

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE,
NATIONAL FORESTS IN NORTH CAROLINA;
THE NORTH CAROLINA STATE HISTORIC
PRESERVATION OFFICER; AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE
NATIONAL HISTORIC PRESERVATION ACT
FOR UNDERTAKINGS ON
THE NATIONAL FORESTS IN NORTH CAROLINA
OF THE SOUTHERN REGION OF THE U.S.D.A. FOREST SERVICE**

WHEREAS, the U.S. Department of Agriculture, U.S. Forest Service, National Forests in North Carolina (NFsNC) has determined that land management activities (Undertakings) on the NFsNC may affect properties listed in or eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, the NFsNC has determined that consultation on proposed activities that might affect historic properties and unevaluated cultural resources must be conducted in order for the Forest Supervisor and other agency officials to take such effects into account in evaluating alternatives and in making decisions pursuant to Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (80 Stat. 915 et seq.; 16 U.S.C. 470 et seq.); and

WHEREAS, the NFsNC has consulted with the Advisory Council on Historic Preservation (ACHP) pursuant to section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the NHPA and the ACHP has chosen to participate in development of this Programmatic Agreement (PA); and

WHEREAS, the NFsNC has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to section 800.14(b) of the regulations (36 CFR 800) implementing Section 106 of the NHPA and the SHPO has chosen to participate in development of this PA; and

WHEREAS, the Eastern Band of Cherokee Indians; the Cherokee Nation; the United Keetoowah Band of Cherokee Indians; the Catawba Indian Nation, Muscogee Creek Nation, and the Tuscarora Nation (Tribes) have been consulted on the development of the PA and have been invited to participate as concurring parties pursuant to 36 CFR 800.14(b) (2) (i) for development of this PA; and

WHEREAS, The NFsNC, SHPO, and ACHP have determined that the NFsNC's process for compliance with Section 106 of the NHPA and its implementing regulations, entitled "Protection of Historic Properties" (36 CFR 800) can be improved and streamlined through the implementation of a PA, as allowed by 36 CFR 800.14(b); and

WHEREAS, a coordinated program created by this PA would improve consistency and accountability in the development and application of appropriate measures to inventory, evaluate,

protect, interpret, enhance, and consult on the management of historic properties and unevaluated cultural resources within the NFsNC; and

WHEREAS, a coordinated program may best be accomplished under a single PA which sets forth a process for consultation, coordination and cooperation among the NFsNC, SHPO, Tribes and ACHP, and lays out the conditions under which National Forest-based planning can take place under uniform standards for inventorying, evaluating, protecting, enhancing, consulting, and managing historic properties and unevaluated cultural resources affected by the activities and programs administered and carried out by the NFsNC; and

WHEREAS, the NFsNC, SHPO, and ACHP share a common desire and purpose to develop procedures that would satisfactorily take into account the effects of these Undertakings where proper precautions are followed; reduce redundant documentation associated with recurring types of Undertakings within areas having adequate prior identification, review, and consultation; and facilitate the NFsNC's progress towards meeting NHPA Section 110 responsibilities;

NOW, THEREFORE, the NFsNC, SHPO, and ACHP agree that all Undertakings by the NFsNC shall be implemented in accordance with the following stipulations in order to take into account the effect of their Undertakings on historic properties and unevaluated cultural resources; and when so administered, the processes specified in this PA for identification, documentation, evaluation, review, consultation, and public notification and participation will be followed, and these processes will satisfy the NFsNC's NHPA Section 106 responsibilities for most aspects of its Undertakings.

SCOPE AND EFFECT

The purpose of this PA is to streamline compliance with the ACHP's regulations, *Protection of Historic Properties* (36 CFR 800), implementing Section 106 of the NHPA for Undertakings whenever:

- (1) there are no historic properties and unevaluated cultural resources identified within an area of potential effects (APE); or
- (2) historic properties and unevaluated cultural resources that could be eligible for the NRHP until proven otherwise are within an APE and will be managed and maintained in such a way that they are protected and no adverse effects will result; or
- (3) the nature of the Undertaking is such that it is unlikely to affect historic properties and unevaluated cultural resources and is therefore exempt from further review and consultation, or there are cultural resources that are not eligible for inclusion on the NRHP, as specified in this PA, and exempt from the provisions of 36 CFR 800.

DEFINITIONS

Definitions applicable to this PA are found in Appendix 1.

STIPULATIONS

The NFsNC will ensure that the following measures are carried out:

I. CONSULTATION AND COORDINATION

(A) Land Management Planning

All efforts to identify, evaluate, and/or treat historic properties and unevaluated cultural resources in connection with the planning of Undertakings shall be carried out in accordance with the standards and guidelines specified in this PA and the NFsNC Land Resource Management Plans (LRMP): Croatan NF LRMP, Uwharrie NF LRMP, Nantahala/Pisgah LRMP and Forest Service Manual (FSM) 2360.

1. The NFsNC will ensure that the SHPO, Tribes, and the ACHP, on request, are provided with copies of the current LRMPs, a set of maps and GIS layers of the National Forest lands for the state.
2. The NFsNC will incorporate references to this PA into LRMPs as they are amended or revised.

(B) Consultation and Coordination

The NFsNC will consult with the SHPO and Tribes on planning of activities that have the potential to affect historic properties and unevaluated cultural resources. The NFsNC will make any necessary additions to existing Management Prescriptions or other Forest-wide planning tools based on implementation of this PA during the revisions or amendments of the LRMPs, or within five years from the date of execution of this PA, whichever is sooner.

1. Consultation and coordination among the NFsNC, the ACHP, the SHPO and Tribes pursuant to this PA, shall be the responsibility of the Forest Supervisor unless specified otherwise, and shall be documented through official correspondence.
2. All reports that document identification, evaluation, and/or consultation efforts to resolve adverse effects shall be made available to the SHPO and Tribes, as appropriate, and indexed/referenced in the annual summary from the NFsNC, to facilitate integration in the SHPO Environmental Review database.
3. The NFsNC will review, update, or complete the Forest Cultural Resource Overviews (A broad comprehensive summary including but not limited to - comparison of existing conditions/trends to desired conditions, results from past management reviews, audits, annual monitoring, evaluation reports, acres inventoried and sites recorded) within five years of the signature date of this PA, and at least every five years thereafter.

II. TRIBAL PARTICIPATION AND CONSULTATION

The National Environmental Policy Act (NEPA) scoping process shall be used to meet 36 CFR 800 responsibilities to initiate consultation with tribal governments, American Indians, and other certain individuals and American Indian organizations with a demonstrated interest in certain NFsNC Undertakings, to solicit information about identification of and effect to properties to which they may attach religious and cultural significance.

III. PUBLIC PARTICIPATION

The NFsNC shall make every effort to use the public scoping process embodied in NEPA (42 U.S.C. 4321-4346) to comply with requirements for public notification, identification of other parties interested in the Undertaking, and public participation found in 36 CFR 800.2(d) and

800.3(e) and (f). The NEPA process allows individuals, organizations, or groups an opportunity to comment on Forest Undertakings, including those measures used for the identification, protection, and management of historic properties and unevaluated cultural resources, and the effects of Undertakings on historic properties and unevaluated cultural resources. These comments are taken into account as part of the NEPA decision.

