

PROGRAMMATIC AGREEMENT

AMONG THE

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE, ALLEGHENY NATIONAL FOREST,
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING

**THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR UNDERTAKINGS ON THE ALLEGHENY NATIONAL FOREST
OF THE EASTERN REGION OF THE U.S.D.A FOREST SERVICE**

**DRAFT
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PREAMBLE

WHEREAS, the United States Department of Agriculture (USDA) Forest Service (FS), as a Federal agency, is required to comply with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (54 U.S.C. § 306108) and its implementing regulations, "Protection of Historic Properties," codified in 36 § CF. part 800, as amended; and

WHEREAS, the Allegheny National Forest (ANF), as a public land steward, has a multiple-use mission to manage its public lands in the Commonwealth of Pennsylvania for a variety of resources, values, products, and uses which may involve historic properties, and that many of the programs it conducts have repetitive activities and kinds of cultural sites that are conducive to standardized approaches; and

WHEREAS, the ANF has determined that its activities in the administration of lands under its jurisdiction often meet the definition of undertakings that may have the potential to cause effects to historic properties either included in, or eligible for, inclusion in the National Register of Historic Places (NRHP), hereafter referred to as "historic properties" (36 CFR §800.16(l)(1)); and

WHEREAS, the ANF has consulted with the Pennsylvania State Historic Preservation Officer (SHPO) pursuant to 36 CFR § 800.14(b)(3), and proposes to develop a programmatic agreement, hereafter referred to as (PA), to improve consistency, consultation, and accountability in fulfilling its responsibilities to comply with Section 106 for its undertakings as well as providing for tribal consultation and public participation, minimizing redundant documentation, and reducing the need for case-by-case review of routine activities when historic properties will not be affected or when standard protocols and treatments can be applied; and

WHEREAS, this PA applies only to lands located in the ANF when the Forest Service is the only Federal agency involved, or is the "Lead Federal Agency" in accordance with 36 CFR §800.2(a)(2); and

WHEREAS, execution of this PA by the Forest Service obligates the ANF to comply with the stipulations contained herein, and the Forest Supervisor of the ANF has concurred with this requirement; and

WHEREAS, in developing this PA the ANF has consulted with the Federally Recognized Indian Tribes and invited them to be concurring parties in accordance with Sections 101(d) (6) (B) and 110(a) (2) of NHPA, 36 § CFR Part 800; and

WHEREAS, the ANF has consulted with the Absentee-Shawnee Tribe of Oklahoma, Cayuga Nation, Delaware Nation, Delaware Tribe of Indians, Eastern Shawnee Tribe of Oklahoma, Oneida Indian Nation, Oneida Nation of Wisconsin, Onondaga Nation, St. Regis Mohawk Tribe, Seneca-Cayuga Tribe of Oklahoma, Seneca Nation of Indians, Shawnee Tribe, Stockbridge-Munsee Band of Mohican Indians, Tonawanda Band of Seneca, the Tuscarora Nation; and

WHEREAS, in developing this PA, the ANF has made efforts to identify additional consulting parties and has invited [Historical Society of Pennsylvania, Pennsylvania Archaeology Council, Preservation Pennsylvania, Allegheny National Forest Visitors Bureau, PA Wilds Center for Entrepreneurship Inc., Lumber Heritage Center, City of Bradford Office of Economic & Community Development (OECD), City of Kane, City of Smethport, Warren County Historical Society, Elk County Historical Society, McKean County Historical Society, City of Warren, Warren County, Forest County, Forest County Conservation District & Planning Department, McKean County] to participate in the development of this PA and to sign as concurring parties; and

WHEREAS, in accordance with the regulations of 36 CFR § 800.14 (b), the ANF has notified and invited the Advisory Council on Historic Preservation (ACHP) to participate in the development of this Agreement, and the ACHP has elected to participate as per their correspondence dated October 23, 2020; and

WHEREAS, in developing this PA, the ANF has provided the public with an opportunity to comment on the general scope and nature of the program; and

NOW, THEREFORE, the ANF, the SHPO, and the ACHP agree that all applicable undertakings on the ANF shall be implemented in accordance with the following stipulations in order to take into account their effect on historic properties.

STIPULATIONS

The Forest Service shall ensure that the following measures are carried out:

I. SCOPE AND OBJECTIVES

- A. The purpose of this PA is to expedite the ANF's compliance with the Section 106 process and modify the Section 106 process when appropriate circumstances warrant a decrease in review. The ANF has determined that many undertakings performed on National Forest System lands may not affect historic properties if routine protection and avoidance measures are established and practiced, yet the Section 106 reprocess follows a prescribed, routine path with several determinations and consultation points requiring review by the SHPO. This PA is meant to streamline Section 106 compliance when appropriate circumstances permit the application of routine procedures, and to decrease the need for review. When complex issues warrant it, such as an undertaking involves multiple federal agencies and/or federally recognized Tribes, or when the standard measures contained in the appropriate appendix to the PA cannot or will not be implemented, the Forest Service shall revert to standard procedures as prescribed by 36 § CFR Part 800.
- B. The procedures in this PA will expedite compliance with 36 § CFR Part 800 when the following situations result in a determination of "No Historic Properties Affected":
- 1) activities are in categories of undertakings excluded from case-by-case review (Appendix B contains a list of common Forest Service undertakings that may be in this category subject to final approval of the Agency Official (defined in 36 § CFR Part 800.2(a)), with input from the Heritage staff (defined in Stipulation II);
 - 2) the Forest Service has made a reasonable and good faith effort to identify historic properties and has determined that there are no identified historic properties within an Area of Potential Effect (APE) as defined in 36 CFR § 800.16(d) and 800.4(a);
 - 3) Historic properties are identified within the APE, but they will be subject to avoidance measures or undertaking-specific treatment options, protecting them from ground disturbing activities.

In the case of Items 2) and 3), the SHPO shall be notified of the findings in an annual report, and the ANF shall proceed with the undertaking.

- C. For all undertaking that take place on the ANF, consultation with federally recognized Tribes that attach religious and cultural significance to historic properties will be consulted, pursuant to 36 CFR § 800.3(f)(2).

II. STAFFING, TRAINING, AND OBTAINING SPECIALIZED CAPABILITIES

- A. Staffing. The ANF shall ensure that Heritage Program personnel implementing the terms of this PA meet the Professional Qualifications Standards as defined by the Office of Personnel Management or the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (36 § CFR 61).

Forest Service Heritage Professionals (GS-0170 historian, GS-0190 anthropologist, and GS-0193 archaeologist):

1. Serve in a staff or advisory capacity and provide professional recommendations and services to assist land managers in meeting their Heritage Program responsibilities.
2. Only qualified Heritage Professionals may make management recommendations and formally review and recommend approval of heritage work done by archaeological technicians, contractors, and volunteers.

Archaeological Technicians (GS-0102):

1. May participate in all facets of Heritage Program work under the supervision and guidance the Heritage Professional. Archaeological technicians conduct inventories, make recommendations to management for National Register eligibility and project effects.
2. Monitor cultural resources and projects, participate in data management, and assist in stewardship projects. Reports prepared by GS-5, GS-6, GS-7 specialists, or any cultural resource consultant, must be reviewed and submitted to the SHPO by a GS-9 or higher-graded cultural resource specialist.

Agency Official (per 36 CFR § 800.2(a)):

1. For the purposes of this PA, the ANF Agency Official shall be the Forest Supervisor or Line Officer. The Agency Official has approval authority for proposed undertakings and can commit the ANF to take appropriate action for a specific undertaking as a result of implementing this PA. The ANF Agency Official may delegate this authority to make these commitments to another ANF staff member at their own discretion.
2. The ANF Agency Official recognizes that Heritage Program personnel are the only Agency staff with the expertise to provide recommendations on how to implement this PA. The ANF Agency Official will seek and take into consideration the advice of Heritage personnel prior to approving or committing the ANF to an action that may have the potential to affect historic properties.”

All new ANF Heritage staff, regardless of series or grade, and will receive internal training on the terms of this agreement within 30 days of being hired. New specialists at a GS-9 grade or higher who have not received training on this agreement must follow the procedures required of a GS-7 cultural resource specialist until they receive training on this agreement.

The Pennsylvania SHPO will ensure all new historic preservation specialists hired by their office to conduct Federal Section 106 review will receive training in Section 106 compliance and are familiar with the terms of this agreement within 90 days of being hired.

- B. Specialized Capabilities. When the Forest Service is involved in an undertaking requiring expertise not possessed by available Forest Service staff (e.g., architectural history), it shall obtain that expertise for the purpose of determining National Register eligibility, evaluating effects, and determining treatment for the historic properties in question. The Forest Service may request the assistance of SHPO staff in such cases or may obtain the necessary expertise through contracts, Forest Service personnel from other units, or cooperative arrangements with other agencies, institutions, or organizations.
- C. State-Level Historic Preservation Training and Workshops: The Forest Service and SHPO will cooperate and participate in both the initial training and future on-going training of the ANF Forest Supervisor, ANF heritage staff, other Forest Service line officers and staff as appropriate, SHPO staff, public land users, and cultural resource contractors relative to the implementation of this PA. Training resources shall include, but are not limited to, Forest Service Handbook and Manual, this Programmatic Agreement between the USFS, ACHP and SHPO, planning documents, and statewide historic context documents. Review of training needs and/or additional workshops will occur on a yearly basis at the annual staff meeting between the ANF and SHPO.

III. COORDINATION AND INFORMATION EXCHANGE

- A. The ANF will initiate consultation on all federal undertaking that have the potential to affect historic properties with all consulting parties, and ensure involvement in identification and evaluation of historic properties consistent with Section 106 of the NHPA (as outlined in 36 § CFR 800). When the ANF Agency Official determines that an undertaking may be excluded from case-by-case review (consistent with 36 § CFR 800.3(a)(2) and as described in Appendix B) the ANF will not conduct initial consultation with the Pennsylvania SHPO, but these undertaking shall be listed in the annual report (process outlined in Section IV.A).
- B. Survey reports and site data that document identification or evaluation efforts shall be submitted to the SHPO through PA-SHARE. The Forest Service shall maintain data in secure electronic and hard copy files.

