

# Session 4: Hot Topics

[Session 4 Video Link](#)



NC DEPARTMENT OF  
NATURAL AND CULTURAL RESOURCES

NORTH CAROLINA

## Agreements

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- Subpart C - The five program alternatives (36 CFR § 800.14) are:
  - Programmatic Agreement, including Prototype Programmatic Agreement
  - Exempted Categories
  - Standard Treatment
  - Program Comment
  - Alternate Procedure
- 36 CFR 800.6 - Resolve Adverse Effects
- Memorandum of Agreement



## Common Agreements in NC

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### Programmatic Agreements

- large scale
- address multiple actions across a wide time frame
- Affects to historic properties aren't always known at the time of execution
- Can be used for resolving adverse effects
- Examples - In response to Infrastructure Reset Strategy, To streamline the process of Administering CDBG funds, To establish a process for

### Memorandum of Agreement

- Narrow focus
- Usually in response to adverse effect
- generally address one specific action or set of actions
- Sometimes can be used to outline complex responsibilities that are needed in order to AVOID an adverse effect



## Basics of Agreements

- Parties
  - Major players that have specific roles. Party types: Signatory, Invited Signatory, and Concurring Party.
  - Disaster related MOA's can include FEMA, the Advisory Council on Historic Preservation, NC SHPO, NCEM and Applicants. They may also include Tribes, and other interested groups, persons, or agencies, especially if they have a responsibility under the Agreement.
- Establish the Federal Undertaking and corresponding regulations
- Consideration for Historic Properties - The Agreement will clearly state what historic property is being affected and the action that is causing the adverse effect.



- Stipulations - Terms of the Agreement
  - They include Mitigation, Reporting, Amendments, Duration, etc. Basically, a road map for working under the Agreement throughout its lifespan.
  - They should address everything you might need from how we are going to resolve the adverse effect to how we are going to handle issues that may arise.
- Responsibilities –
  - Some parties are responsible for activities that require action and the submission of deliverables. The MOA should clearly define the responsibilities of all parties and the timelines for deliverables. By signing, parties agree to the responsibilities as set by the agreement.



## ACHP Guidance

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- ACHP Introduction to Section 106 - <https://www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106>
- General Agreement Guidance - <https://www.achp.gov/initiatives/guidance-agreement-documents>
  - Templates
  - Checklists
  - Execution Guidance – Parties/Status/etc.
- Free webinars and in-depth multi-day sessions – Highly Recommend!



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### Programmatic Agreements

- Usually execute 5-7 per year
- Duration depends on the project or processes covered
- Deliverables not always expected but can include:
  - Phased surveys
  - Abbreviated Consultation
  - MOA with mitigation



### Memorandum of Agreement

- Execute 15-20 per year
- Usually 5 year duration
- Expect mitigation deliverables

# Resolution and Mitigation

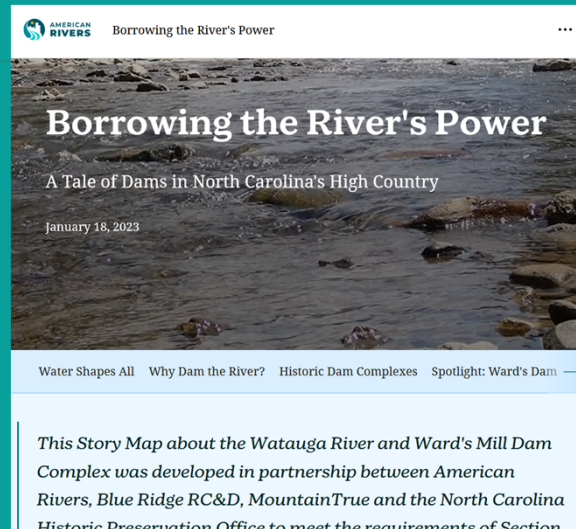
## Appropriate Mitigation Strategies or Treatment Measures : Reach a fair and balanced resolution.