IV. STAFFING AND TRAINING

(A) Staffing

The NFsNC will maintain professional and technical staff appropriate to carry out the terms of this PA (Appendix 2). The NFsNC will ensure that all heritage program work is conducted by Heritage Professionals as defined in FSM 2360. The NFsNC will ensure that Heritage Program activities conducted pursuant to this PA are implemented under the direct supervision of professionals trained as archaeologists, historians, architectural historians, or anthropologists and, at a minimum, meet the standards set forth in FSM 2360, OPM X118 and/or The Secretary of the Interior's (SOI) *Historic Preservation Professional Qualification Standards* (36 CFR 61).

(B) Training

1. The NFsNC shall ensure that its Heritage Professionals are provided with appropriate training consistent with current Forest Service Manual and handbook direction and consistent with the SOI Standards.
2. Forest Heritage Professionals are encouraged to attend professional meetings and continuing education courses.
3. The NFsNC shall ensure that the Forest Leadership Team, project planning staff and Forest personnel maintain an up-to-date working knowledge of the requirements of the NHPA, 36 CFR 800, and the *Secretary of the Interiors Standards for Historic Preservation*.
4. The NFsNC will ensure that new Line Officers, Staff Officers, leadership team members, and other critical staff will receive training and instruction of the purpose, meaning, application, and implementation of this PA. Such training may be conducted with the assistance of the SHPO on a schedule to be determined based on changes in staffing or at the recommendation of the Forest Supervisor, Heritage Program Manager (HPM), or SHPO.

V. Review of Undertakings

(A) Delineation of APE

For each action that meets the PA definition of "Undertaking" (Appendix 1) and is the type of activity that has the potential to cause effects to historic properties and unevaluated cultural resources, the Heritage Professional shall establish the Area of Potential Effects, (APE), as defined in accordance with 36 CFR 800.4. When determining the APE and potential effects (direct, indirect and cumulative), formally designated and potential Heritage Resource Zones will be taken into consideration. These areas are to be managed with an emphasis on protection, preservation and interpretation of heritage resources. The Croatan NF has 11 of these designated Zones, the Uwharrie NF has 14 proposed Zones and the Nantahala/Pisgah NFs will identify these areas in the upcoming FLRMP revision.

(B) Undertakings Exempt from Section 106 Review and Consultation

1. Management of the NFsNC involves a number of routine and recurrent Undertakings whose potential effects on historic properties and unevaluated cultural resources are foreseeable and likely to be absent, negligible, or minimal. Exempt Undertakings (EU) are listed in Appendix 3. Undertakings within low probability areas (Appendix 4) are also considered exempt. All proposed Undertakings shall be reviewed by Forest Heritage Professionals to determine whether the proposed Undertaking meets the definition of an Exempt Undertaking under the terms of this PA. Documentation signed by a Heritage Professional and the Undertaking's Decision Maker (Line Officer) determining the project is an EU currently listed in the PA will be kept in the NEPA project file. A copy of all signed EU documentation will also be kept on file in the Forest Supervisor's Office. A summary of the approved EU projects will be reported to the SHPO and Tribes annually.

Projects not listed in the current PA EU list that are determined to qualify, or are in low probability areas, based on a Heritage Professional's determination will be documented on the Forest EU Form (Appendix 5).

2. The EU list may be revised or updated, as needed, at the request of the NFsNC and by mutual written agreement of the Signatories of this PA and consultation with concurring parties to this agreement. If all signatories agree, a revised, dated and signed EU list shall be developed and appended to this PA.

3. Any discovery of an historic property or unevaluated cultural resource or unanticipated effect made by the NFsNC during the implementation of an Exempt Undertaking will be treated in accordance with Section 106 Emergency Discovery 36CFR800.12b.

(C) Initiation of Consultation.

Where the NFsNC proposes to carry out, or cause to be carried out, an identification of historic properties or any unevaluated cultural resources within the APE, it may consult with the SHPO prior to such inventory, but shall document the results of such inventory and provide this documentation to the SHPO for review and comment. As determined necessary by the NFsNC, additional identification strategies may be developed in consultation with SHPO for certain classes of Undertakings or conditions, including use of non-NFSNC heritage professionals.

(D) Identification of Historic Properties and Unevaluated Cultural Resources.

The NFsNC will make a reasonable and good faith effort to identify and evaluate historic properties and unevaluated cultural resources in the APE, as required by Section 106 and Section 2363 of FSM 2360. Identification efforts will strive to follow the ACHP's Section 106 Archaeology Guidance, the *Secretary of the Interior's (SOI) Standards and Guidelines for Archaeology and Historic Preservation*, the SOI's *Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act*, Section 2363 of FSM 2360, applicable Handbook direction, and FLRMP direction. This includes applicable NFsNC Survey Strategy Guidelines (Appendix 4). NFsNC will complete its identification and evaluation responsibilities in consultation with the SHPO and Tribes.

1. The scope of identification efforts will depend on existing knowledge (a – c below) about historic properties and unevaluated cultural resources, goals for survey activities developed in the planning process, and current management needs. Critical steps in the identification process

include a literature review, American Indian consultation (as appropriate), historical and archival research, consultation with other knowledgeable parties, and field survey.

- a. Forest Service National INFRA Heritage Database and FS Geographic Information System
 - b. Review locations of known properties on FS Cultural Resource Atlases
 - c. Identify probable distributions of unrecorded historic properties and unevaluated cultural resources (based on ethnographic, historical, and archaeological information)
2. The NFsNC will use field methods/standards as detailed in Appendix 4 and implement levels of survey coverage for respective probability areas.

(E) Evaluation of Historic Properties and Unevaluated Cultural Resources

The NFsNC will evaluate all identified historic properties and previously unevaluated cultural resources for their eligibility for listing on the NRHP. These include archaeological sites, buildings, structures, districts and objects. This will include categorization of all sites as NRHP eligible, listed, or not eligible. The evaluation of significance will be conducted in accordance with the NRHP criteria and in consultation with the SHPO. The methodology and strategy to be used in site evaluation will be developed in consultation with the SHPO. All properties are considered eligible until concurrently determined to be not eligible.

Given there is a backlog of unevaluated sites on the NFsNC that were identified during Section 106 compliance surveys the NFsNC will evaluate a minimum of five of these sites on each Ranger District annually.

1. Within 30 calendar days of receipt of a completed inventory report, the SHPO and Tribes will provide comments to the NFsNC on the NFsNC's determinations of eligibility for each historic property and unevaluated cultural resource identified.
2. If the NFsNC and the SHPO do not agree on eligibility, or if the ACHP or the Secretary of the Interior so requests, the NFsNC, with the assistance of the Regional Forester, shall request a formal determination of eligibility from the Secretary of the Interior (through the Keeper of the National Register pursuant to applicable National Park Service procedures).

(F) No Historic Properties and Unevaluated Cultural Resources Identified and No Effects

When no historic properties are identified in the APE for an Undertaking, the Forest Service may request expedited SHPO and Tribal Historic Preservation Office (THPO) review.