- C. All Forest Service inventory reports submitted to SHPO will follow Secretary of Interior (SOI) Standards for Archeological Documentation and the Guidelines for Conducting Heritage Resources Investigations on the ANF, 2019. All site data will be reported in the Forest Service's official database of record (Natural Resource Manager – Heritage 9.0 Application).
- D. To facilitate reviews conducted under this agreement and support long-term planning, the PA SHPO shall provide Forest Service staff operating under this agreement with access to PA-SHARE. PA-SHARE is the SHPO's online system for consultation and also provides access to available information on historic resources, archaeological sites, and surveys. In order to access PA-SHARE, Forest Service staff operating under this agreement will need to agree to the terms and conditions of the PA-SHARE Public Service Subscription Agreement. The PA-SHARE Public Service Subscription Agreement will coincide with the expiration date of the PA. Archaeological privileges will be granted to individual professionals based on those who meet the Secretary of the Interior's Professional Qualification Standards as an archaeologist. This access will allow a user to see archaeological site locations and the pre-contact probability model.
- E. ANF will confer annually and as necessary with the other signatories within 30 days after issuance of the annual report (see Stipulation XII), to review the report and/or discuss issues and concerns in detail. This review shall occur in person, by online video tele-conference (such as Microsoft TEAMS), or by telephone, as determined by the ANF.

IV. PROCEDURES FOR PROJECT REVIEW, IDENTIFICATION, AND AVOIDANCE OF HISTORIC PROPERTIES

- A. **Undertakings Excluded from Case-by-Case Review:**
The Line Officer in consultation with the Heritage Program Manager (HPM) or District Archeologist (DA) will assess each undertaking to determine if it is able to be excluded from case-by-case review, consistent with see Appendix B, which the ANF has determined will result in no historic properties affected. These undertakings shall be excluded from further review and consultation under the terms of this PA. The HPM or DA shall make the determination as to whether the undertaking meets the conditions stipulated here and in Appendix B. Projects that are standard examples of the types listed in Appendix B may be considered excluded from case-by case review. No inventory report and no SHPO consultation shall be required for excluded undertakings. Excluded undertakings shall be listed in the annual report (review process-consultation flowchart-Appendix F). At the discretion of the Agency Official, based on recommendations from the HPM or DA, the Forest Service may submit an otherwise excluded undertaking for review to the SHPO in accordance with the terms outlined under this PA.
- B. **Identify the Area of Potential Effect (APE):**
The criteria for determining the APE for specific classes of most ANF projects are defined in the applicable attached appendices. Provided that the undertaking is carried out within the terms of this agreement, no SHPO consultation on the delineation of the APE is required. When such project class-specific appendices do not exist, the APE and the type/amount of inventory (see Appendix A-Definitions) will be determined by the Agency Official based on recommendations from the HPM or DA. Where setting is an important aspect of integrity and significance, the Forest Service shall consider potential direct, indirect, and cumulative effects to historic properties and their associated setting in delineation of the APE.
- C. **Conduct Literature Review and Determine Adequacy of Previous Inventories**
 - 1) Forest Heritage Program personnel shall conduct literature searches with the Pennsylvania SHPO (via PA-SHARE) data base, as well as review Forest Service files. Searches should also include review of aerial photographs, Lidar coverage, resource management plans, and relevant historic

documents. If discrepancies between SHPO and Forest Service records are found, documentation will be provided to the appropriate party to resolve the discrepancy.

- 2) If an undertaking's APE contains areas covered by previous inventories that have been reviewed by SHPO, meet the Secretary of Interior Standards for Archeological Documentation and Guidelines for Conducting Heritage Resources Investigations on the ANF, 2019; then the Agency Official in consultation with the HPM or DA shall determine if re-inventory is appropriate based on the current undertaking's potential for effects or changed conditions.
- 3) If the Agency Official determines that no new heritage (cultural) resources inventory is necessary because previous inventory was adequate per Stipulation IV.C.2 above, and no historic properties and/or unevaluated sites exist within the APE, then no new inventory report will be required. The ANF shall document a decision of "No Historic Properties Affected" in the annual report to the SHPO.
- 4) If no new inventory is necessary but previously recorded historic properties do exist within the APE, the ANF shall treat the historic properties according to the appropriate procedures as defined in the appendices B and E, and a memorandum for record shall be written to summarize the condition of the historic properties and any management actions recommended to avoid effects to the historic properties. No concurrence from the SHPO is required prior to implementing this type of undertaking if standard treatments, as described in this agreement are implemented to avoid adverse effects. The ANF shall submit project notification, consisting of a transmittal letter outlining any avoidance procedures, to the SHPO prior to project implementation. These undertakings will be listed in the annual report (see Stipulation XII).
- 5) If previous inventories within the APE exist but have not been reviewed by the SHPO, and these inventories meet current inventory standards (see IV.C.2 above), the Forest shall incorporate un-reviewed results of the previous inventory into the new Heritage (cultural) resources inventory report that submitted to SHPO through PA-Share.

D. Conduct New Inventory As Necessary

- 1) When it is determined that a new inventory for historic properties within the APE of an undertaking is warranted, all inventories will be carried out under the direction of the HPM or DA (per OPM standards).
- 2) If an undertaking requires new field inventory, the HPM or DA shall ensure that all inventories conducted conform to the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation, Standards for Identification and Guidelines for Conducting Heritage Resources Investigations on the ANF, 2019*.
- 3) Field inventory strategies for certain classes of undertakings shall conform to the specific appendices attached to this PA, if appropriate.

E. Site Evaluation and Determination of Effect

- 1) The Forest Service will complete evaluation for NRHP eligibility and determinations of effect on all heritage/cultural resources within the APE that will be affected by a proposed undertaking during project inventory, and will be reported in the inventory report (see F, below).
- 2) Cultural resources that may exhibit religious or cultural significance to Federally Recognized Tribes shall be evaluated with tribal input as per Stipulation VII below, and per 36 CFR § 800.4(c)(1).
- 3) Evaluation for NRHP eligibility that requires systematic archaeological testing shall be accomplished according to the Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation.
- 4) The Forest Service shall avoid historic properties within the APE (see below under G. Consultation Process), or if applicable, treat historic properties according to the terms described in the attached appendix appropriate to that class of undertaking. If avoidance cannot be implemented (that is an undertaking cannot be designed or modified to avoid effects to historic properties), and no specific treatment options defined in the appendices apply, the ANF shall comply with 36 § CFR 800.6 and 800.7 as necessary.

F. Inventory Report Standards

- 1) An inventory report shall be prepared by the Forest Service for each undertaking *prior to implementing the action or related activities* (undertakings excluded from case-by-case review and detailed in Appendix B do not require an inventory report). A group of similar or related undertakings in the same geographical area may be grouped together in one inventory report for reporting purposes. Forest Service will submit inventory reports to SHPO (via PA-SHARE) as outlined in Stipulation IV. G.
- 2) Forest Service Heritage personnel, partners, and contractors shall record all newly identified site data and isolated finds in the Pennsylvania SHPO data base (via PA-SHARE) system, and this may require updated determinations of eligibility as per 36 CFR § 800.4(c) (1).
- 3) The Forest Service NRM database National Standardized Site Form will be used for all newly identified sites and isolated finds, once implemented nationally by the Forest Service. These forms shall be submitted to the SHPO (via PA-SHARE) as a part of the completed inventory report.
- 4) For all Oil/Gas/Minerals (OGM) sites where the Forest Service does not own or manage the mineral estate, and which have been previously located and recorded with Forest Service (FS) site numbers, and where either there is no change in condition or the site has been altered/ demolished/collapsed and no longer retains integrity or qualifies as a historic property, no updated documentation will be submitted to the SHPO by Forest Service Heritage personnel, partners, and contractors.
- 5) The HPM or DA has responsibility to ensure that inventory reports conform to the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation, Reporting Identification Results* (48 § CFR 44723).

G. Consultation Process

- 1) No Potential to Affect Historic Properties: . If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the ANF has no further obligations under 36 § CFR 800.3 (a)(1). These undertakings will not be listed in the annual report to SHPO.
- 2) No Cultural Resources Present (No Historic Properties Affected): When no cultural resources are identified through review of existing identification information, or through new field inventories within the APE, no concurrence from the SHPO is required prior to implementing an undertaking. Project notification, consisting of a transmittal letter, an inventory report documenting no historic properties affected will be sent to the SHPO (via PA-SHARE) prior to project implementation. These undertakings will be listed in the annual report (see Stipulation XII).

No Historic Properties Present (No Historic Properties Affected): When no historic properties are identified within the APE following field inventory (only ineligible cultural resources are found and the NRHP evaluation does not require any specialized expertise as identified in Stipulation III.B), no concurrence from the SHPO is required prior to implementing an undertaking; however, the Forest may need to consult with Federally Recognized Tribes on eligibility determinations for properties having traditional religious and cultural importance (see stipulation VIII.D). Project notification, consisting of a transmittal letter, an inventory report documenting no historic properties affected, and any new site data (as described in Stipulation V.F) will be sent to the SHPO (via PA-SHARE) prior to project implementation. These undertakings will be listed in the Annual Report (see Stipulation XII).

- 3) Historic Properties Present and Avoided (No Historic Properties Affected): When there are historic properties present, within the APE but can be avoided, then the following apply:
 - a) The Agency Official, in consultation with the HPM or DA shall determine the boundary of the area to be avoided for each historic property based on the extent of the site, viewshed concerns (if any), and environmental conditions to ensure the site is not disturbed by any ground disturbing actions associated with the undertaking.

- b) If historic properties have been identified in an APE and avoidance measures sufficient to prevent effects will be employed, no review or consultation with the SHPO is required prior to implementing an undertaking. A transmittal letter outlining any avoidance procedures, an inventory report documenting no historic properties affected, and any new site data shall be submitted to the SHPO (PA-SHARE) prior to implementing the undertaking. The undertaking shall be listed in the Annual Report.
 - c) All historic properties within an APE shall be clearly demarcated in the field and communicated directly or via maps given to project implementation staff, prior to implementing any associated activities that have the potential to affect those historic properties. Communication with field personnel on site avoidance requirements will occur so that the information can be incorporated into plans, contracts, and other documents.
- 4) No Adverse Effects to Historic properties (No Adverse Effect):
 If a proposed project would likely cause effects to a historic property, but the Agency Official, based on recommendations from the HPM or DA, has determined that the effects will not diminish the aspects of integrity nor the characteristics that make the property eligible for listing in the National Register of Historic Places, then a determination of “No Adverse Effect” is appropriate as defined in 36 CFR § 800.5(b). The ANF will submit a transmittal letter outlining the assessment of effect, an inventory report documenting no adverse effect, and any new site data to SHPO (PA-SHARE). The SHPO will review and comment on the effect within 30 days of receipt of the documentation. If SHPO does not respond within 30 days, the Forest Service may assume concurrence with determinations of eligibility and effect and proceed with the undertaking.
- When the undertaking occurs within the boundaries of a historic property: If an undertaking is confined to existing roads/trails and the traffic/use or maintenance levels are not increased or modified, the ANF shall provide project notification, consisting of a transmittal letter outlining the assessment of effect, an inventory report documenting no adverse effect, and any new site data to the SHPO (PA-SHARE). The Forest Service will notify the SHPO and proceed with the undertaking. This type of undertaking will be listed in the annual report (see Stipulation XII).
- 5) Adverse Effects to Historic Properties (Adverse Effect): When it is determined that an undertaking cannot be modified to avoid historic properties per Stipulation IV(G)(3), the Forest Service shall notify the ACHP and consult with the SHPO and other consulting parties to resolve adverse effects pursuant to 36 CFR § 800.6 and 800.7.
 - 6) Annual Report Review: The SHPO, and any concurring parties that request a copy, will review the Forest Service’s determinations of “No Historic properties Affected.” If the SHPO identifies a problem during their review, they will immediately contact the forest to rectify the issue or problem. If there is a pattern of inappropriate or inadequate eligibility and effect determinations, the SHPO will begin consultation with the Forest Service following dispute resolution procedures in this agreement.

