

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 2309.12 – Heritage Program Management Handbook
Chapter 40 - Protection and Stewardship**

Amendment: 2309.12-2015-1

Effective date: April 14, 2015

Duration: This amendment is effective until superseded or removed.

Approved by: Leslie A. C. Weldon, Deputy Chief, NFS

Date approved: April 8, 2015

Responsible Staff:

Last Change:

Superseded Document(s):

Digest: Following is an explanation of the changes throughout the directive by section.

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.

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.

Table of Contents

40.1 – Authority.....	5
40.2 – Objectives	5
40.4 – Responsibility.....	6
40.5 – Definitions.....	6
41 – Cultural Resource Monitoring.....	6
41.1 – Condition Assessment	7
41.2 – Volunteers and Site Stewardship Programs.....	8
42 – Protection from the Effects of Agency and Agency - Authorized Actions.....	8
42.1 – NHPA Section 106 Compliance Process	9
42.11 – Determine an Undertaking’s Potential to Affect Historic Properties	13
42.12 – Report the Results of Identification and Evaluation	13
42.13 – Assess Adverse Effects	14
42.14 – Resolve Adverse Effect.....	15
42.14a – Protection through Avoidance	17
42.14b – Protection through Alternative Methods	17
42.14c – Data Recovery	18
42.2 - Discovery of Human Remains	20
43 – Protection from Unauthorized Use of Environmental Damage	20
43.1 – Investigation of Unauthorized Uses	21
43.2 – Site Damage Assessment	21
43.3 – Damage to Unevaluated Cultural Resources.....	23
43.4 – Using the Appropriate Legal Statute	23
43.41 – Archaeological Resources Protection Act.....	23
43.41a – Archaeological Resources Protection Act Exemptions	24
43.42 – Other Federal Statutes and Regulations Regarding Damage, Theft, or Destruction of Government Property	24
43.43 – Native American Graves Protection and Repatriation Act (NAGPRA).....	25
44 – Administrative Protection and Conservation Measures.....	25
44.1 – Administrative Protection Measures.....	25
44.11 – Withdrawal.....	25
44.12 – Closure to Public Access	26
44.13 – Special Designations	26
44.14 – Land Acquisition and Easements	26
44.15 – Cooperative Law Enforcement.....	26
44.16 – Public Education and Awareness	27
44.2 – Direct Protection Measures	27
44.21 – Stabilization, Rehabilitation, Restoration, Interpretation, and Adaptive Use	27
44.22 – Relocation.....	27
44.23 – On-Site Administrative Signing	28
44.24 – Physical Barriers.....	28
44.25 – Erosion Control-Stabilization	29

44.26 – Vegetation Management.....	29
44.27 – Covering and Camouflage.....	30
44.28 – Data Recovery.....	30
45 – Wildfire and Natural Disaster Response.....	30
45.1 – Wildfire Preparedness and Response	31
45.2 – Natural Disaster and Declared Emergency Response	34
46 – Stewardship.....	35
46.1 – Special Designation and Recognition.....	35
46.11 – National Register of Historic Places	35
46.12 – National Historic Landmarks and National Historic Sites	37
46.13 – World Heritage Sites	37
46.14 – Congressional and Presidential Designations	37
46.14a – National Historic Trails	37
46.14b – National Monuments	38
46.15 – NHPA Section 106 and Special Historic Designations.....	38
46.16 – State, Local, and Tribal Designations	38
46.17 – Sacred Sites.....	39
46.2 – Conservation and Maintenance	39
46.21 – Archaeological Resources.....	40
46.22 – Historic Buildings and Structures	41
46.22a – Maintenance and Repair	42
46.22b – Preservation.....	43
46.22c – Rehabilitation.....	43
46.22d – Restoration	44
46.22e – Reconstruction	45
46.23 – Administrative Building Conveyance, Decommissioning, and Removal.....	45
46.24 – Recreation Residences and Isolated Cabins.....	46
46.25 – Historic Mines and Mine Waste Cleanup	47
46.26 – Cultural Resources in Specially Designated Areas.....	48
46.3 – Study and Use of Cultural Resources.....	49

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.