(G) Determination of Effect

When eligible or listed historic properties are identified within the APE, the NFsNC will apply the criteria of adverse effect (see 36 CFR part 800.5) to determine if the Undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for listing on the NRHP. The NFsNC will document this determination of effect and provide this documentation to the SHPO and Tribes in the project report. The NFsNC will make every effort possible to modify the Undertaking to apply standard protection measures that will allow a no

adverse effect determination. Where it is not possible to modify the Undertaking, the NFsNC will proceed with consultation to resolve adverse effects.

The following are acceptable standard protection measures to avoid, prevent or alleviate all direct and indirect effects to these properties.

1. Exclusion

Exclusion of historic properties and unevaluated cultural resources from areas where activities associated with an Undertaking will occur. Exclusion is most often achieved by modifying or altering boundary or activity area in the original proposal for the Undertaking.

2. Avoidance

No activities associated with an Undertaking that may adversely affect historic properties and unevaluated cultural resources shall be allowed to take place within an historic property's or unevaluated cultural resource's boundaries, including any defined buffer zones. Portions of Undertakings may need to be modified, redesigned, or eliminated to properly avoid historic properties or unevaluated cultural resources.

3. Demarcation

The physical demarcation of historic properties or unevaluated cultural resources and their exclusion from an Undertaking's proposed activity areas is a minimum requirement for the Forest to obtain advance concurrence on a determination of no adverse effect. As necessary, the Heritage Professional should advise and coordinate with law enforcement to reduce or prevent site looting and vandalism. In some cases, in order not to attract attention to certain sensitive sites, flagging may not be appropriate. In these cases, buffer zones are required.

4. Buffer Zones

Minimum protection requirements shall also include the use of buffer zones to extend the protection area around historic properties and unevaluated cultural resources where setting is an important attribute, and the proposed activity may have an effect on the setting's quality. The size of buffer zones will be determined by the Heritage Professional on a case-by-case basis. Landscape architects may be consulted to determine appropriate viewsheds for historic properties and unevaluated cultural resources. Knowledgeable parties, such as Tribes, should be consulted when the use or size of protective buffers for traditional or cultural properties needs to be determined.

5. Limited Use of Existing Transportation Routes

Linear sites may be crossed or bounded in areas where their features or characteristics clearly lack integrity, that is, where those portions (taking into account any buffer zones related to setting) do not contribute to a site's eligibility.

6. Sharing Critical Location and Boundary Information

Historic property and unevaluated cultural resource location and boundary marking information shall be conveyed to appropriate NFsNC administrators or employees responsible for implementation of a proposed Undertaking so pertinent information can be incorporated into planning and implementation documents and contracts (e.g., clauses or stipulations in permits).

(H) Resolving Adverse Effects

When inventory identifies historic properties in the APE and adverse effects cannot be avoided or standard protection measures are applied to obtain a no adverse effect determination, the NFsNC will consult with the SHPO, Tribes, other interested parties, and the ACHP, as necessary, to

resolve the adverse effects and complete the Section 106 consultation process pursuant to the regulations found at 36 CFR 800.6 to 36 CFR 800.7. The NFsNC and consulting parties will execute a Memorandum of Agreement to document the measures and processes agreed upon to resolve adverse effects.

(I) Unusual or Controversial Circumstances

If the NFsNC determines that a proposed project has potential effects that are unusual or controversial or not covered by the stipulations in this PA, the NFsNC will follow the standard process specified in 36 CFR 800.

VI. REPORTING

(A) All cultural resources investigations conducted on the NFsNC will be documented to acceptable professional standards as agreed upon between the NFsNC and the SHPO and the NFsNC and the THPOs. Recurring Undertakings will be documented using the NFsNC Short Report Format (Appendix 8). Recurrent undertakings include, but are not limited to, timber harvest / associated road construction activities, wildlife management activities, prescribed burning control lines, and trail construction, where land and properties are not transferred out of Federal ownership and the investigations are conducted by NFsNC heritage staff.

(B) All cultural resources investigations conducted for projects that may result in change of Federal ownership of land or properties will be documented in a complete, stand-alone report that meets all applicable standards.

(C) All cultural resources investigations conducted by contractors, consultants, researchers, ARPA permittees and other non-NFsNC heritage professionals will be documented in a complete, stand-alone report that meets all applicable standards.

(D) For Emergency Undertakings, the Cultural Resources Reconnaissance Report Form (Appendix 7) will be completed.

VII. CURATION

All cultural resource collections and associated records will be managed as heritage assets consistent with 36 CFR Part 79. The NFsNC will identify current conditions and curation facilities available. Information relating to collections will be maintained in the Assemblages module of the Heritage Infra database. Action items of corrective measures will be determined in order to identify funding needs, supply, personnel and associated curation costs. Management standards for the NFsNC will follow North Carolina Curation Standards as consistent with 36 CFR Part 79.

The preferred curation facility for all NFsNC is the Office of State Archaeology Research Center, Department of Cultural Resources. Alternate facilities may be arranged, on a case-by-case basis, with the advance written agreement of the State Archaeologist and Forest Heritage Program Manager.

VIII. ANNUAL MEETING AND ANNUAL SUMMARY

(A) Annual Meeting

The NFsNC will schedule a meeting on or before the 30th of December with the SHPO and Tribes on at least an annual basis to ensure that the identification and evaluation work performed on the NFsNC is consistent with the terms of this PA, is sensitive to the needs of the Tribes, and meets the goals of the LRMPs, and to discuss the previous year's accomplishments and the next year's planned work. Such meetings may include field visits and face-to-face conferences on an as-needed or annual basis.

(B) Annual Summary

The NFsNC will provide the SHPO and Tribes an annual summary of accomplishments to include, at a minimum, number of projects, acres inventoried, sites recorded, and site significance at least thirty days prior to the annual meeting.

IX. MONITORING

The NFsNC shall continue to implement a historic properties and unevaluated cultural resources (formerly Class II Sites) monitoring plan that meets the requirements of the FLRMPs, NEPA decisions and recommended mitigation for Section 106 Undertakings. All monitoring recommended and identified as mitigation in Section 106 Undertakings will be completed as scheduled. A minimum of two NRHP eligible or unevaluated properties will be monitored on each Ranger District in proximity to recent or ongoing Undertakings annually. Annual FLRMP monitoring will include a minimum of 10 sites per Ranger District. For every backlog site that is evaluated (Section 5.E), one less site may be monitored during that year. Properties monitored will also include those that are susceptible to looting and vandalism. Priority Heritage Assets (PHAs) must have a completed condition assessment every five years or less. Historic properties and unevaluated cultural resources monitoring will be conducted to document site condition and effectiveness of recommended project mitigation. Monitoring Forms and PHA Condition Assessments will be sent to the SHPO and THPOs for review at the end of the fiscal year. The NFsNC Annual Monitoring Report will be sent to the SHPO and THPOs for review when completed. All documentation of adverse impacts from project implementation will be sent to the SHPO and THPOs as soon as possible.

X. UNANTICIPATED DISCOVERIES

The SHPO, ACHP, Southern Region of the Forest Service (Region), and Tribes, as appropriate or if tribal affiliation is affirmed, will be notified, by phone calls and certified mail, by the NFsNC Forest Supervisor upon discovery that a recorded or previously unidentified historic property or unevaluated cultural resource has been, or could be, inadvertently affected by an Undertaking under this PA.