H. Collections Management

For all archaeological investigations conducted by the Forest Service under this PA, the Forest shall ensure that artifacts and records are prepared in accordance with 36 § CFR 79.

- A. The Forest will consider curation facilities operated by federally recognized Tribes which meet the requirements of 36 CFR § 79 before other qualified non-tribal curation facilities.
- B. The Forest may determine to curate artifacts and all associated records at the State Museum of Pennsylvania, which meets the requirements of 36 CFR § 79. In such case, the Forest shall fund activities necessary to prepare collections for disposition consistent with the Revised Curation Guidelines:

Preparing Archaeological Collections for Submission to the State Museum of Pennsylvania, June 2006, and the fees for long term curation at the rate published in the curation guidelines of the Pennsylvania State Museum. A copy of the appropriate final heritage/cultural resource report will be included with the submission. Housing of collections within Forest Service offices is considered temporary curation of collections.

V. SPECIAL PROCEDURES SPECIFIC TO CLASSES OF UNDERTAKINGS

Excluded from “Case-by-Case Review”

One of the main purposes of this PA to tailor the Section 106 process by establishing and allowing the development of procedures that take into account the unique nature of certain classes of undertakings based on the extensive experience of the agency in dealing with repetitive projects on the Forest. Beginning with Appendix D, the ANF has developed special procedures for identifying specific classes of undertakings (such as listed in appendices B and E) repeatedly implemented on National Forest system lands.

- A. The identification, evaluation, and management of historic properties for certain classes of undertakings shall be guided by the appendices of this agreement. When an appropriate appendix exists, the ANF may use inventory strategies and additional stipulations defined in the appendix to satisfy inventory and evaluation requirements without project specific SHPO consultation. If no appendix exists, the Section 106 compliance may be accomplished under Stipulation IV of this agreement.
- 1) When no appendix exists for a certain class of undertaking, or when circumstances warrant, the Forest Service may consult with the SHPO to develop the methodology for the level and intensity of inventory to be conducted.
 - 2) New appendices can be developed, and existing appendices may be modified, as needed by the Forest Service in consultation with the SHPO. The ANF shall follow the process for the development and inclusion of new appendices as described in Appendix D.

VI. PROCEDURES UNDER UNUSUAL CIRCUMSTANCES

- A. Where the Forest Service acts as lead agency on behalf of another Federal agency or agencies, the Forest *may* use the provisions of this PA provided that the other Federal agency or agencies agree in writing. Otherwise, the Forest Service and other agencies shall comply with 36 § CFR Part 800 in lieu of compliance with this PA.
- B. Phased Identification: The Forest Service may conduct phased (multi-year) inventory through 36 § CFR 800.4 when deferred final inventory and evaluation of historic properties is provided for in a MOA, PA, or NEPA document.
1. The Forest Service will inform the SHPO, Federally Recognized Tribes, and the ACHP in the planning process, through the initial consultation process outlined in this PA (Stipulation III and VIII) when using a phased inventory strategy.
 2. NHPA Section 106 compliance status and progress will be tracked internally by the ANF via interim reports, NEPA interdisciplinary team reviews, and close coordination with project leaders. The undertaking will be reported to the SHPO only when all inventory and evaluation work is done so that the SHPO has the opportunity to review and comment on the entire project.
 3. All phased NHPA Section 106 survey, site identification, and consultation will be completed prior to implementation of the undertaking, as confirmed in writing by the HPM to the decision-making authority (Forest Supervisor or District Ranger).

- C. Where there are specific Tribal or public concerns with an undertaking that warrant the complete Section 106 process as opposed to the “streamlined process” outlined in the PA, the Forest shall comply with 36 § CFR Part 800. The decision regarding what constitutes unusual concerns shall be made by the Forest Supervisor.
- D. **Emergency Situations.** Should the Forest Service find it necessary to implement an undertaking that is:
 - 1) an essential and immediate response to a disaster or emergency declared by the President, a Tribal government, or the Governor of a State or another immediate threat to life or property, the Forest Service may follow the provisions of 36 CFR § 800.12.

VII. PUBLIC INVOLVEMENT

- A. Unless an undertaking is excluded under Stipulation IV.A of this PA, the ANF shall seek and consider the views of the public in a manner that reflects the nature and complexity of each undertaking and its potential effects on historic properties and the likely interest of the public in the effects on historic properties. The Forest Service shall use its procedures for public involvement under the National Environmental Policy Act (NEPA) to solicit information and concerns about historic properties from members of the public. The Forest Service will ensure that an appropriate level of public involvement is provided for, in accordance with 36 CFR § 800.2(d) (3) including the identification, recognition, and invitation to be consulting parties in accordance with 36 CFR § 800.2(c) (3, 4, and 5). The Forest Service will ensure that environmental documents include information on historic properties that will be affected by the proposed action and alternatives, subject to the limitations of Section 304 of NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA).
- B. The Forest Service shall ensure public access to findings made pursuant to this agreement, subject to the limitations of Section 304 of NHPA and Section 9 of ARPA, and will consider comments or objections by members of the public in a timely manner.
- C. If the Forest Supervisor determines, based upon public input that certain proposed undertakings would likely have adverse or controversial effects on historic properties, those undertakings may be excluded from implementation under the provisions of this PA. Compliance with Section 106 of NHPA for these undertakings will follow 36 § CFR Part 800.

VIII. TRIBAL CONSULTATION

- A. The Forest Service shall consult with Tribes that attach traditional religious and cultural significance to historic properties that may be affected by Forest Service undertakings. The Forest Service shall use the principles in the USDA Forest Service policy, *Consultation with American Indian and Alaska Native Tribes* (FSM 1563.06) and the Tribal Relations Strategic Framework for the Eastern Region, Northeastern Area State & Private Forestry, and Northern Research Station (2015) to guide its tribal consultation procedures and relationships. This policy underscores the unique legal and political relationship the United States Government has with federally-recognized Tribes, including trust responsibilities, government-to-government relationships, consultation responsibilities (E.O. 13175, “Consultation and Coordination with Indian Tribal Governments”) and protection of sacred sites (E.O. 13007, “Indian Sacred Sites”).
- B. As per 36 CFR § 800.3(f)(2), the Forest Service shall make a reasonable and good faith effort to identify any federally recognized Tribes that might attach religious and cultural significance to historic properties in the APE, and invite them to be consulting parties. Such Federally Recognized Indian tribe that requests in writing to be a consulting party shall be one.

- C. As early as possible in the planning process, but no later than the identification stage, the Forest Service shall consult with federally recognized Tribes to determine if any historic properties of traditional cultural or religious significance are present within an undertaking's APE. In addition, the Forest Service shall utilize periodic meetings, supplemental project lists, and project-specific consultation requests as needed to assure that federally recognized Tribes have the opportunity to identify historic property concerns and to participate as consulting parties in all aspects of consultation for projects that are of interest to them.
- D. When it is determined that an undertaking may affect a cultural resource identified by a Federally recognized Tribe as having traditional cultural or religious significance, the Forest Service shall consult further with the Tribe regarding the identification, determination of eligibility, assessment of effects, and the resolution of adverse effects.
- E. Federally Recognized Tribes contacted, and tribal concerns and recommendations derived from the consultation process, shall be documented, and addressed in the inventory report and NEPA project file, consistent with the confidentiality considerations in VIII.H below.
- F. In accordance with 36 CFR § 800.2(c) (ii) (E), the Forest Service is encouraged to develop consultation Memoranda of Understanding (MOU) with Federally Recognized Tribes. Such MOUs will recognize government-to-government relationships and will specify how individual tribes wish to be consulted in the Section 106 process. Copies of signed MOUs will be provided to the SHPO and the ACHP.
- G. The Forest Service will coordinate tribal consultation under this agreement with its consultation responsibilities under other statutes, including the Native American Graves Protection and Repatriation Act (NAGPRA) and Archeological Resources Protection Act (ARPA).
- H. The Forest Service shall be sensitive to tribal concerns and rights regarding confidentiality and privacy and shall protect sensitive information to the fullest extent permitted by law, using applicable provisions and exemptions of Section 304 of NHPA, Section 9 of ARPA, and Section (b) of the Freedom of Information Act.
- I. The ANF does not conduct undertakings on tribal lands; however if the Forest determines that one of its undertakings may affect historic properties on tribal lands, and the tribe has assumed the responsibilities of the SHPO under Section 101(d)(2) of NHPA, the Forest Service shall consult with the Tribal Historic Preservation Officer (THPO) in accordance with 36 CFR § 800.2(c)(2)(A) regarding effects on those historic properties and shall follow the consultation procedures in 36 § CFR Part 800 rather than the procedures in this agreement.

IX. FIELD INSPECTION/MONITORING

- A. The ANF heritage staff may conduct field inspections as necessary to ensure that avoidance or treatment/site management measures taken under this PA are effective. These inspections may consist of visits to an undertaking area during or following the activity to view results at select locations. The Agency Official, through recommendations from the HPM or DA, shall determine the need for, schedule, quantity, and location of any inspections. A permanent record shall be completed for each inspection event and kept on file at the applicable Ranger District, and field inspection activities shall be reported to SHPO in the annual report.
- B. The Forest Service may invite the SHPO to participate in any field inspections or after-action survey/site recordation when an undertaking has been determined to cause an adverse effect to historic properties.
- C. Where no known historic properties exist in the APE following an intensive inventory, but uncertainty remains about the possible presence of historic properties because of observation limitations or information about presence of sites from the literature review or other sources (e.g., oral history), field inspection may be employed during the implementation of an undertaking if recommended by the HPM or DA. The purpose would be to ensure that unidentified historic properties, if present, are documented and subjected to appropriate

management/mitigation. If any historic properties are identified, the provisions of Stipulation X shall be followed.