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.
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.

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.

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.

42.1 – Exhibit 01

Examples of Agency Undertakings Requiring NHPA Section 106 Compliance Review

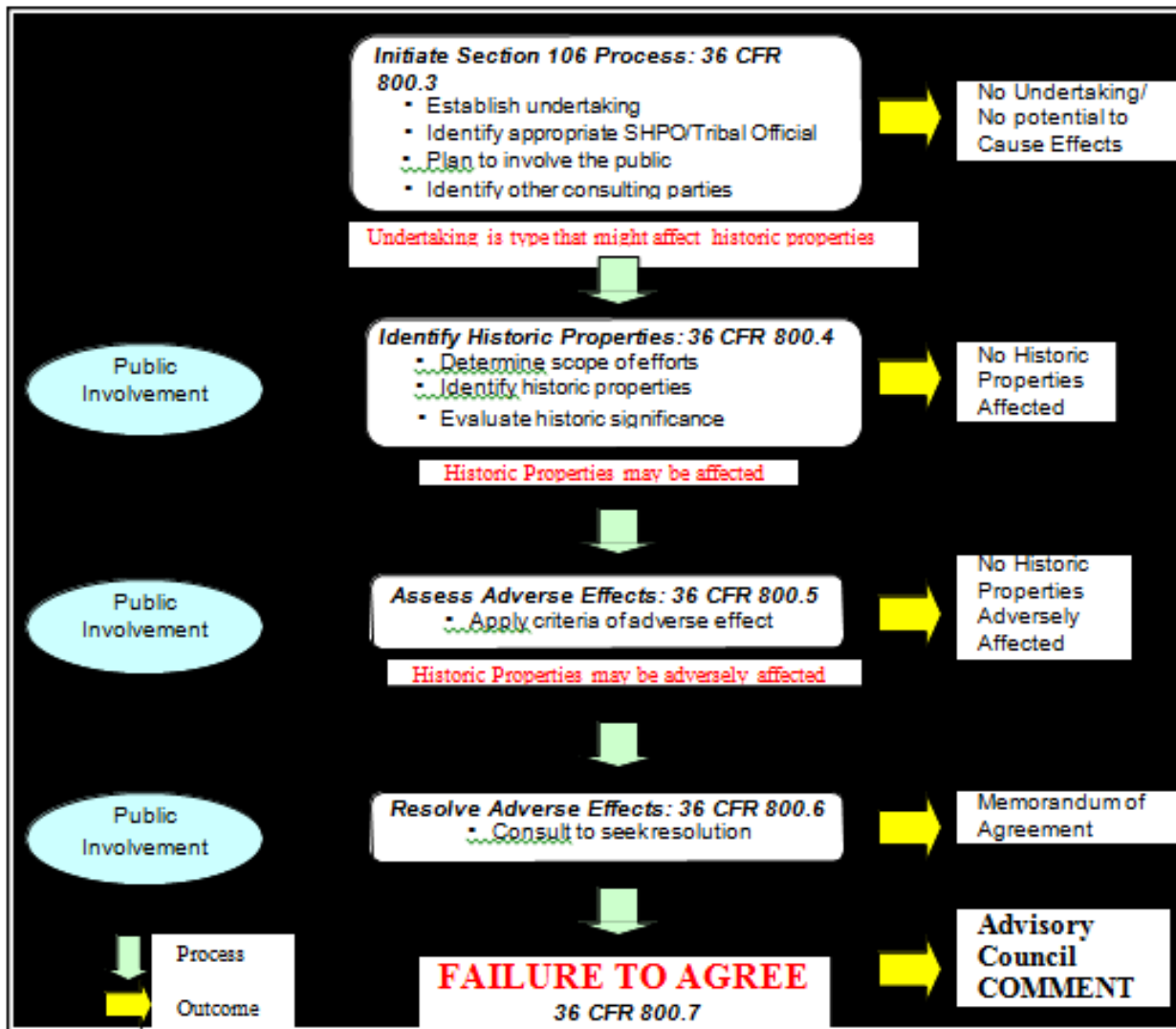
Program	Actions
Emergency response/recovery	<ul style="list-style-type: none"> • Natural disasters • Wildfire • Other Federal emergencies (for example, hazardous material spills, plane crashes) Note: Immediate rescue and salvage operations conducted to preserve life or property are exempt from NHPA Section 106 review (see 36 CFR 800.12)
Facilities	<ul style="list-style-type: none"> • Administrative facility conveyance and removal • Administrative facility maintenance and improvements • Administrative facility construction and permits
Fire	<ul style="list-style-type: none"> • Fire management plans • Fire recovery and BAER • Fuels reduction / vegetation or wildlife improvement (prescribed
Heritage	<ul style="list-style-type: none"> • Building rehabilitation, restoration, enhancement • Archaeological excavation • Interpretive facilities construction
Lands & Special Uses	<ul style="list-style-type: none"> • Hydropower facility licensing, operations and improvements • Land exchanges, purchases and sales • Special use authorizations and permits • Utilities licensing, maintenance and construction
Minerals	<ul style="list-style-type: none"> • Abandoned mine reclamation • Minerals exploration-plans of operation • Mine development and extraction • Oil and gas exploration, leasing and development
Range	<ul style="list-style-type: none"> • Allotment operations and improvements • Allotment management plan revision • Adaptive management actions • Range permit issuance