(A) If the Undertaking has not been completed at the time the effect is discovered, all activities in the vicinity from the property shall cease and reasonable efforts shall be taken to avoid or minimize harm to the property until consultations are completed and a Forest Heritage Professional can evaluate the discovery, assess the effects, determine what kind of treatment is warranted, and consult with the SHPO to determine if the find is eligible or not eligible for listing on the NRHP. Consultation will be initiated within seven days between the NFsNC, SHPO and ACHP to develop an agreed upon response. If agreement cannot be reached, the SHPO shall provide written comments to NFsNC, who will then initiate consultation with the ACHP and request the comment of the ACHP before making a decision on how to proceed with the Undertaking. The NFsNC will notify the SHPO, Tribes, Region and any interested parties of its

decision. The terms of the PA do not relieve or substitute the NFsNC's responsibilities under ARPA and NAGPRA, or other authorities as appropriate.

(B) If the Undertaking has already been concluded when an effect to a property is discovered, the NFsNC, Region, the SHPO, Tribes and Council (should they choose) shall consult to develop an agreed upon action which the NFsNC must implement within 30 days. NFsNC will notify and submit reports to all consulting parties when the agreed upon action is complete following the schedule outlined in Stipulation X (C) below.

(C) Within six months (or an alternate agreed upon schedule), of the discovery of the inadvertent effect and notifying the SHPO, Tribes, Region and ACHP, the NFsNC shall provide the Region, the SHPO, Tribes, ACHP and other interested parties with a final report describing the Undertaking and the circumstances surrounding the cause and resolution of the effects. This report must include information regarding: the type of property affected, the property's NRHP status, the nature of the effects, the date effects were identified, the location of the property (i.e., name of Ranger District), the condition of the property, and other pertinent information, as well as document the NFsNC's response to the discovery of the effects and the actions taken to address or resolve the effects.

(D) Discovery of any human remains during excavation or evaluation of a historic property or unevaluated cultural resource requires work to halt. Consultation with the North Carolina State Archaeologist shall begin immediately to consider appropriate treatments for human remains discovered in North Carolina and to determine how the discovery will be treated under the terms of NAGPRA and North Carolina General Statute Chapter 70, Article 3: "Unmarked Human Burial and Human Skeletal Remains Protection Act".

(E) In the event American Indian human remains, funerary objects, sacred objects, and objects of cultural patrimony are inadvertently discovered during project implementation, all activities shall cease and the NFsNC shall comply with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) as outlined in 43 CFR 10 and initiate Tribal consultation.

XI. EMERGENCY ACTIONS

(A) Emergency situations are defined as an emergency declared by the President, the Governor, or the head of a local government. In addition, if the NFsNC determines that there is an immediate threat to life or property then the NFsNC may declare an emergency situation. Emergency situations may include, but are not limited to disasters such as hurricane, tornado, flood, landslide, windstorm, ice storm, insect infestation or wild fire.

(B) The NFsNC will implement specific provisions for emergency situations, for example: Hurricane Emergency Response (Appendix 6) in a Heritage Resource Management Plan. The NFsNC will notify the SHPO and the Tribes at the beginning of implementation.

(C) Provisions for emergency situations will be implemented until such time as the NFsNC determines that the emergency situation is over.

(D) The NFsNC Heritage Resources Reconnaissance Report form is used to document Incident, Emergency and Rapid Area Assessment reconnaissance level field inventories and surveys. (Appendix 7)

XII. ADDITIONAL PROVISIONS

(A) Amendments to this PA

If any party to this PA determines the terms of the PA cannot be met, or believes change is necessary, that party shall request in writing the NFsNC, the SHPO, ACHP and Tribes to consider an amendment to this PA. Consultation and agreement to such an amendment will be executed in the same manner as the original PA.

Any signatory can propose minor technical revisions to the PA that would correct errors or clarify the intent of stipulations. Such minor technical revisions will go into effect upon written agreement by all signatories. The NFsNC will notify all consulting parties regarding adopted revisions within 30 days of their adoption.

(B) Dispute Resolution

Should a signatory to this PA or any interested party make an objection to any actions proposed under this PA, the NFsNC shall consult with the objecting party to resolve the objection. If the NFsNC determines that the objection cannot be resolved, it will forward all documentation relevant to the dispute to the ACHP and notify the Regional Forester and other signatories. Within 30 days after receipt of all pertinent documentation, the ACHP will either:

1. Provide the NFsNC with recommendations, which the NFsNC will take into account in reaching a final decision regarding the dispute; or
2. Notify the NFsNC that it will comment pursuant to 36 CFR Sec. 800.6(b), and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by the NFsNC in accordance with 36 CFR Sec. 800.6(c) with reference to the subject of the dispute. Prior to reaching a final decision on the dispute, the NFsNC shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. The NFsNC will then proceed according to its final decision.
3. The NFsNC responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

(C) Failure to Carry Out the Terms of the PA

1. In the event the NFsNC is unable to carry out the terms of this PA, or following a notification from the ACHP, made in consultation with the Supervisor, Region, the SHPO and Tribes, the NFsNC may terminate this PA.
2. In the event a consulting party is unable to fulfill its responsibilities pursuant to this PA, the NFsNC shall consult with the ACHP on an appropriate course of action for implementing the terms of the PA.

(D) Termination

Any signatory to this PA may terminate the PA by providing 30 calendar days notice in writing to the other signatories, provided that the signatory requesting termination has consulted during the period prior to termination to seek agreement on amendments or other actions that would avoid

termination. Should this PA be terminated, the NFsNC will comply with 36 CFR 800.4 through 800.7 for Undertakings under the jurisdiction of the NFsNC with the potential to affect historic properties and unevaluated cultural resources.

(E) Participation in Similar Activities

This instrument in no way restricts the Forest Service or other parties to this agreement from participating in similar activities with other public or private agencies, organizations, and individuals.

(F) Responsibilities of Parties

The Forest Service and all other parties to this agreement and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

(G) Non-Fund Obligating Document

Nothing in this Programmatic Agreement shall obligate either the Forest Service or other parties to 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 other parties 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 Programmatic Agreement does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

(H) Establishment of Responsibility

This Programmatic Agreement 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, its agencies, its officers, or any person.

XIII. DURATION

This Programmatic Agreement will be in full force and effect for 10 years from the date it is ratified by the required signatories (NFsNC, SHPO, and ACHP). A re-evaluation of this PA will occur at five years of its ratification. In the six-month period prior to the expiration of the Programmatic Agreement, the NFsNC, the SHPO, and the ACHP will consult to consider amendment of this PA or development of a new PA.


Execution of this PA evidences that the NFsNC has afforded the North Carolina SHPO and the ACHP a reasonable opportunity to examine and share their views on how it manages historic properties and unevaluated cultural resources. Execution of this PA and implementation of its terms also evidences that the NFsNC has satisfied their Section 106 responsibilities under the NHPA for all individual Undertakings on the National Forests lands in North Carolina subject to the terms of this PA.

SIGNATORIES

USDA FOREST SERVICE, NATIONAL FORESTS IN NORTH CAROLINA

By:  Date: 7/2/09
Marisue Hilliard, Forest Supervisor

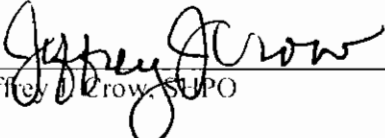
The authority and format of this instrument has been reviewed and approved for signature.