X. POST-REVIEW DISCOVERY SITUATIONS AND INADVERTENT EFFECTS

- A. The SHPO shall be notified by the Forest Service immediately upon discovery that a known or previously unrecorded historic property has been affected in an unanticipated way by an undertaking implemented under this PA. If Native American human remains are discovered, the Forest Service shall follow the requirements established in NAGPRA (43 CFR 10) as appropriate. If non-Native American human remains are discovered, the Forest Service shall follow established local and state government protocols including notification of the appropriate county coroner and law enforcement officials.
- B. If the undertaking has not been completed at the time the effect is discovered. All activities in the vicinity of the historic property shall cease and reasonable efforts shall be taken to avoid or minimize harm to the historic property until the following steps are completed:
- 1) The Forest Service shall notify SHPO, usually by phone, as soon as possible that there is a discovery situation.
 - 2) The Forest Service shall notify Tribes that identified interest in the undertaking during Section 106 consultation, or there may a potential ARPA case involved.
 - 3) Within 10 business days after discovery, the Forest Service shall submit to SHPO a determination of the National Register eligibility of the cultural resource(s) affected, along with proposed actions to resolve adverse effects (if any). The exact type and format of the determination documentation will be negotiated during these 10 days.
 - 4) The SHPO shall respond with recommendations within 3 business days of receiving this determination. The Forest shall take into account these recommendations, and shall then carry out appropriate actions.
- C. If the undertaking has been approved, and when an effect to a historic property has been discovered. Within 30 calendar days, the Forest Service shall initiate consultation with the SHPO, ACHP, and Federally Recognized Tribes as appropriate, under 36 CFR § 800.13(b) (3).
- D. In all cases of unanticipated discovery. The Forest Service shall provide the SHPO, the ACHP if a participant, and other interested parties with a discovery report and appropriate SHPO forms describing the undertaking and any resulting effects. This report must include information regarding: the type of historic property affected, the historic property's NRHP status, nature of the effects, date effects identified, condition of the historic property, actions taken to resolve adverse effects (if any), and any other pertinent information. Unanticipated discoveries will be included in the annual report to the SHPO.

XI. SUPPORTING PROGRAMS AND ACTIVITIES

- A. Site Monitoring: National Register listed, and eligible properties shall be monitored in accordance with ANF Resource Management Plans, Heritage Program Managed to Standard plans, and other site-specific plans. The purpose of site monitoring is to check on the overall condition of the site, to assess any changes in site integrity, to identify possible vandalism, and to identify and carry out annual and deferred maintenance.
- B. Archaeology Awareness Month: The Forest Service and the SHPO may participate in and support financially, as funding permits, Archaeology Awareness Month activities, including public presentations, field tours and excavations, exhibits, archaeology fairs, posters, brochures, and educational activities.

- C. Windows on the Past: The Forest Service and SHPO may support Windows on the Past as a component of the Forest Service's heritage program, by encouraging staff archaeologists to host volunteer projects, educational events, interpretive tours, exhibits, brochures, lectures, radio and television promotions, Internet web pages, and interpretive signs and other heritage programs such as Passport in Time.
- D. Professional Organizations: The Forest Service and SHPO heritage staff are encouraged to participate in and work cooperatively with professional historic preservation organizations to promote preservation ethics, good science and good history, professional standards statewide, and open dialogue regarding historic preservation issues.
- E. Site Stewardship: The Forest Service and the SHPO and other appropriate agencies will cooperate, as funding and staff availability permit, to develop a volunteer site stewardship program to recruit and train members of the public to serve as monitors and stewards of Pennsylvania's cultural resources, and to assist with educational and other activities involving cultural resources. Forest Service and SHPO will cooperate in efforts to obtain funding and other resources, such as grants and partnerships, for these activities.
- F. Public Dissemination of Information: When appropriate and as funding permits, the Forest Service, SHPO, or other appropriate organizations or agencies will provide funding for development and distribution of brochures, monographs, or other information documents summarizing the results of archaeological investigations on the ANF for the general public. These can be either part of the Section 106 compliance responsibility or Section 110 research on public lands. The Forest Service and SHPO will develop these materials in cooperation, either by Forest Service and SHPO Heritage staffs or through contracts. The Forest Service and SHPO will cooperate in efforts to obtain funding and other resources, such as grants and partnerships, for these activities.

XII. SUBMISSION OF ANNUAL REPORT

- A. The Forest Service shall submit to the SHPO and the ACHP an annual report detailing all undertakings carried out under this agreement. This single annual report will be sent to the SHPO (via PA-SHARE) and to the ACHP each year by January 31. The annual report shall describe actions under the agreement during the previous federal fiscal year (October 1 to September 30). The annual report will summarize the actions taken to implement the terms of this agreement, statistics on undertakings reviewed, and recommend any actions or revisions to be considered. The format and description of this report is detailed in Appendix C. Appendix C will be reviewed annually and revised as needed by signatories.

XIII. REVIEW, PARTICPATION, AMENDMENTS, DISPUTES, AND TERMINATION

- A. ANNUAL MEETING. The HPM and Forest Supervisor shall meet annually with the SHPO in order to review the terms of this PA, to determine how well the agreement is working, to identify any issues of interest or concern, and any amendments that may be appropriate. An invitation to this annual meeting will also be sent to the ACHP. The annual meeting will occur after submission of the annual report to the SHPO and the ACHP, and shall be held no later than June 1.
- B. AMENDMENTS. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.
- C. DISPUTE RESOLUTION. If any signatory and/or concurring party to this PA objects to any aspect of its implementation, the Forest Supervisor shall consult with the objecting party to resolve the objection. If resolution cannot be achieved, then the ANF will:
 - 1) Forward all documentation relevant to the dispute, including the Forest Supervisor's proposed resolution, to the ACHP. The ACHP shall provide the Forest Supervisor with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Forest Supervisor shall prepare a written response that takes into account

any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Forest Supervisor will then proceed according to their final decision.

- 2) If the ACHP does not provide its advice regarding the dispute within the thirty (30) daytime period, the Forest Supervisor may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Forest Supervisor shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- 3) The responsibility of the Forest Service to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

D. DURATION. This agreement shall be in effect for ten years from the latest date of signature below. Prior to such time, the ANF may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation XIII.B above.

E. TERMINATION. If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation XIII.B, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories. In the event of termination, the ANF must either (a) execute a new PA, pursuant to 36 CFR § 800.14(b), or (b) proceed on all undertakings pursuant to 36 § CFR Part 800. The ANF shall notify the signatories as to the course of action it will pursue.

XIV. ADDITIONAL STIPULATIONS

IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the SHPO from participating in similar activities with other public or private agencies, organizations, and individuals.
- B. RESPONSIBILITIES OF PARTIES. The Forest Service and the SHPO will handle their own activities and use their own resources, including the expenditure of their own funds under this PA.
- C. PRINCIPAL CONTACTS. The principal contacts for this agreement are:

ANF:

Heritage Program Manager
4 Farm Colony Drive
Warren PA, 16365

Justin W. Peters
814-728-6162
justin.peters@usda.gov

Forest Supervisor
4 Farm Colony Drive
Warren PA, 16365

Jamie Davidson
814-728-6299
jamie.davidson@usda.gov

Pennsylvania SHPO:

Bureau Director / Deputy State Historic Preservation Officer
400 North St.-0024
Harrisburg, PA 17120

Andrea L. MacDonald
717-783-8946
amacdonald@pa.gov

Executive Director, State Historic Preservation Officer
400 North St.-0024
Harrisburg, PA 17120

Andrea W. Lowery

ACHP:

Director Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW, Suite 308, Washington, DC 20001

Reid Nelson

Program Analyst
Advisory Council on Historic Preservation
401 F Street NW, Suite 308, Washington, DC 20001

Christopher Daniel
202-517-0223

- D. NON-FUND OBLIGATING DOCUMENT. Nothing in this PA shall obligate either the Forest Service or the SHPO to expend, obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Forest Service and SHPO will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This PA does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
- E. ESTABLISHMENT OF RESPONSIBILITY. This PA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, the Commonwealth of Pennsylvania, the Pennsylvania SHPO, or their agencies, officers, or any person.
- F. Nothing in this agreement alters, amends, repeals, interprets, or modifies tribal sovereignty, any treaty rights, or other rights of a Federally Recognized Indian Tribe, or preempts, modifies, or limits the exercise of any such rights; or affects any external boundary of an Indian Reservation; any authority of the Commonwealth of Pennsylvania; any authority of the Forest Service or the head of any other federal agency under a law in effect on the date of an entity that is not a party to the PA.
- G. SOVEREIGN IMMUNITY. Neither the United States nor the Commonwealth of Pennsylvania, waives its sovereign immunity by entering into this PA, and each fully retains all its immunities and defenses as provided by applicable law with respect to any action based on or occurring as a result of this PA.
- H. THIRD PARTY BENEFICIARY. The parties do not intend to create any individual or entity the status of third-party beneficiary. This PA shall not be construed so as to create any third-party beneficiary status.
- I. AUTHORIZED REPRESENTATIVES. By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.

Execution of this Agreement by the ANF, SHPO, and the ACHP and implementation of its terms are evidence that the Forest Service has taken into account the effects of its undertakings on historic properties and has afforded the ACHP opportunity to comment pursuant to Section 106 of the NHPA.

PROGRAMMATIC AGREEMENT

AMONG THE

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE, ALLEGHENY NATIONAL FOREST,
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING

**THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR UNDERTAKINGS ON THE ALLEGHENY NATIONAL FOREST
OF THE EASTERN REGION OF THE U.S.D.A FOREST SERVICE**

SIGNATORY:

USDA FOREST SERVICE, ALLEGHENY NATIONAL FOREST

Jamie L. Davidson
Forest Supervisor

Date

PROGRAMMATIC AGREEMENT

AMONG THE

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE, ALLEGHENY NATIONAL FOREST,
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING

**THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR UNDERTAKINGS ON THE ALLEGHENY NATIONAL FOREST
OF THE EASTERN REGION OF THE U.S.D.A FOREST SERVICE**

SIGNATORY:

**PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION, BUREAU FOR HISTORIC
PRESERVATION**

Andrea MacDonald
Deputy State Historic Preservation Officer

Date

PROGRAMMATIC AGREEMENT

AMONG THE

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE, ALLEGHENY NATIONAL FOREST,
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR UNDERTAKINGS ON THE ALLEGHENY NATIONAL FOREST
OF THE EASTERN REGION OF THE U.S.D.A FOREST SERVICE**

SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Rick Gonzalez
Vice Chairman

Date

PROGRAMMATIC AGREEMENT

AMONG THE

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE, ALLEGHENY NATIONAL FOREST,
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**

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OF THE EASTERN REGION OF THE U.S.D.A FOREST SERVICE**

CONCURRING PARTIES (IDENTIFIED AFTER CONSULTATION)

APPENDIX A

DEFINITIONS

ACHP (Advisory Council on Historic Preservation)

Established by the National Historic Preservation Act (1966), the ACHP is an independent executive agency that has an advisory role in a Federal agency's decision-making process when a proposed undertaking has the potential to affect a cultural property that meets National Register criteria. The ACHP promulgates regulations which govern the implementation of Section 106 of the National Historic Preservation Act.