### How do we decide? What must be considered?

- **Significance** - What is the property's significance? What is the level of effect? What treatments measures best address the scale of the effect and how it diminishes the property's significance or eligibility for listing on the National Register of Historic Places?
- **Public Benefit** - The actions taken under the National Historic Preservation Act are done so in the public interest, so we must consider what benefit they will receive from the treatment measures selected.
- **Needs** - Are there parties to the MOA who have certain needs? Is there a treatment measure that can adequately address their concerns regarding the impacts to the historic property?
- **Future Historic Preservation** - What treatment measures will provide information or resources that will assist with future historic preservation efforts?
- **Cost** - Is the cost of the selected treatment measure commiserate to the level of effect?



## Storymap Example



## Borrowing the River's Power

## “Standard” Treatment Measures

- **Documentation** - Record the historic property, as it is, prior to any alteration. This may include photographs, drawings, etc.
- **Public Interpretation** - Develop educational materials, interpretative exhibits or displays, and other resources with the intent to engage the public and encourage awareness of historic preservation
- **Oral History** - Gather individual histories and community stories to create a repository of previously unrecorded historical accounts. May also include scanning photographs and important documents.
- **Geo-reference Historic Materials** - Scan and geo-reference historic maps and photographs to better allow for sharing and research purposes. Mapping software is used to give the material reference points so that it can be displayed in its geographic space
- **Historic Context** - Development of a statement or narrative with focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan. Requires an Architectural Historian who meets Secretary of the Interior Qualifications also referred to as being SOI qualified.
- **Survey or Inventory** - Perform historic structure survey or inventory of properties within a historic district. Requires SOI Qualified Architectural Historian.
- **NRHP/NHL Nomination** - Prepare nominations to the National Register of Historic Places or for National Historic Landmark. Requires SOI Qualified Architectural Historian.
- **Archaeology** - Perform archaeological survey, testing, or data recovery. Requires SOI Qualified Archaeologist.

**Alternative Strategies = Get creative and think outside the box!**





## Seven Springs, Wayne County

- Program – FEMA HMGP under PA
- Historic Property
  - Seven Springs Historic District (WY0554) – Placed on State Study List in 1998
- Action
  - Demolition of contributing resources.
- Parties
  - FEMA, NCEM, NC SHPO, Wayne County
- Treatment Measures & Responsibilities
  - Document/Record – SHPO will create photography package and floorplans for the record.
  - Oral History – NCEM will contract a consultant to scan photos/documents and record oral histories
  - Story Map – Detailing the history of Seven Springs and the effects of flooding

## Executive Orders and 106

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- ACHP has historically provided guidance on presidentially issued executive orders.
  - <https://www.achp.gov/preservation-legislation>
- What is different this time?
  - Duration of the emergency – length of presidency
  - Federal Agencies make the determinations
- EO 14156 - [https://www.achp.gov/Section\\_106\\_and\\_Energy\\_Emergency](https://www.achp.gov/Section_106_and_Energy_Emergency)
  - Advise agencies to use any applicable Emergency Stipulations with current Agreements
  - In lieu of that use the provision in 36 CFR 800.12(b)(2)
  - SHPOs across the country are seeing under the EO with expedited 7-day review deadlines
  - Projects can be “adjacent”



State Historic Preservation Office

# Session 4: OSA Data Management & Access

UPDATES AND NEXT STEPS

[OSA SESSION 4 VIDEO LINK](#)



## What we've done 2017- Present

### ➤ **Improvements to in-person background research process**

- Organization and digitization of archival records
  - 90% of archaeological reports scanned
  - 60% of archaeological site forms scanned
- Created custom tools to identify and export sites and surveys
- Worked with DIT to update kiosks
- Digitized archaeological sites and surveys into GIS