By:  Date: 7/1/09
Cynthia Roberts, FS Agreements Coordinator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

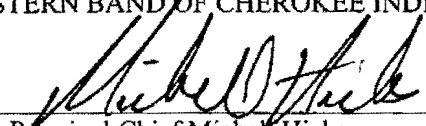
By:  Date: 9/4/09
 John M. Fowler, Executive Director

NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 7/22/09
Dr. Jeffrey D. Crow, SUPO

CONCURRING PARTIES

EASTERN BAND OF CHEROKEE INDIANS

By: 
Principal Chief Michel Hicks

Date: 9-18-09

CONCURRING PARTIES

CHEROKEE NATION OF OKLAHOMA

By: _____ Date: _____
Principal Chief Chadwick Smith

CONCURRING PARTIES

UNITED KEETOOWAH BAND OF CHEROKEE INDIANS

By: _____ Date: _____
Principal Chief George Wickliffe

CONCURRING PARTIES

CATAWBA INDIAN NATION

By: _____ Date: _____
Principal Chief Donald Rogers

By: _____ Date: _____
Assistant Chief Gene Blue

By: _____ Date: _____
Secretary/Treasurer Jason Harris

By: _____ Date: _____
Executive Committee Member Leigh Anne Bickett

By: _____ Date: _____
Executive Committee Member Thomas Sanders

By: _____ Date: _____
Executive Committee Member John Williford

By: _____ Date: _____
Tribal Historic Preservation Officer Wenonah G. Haire DMD

CONCURRING PARTIES

TUSCARORA INDIAN NATION

By: _____ Date: _____
Principal Chief Leo R. Henry

CONCURRING PARTIES

MUSCOGEE CREEK NATION

By: _____ Date: _____
Principal Chief A.D. Ellis

Appendix 1 Definitions

The following definitions, and others included in 36 CFR 800.16, apply to this PA.

ACHP - the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.

American Indian - for the purposes of this agreement, all persons of Indian descent who are members of a Federally Recognized American Indian Tribe.

Archaeological Technician (GS-102 social science technician) A Heritage Program assistant who meets the Office of Personnel Management standards (X1 I8) and participates in all facets of the Heritage Program under the direct supervision of a Heritage Professional. Archaeological technicians conduct field surveys of NFS lands, make recommendations for National Register eligibility and project effect determinations, compile and report information about the nature and extent of known cultural resources, assist in cultural resource data management, and participate in stewardship projects. The combination of responsibilities will change according to grade level.

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 and unevaluated cultural resources, 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.

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.

Cut-and-hand-spray - felling, limbing and bucking infested trees into manageable lengths and hand spraying with pesticides.

Cut-and-leave - felling of infested trees and a buffer of adjacent, uninfested, green trees toward the center of the spot. This technique disrupts pheromone production and beetle attack-behavior.

Data Recovery - term generally meaning the detailed and large-scale excavation of an archaeological site.

Effect - alteration to the characteristics of a historic property or unevaluated cultural resource, qualifying it for inclusion in or eligibility for the National Register per the definition in 36 CFR 800.16 (i).

Eligible - for inclusion in the National Register includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register of Historic Places criteria.

Exempt Undertaking - an Undertaking that is exempt from review or consultation under terms of this PA and 36 CFR 800, pursuant to Stipulation V (J).

Federally Recognized American Indian Tribe - an American Indian Tribe that is included on the current list of Indian Entities recognized by the United States Bureau of Indian Affairs as published in the Federal Register, vol. 73, N066/April 4, 2008.

Hand pile-and-burn - felling, hand-piling, and burning infested trees to destroy beetle broods before they emerge. No mechanical fire lines are constructed, only hand lines.

Heritage Professional (GS-170 historian, GS 190 anthropologist and GS-193 archaeologist) serve in a staff or advisory capacity and provide professional recommendations and services to assist land managers in meeting their Heritage Program responsibilities including cultural resource identification (inventory), evaluation, allocation, protection, stewardship, curation, and reporting. Only heritage professionals may make management recommendations and review and recommend approval of heritage work done by archaeological technicians, paraprofessionals, contractors, cooperators, and volunteers.

Heritage Program Manager (HPM) (i.e., Forest Archaeologist/Forest Historian – GS-193 or 170 series) is the position on the Forest that is responsible for: directing, planning, and administering the Forest's complex and multi-faceted Heritage Program; providing professional and technical advice to the Forest Supervisor and District Rangers as decision-makers; directing the Heritage Program internally, and with external agencies, organizations, and the public; and planning and developing the Forest's heritage resource inventory, evaluation, and enhancement program. Only Heritage Professionals may make management recommendations, review and recommend approval of heritage work done by archaeological technicians, paraprofessionals, contractors, cooperators, and volunteers. The HPM shall meet the professional standards established for archaeologist as outlined in 36 CFR 296.8 or in the *Secretary of the Interior's Standards and Guidelines for Professional Qualifications* (48 FR 44738-44739) or in the Forest Service's OPM X118 series for Forest Archaeologist/Historian.

Heritage Resource Zones - Areas designated within the NFsNC due to their unique characteristic and significance. These zones contain one or more significant archaeological sites. The sites may be prehistoric, historic or encompass both cultural components.

Historic Property - any prehistoric or historic district, site, building, structure, object or historical/cultural landscape included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, features, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or native Hawaiian organization and that meet the National Register criteria per the definition in 36 CFR 800.16(l).

Mitigation - Term meaning to alleviate or compensate for the adverse effects of project construction. Mitigation may take the form of data recovery (thereby obtaining the data contained in the site) or by avoidance (thereby not affecting the site at all).

Monitoring - an informal term used to describe the visual confirmation that specific pre-agreed upon tasks are undertaken regarding the protection of archaeological sites that are potentially and/or eligible for inclusion in the NRHP.

National Register (NRHP) - the National Register of Historic Places maintained by the Secretary of the Interior.

National Register Criteria - the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR Part 60).

Not Eligible - If the SHPO or Keeper of the National Register formally concurs that a cultural resource is not eligible for listing on the National Register, the agency official may release it from management under NHPA or choose to retain, protect, and manage it for some other purpose.

Paraprofessionals (formerly known as Heritage Resource Technicians or HRTs) are FS employees who have primary responsibilities in other FS resource programs and are assigned Heritage Program work as collateral duties on an as-needed basis. A Standard Agency Position Description does not exist for paraprofessionals. Paraprofessionals must have completed an in-house training and certification program. They may conduct field surveys under the direct supervision of a Heritage Professional or Archaeological Technician. A Heritage Professional must assign specific duties, approve reports, and accept professional responsibility for the paraprofessional's work. The paraprofessional program is optional.

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

1. The significance and management priority of the property is recognized through an official designation such as listing on the National Register of Historic Places or on a State register.
2. The significance and management priority of the property is recognized through prior investment in preservation, interpretation, and use.
3. The significance and management priority of the property is recognized in an agency approved management plan.
4. The property exhibits critical deferred maintenance needs and those needs have been documented. Critical deferred maintenance is defined as a potential health or safety risk or imminent threat of loss of significant resource values.