Agency Official

The Line Officer (see Forest Supervisors and District Rangers) who has the authority to commit the agency to action and assumes the responsibilities defined in 36 § CFR Part 800.2(a). The Agency Official is responsible for meeting the requirements of this PA or for complying with Section 106 of the NHPA.

Area of Potential Effects (APE)

The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR § 800.16(d) and 800.4(a)).

Avoidance

Avoidance is a means to resolve adverse effect by preventing activities associated with an undertaking that may affect historic properties within a historic property's boundaries. This may include adverse effects to a properties viewshed in cases where setting is an important element to the site's significance. This may require that portions of undertakings be modified, redesigned, or eliminated in order to avoid historic properties.

Concurring Party

Any party that participates in the development of the agreement and is asked to show their approval of the end product through a concurring signature. Concurring parties do not have the right to terminate the agreement.

Consultation

The process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the section 106 process (36 CFR § 800.16(f)).

Consulting Party

Consulting parties are all the parties formally involved in the consultation process related to the development of the agreement.

Cultural Resources

Umbrella term for any heritage resource, whether eligible, unevaluated, or not eligible for the National Register, including buildings, structures, sites, objects, districts and landscapes.

Pennsylvania's State Historic and Archaeological Resource Exchange (PA-SHARE)

A computer database system utilized for review of previously identified resources, consultation, and submissions of resource and survey data to SHPO.

District Archeologist

Heritage Professionals (including GS-0170 historians, GS-0190 anthropologists, and GS-0193 archaeologists) that serve in a staff or advisory capacity at the Ranger Districts and provide professional recommendations and services to assist land managers in meeting their Heritage Program responsibilities. This may involve planning, conducting, and leading archeological field surveys, and conducting evaluations of historic properties for the NRHP. Although District Archeologists are responsible for making technical recommendations under the terms of this agreement, local line officers (the District Rangers and Forest Supervisor) have the ultimate discretion, authority, and responsibility for compliance with this agreement and the National Historic Preservation Act.

Eligible Properties (see Historic Properties)

Properties that have been evaluated through the process by which the significance and integrity of a prehistoric or historic property are judged as eligible for listing in the National Register of Historic Places. Such properties are also legally designated "historic properties." A property may be determined to be eligible under any of four Criteria:

Criterion A

The property is associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B

The property is associated with lives of persons significant in our past.

Criterion C

The property exemplifies a distinctive type, period, or method of construction, or the work of a master, or a high artistic quality.

Criterion D

The property has yielded or may be likely to yield, information important in history or prehistory.

Emergency Undertaking

Any Forest Service undertaking that the Regional Forester determines must be initiated within 30 days of a natural disaster (including human-caused fire) or national security emergency, in order to avoid an imminent threat to human life or major property damage, as defined in 36 § CFR 800.14.

Existing Data Inventory

A type of cultural resource inventory that is a compilation and analysis of existing cultural resource data and a management-focused, interpretive narrative overview and synthesis of the data.

Forest Supervisors and District Rangers

The Agency Official as defined in 36 § CFR Part 800.2(a). The Agency official is responsible for meeting the requirements of this PA or for complying with Section 106 of the NHPA.

Geographic Information System

A geographic information system (GIS) is a system for managing spatial data and associated attributes. In the strictest sense, it is a computer system capable of integrating, storing, editing, analyzing, and displaying geographically-referenced information. In a more generic sense, GIS is a "smart map" tool that allow users to create queries (user created searches) and analyze the spatial (mapped) information.

Geophysical Project

An activity related to the search for evidence of oil and gas which requires the physical presence upon the lands and which may result in damage to the lands or resources. Geophysical exploration requiring a permit or utilization of Forest lands, is considered a Federal undertaking as defined in the National Historic

Preservation Act and approval of such projects requires agency compliance with section 106. Each project is examined on a case by case basis for terrain type, nature of the specific project, and the types of cultural resources anticipated within the project area.

HABS/HAER (Historic American Buildings Inventory/Engineering Record)

The Historic American Buildings Inventory/Historic American Engineering Record (HABS/HAER) is an integral component of the federal government's commitment to historic preservation. The program documents important architectural, engineering and industrial sites throughout the United States and its territories. A complete set of HABS/HAER documentation, consisting of measured drawings, large-format photographs, and written history plays a key role in accomplishing the mission of creating an archive of American architecture and engineering and in better understanding what historic resources tell us about America's diverse ethnic and cultural heritage. To ensure that such evidence is not lost to future generations, the HABS/HAER Collections are archived at the Library of Congress, where they are made available to the public.

Heritage Program Manager

The heritage program manager (a.k.a. Forest Archaeologist/Historian—see Section III) is responsible for: directing, planning, and administering the Forest's complex and Cultural Resources management program; providing professional and technical advice to the Forest Leadership Team; advising the Heritage Program internally and with external agencies, organizations, and the public; and planning and developing the Forest's cultural resource inventory, evaluation, and enhancement program. Although the Heritage Program manager is responsible for making technical recommendations under the terms of this agreement, local line officers (District Rangers and Forest Supervisors) have the ultimate discretion, authority, and responsibility for compliance with this agreement and the National Historic Preservation Act.

Historic Context

Information about historic or prehistoric trends and properties grouped by an important theme in the prehistory or history of a community, state, or the nation during a particular period of time.

Historic Property

Any prehistoric or historic district, site, building, structure, or object eligible for inclusion or listed in the National Register of Historic Places.

Intensive Field Inventory

A type of cultural resource inventory that provides cultural resource specialists and managers with a record of all cultural resources, which can be identified from surface indications or shovel testing, for a specific area. Intensive survey identifies the distribution of properties in an area; determines the number, location and condition of properties; determines the types of properties actually present within the area; permits classification of individual properties; and records the physical extent of specific properties.

Interested Parties

An interested party has a demonstrated interest in a Forest Service undertaking or action on a historic property. Interested parties may include, but are not limited to, local governments, grantees, permittees, owners of affected lands or land surfaces, Indian tribes, and other groups. Interested parties may provide input and information as consulting parties when an agreement is prepared. However, they may not necessarily be invited to become a concurring party on the agreement document.

National Historic Landmark

A historic property evaluated and found to have significance at the national level and designated as such by the Secretary of the Interior.

National Register of Historic Places (NRHP)

The official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and or culture maintained by the Keeper of the National Register, National Park Service.

NEPA (National Environmental Policy Act of 1969)

NEPA is Federal law which helps inform the decision-making process for Federal agencies in the United States. NEPA requires that all Federal agencies involve the interested public in their decision-making, consider reasonable alternatives to proposed actions, and prepare environmental documents which disclose the impacts of proposed actions and alternatives.

Not Eligible Cultural Resources

Cultural resources that have been evaluated through the process by which the significance and integrity of a prehistoric or historic property are judged as not eligible for listing in the National Register of Historic Places.

PHMC (Pennsylvania Historical and Museum Commission)

PHMC is a section of the Commonwealth of Pennsylvania government that contains the State Historic Preservation Officer/Office which maintains the database and a statewide inventory of cultural resources, and associated inventories.

Sampling Field Inventory

A type of cultural resource inventory that is a probabilistic sample survey, designed to characterize the probable density, diversity, and distribution of cultural resources in an area, to develop and test predictive models, and to answer certain kinds of research questions. Within individual sample units, survey aims, methods, and intensity are the same as those applied in an intensive field survey. A sampling survey may be conducted in several phases, using different sample designs, to improve statistical reliability.

SHPO (State Historic Preservation Office or Officer)

Established by the National Historic Preservation Act of 1966 as an agency within each State government charged with advising and assisting federal agencies with the provisions of the Act. SHPO's receive Federal funds from the National Park Service and allocate matching funds and grants to Certified Local Governments (CLGs) for the protection of sites eligible for listing in the National Register of Historic Places. SHPO shall review ANF determination of the Area of Potential Effects, National Register determinations of eligibility, findings determinations per 36 § CFR 800, and respond within the timeframes required by the agreement. The SHPO may attend site visits upon request and will participate in annual reviews to review the effectiveness of the agreement.

Signatory

A consulting party that assumes responsibility in an agreement document. Signatories may terminate the agreement. Signatories are the Agency, the SHPO and the ACHP (if they choose to participate).

Traditional Cultural Property

Traditional cultural properties are ethnographic resources eligible for listing in the National Register – generally under Criterion A.

Acronyms

ACHP – Advisory Council on Historic Preservation
APE – Area of Potential Effect
CLG – Certified Local Government
CRM – Cultural Resource Management
CRM tracker – Cultural Resource Management tracking database (NRM)
DA – District Archeologist
EA – Environmental Assessment
FS – Forest Service
HABS – Historic American Buildings Inventory
HAER – Historic American Engineering Record
HPM – Heritage Program Manager
HRSF – Historic Resource Survey Form
MOA – Memorandum of Agreement
NAGPRA – Native American Graves Protection and Repatriation Act
NEPA – National Environmental Policy Act
NHPA – National Historic Preservation Act
NRHP – National Register of Historic Places
PA – Programmatic Agreement
PASS – Pennsylvania Archeological Site Survey (Form)
PHMC – Pennsylvania Historical and Museum Commission
SHPO – State Historic Preservation Officer/Office

APPENDIX B

ACTIONS EXCLUDED FROM CASE-BY-CASE REVIEW

The Agency Official, through recommendations provided by the Heritage Program Manager (HPM) or District Archeologist (DA) shall determine whether a specific undertaking fits within any of the classes of undertakings listed. This list is not considered to be comprehensive, nor does the presence of an undertaking on this list automatically exclude a given project from review. If the Agency Official, through recommendations provided by the HPM or DA, determines that an undertaking has a potential to affect historic properties, then the undertaking shall not be considered excluded from SHPO review and shall be subject to review under "Section IV., Standard Procedures for Project Review, Identification, and Avoidance of Historic Properties", of this PA.

HPM or DA will check appropriate records for evidence of previously recorded historic properties prior to recommending that the undertaking be excluded from review.

