource record or inventory form. Preserve digital photographs in file formats (for example TIFF) that will prevent loss of digital file information over time. Be sure to include citation and source information for copyrighted historic photographs. The Attachments application holds project related photographs (digital files and scans of film images) and is linked to the project or cultural resource record as appropriate. Historic Photographs may be saved as scanned attachments to the project, assemblage, or cultural resource record as appropriate.

84.6 – Ethnographic, Traditional Cultural Properties, and Sacred Site Information

Treat all data collected from Indian Tribes and other cultural groups concerning their traditions, histories, and lifeways, as confidential information. Secure such information in a locked file or storage area. See section 86 of this Handbook for information on confidentiality. Identify cultural resources that meet the definition of a Traditional Cultural Property or a Sacred Site in the Sites Module within the Management Use field.

Promptly transcribe oral histories recorded on tape into a manuscript to insure the survival of the interview. Attach electronic versions of the interview to the appropriate Site or Event in Heritage NRM.

84.7 – Electronic Data

Catalogue all film and digital photographs and cross-reference to the pertinent cultural resource record or inventory form. Conservation of print materials should focus on proper handling, and maintaining an environment conducive for preserving the media's integrity. Regularly evaluate items based on media type and environmental conditions to determine if long-term curation is needed according to 36 CFR 79 standards. Before off-site curation, scan all film and or negatives and store in NRM Attachments via the Heritage NRM application to preserve the heritage security roles. Save the scanned attachments to the project, assemblage, or cultural resource record as appropriate.

Preserve digital media in file formats that will prevent loss of digital file information. Digital media pertinent to managing cultural resources should be stored on secure Agency servers.

Do not permanently store digital media on a computer hard drive without being backed up on a server or other secure digital media storage, such as an external hard drive. Detached hard drives and USB flash drives are appropriate as temporary computer backups but are not reliable archives.

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Transfer digital media to NRM Attachments from within the Heritage NRM application to preserve the heritage secure access roles. Label, catalogue, and archive CDs and DVDs in a secure storage space with environmental controls.

85 – TOOLS, TRAINING, AND SUPPORT

To help Heritage professionals meet the information management requirements and goals set out by Forest Service policy, the Forest Service has provided tools, training, and application support to ensure that this work can be completed in the most efficient and cost-effective way possible.

85.1 – Data Migration

Where appropriate, Heritage information stored in Access, Oracle, Excel, and other electronic databases, software, and spreadsheets should be migrated into the Heritage NRM application. Use NRM data migration tools to facilitate the transfer of tabular and geospatial data into the new schemas and formats. Only these systems are maintained and supported by a national user help staff. The user guides for the data migration tools are in Heritage NRM Online help.

85.2 – Data Collection with Mobile Devices

When possible, collect field data using mobile recording devices. Mobile units expedite data recording and uploading to Heritage NRM. Using mobile data recording equipment also helps to eliminate transcription errors between the field and office.

85.3 – Training Opportunities

Acquire NRM training via the following sources:

1. AgLearn, via online or webcast training.
2. Regional classrooms or web-based training.
3. On-line tutorials and quick guides.

Regional Heritage Data Stewards are the point-of-contact for Heritage professionals seeking training. Training is provided in the use of all NRM applications, including NRM Basics, all Heritage NRM application components, Heritage Mobile, Heritage Geospatial, and Reporting and User views.

Acquire Basic GIS training via the following sources:

1. The Geospatial Awareness Training Center (GSTC): free or low-cost Forest Service classroom, webcast, and self-guided training.

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2. The ESRI Virtual Campus: beginner and advanced training available to Forest Service employees accessed through the GSTC website.
3. Remote Sensing Applications Center.
4. Forest Service NRM Training and webcasts for the Geospatial Interface tool

85.4 – Getting Support When There is a Problem

Obtain NRM support via the CHD Helpdesk, located on the main page of the NRM web site. The NRM Support page can provide answers to Frequently Asked Questions and provide assistance in troubleshooting an issue. A link to the CHD helpdesk is located on the NRM Support web page.

86 – CONFIDENTIALITY

Refer to FSM 2361.4 for laws that provide for protection of sensitive information from public disclosure, including NHPA Section 304(a), ARPA Section 9, the Freedom of Information Act (5 USC 552 [b](3)), and the Food, Conservation, and Energy Act of 2008.