State Historic Preservation Officer (SHPO) - the official appointed or designated pursuant to section 101(b) (1) of the act to administer the State historic preservation program or representative designated to act for the State Historic Preservation Officer.

Survey - a systematic, detailed examination of an area designed to gather information about the number, location, condition, and distribution of historic properties and unevaluated cultural resources within an Undertaking's Area of Potential Effect.

Testing - a phase of archaeological investigation that assesses the horizontal and vertical extent of a particular site, its degree of preservation, and its potential for containing significant data.

Undertaking - a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a federal permit, license or approval per the definition in 36 CFR 800.16(y).

Unevaluated - unknown NRHP eligibility.

Appendix 2

Staffing and Qualifications (FSM 2360)

(A) Staffing

1. Heritage Professionals

(GS-170 historian, GS 190 anthropologist and GS-193 archaeologist) serve in a staff or advisory capacity and provide professional recommendations and services to assist land managers in meeting their Heritage Program responsibilities including cultural resource identification (inventory), evaluation, allocation, protection, stewardship, curation, and reporting. Only heritage professionals may make management recommendations and review and recommend approval of heritage work done by archaeological technicians, paraprofessionals, contractors, cooperators, and volunteers. These positions include the Heritage Program Manager/Forest Archaeologist, Zone Archaeologist and District Archaeologist.

2. Archaeological Technician

(GS-102 social science technician) A Heritage Program assistant who meets the Office of Personnel Management standards (X118) and participates in all facets of the Heritage Program under the direct supervision of a Heritage Professional. Archaeological technicians conduct field surveys of NFS lands, make recommendations for National Register eligibility and project effect determinations, compile and report information about the nature and extent of known cultural resources, assist in cultural resource data management, and participate in stewardship projects. The combination of responsibilities will change according to grade level.

3. Paraprofessional

FS employees who have primary responsibilities in other FS resource programs and are assigned Heritage Program work as collateral duties on an as-needed basis. A Standard Agency Position Description does not exist for paraprofessionals. Paraprofessionals must have completed an in-house training and certification program. They may conduct field surveys under the direct supervision of a Heritage Professional or Archaeological Technician. A Heritage Professional must assign specific duties, approve reports, and accept professional responsibility for the paraprofessional's work. The paraprofessional program is optional.

4. Consultants, Contractors and Partners

Professional consultants and/or partners who meet the professional standards of 36 CFR 296.8, or the Secretary of the Interior's Standards and Guidelines for Professional Qualifications (48 FR 44738-44739). All actions conducted by NFsNC personnel or its contractors will adhere to Section 112 of the NHPA and will meet the professional standards under regulations contained in the SOI Standards and Guidelines for Archaeology and Historic Preservation and the North Carolina Comprehensive Archaeological Plan, as appropriate.

(B) Qualifications

1. The NFsNC will ensure that Heritage Program activities conducted pursuant to this PA are implemented under the oversight of Heritage Professionals trained as archaeologists, historians, architectural historians, or anthropologists and, at a minimum, meet the standards set forth in Forest Service Manual 2360 and The Secretary of the Interior's *Historic Preservation Professional Qualification Standards*. Activities supervised or conducted by such professionals will be within their areas of professional expertise. The SHPO and Tribes may assist the NFsNC in this matter by providing technical assistance from qualified staff in the review of plans and specifications of proposed activities affecting identified eligible or not evaluated historic properties and unevaluated cultural resources.

2. Archaeological technicians (GS-102 series), paraprofessionals, student interns and volunteers shall only conduct work under the direct technical supervision of a Forest Service Heritage professional meeting the qualifications in Stipulation IV(A)(1). Only the HPM or other Forest Heritage Professionals will make Section 106 judgments, findings and determinations on “Undertakings,” “significance,” “effect,” “measures to resolve adverse effects,” and “area of potential effect”.

Appendix 3 Exempt Undertakings

The following Undertakings have little or no potential to affect historic properties and unevaluated cultural resources. As a result of their limited to no potential to affect historic properties and unevaluated cultural resources, under the provisions of this PA, these Undertakings are exempt from case-by-case Section 106 review and no further consultation with the SHPO, Tribes, other consulting parties, or the public is required. The decision process for exempt Undertakings will be made through the EU provided by project managers to NFsNC heritage program personnel:

- a. Research activities involving no destructive actions (demolition or dismantling are destructive actions) on known historic properties and unevaluated cultural resources or ground disturbance;
- b. Permits, easements, rights-of-way, and leases that do not authorize ground disturbance;
- c. Land acquisitions or transfers of administrative control to the Forest Service, where the historic properties and unevaluated cultural resources received are not considered in exchange for any relinquished;
- d. Routine road and trail maintenance or decommissioning which includes grading, disking and seeding within the existing disturbed prism. Work is confined to the existing right-of-way, previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no historic properties and unevaluated cultural resources;
- e. Maintenance or alteration of existing facilities less than 50 years old (i.e., administrative structures, recreation structures, boat launch ramps, campgrounds, cattle guards, fences, stock tanks);
- f. Transfer of use authorization from one authority to another when an action such as a boundary adjustment necessitates changing a right-of-way or easement from one authority to another (e.g., Forest Service Special Use Permit to a USFA Title V Right-of-Way);
- g. Pesticide/Herbicide spray projects involving no ground disturbance;
- h. Withdrawal revocations (lands that return to Forest Service control from other Federal or State agencies);
- i. Re-installation or repair of sign and gate posts and monuments, unless within known historic property or unevaluated cultural resources boundaries or when new ground disturbance is involved. This also includes land line maintenance and maintenance of existing property corners;
- j. Routine trail maintenance by hand (does not include trail relocation);
- k. Non-ground disturbing broadcast seeding, no-till seeding and spreading mulch for establishment of vegetation;
- l. 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;

m. Chainsaw/herbicide site preparation. Existing, previously clear-cut timber stands which are proposed for chainsaw and/or herbicide site preparation prior to planting the next generation of trees. Action will consist of using chainsaws to fell remaining trees (cut and leave) and/or the application of herbicide to control undesirable vegetation. No ground disturbing action takes place.

n. Routine Recreation Area Site Maintenance. This will involve no new ground-disturbance and includes activities such as replacement of barriers or signs, re-graveling or paving of roads and parking areas, maintenance of an existing trail within a campground, and hazard tree removal when a skidder is not used.

o. Low intensity prescribed burns and use of previously established and surveyed firelines in areas which have been previously burned. These are low intensity fires conducted to enhance wildlife habitat and to remove slash/ground litter to lessen damage from possible wildfires. Other objectives include maintenance of open stand conditions, site preparation for planting, and hazardous fuel reduction. Most areas in which these burns are used have been burned repeatedly in past years. Documentation suggests that low intensity fires will not likely affect prehistoric sites, and historic wooden features that have been previously burned. Where it is documented that an area has been previously burned, no archaeological survey is necessary. The heritage staff will be contacted during burn planning to advise if known protected sites are on or adjacent to firelines.