The Agency Official should be aware that in the case of properties of religious and cultural significance to Federally Recognized Tribes, avoiding or limiting visual and auditory effects upon the property may be necessary to preserve the qualities that make the site eligible for the NRHP. Thus, any decision to exempt a project from case-by-case review in that context must carefully consider the potential of the undertaking to have such effects.

I. GENERAL EXCLUSIONS:

- A. Any activities located on steep slopes (greater than 15%), where no known historic properties or potential historic properties are present, with no potential for sites such as rock art or rock shelters, and appropriate historical documentation has been consulted.
- B. Any activities where the APE is entirely within an obviously disturbed context, and the disturbance is such that the presence of historic properties is highly unlikely.

II. ADMINISTRATIVE ACTIONS

- A. Removal of illicit narcotics equipment from federal land during law enforcement operations, excluding the removal of buildings or structures.
- B. Activities which involve no more than two square meters of cumulative surface disturbance and no more than one square meter of contiguous disturbance in any given location, unless within the boundaries of a known historic property or an unevaluated heritage resource.

III. LANDS AND RECREATION SPECIAL USE PERMITS (SUP)

- A. New ground disturbance within existing, previously disturbed rights-of-way (such as utility corridors) that does not affect known resources.
- B. Placement of geophysical seismic monitoring equipment on the surfaced portion or within the prism (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) of a regularly maintained road.
- C. Conducting or approving permits for non-archaeological data collection and monitoring activities that involve less than one cubic meter of cumulative ground disturbance, unless within unevaluated cultural resource or historic properties or areas considered likely to contain historic properties. Such activities could include forage trend monitoring, stream gauges, weather gauges, research sensors, photo plots, traffic counters, animal traps, or similar devices.

IV. WILDLIFE AND FISHERIES ENHANCEMENTS

- A. Maintenance activities in constructed wildlife openings, such as plowing, disking, seeding, planting, fencing and mechanical release, in previously surveyed areas for heritage resources that do contain any historic properties.
- B. Hand construction of fish weirs, and fish barriers, or other habitat enhancement activities limited within stream channels and lakes, not including terraces, and cut banks that do not effect in-stream or submerged (lake/reservoir) historic structures.
- C. Fisheries improvement projects where trees are felled into streams and floodplains that does not involve surface disturbance.

V. MANAGEMENT OF DEVELOPED RECREATION SITES

- A. Issuing recreation permits on rivers, trails, developed roads, or in other designated areas where the type and location of activity has been previously subjected to NHPA Section 106 compliance, and there are no changes in the course, spectator areas, or pit areas. All previously established restrictions associated with previous NHPA Section 106 compliance are continued.
- B. Issuance of recreational Special Use Permits (SUPs) where the potential to cause ground disturbance or affect historic properties is negligible, including but not limited to:
 - I. Where uses are consistent with planning decisions or land allocations, as applicable, and where there will be no surface disturbance.
 - ii. Where campsite locations are restricted to areas along the river that have been previously surveyed for cultural resources and historic properties are not located.

VI. ROAD MAINTENANCE, TRAIL MAINTENANCE AND TRAVEL MANAGEMENT

- A. Routine Level 3-5 road as defined in Forest Service handbook, and trail maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts (non-CCC era), and cut and fill slopes where there are no known unevaluated heritage resources or historic properties would not be affected because proposed work is clearly within disturbed context.
- B. Felling and removal of hazard and wind thrown trees from road and trail prisms where deemed necessary for health, safety, or administrative reasons, so long as trees are felled into and removed from within existing road or trail prisms (area clearly associated with road construction, from road surface to top of cut and/or toe of fill) where previous disturbance is such that the presence of no known unevaluated heritage resources or historic properties is considered unlikely, and so long as ground disturbance is not allowed off previously disturbed areas associated with road or trail prisms.
- C. Realignment of existing non-motorized trails that involves the use of hand tools, involves no new surface disturbance, and does not impact known historic properties.

VII. HISTORIC STRUCTURES

At the discretion of the Agency Official, the Region 9 Architectural Historian (USDA FS), who meets the SOI professional qualifications and is trained in the SOI's rehabilitation standards, will review all historic structures (above ground resources) before excluding the following list of actions from "case-by-case" review. If an undertaking does not meet the SOI standards, the project will follow the process outlined in Stipulation IV.

A. Structural Elements:

- 1) Repair or replacement of siding, trim, or hardware, when done in-kind to match historic material, design, and color.
- 2) Repair of window frames or shutters by patching, splicing, consolidating, or otherwise reinforcing or replacing in-kind those parts that are either extensively deteriorated or are missing. The same historic configuration of panes shall be retained.
- 3) Replacement of window frames to match historic material and design. The same historic configuration of panes shall be retained.
- 4) Replacement of glass, when done in-kind to match historic form and design. Windowpanes may be double, or triple glazed, as long as the glazing is clear and replacement does not alter the historic window form. This excludes the use of tinted glass, use of which requires consultation.
- 5) Maintenance of features, such as frames, hoodmolds, paneled or decorated jambs and moldings, through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems using historic color and texture.
- 6) Repair or replacement of doors, when done in-kind to match historic material and form.
- 7) Replacing existing shingles with a fire resistant shingle material, and does not significantly alter the historic integrity of the building. Repair should be as compatible with the design, character of the building, and setting as possible. Adequate anchorage for roofing material to guard against wind damage and moisture penetration should be provided.
- 8) Repair or replacement of roof sheeting, flashing, facias and eaves, where this does not alter the historic integrity or form of the building. Repair or replacement of flashing, facias, and eaves must be in-kind.
- 9) Repair or replacement of chimneys, when done in-kind to match historic materials and form. Spark-arresting chimney caps may be added to chimneys, where such caps harmonize with historic materials and form.
- 10) Repair or replacement of porches, cornices, and stairs when done should use in-kind or to

match historic material and design, and the style, materials, and character of the structure.

- 11) Repair or replacement of roofs or parts of roofs that are deteriorated, should be done in-kind or where matching historic material and design. In areas of high fire danger, fire retardant roofing is allowed. If fire retardant materials are used, the materials must match the original roofing color and be as compatible with the design and character of the building as possible. Adequate anchorage for roofing material to guard against wind damage and moisture penetration shall be provided.
- 12) Replacement of modern appliances and fixtures (e.g., ranges, refrigerators, and bathroom fixtures). When associated historic cabinetry is intact, and the interior, in general, retains its historic appearance, the cabinetry will be retained.
- 13) Repair or replacement of floor coverings, when done in-kind to match historic material and design; unless floor coverings are modern, in which case different modern materials may be used.
- 14) Repair, replacement, or addition of exterior lighting that blends with the landscaping and style of the building.

B. Surfaces:

- 1) Painting, staining, or oiling (collectively "painting") interior or exterior surfaces, when the new paint matches the existing or historic color. If the existing paint color is not desirable and the historic color is not known, the color should be in keeping with historic color schemes for nearby or similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment.
- 2) Replacement or installation of caulking and weather-stripping around windows, doors, walls, and roofs.

C. Utility Systems:

- 1) Replacement of metal water tanks with ones of fiberglass, when the color and texture of the existing or historic tank are replicated or when landscaping camouflages the replacement tank. Redwood tanks with plastic inserts are also feasible. Construction of a structure around a tank to control temperature is allowed when landscaping camouflages the change.
- 2) Replacement of and enlarging liquid propane gas systems, if tanks are screened with landscaping materials.
- 3) Replacement of communications equipment, when the same size, shape, and general configuration are retained or reduced, excluding large antenna and communications dishes.
- 4) Replacement of lightning rod wiring with new copper wire.
- 5) Installation safety items (such as smoke detectors, carbon monoxide, or burglar alarms) without any structural disturbance.

D. Surrounding Features (see also Ground Disturbing Activities below):

- 1) Replacement of signs in-kind that involves no new surface or structural disturbance.
- 2) Ongoing maintenance of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are maintained.
- 3) Repair or replacement of driveways and walkways done in-kind to match existing or historic materials and design.
- 4) Repair or replacement of decks and porches done in-kind to match existing or historic materials and design.
- 5) Repair or replacement of fencing done in kind to match existing or historic material and design.
- 6) Addition of a completely removable accessibility ramp which blends with the historic

materials and style of the structure itself.

- 7) Repair, replacement, or addition of exterior lighting that blends with the landscaping and style of the building.
- 8) Installation of skirting over a structure's crawl space, if constructed or painted a color to match or blend with the structure.
- 9) Removal of vegetation or hazard trees in order to reduce the threat of wildfires or falling timber, so long as removal is done by hand without the use of heavy equipment.
- 10) Ongoing maintenance of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited.
- 11) Installations of interpretive sign or exhibit structures which are not attached to historic structures and do not visually intrude on the historic property. Signs should be constructed of materials and painted with colors that harmonize with the historic property and its setting.
- 12) Repair or replacement of fencing done in kind to match existing or historic material and design.

E. Ground Disturbing Activities

- 1) Activities where a previous Heritage Resources Survey was conducted that meets the Secretary of Interior Standards has shown that no previously recorded archeological sites exist that are historic properties or potentially eligible for the NRHP(e.g., prehistoric archaeological deposits.).
- 2) Excavations for repair or replacement of building footings or foundation work within two (2) Feet of existing footings and foundations.
- 3) Installation, repair, or replacement of utilities, such as sewer, water, or storm drains, electrical, gas, or leach lines, and septic tanks, where activities are restricted to specific areas previously disturbed by installation of these utilities.
- 4) Tree planting, area fencing and tree shelters, or removal in areas that have been previously disturbed by these activities, including nursery beds and arboreta, provided historic landscaping is maintained.

APPENDIX C
ANNUAL REPORT FORMAT

The ANF shall use the following format to report annual accomplishment data to the ACHP and SHPO (via PA-SHARE) by January 31 of the calendar year following the relevant Federal fiscal year. The categories reported coincide with the National Forest Service database (NRM), and will be taken directly from that database. The Forest Service shall also submit a narrative explaining anything unusual found in the tabular data. Any revisions to the agreement be considered, including updates to the appendices, will also be provided for review and comment.