Archaeological documents, in project records and administrative records, have no one universal treatment in regards to FOIA. There are circumstances when it is difficult to ascertain whether a document must be protected in an administrative record. When in doubt, err on the side of confidentiality, or contact the Regional Heritage Program Leader who will then consult with Office of General Council (OGC) attorneys.

Regard all electronic Forest Service cultural resource data as confidential. It is part of a national corporate data management system with access and permissions protocols, and has firewall protection.

86.1– Statutory Protection of the Confidentiality of Archaeological Resource Information

The Archaeological Resource Protection Act (ARPA) provides that “information concerning the nature and location of any archaeological resources” for which the excavation or removal requires an ARPA permit or permission under ARPA or any other provision of Federal law may not be made available to the public under FOIA or under any other provision of law. Such information may be disclosed if the Agency Official determines that disclosure would further the purposes of the Act and would not create a risk of harm to the resources or the site where they are located. See section 296.18 of Title 36, Code of Federal Regulations, Part 296 – Protection of Archaeological Resources: Uniform Regulations.

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When the nature and location of the resources must be kept confidential, documents containing this information can be made public in the project records and administrative records after the nature and location are redacted. If the nature and locational information cannot be protected, then the document must be withheld in its entirety.

86.2 – Statutory Protection of the Confidentiality of Human Remains, resources or cultural items, uses or activities

Under the Food, Conservation, and Energy Act of 2008, Title VIII: Forestry, Subtitle B - Cultural and Heritage Cooperation Authority (25 U.S.C. 3056), protection of the confidentiality of human remains, resources or cultural items, uses or activities is established. This section provides that the Secretary of Agriculture will not release under FOIA information relating to human remains or cultural items reburied on National Forest System land pursuant to the authority granted in the statute. Also protected is the confidentiality of resources, cultural items, uses, or activities that have a traditional and cultural purpose and are provided to the government by an individual Native American or Indian Tribes under an express expectation of confidentiality.

However, the Secretary of Agriculture may disclose this protected information after consultation with the affected Tribe or lineal descendant and a determination that disclosure would both advance the purpose of the statute and is necessary to protect the remains or items from harm, theft, or destruction.

Maintain confidentiality by either redacting the nature and locational information, or by withholding documents in their entirety if redactions cannot effectively protect confidentiality.

86.3 – Statutory Provision Regarding Confidentiality of Historic Resources

Section 304 of the National Historic Preservation Act (16 U.S.C. 470w-3) provides that the Agency Official, after consultation with the Secretary of Interior shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource, if it is determined that disclosure may cause significant invasion of privacy, risk harm to the historic resource, or impede the use of a traditional religious site by practitioners. It further provides that if a determination is made to withhold information from the public, a determination of who may have access to such information should be made. Finally, when the information in question has been developed in the course of Section 106 compliance, the Secretary must also consult with the Advisory Council on Historic Preservation to reach the required determinations under this section.

Historic resource information is not automatically protected from disclosure or required to be withheld from administrative records under FOIA unless requisite findings are made.

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86.4 – Confidentiality of Sacred Sites under Executive Order 13007 – Indian Sacred Sites

Executive Order 13007 – Indian Sacred Sites provides that, “to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions... [w]here appropriate, agencies shall maintain the confidentiality of sacred sites. Sacred sites are defined as a discreet location on Federal land that is identified by a Tribe or a religious representative of a Tribe as sacred by virtue of its connection, significance to or use by an Indian religion. The Tribe or representative must have informed the agency about the site.

Information about sacred sites is not automatically protected from disclosure under FOIA. However, the Agency Official can take steps to attempt to maintain information about sacred sites confidential, where appropriate. The Forest Service has authority to maintain the confidentiality of some information provided by Native Americans through section 8106 of the 2008 Food, Conservation, and Energy Act. See section 01 of the Zero Code of this Handbook for further explanation of this authority.

Information about sacred sites is not required to be withheld from administrative records by law. However, the Agency Official can take steps to maintain such information confidentiality by agreement with parties in litigation or by requesting a protective order from the court, whenever such information is required to be disclosed. A protective order will prevent general public access to the information.