1. Dozer Fire lines on the Croatan National Forest in high probability areas will be surveyed post construction.

2. Dozer Fire lines on the Pisgah and Nantahala National Forests will not be surveyed in low probability areas.

p. Special use actions, which take place in existing rights-of-way and cause no new ground disturbance. The Forest receives numerous requests from the public for special use permits. Requested actions may include overhead or buried transmission/phone lines, or access along forest service roads into adjacent private lands. In these cases, there is no additional construction along existing roads. Buried cable routes [telephone, electric, etc.] will be placed within the existing road prism. Should excavations penetrate outside the existing prism into undisturbed soils, archaeological review is required.

q. Mechanical and hand thinning in wind rowed or bedded plantations less than fifty years of age do not require survey. Known significant sites must be avoided. Road and landing locations must be surveyed.

r. Southern Pine Beetle (SPB) infestations and prevention actions treated by hand cut-and-leave, hand pile-and-burn or hand cut-and-hand-spray require no further cultural resources compliance consultation because they are considered non-impacting. During SPB emergency suppression activities only new roads and landings in high probability areas will be surveyed prior to potential disturbing activities. Known NRHP eligible and Unevaluated sites will be relocated *prior* to activities and avoided. All treated infestations that have previously known sites will be monitored after the completed suppression activities and results documented for SHPO & THPO review using the Reconnaissance Report Form and respective site forms.

s. Pisgah and Nantahala National Forests - Low probability areas include slopes greater than 20%, or slopes greater than 30% and more than 150 feet from water. Slope analysis is to be determined using LIDAR photogrammetry (Accurate to 4 foot contour interval). Only heritage professionals may make low probability determination.

t. Croatan National Forest - Low probability areas with poorly drained soils, or more than 150 meters from water. Slope analysis is to be determined using LIDAR photogrammetry (Accurate to 2 foot contour interval). Only heritage professionals may make low probability determination.

u. Hand and dibble (a tool used to prepare planting holes for seedlings) planting of trees in areas previously surveyed with no Historic Properties or unevaluated cultural resources or in low probability areas.

v. Undertakings taking place in areas previously surveyed for cultural resources when the previous survey followed currently accepted survey and site recording methodologies and was appropriate for the level of intensity of the newly proposed Undertaking.

w. Modifications of buildings and structures owned by private individuals on FS lands (recreation residences) when done by their owners when no ground disturbance is involved. If the buildings/structures are National Register eligible, guidance for owners to follow shall be provided, upon request.

Appendix 4 NFsNC Cultural Resources Survey Strategies / Methods

I. Project Surveys

NC Mountains, Pisgah and Nantahala National Forests

Compliance with Section 106 requires that the heritage resource sites in the project area be located, and sufficient data retrieved to evaluate sites for eligibility to the National Register of Historic Places (NRHP) to make a determination of effect. The project area will be subjected to pedestrian survey. Since management decisions and directions for future work are based on initial survey results, it is essential that enough information be obtained to make informed decisions or determinations. Consequently, subsurface testing, which can provide information about artifact depth, site boundaries, and deposit integrity is required.

Sites will be described by the following Forest Service site designations:

Eligible - Listed in or determined eligible to the NRHP.

or

Not Eligible - Not eligible for listing in the NRHP.

and only if necessary due to unforeseen constraints

Unevaluated - Further research or testing required.

Site definition to be used during survey is the presence of two or more artifacts/features (material evidence of human use) within a definable area on a single landform or on contiguous landforms. Isolated finds are still provided a site number and site form following the policy employed by the North Carolina Office of State Archeology. All sites are recorded on state site forms and located on 7.5' USGS topographic maps.

Site locations will be plotted with hand held Global Positioning System (GPS) units. Isolated finds may be denoted by one reading, while larger sites will need multiple readings to verify both location and extent. Trees closest to GPS readings will be flagged to aid site relocation.

Field techniques involve pedestrian walk-over in parallel 20 to 25 meter transects for complete coverage of the project acreage. Subsurface tests are made every 10 to 15 meters along the transects. Subsurface testing will be conducted in all areas except those that are justified not to require subsurface testing (excellent visibility, disturbance, slope greater than 20 percent, or slope greater than 30% within 150 feet of water). Cleared areas, such as trails, roads, tree throws and tree bases will be examined when available. Where the underlying geology results in rock shelters, steeper areas are more thoroughly traversed by pedestrian walk-over to ensure adequate survey coverage. All high probability landforms expected to contain sites must be subsurface tested with tests placed every 10 to 15 meters along transects. These landforms must have a minimum of 3 subsurface tests excavated each, regardless of landform size.

The entire project area must be investigated to an extent to ensure location of all sites. Site limits must be determined for each site using subsurface testing and landform observation (generally two negative subsurface tests in each cardinal direction or a significant change in landform will indicate the limit of a site). Larger tests may be needed to assess and/or evaluate sites. The test depths vary between less than 5 cm to well over 30 cm depending on the area. An auger may be employed in areas where soil depth has been increased by flood plain deposits

All material will be screened through ¼ inch mesh.

Site field numbers will be assigned according to the Forest Service designations: District abbreviation, Compartment number – Site number – Calendar year, e.g. N88-1-08 would designate the first site recorded on the Nantahala Ranger District in Compartment 88 in the year 2008.

NC Piedmont, Uwharrie National Forest

Compliance with Section 106 requires that the heritage resource sites in the project area be located, and sufficient data retrieved to evaluate sites for eligibility to the National Register of Historic Places (NRHP) to make a determination of effect. The project area will be subjected to pedestrian survey. Since management decisions and directions for future work are based on initial survey results, it is essential that enough information be obtained to make informed decisions or determinations. Consequently, subsurface testing, which can provide information about artifact depth, site boundaries, and deposit integrity is required.

Sites will be described by the following Forest Service site designations:

Eligible - Listed in or determined eligible to the NRHP.

or

Not Eligible - Not eligible for listing in the NRHP.

and only if necessary due to unforeseen constraints

Unevaluated - Further research or testing required.

Site definition to be used during survey is the presence of two or more artifacts/features (material evidence of human use) within a definable area on a single landform or on contiguous landforms. Isolated finds are still provided a site number and site form following the policy employed by the North Carolina Office of State Archeology. All sites are recorded on state site forms and located on 7.5' USGS topographic maps.

Site locations will be plotted with hand held Global Positioning System (GPS) units. Isolated finds may be denoted by one reading, while larger sites will need multiple readings to verify both location and extent. Trees closest to GPS readings will be marked with white latex (spray) paint with a double circular band to aid site relocation.

Field techniques involve pedestrian walk-over in parallel 15 to 25 meter transects for complete coverage of the project acreage. Subsurface tests are made every 10 to 15 meters along the transects. Subsurface testing will be conducted in all areas except those that are justified not to require subsurface testing (excellent visibility, disturbance). Cleared areas, such as trails, roads, tree throws and tree bases will be examined when available.

There are no low probability areas on this unit.

The entire project area must be investigated to an extent to ensure location of all sites. Site limits must be determined for each site using subsurface testing and landform observation (generally two negative subsurface tests in each cardinal direction or a significant change in landform will indicate the limit of a site). Larger tests may be needed to assess and/or evaluate sites. The test depths vary between less than 5 cm to well over 30 cm depending on the area. An auger may be employed in areas where soil depth has been increased by flood plain deposits. All material will be screened through ¼ inch mesh.

Site field numbers will be assigned according to the Forest Service designations: District abbreviation, Compartment number – Site number – Calendar year, eg., UW40-1-08 is the first site recorded on the Uwharrie Ranger District in Compartment 40 in 2008.