Forest Name:

Reporting Year:

Overall Summary of Actions under Agreement - by Undertaking Type

Type of Forest Undertakings	Number of Undertakings	Newly Surveyed Acres	Number of Newly Recorded Cultural Resources	Number of Sites Revisited/ Monitored
Administrative Actions				
Lands and Recreation Special use Permits (SUP)				
Wildlife and Fisheries Enhancements				
Management of Developed Recreation Sites				
Road Maintenance, Trail Maintenance, Travel Management				
Historic Structures				
Prescribed Fire Activities				

**Undertakings where APE was adequately covered by previous inventories
(No Historic Properties Affected)**

Undertaking Name	ID	Type	Comments
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Undertakings excluded from case-by-case review (No Historic Properties Affected)

Type of Forest Undertakings	Number of Undertakings	
Administrative Actions		
Lands and Recreation Special use Permits (SUP)		
Wildlife and Fisheries Enhancements		
Management of Developed Recreation Sites		
----- Road Maintenance, Trail Maintenance, Travel Management		
Historic Structures		
Prescribed Fire Activities		
General Exclusions		

Sites-where avoidance measures were employed for protection (No Historic Properties Affected)

Smithsonian Number	Undertaking Name	Undertaking ID	Comments
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Inadvertent Site Discoveries

Smithsonian Number	Comments

Sites - where Field Inspection and/or Monitoring has been conducted

Smithsonian Number	Comments
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APPENDIX D

GUIDELINES FOR THE DEVELOPMENT OF APPENDICES SPECIFIC TO CLASSES OF UNDERTAKINGS

Identification, evaluation, and management procedures for certain classes of Forest Service undertakings (e.g. vegetation management, infestation management, etc.) shall be guided by appendices that contain specific procedures for inventory, reporting, and review.

I. PRINCIPLES

Forest Undertaking Appendices should be: straightforward and easy to implement; sufficiently specific and detailed to minimize interpretive complications; and directive as to what should be done.

II. CONTENTS AND FORMAT

Undertaking Appendices must contain the following information:

- A. *Title* that specifies the subject (undertaking);
- B. *Description* that specifies intent, use and limitations of the appendix, which will include but not be limited to the following:
 - 1) description of the class of undertakings to which the appendix applies, including variations in methods and implementation of the class of undertaking;
 - 2) description of the known and likely effects of such undertakings on different types of cultural resources, in the absence of protective measures. This discussion may include an identification of the kinds of cultural resources that are most likely to be affected by the class of undertaking;
- C. *Management Protocol*, which may include steps, measures, or additional details of procedures.
- D. *Standard Inventory Strategy*, which may include:
 - 1) discussion, description and reasons for APE determination;
 - 2) sample inventory criteria or models to be used for that class of undertaking;
 - 3) justification of sample criteria or model;
- E. *Additional Stipulations*, which may include:
 - 1) process for notifying and soliciting the views and involvement, as appropriate, of interested parties, Federally Recognized Indian Tribes, and the public, if these procedures differ from the main body of the PA;
 - 2) as appropriate, continued long-term studies and refinement of effects and methods of protection.
 - 3) any other processes or requirements specific to the class of undertaking.

III. DEVELOPMENT OF NEW APPENDICES

New appendices may be developed and included in this agreement by the following procedures.

- A. The ANF will provide the SHPO and ACHP with written notification of their intent to develop and add a protocol to this agreement and seek their initial advice.
- B. Appendices shall be prepared according to the principles and content listed herein (Section II).
- C. Interested parties shall be consulted and afforded an opportunity to provide input in the development and review of draft appendices. Interested parties should include, as appropriate, signatories to this agreement, Federally Recognized Tribes, organizations, or individuals that may be directly affected by the appendices, and organizations or individuals that have asked to be included.
- D. The Forest Supervisor shall submit the Appendix to the SHPO and ACHP for review.
- E. The SHPO and ACHP shall be afforded 30 days to review and comment on the draft appendix.
- F. The protocol shall be added to the agreement and implemented by the ANF if the SHPO and ACHP accept and certify the appendix by signing an addendum to this agreement.
- G. The ANF shall implement individual undertakings within the subject class of undertakings according to stipulations of this agreement or 36 CFR Part 800 until the protocol for the class of undertakings is certified.
- H. Appendices may be amended by agreement of the consulting parties as described in Section XIII.C of the PA.

APPENDIX E

Prescribed Fire Management Activities

USDA Forest Service Prescribed Management Fire Program

The Forest Service seeks to improve overall forest health, restore healthy ecosystems and lessen the risk of high-intensity, destructive wildland fires by working with prescribed fire to bring National Forest System lands closer to the historic and natural ecological conditions identified as desired goals and objectives in land and resource management plans. Natural and cultural resource managers, including foresters, biologists, and archaeologists, use prescribed fire (also referred to as prescribed burns) to remove thick brush, reduce hazardous fuel accumulations, restore and maintain ecosystems, improve habitats, and control unwanted or undesirable vegetation.

Fire has helped shape the land for thousands of years and its presence is essential for the survival of many plants and animals. Wildlife thrives in areas recently treated with prescribed fire. The fire recycles nutrients into the soil, increasing the elements needed to promote healthy plant growth. It also clears shrubs, undergrowth, and leaf litter, opening the forest floor and making it easier for wildlife to move, as well as providing increased sunlight for other plants. Flowering annuals and bi-annuals are more visible and grow better in areas treated with fire, benefiting a variety of animals, including butterflies and birds. An increased number and variety of small plants provides diverse forage for a wealth of animal species in these places. Grasses grow rapidly in areas that have been treated with fire and are more nutritious and digestible for animals, particularly deer. Turkey, quail, and doves also benefit from the increased grasses and legumes following a burn.

People who enjoy the numerous recreational opportunities available on forests, or those living nearby, also benefit from the improved forest conditions. Prescribed burns remove downed limbs and other debris from the forest floor, improving visibility and reducing obstacles. The variety, quantity, and quality of the plants and animals that result from the treatments in these areas are noticeable not only to those enjoying activities in the forests, but also to people traveling through the forests. Those living and working in the wildland-urban interface and intermix, where the forest meets development (such as oil, gas, and mineral activities and residential development and neighborhoods) have increased protection from the threat of destructive wildfires as prescribed burns reduce the amount of heavy underbrush and leaf litter that could fuel and sustain a destructive wildfire.

The Forest Service has set in place various coordination measures with criteria that must be met prior to implementing a prescribed burn. These include current prescribed burn plans, compliance with various state and federal regulations, safety and risk management, public affairs, community outreach and public involvement through the National Environmental Policy Act (NEPA) process, appropriate tribal consultation procedures, and appropriate staffing and training. These coordination measures illustrate the amount of planning and attention given to all facets of a prescribed burn activity. An important part of the pre-burn planning process involves considerations for threatened and endangered species, other sensitive resources and, of course, significant cultural resources.

The management of prescribed fires is conducted by highly trained specialists and wildland firefighters, who control the intensity of the fire and keep it within a defined area using a combination of natural fuel breaks and fire-lines that have been cleared of burnable material. These low-intensity fires leave some area inside the fire-lines

untouched, creating a mosaic of burned and un-burned patches. Safety and health are the top priorities during any prescribed fire and many requirements must be met before a prescribed fire can take place. Burn plans consider conditions such as the range of relative humidity, wind speed and direction, temperature, fuel moisture, and atmospheric conditions. Factoring in all these requirements limits the number of days in which a prescribed fire can take place. To complete prescribed burns in a safe, economical, and efficient manner, the Forest Service works with a variety of partners, including private, local, state, and federal entities.

Heritage Resource and Prescribed Fire Management for the Allegheny National Forest

Part I. Introduction

The use of prescribed fire on the ANF is generally low to moderate in intensity and of short duration. With few exceptions, and when dictated by the management prescription, prescribed fires will not burn hot enough to reach mineral soil. Prescribed fires are intended to consume “surface” fuels, which are comprised of leaf litter, pine needles, dead and down small twigs and branches, and at times, larger portions of dead and down trees and vegetation. Resource and management objects are normally such that “ground” fuels, decaying organic materials below available leaf litter and dead and down woody fuels, are not being burned and consumed by these managed fires. The weather and fuels “prescription” contained in prescribed burn plans help to mitigate this by defining a range of conditions that must be met in order to carry out a burn.

Temperatures are typically not high enough to cause heat alteration, exfoliation, or other damage to stone, concrete and mortar, or to glass, metal, and ceramic artifacts. Given the low intensity of typical prescribed fires, the burns themselves, and resulting first order fire effects, are not expected to adversely affect prehistoric and historic sites that do not contain aboveground combustible elements. With the exception of plastic artifacts, thermal alteration is expected to be limited to combustive residue deposits (soot), which generally is washed off in the rain. Plastic artifacts have a relatively low melting/deformation threshold. However, these effects would not affect the eligibility of the site for listing on the National Register of Historic Places (NRHP).

Part II. Cultural Resources/Historic Properties That May Be Affected by Prescribed Fire

Historic Sites with Aboveground Combustible Elements. Within the ANF there are a small number of cultural resources with aboveground combustible structures or elements. These include features related to past settlement occupations, such as historic aged farmsteads and oil and gas facilities, as well as Civilian Conservation Corps built structures, such as those at the Loleta Recreation area, the William Irvine Estate and the Spring Creek Glass Factory.

Prehistoric Sites Potentially Affected by Prescribed Fire. Prehistoric sites have the potential to be affected by prescribed fire if they contain artifacts, such as pre-historic ceramics (pottery) very near, partially, or completely exposed on the surface, and prehistoric rock art. Prehistoric sites also have the potential to be affected by fire if they are in close proximity to areas of high fuel buildup. In such situations, artifacts and non-combustible aboveground features can be damaged by prescribed burning because the fire reaches a higher temperature and has a longer duration (residence time), allowing the temperature of the soil to rise and affect artifacts buried in the soil.

Fire also has a potential to damage prehistoric Native American rock art. Although there are no specific temperature guidelines for rock art, fire effects include sooting, smudging and potential discoloration from smoke; degradation of the rock-art surface from spalling, exfoliation and weathering; thermal alteration of organic paints; and damage to rock-art varnish that would affect the potential to date the art.

Part III. ACTIONS EXCLUDED FROM CASE-BY-CASE REVIEW

The Agency Official with recommendations from the Heritage Program Manager (HPM) or District Archeologist (DA) shall determine whether a specific action associated with wildland fire management activities fits within any of the classes of activities listed above. This list is not considered to be comprehensive, nor does the presence of an activity on this list automatically exclude a given project from review. If the Agency Official determines that an undertaking has a potential to affect historic properties, the undertaking shall not be considered excluded and shall be subject to the provisions of this PA or 36CFR Part 800, as appropriate. The HPM or heritage Staff will check appropriate records for evidence of previously recorded historic properties prior to making a determination that the undertaking is excluded from review.