### ➤ **Streamlined internal environmental review process**

- ArcGIS Online (AGOL) web maps for OSA Environmental Review Staff
- Site Form Access Database -> Laserfiche database
- Migrated data from Access database, scanned forms
- New process for site forms
- Created a new site form in Laserfiche

## What we aim to do

### **Looking ahead, our goals include:**

- Survey Report database updates
- Remote access to GIS data
- Remote access to Site Files and Reports

# General Statutes

§ 12-3.1. states that only the General Assembly has the power to authorize an agency to establish or increase a fee or charge for rendering any service or fulfilling any duty to the public, with the following exceptions:

(c) Exceptions. – This section does not apply to any of the following:

- (1) Rules establishing fees or charges to State, federal or local governmental units.
- (2) A reasonable fee or charge for copying, transcripts of public hearings, State publications, or mailing a document or other item.
- (3) Reasonable registration fees covering the cost of a conference or workshop.
- (4) Reasonable user fees covering the cost of providing data processing services.

§ 150B-19. Restrictions on what can be adopted as a rule.

An agency may not adopt a rule that does one or more of the following:

(5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:

- a. A service to a State, federal, or local governmental unit.
- b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
- c. A transcript of a public hearing.
- d. A conference, workshop, or course.
- e. Data processing services.

# Remote Access and License Costs



~70 consultant firms (more than  
300 resumes on file)  
License cost > \$10,000 /year



Administrative code change to a  
fee schedule for account access



DNCR Legal review and approval  
of contract templates

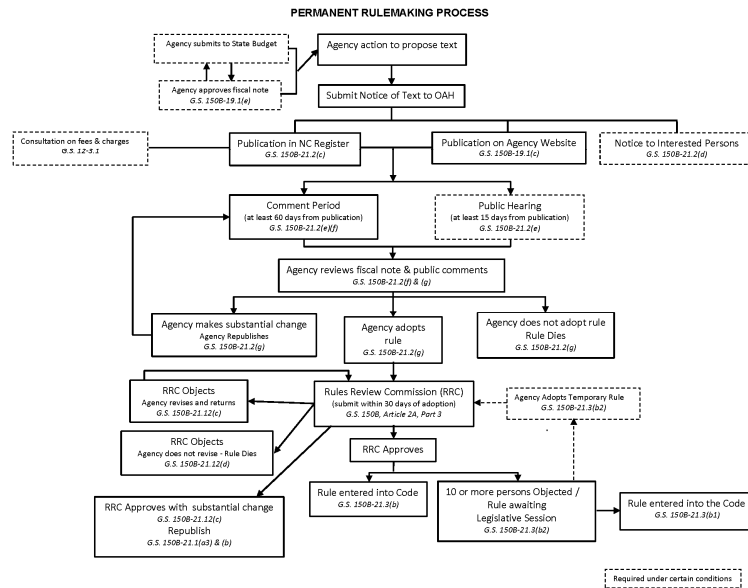


Account creation for collected  
fees and license payments

# Administrative Code Change

Prior to 2013, North Carolina's Administrative Procedure Act did not have expiration dates for rules.

G.S. 150B-21.3A requires that all rules adopted under G.S. 150B, Article 2A, be reviewed every 10 years by the agency that promulgated the rules to ensure rules are necessary and within the agency's statutory authority.



This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

(09/26/16)

## What we're doing now...

- Groundwork for remote (external) access
- Administrative Code updates
- Data sharing policy updates
- Moving from ArcMap to AGOL
- New GIS tools in development
- Continuing to work with DIT on kiosk performance issues

# Contacts

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# Q & A

- Ideal Timeline for OSA data & Site File Access – [48:38](#)
- Data Access Qualifications & Receiving Data – [56:05](#)
- Story Map development – [1:02:52](#)
- 106 Survey Requirements for Executive Order Project Submissions – [1:07:01](#)
- Tools for inputting GIS data into OSA system – [1:14:25](#)

# Thanks Y'all!



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