NC Coast, Croatan National Forest

Compliance with Section 106 requires that the heritage resource sites in the project area be located, and sufficient data retrieved to evaluate sites for eligibility to the National Register of Historic Places (NRHP) to make a determination of effect. The project area will be subjected to pedestrian survey. Since management decisions and directions for future work are based on initial survey results, it is essential that enough information be obtained to make informed decisions or determinations. Consequently, subsurface testing, which can provide information about artifact depth, site boundaries, and deposit integrity is required.

Sites will be described by the following Forest Service site designations:

Eligible - Listed in or determined eligible to the NRHP.

or

Not Eligible - Not eligible for listing in the NRHP.

and only if necessary due to unforeseen constraints

Unevaluated - Further research or testing required.

Site definition to be used during survey is the presence of two or more artifacts/features (material evidence of human use) within a definable area on a single landform or on contiguous landforms. Isolated finds are still provided a site number and site form following the policy employed by the North Carolina Office of State Archeology. All sites are recorded on state site forms and located on 7.5' USGS topographic maps.

Site locations will be plotted with hand held Global Positioning System (GPS) units. Isolated finds may be denoted by one reading, while larger sites will need multiple readings to verify both location and extent. Trees closest to GPS readings will be marked with white latex (spray) paint with a double circular band to aid site relocation.

The entire project area must be investigated fully to ensure location of all sites. Pedestrian survey will utilize parallel transects at 15-20 meter intervals. All unit boundary firelines, existing roads, ditchbanks as well as tree tip-ups and rootballs are walked and visually inspected. When water covers the top of shoes and higher the area is not walked over in transects but negotiated to reach suspected higher and better soils within 150 meters of water. Where there is no surface water or water obviously below the needles and ground cover subsurface shovel tests, minimally 30 centimeter in diameter, are conducted, with all material screened through ¼ inch mesh. Transects and subsurface testing are most intensive in these areas, with tests conducted at 15-30 meter intervals. Subsurface tests as well as landform observation (generally two negative subsurface tests in each cardinal direction or a significant change in landform will indicate the limit of a site) are employed to determine the limits for each site. Larger tests may be needed to assess and/or evaluate sites. Depending on the area, test depths vary between less than 5 cm to more than 30 cm. An auger may be employed in areas where soil depth has been increased by flood plain deposits

Site field numbers will be assigned according to the Forest Service designations: District abbreviation, Compartment number – Site number – Calendar year, eg., CR9-1-08 is the first site recorded on the Croatan Ranger District in Compartment 9 in 2008.

**Appendix 5
Exempt Undertaking Form**

*National Forests in North Carolina
Cultural Resources Exempt Undertaking Documentation
The proposed project has no potential for effect, adverse or beneficial, to a Historic Property or unevaluated cultural resource, and therefore is an Exempt Undertaking; no further Section 106 compliance documentation is required, other than recommended mitigation or protection

Project Name	Ranger District / USGS Quad	Compartment(s)
Description: PA Appendix 3 EU, A-W	Documentation:	Comments & Recommendations:

INFRA Event Number:

Signature

Title

Date

Distribution: _____ (*Initial*)
Original: Project Leader _____
Copy: Zone & SO HR File _____
NEPA File _____
Electronic Zone & SO 2360 _____

Appendix 6

Section 106 Response to Catastrophic Events/Storm Recovery (FSM 2364.34)

1. Identify and assess known significant sites in affected areas.
 - a. Complete monitoring forms, take photographs, and recommend additional work. Send copies to SHPO & THPO when assessment task is completed.
2. Develop priorities for emergency archeological site data recovery, stabilization, etc. Initial priority list attached.
3. Initiate emergency recovery efforts. Notification (36CFR800.12b2) to SHPO, THPO and ACHP completed. Consult under same requirements for all activities that may affect known NRHP listed and eligible sites. Data recovery plans and reports will be submitted to SHPO & THPO for review as completed.
4. Review all proposed projects to determine compliance needs:
 1. Exempt Undertakings EU (ex: new road surfacing, gravel, cleaning existing ditches), include *previously surveyed areas* with **no** NRHP eligible sites. EU designations determined by Forest Service archeologist.
 2. Project Compliance Inventories: Forest Service completes site Probability Ratings, Low (**no prior survey required for project to proceed**), High (**prior survey required**).
 - a. *Known* NRHP eligible or unevaluated sites must be relocated and marked for avoidance or evaluation & data recovery completed with SHPO & THPO review prior to project commencing in site area.
 - b. Newly discovered sites will be recorded and site forms with appended maps and photographs will be sent to SHPO and THPO along with management recommendations for review. No project work will commence at these sites without SHPO concurrence. Concurrence may be in writing, email, or documented phone conversation.
 - c. Final Report of Hurricane 106 surveys will be submitted to SHPO and THPO.

Appendix 7
Incident, Emergency and Rapid Area Assessment
Cultural Resources Reconnaissance Report

National Forests in North Carolina
Cultural Resources Reconnaissance Report
**This form is used to document Incident, Emergency and Rapid Area Assessment reconnaissance level field inventories and surveys.*

Project Name Ranger District / USGS Quad Compartment(s)

Project Description, Incident Type, Acres, Location, Area of Potential Effect (Acres/Miles/Structures) etc.:

Personnel Involved, Titles:

Reconnaissance / Fieldwork Description:

General Environment:

Background: Previous Relevant Work, Site Likelihood (High, Low):
Records Search: (-) Negative (+) Positive, Site Atlas Checked: (),
Topo Maps Checked: (), NRHP Checked: (), GIS Data Checked: (),
INFRA Checked: ()

Results: *Cultural Resources Recorded: Yes / No*

<u>Site Field No.</u>	<u>Permanent No.</u>	<u>Site Type</u>	<u>NHPA Status</u>	<u>Recommendation</u>
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Recommendations/ Mitigation:

***Attach maps, field notes, photos, site forms, etc.*

Signature

Title

Date

Appendix 8
National Forests in North Carolina Cultural Resources Report Form

National Forests in North Carolina Cultural Resources Report Form <i>*This form is used to document Section 106 Archeological Inventories conducted by NFsNC heritage staff.</i>
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Name of Undertaking	National Forest & Ranger District	County & USGS Quadrangle
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Description of Undertaking: proposed activities, description of APE, compartments, acres and/or miles of APE, acres and /or miles of field inventory.

Personnel Involved, Titles, Dates of Fieldwork:

Inventory Fieldwork Description: Methods, standard as in PA or Other (described in detail). USGS 1:24000 map attached showing surveyed area

Environment: Watershed, drainage, elevation range, vegetation.

Background: Previous & on-going relevant work in proximity, Land ownership

history, Site likelihood (High, Low acres based on LIDAR analysis (USGS 1:12000 map attached). Previously recorded sites in the project area.

Results: ***Cultural Resources Recorded: Yes / No***

(USGS 1:24000 map attached showing site locations, site descriptions, sketches and photos attached. Site forms appended.

Field No. State No. Site Type NHPA Status & Recommendation

Undertaking Recommendations / Mitigation: Effect of Undertaking.

/s/

Zone Archeologist

Concur: /s/
Signature

Forest Archeologist
Title

Date