Such projects include (but are not limited to) the following:

1. Fireline and waterbar construction on slopes between 10 and 20 percent.
2. Fire lines constructed with a mower, a leaf blower or by hand-raking. Mowing, raking and leaf blowing are not considered earth-disturbing activities and will not affect buried cultural resources.
3. Firelines constructed in previously burned tracts or other disturbed areas. Mechanical construction, hand-raking and blown-in firelines would not further affect cultural resources.
4. Mechanical removal using bulldozers, discs and tractor plows-of small trees and shrubs in previously disturbed areas. Mechanical removal with a bulldozer consists of pushing the tree or shrub with the flat blade at the ground surface where the roots join the stem/trunk. The shallow roots are pulled up and the larger roots snap off; the disturbance stays within the previously disturbed ground.
5. Use of moderate- to high-volume sprinklers as a protection measure for cultural resources with aboveground features or sensitive surface features.
6. Improvement of historic roads and railroad grades for use as firebreaks
7. Staging of heavy equipment as contingency resources on burn-unit perimeters.

Part IV. Prescribed Fire Heritage Program Protocol

All efforts to identify, evaluate, and manage historic properties in connection with the planning of prescribed-burn activities shall be carried out in accordance with the stipulations specified in this PA and 36 CFR Part 800.

The HPM or DA will work in accordance with this PA and review prescribed-burn plans to assess their potential for affecting heritage resources in the respective burn-unit APEs. The HPM will consult with the fire staff and other resource specialists prior to the approval of the burn plans to determine, according to available information, previous archaeological surveys and using professional judgment, if there is reasonable cause to believe that there is potential for historic properties to be affected during the prescribed burn, and also to determine mitigation measures to ensure their continued protection. Variables to be considered in making this determination include:

- a. Types of cultural resources that are known to occur at the location;
- b. Potential for heritage resources, taking into consideration existing information and knowledge of the types and distribution of cultural resources in similar settings elsewhere;
- c. Potential for, and type of, ground disturbance related to the prescribed burn;
- d. Means of access and access routes; indirect effects of the undertaking, such as erosion, trampling, or increased public visitation that could lead to vandalism or other resource degradation;
- e. Potential visual effects to cultural resources;
- f. Potential for effects on traditional cultural properties (TCPs) or sites of cultural and
- g. Religious value to Federally Recognized Tribes; and
- h. Potential for an escaped fire which may require fire suppression activities and put heritage resources at risk.

Prescribed Fire Activities That May Affect Heritage Resources

Fireline and Waterbar Construction:

Fireline and waterbar construction using mechanical means as well as manual raking. Mechanical construction consists of blades, discs, plows. Mowing, blowing and hand-raking are generally not considered to be earth-disturbing activities.

However, mechanical construction of firelines and waterbars using heavy equipment, such as bulldozers, excavators, farm tractors, or similar equipment could have an impact on buried cultural resources. Mechanically constructed lines using heavy equipment are generally used where natural firebreaks do not occur. Mechanically constructed lines using heavy equipment are usually 7-8 feet wide and generally extend below the ground surface down to the mineral soil. Because mechanically constructed firelines using heavy equipment may cut into sub-plow zone cultural deposits at buried archaeological sites, firelines constructed by these types of mechanical means will be inventoried for cultural resources prior to project implementation.

Mop-up Activities:

Mop-up activities include the examination of the burned area for smoldering materials. This operation is carried out by firefighters with water and hand tools at the end of the prescribed fire. The aim is to secure the fire edge to prevent later flare-up and possible escape. Mopping up in woodland and open lands/prairie requires extinguishing all smoldering fuel, logs, and trees, normally within 25-100 feet of the fireline. Damage can occur from ground-disturbing activities such as digging up burning stumps and roots, construction of waterbars, and revegetation.

Staging of Equipment:

Staging Areas are designated locations where resources (firefighters and firefighting equipment, such as ATVs, U T V s , fire engines, and other mechanical equipment) are placed while awaiting assignment. Concentrated areas of heavy equipment can cause rutting that could extend below the plow zone and affect sub-plow zone cultural deposits. Areas with recorded or a high potential for archaeological sites will be designated as resource• protection areas and will be avoided, or receive special attention and protection during prescribed burn activities.

Piling of Downed Fuels:

Where fuels are piled for disposal, artifacts and non-combustible aboveground features can be damaged by prescribed burning because the fire reaches a higher temperature and has a longer residence time, allowing the temperature below the surface to rise. The appropriate HPM will review and approve burn pile locations to avoid any effects on cultural resources.

Upon careful review of the prescribed fire plan by the HPM or DA, determination of the APE, and review of the heritage resources present, if the HPM or DA finds that the prescribed burn activity has little potential to affect heritage resources within the APE, then the prescribed burn activity shall be considered excluded from case-by-case review. No inventory report and no SHPO consultation shall be required for excluded undertakings. Excluded undertakings shall be listed in the annual report to the SHPO; however, at the discretion of the HPM, the Forest Service may submit an otherwise excluded undertaking for review under this PA or 36 CFR § 800.3(a) (1).

If the HPM or DA finds that the prescribed burn activity has the potential to affect cultural resources within the APE, and is subject to case-by-case review, then the prescribed burn activity shall be subject to further consideration under the terms listed below.

Inventory Methods for prescribed fire activities:

These methods are not designed to locate all cultural resources that may be within the APE, but to locate those that could potentially be affected by the undertaking. This methodology, therefore, is applicable only to a prescribed fire and is not applicable to any other activities carried out by the ANF.

Historic Cultural Resources with Aboveground Combustible Elements: _

Inventory Methods: A reasonable and good faith effort will be made to locate all cultural resources with aboveground and combustible features within the entire APE. This will include a search of previously documented site records, a literature search of historic maps and aerial photographs, as well as a pedestrian survey of known roads and railroads within the project area. Because historic sites are largely related to the historic transportation system, a cultural resource inventory using the old road and railroad system within the APE will allow the heritage program specialist to find and record historic sites with aboveground combustible elements.

Resource Protection Measures: If there is a potential to affect cultural resources with aboveground combustible features during prescribed fire operations, the site boundaries will be delineated sufficiently by heritage program staff on a map and in the APE (by flagging or tagging) to adequately protect the site, and the area will be avoided during prescribed fire activities. Heritage resources are generally designated by the nonspecific name "resource protection area" to protect the confidential locations of these sites. Firebreaks around the site will be constructed by hand with a rake or leaf blower, by mechanical means or, in certain instances, with fire-retardant foam. Other less frequently used protection measures include a "wet-line" surrounding the site, or burning-out around the site. Fire retardants should not be applied (dumped or sprayed) on the combustible feature, but rather around it. When possible, sites will be monitored during the proposed actions to ensure compliance.

If affects to cultural resources cannot be avoided with the protection measures recommended by the HPM, the site will be excluded from the burn unit, and firebreaks will be constructed around the outside and away from the perimeter of the site.

Monitoring: The appropriate HPM will be notified after the prescribed fire has occurred. All cultural resources with above ground combustible features that were not monitored during the prescribed fire will be monitored to ensure protection measures were appropriate. A brief narrative of the monitoring will be included in the annual report to SHPO.

No inventory report and no SHPO consultation shall be required for prescribed fire activates if the above mitigations are followed for Historic Cultural resources with above ground combustible elements. These sites and mitigation actions shall be listed in the annual report to the SHPO; however, at the discretion of the HPM or Forest Supervisor, the Forest Service may submit an otherwise excluded undertaking for review under this PA or 36 CFR § 800.3(a)(1).

Prehistoric Cultural Resources Potentially Affected by Prescribed Fire:

Inventory Methods: Prehistoric sites have the potential to be affected by fire if they contain artifacts, such as pre-historic ceramics (pottery) very near, partially, or completely exposed on the surface. The ANF heritage staff will determine if the prescribed fire area contains such prehistoric sites, or has the potential to contain such sites. If the HPM or DA determine that the APE of a prescribed fire has the potential to contain the types of prehistoric sites described above, an archeological survey will be conducted of the high potential areas following the methodology outlined in this PA.

Prehistoric sites also have the potential to be affected by fire if they are in close proximity to burn piles (piles of downed fuels, such as branches or logs, created through fuel manipulation that are to be ignited as part of the fuel treatment proposal). In areas within the APE in which burn piles are located or planned, and if previous inventories have not been completed, an archeological survey will be conducted following the methodology outlined in this PA. Efforts will be made to locate prehistoric archaeological rock-art sites, including a search of previously documented site records and other appropriate literature. Burn piles will not be located on historic properties. They will be managed in a manner that will protect the archaeological integrity of any heritage site located within the APE.

Protection measures: The project will be redesigned to protect cultural resources. Burn piles, or piles of downed fuels such as branches or logs, will be made at locations away from known archaeological sites. If there is a potential to disturb archaeological sites containing artifacts near or on the surface, such as prehistoric ceramics or prehistoric rock art, protection measures similar to the treatment of historic cultural resources with aboveground combustible features will be implemented. Fire breaks will be constructed around the site, as outlined above for "Historic Cultural Resources with Aboveground Combustible Elements". However, fire retardants, slurry, foam and water are never to be applied (dumped or sprayed on) to rock art.

Monitoring: The HPM or DA will be notified after the prescribed burn has occurred and all prehistoric sites that have not been previously monitored will be monitored to ensure that protective measures were appropriate. A brief narrative report of the monitoring will be included in the Annual report to SHPO.

No inventory report and no SHPO consultation shall be required for prescribed fire activates if the above mitigations are followed for Prehistoric Cultural Recourses potentially affected by fire. These sites and mitigation actions shall be listed in the annual report to the SHPO; however, at the discretion of the HPM or Forest Supervisor the Forest Service may submit an otherwise excluded undertaking for review under this PA or 36 CFR § 800.3(a)(1).

As with all federal undertaking, site and survey information will be entered into the NRM Heritage Application Data Base. A completed PASS or HRSF, for any newly discovered or updated heritage/archeological site will be electronically submitted to the Pennsylvania SHPO.

DISCOVERY SITUATIONS AND INADVERTENT EFFECTS

There is a small potential for encountering undiscovered sites during the course of a prescribed fire. Previously unrecorded high-risk properties that are encountered during a prescribed fire will be protected in the same manner as specified in this main body of the PA (X). If affected properties are discovered after the burn, the ANF will document any damage, notify the ACHP and consult the SHPO in order to develop further mitigation plans.

The Forest Service shall consult with federally recognized Tribes, as early as possible in the planning process, for a prescribed fire to determine if any historic properties of traditional cultural or religious significance are present within an undertaking's APE. If a historic property of traditional or cultural significance to a federally recognized Tribe is identified during the prescribed burn, the ANF will consult with that tribe.

**APPENDIX F:
PROGRAMMATIC AGREEMENT, STREAMLINED REVIEW PROCESS, CONSULTATION FLOWCHART**