42.1 – Exhibit 01--Continued

Program	Actions
Recreation	<ul style="list-style-type: none"> • Facilities operations and improvements • New recreation facility construction • Trail maintenance, reconstruction and construction • Recreation special use permit issuance
Transportation	<ul style="list-style-type: none"> • Road maintenance, reconstruction and construction • Bridges, culverts and structural improvements • Travel management planning (route designation) and implementation
Vegetation	<ul style="list-style-type: none"> • Hazardous fuel reduction • Noxious weed abatement • Special Forest products • Timber management to benefit various resources
Watershed and Fisheries	<ul style="list-style-type: none"> • Channel and structural improvement • Riparian improvement and enhancements • Road and trail rehabilitation • Fisheries habitat improvements
Wilderness and Wild and Scenic Rivers	<ul style="list-style-type: none"> • Wilderness operations and improvements • Wild and Scenic Rivers operations and improvements
Wildlife	<ul style="list-style-type: none"> • Wildlife exclosures • Habitat improvement (see Vegetation) • Wildlife food plot construction and maintenance • Wildlife pond construction

Forest Service Handbook 2309.12 – Heritage Program Management Handbook
Chapter 40 - Protection and Stewardship
Amendment: 2309.12-2015-1
Effective date: April 14, 2015
42.1 – Exhibit 02

NHPA Section 106 Compliance and Review Process Flow Chart



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:

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.

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.
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.

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.

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:

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-Grassland Heritage professionals in consultation with the SHPO/THPO, or by cooperators/contractors in consultation with the Forest-Grassland Heritage professionals and the SHPO/THPO.

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.

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 of 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.

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.

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.

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.

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 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.

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.

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 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.

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.

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.

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.

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.

45.1 – Exhibit 01

Wildfire and Heritage Program Activities

Wildfire Situation	Support Activities
Wildfire Preparedness and Prevention	<ul style="list-style-type: none"> • Assist in preparation of Forest-Grazlands fire management plans • Complete cultural resource vulnerability assessments and identify priorities for protection <ul style="list-style-type: none"> ○ defensible space measures at historic properties ○ emergency fire caches for use on historic properties • Complete Section 106 in support of wildfire abatement
Wildfire Response and Suppression	<ul style="list-style-type: none"> • Participate in Wildfire Situation Assessments <ul style="list-style-type: none"> ○ Identify cultural resources at risk ○ 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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

45.1 – Exhibit 01--Continued

Wildfire Situation	Support Activities
Long-term Wildfire Recovery	<ul style="list-style-type: none">• 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

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).

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).

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.
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.

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.
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.

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.

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 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.

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:

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.
 - 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.

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 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).

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.

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