

1 **Prototype**
 2 **Programmatic Agreement Between/Among the United States Department of Agriculture Natural**
 3 **Resources Conservation Service, [INSERT STATE NAME] Office, the [INSERT STATE NAME]**
 4 **State Historic Preservation Officer, [Indian tribe or Native Hawaiian organization] regarding**
 5 **NRCS Conservation Assistance Undertakings**
 6

7
 8 **WHEREAS**, the United States Department of Agriculture Natural Resources Conservation Service
 9 (NRCS) administers conservation assistance programs...*(pursuant to these authorities)*;

10 **WHEREAS**, the NRCS proposes to...*(general types of programs/assistance)*;

11 **WHEREAS**, the NRCS has determined that many of these conservation activities constitute undertakings
 12 with the potential to affect properties eligible for or listed on the National Register of Historic Places and
 13 are therefore subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16
 14 U.S.C. § 470f, and its implementing regulations, 36 CFR Part 800;

15 **WHEREAS**, the NRCS recognizes that Section 106 has statutory requirements independent of its
 16 compliance with the National Environmental Policy Act, including the use of categorical exclusions;

17 **WHEREAS**, in accordance with 36 CFR § 800.14(b)(4), the Advisory Council on Historic Preservation
 18 (ACHP) has designated this Agreement as a Prototype Programmatic Agreement (Prototype Agreement),
 19 which allows for the development and execution of subsequent programmatic agreements (PAs) with the
 20 NRCS State Office(s) without the participation or signature of the ACHP;

21 **WHEREAS**, the amended nationwide Programmatic Agreement among the United States Department of
 22 Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and
 23 the National Conference of State Historic Preservation Officers relative to: Conservation Assistance
 24 expires on November 2, 2013, and **this Prototype Agreement and subsequent PAs shall provide for**
 25 **NRCS' compliance with Section 106 when executed;** and

26 **WHEREAS**, after the expiration of the amended nationwide Programmatic Agreement in November
 27 2013, the NRCS shall comply with 36 CFR Part 800 for all its undertakings in those states where the
 28 NRCS State Office has not developed a PA following this Prototype Agreement;

29 **WHEREAS**, the NRCS has consulted with the ACHP, the National Conference of State Historic
 30 Preservation Officers (NCSHPO), Indian tribes, Native Hawaiian organizations (NHOs), and other
 31 interested parties, including *[list?]* in developing this Prototype Agreement, and has determined that the
 32 requirements of Section 106 can be more effectively and efficiently fulfilled if a programmatic approach
 33 is used to stipulate roles and responsibilities, coordinate consultation with the State Historic Preservation
 34 Officer (SHPO), Indian tribes, and NHOs, facilitate the identification and evaluation of historic
 35 properties, assess the effects of a proposed undertaking to historic properties, identify those undertakings
 36 for which no further Section 106 review is required, *and streamline the resolution of adverse effects to*
 37 *historic properties where appropriate;*

Comment [KEYF1]: Need to explain how existing SLAs and consultation protocols will be handled/treated under prototype PA. Require review/amendment to ensure meet standards and principles of prototype, etc.

Comment [KEYF2]: The ACHP's instruction letter that would accompany the prototype PA could explain how the prototype PA would replace the nationwide PA.

Comment [KEYF3]: Do we want to address this at the national level?

1 **WHEREAS**, the NRCS [conducted public outreach, when and where] in the development of this
2 Prototype Agreement;

3 **WHEREAS**, the NRCS [State office(s)] has elected to use this Prototype Agreement in [relevant
4 state(s)];

5 **WHEREAS**, the NRCS [State office(s)] has consulted with [SHPO(s)] to develop this PA;

6 **WHEREAS**, the NRCS has consulted with [Indian tribes or NHOs] to develop this PA;

Comment [KEYF4]: Allow for agreements between NRCS and SHPO/tribe/NHO, and for agreements with NRCS, SHPO, and tribe/NHO.

7 **WHEREAS**, the NRCS has consulted with [other interested parties, e.g., conservation districts, state
8 advisory committees, where appropriate], [and any public outreach done] to develop this PA;

Comment [KEYF5]: Instructions for subsequent consultation to develop PAs should be included in the ACHP's forwarding letter.

9 **WHEREAS**, this PA does not apply to undertakings occurring on or affecting historic properties on tribal
10 lands, as defined by Section 301(14) of the NHPA, without prior agreement and execution of the PA by
11 the relevant Indian tribe;

12 **WHEREAS**, this PA does not alter or modify the NRCS' responsibilities to consult with Indian tribes
13 and NHOs on all undertakings that might affect historic properties of religious and cultural significance to
14 them, regardless of where the undertaking is located, without prior agreement by the relevant Indian tribe
15 or NHO; the NRCS recognizes that historic properties of religious and cultural significance to an Indian
16 tribe may be located on ancestral homelands or on officially ceded lands and in many cases, because of
17 migration or forced removal, Indian tribes may now be located far away from historic properties that still
18 hold such significance for them;

19 **WHEREAS**, the NRCS General Manual, Title 420, Part 401 Cultural Resources (Archeological and
20 Historic Properties), and National Cultural Resources Procedures Handbook, Part 601, *support and*
21 *incorporate the implementation of this PA*;

Comment [KEYF6]: Should we note somehow that the Handbook will be updated to reflect the implementation of the Prototype Agreement?

22 **WHEREAS**, *(additional clauses as needed)*.

23 **NOW, THEREFORE**, the NRCS [State office], the [State] SHPO, [and the Indian tribe or NHO] agree
24 that compliance with the following stipulations will satisfy the NRCS' Section 106 responsibilities for the
25 undertakings identified above in [relevant state(s)].

Comment [KEYF7]: The NRCS may elect to invite any Indian tribe or NHO to participate in the agreement as an invited signatory or concurring party (where the agreement is off tribal lands).

26

27 **STIPULATIONS**

Comment [KEYF8]: These stipulations (as part of the national Prototype Agreement in template form) would form the basis of the individually negotiated NRCS State Office agreements.

28 NRCS [State] office shall ensure that the following stipulations are carried out:

29 I. Scope.

30 a. Once executed by the NRCS and the relevant SHPO/tribe/NHO¹, this PA sets forth the
31 review process for all NRCS undertakings in that state between the NRCS State Office
32 and the signatory party(ies).

¹ Throughout this document, the term "SHPO/tribe/NHO" is used to allow for the execution of subsequent agreements with the NRCS and the SHPO, an Indian tribe, and/or Native Hawaiian organization, as agreed to by those parties.

- 1 i. This PA shall not modify the NRCS’ responsibilities to consult with Indian tribes
- 2 and NHOs unless the tribe or NHO participates in the development of this
- 3 agreement.
- 4 b. This PA does not apply to undertakings occurring on or affecting historic properties on
- 5 tribal lands without prior agreement and execution of this PA by the relevant Indian tribe.

7 II. NRCS Roles and Responsibilities.

- 8 a. NRCS shall ensure those individuals carrying out or overseeing cultural resources work
- 9 are appropriately qualified as applicable to the resource being addressed, in accordance
- 10 with the Secretary of the Interior’s Professional Qualification Standards (professional
- 11 qualifications) (1997 draft version, 62 Federal Register 33708; 1983 enforced version,
- 12 48 CFR 44716).
- 13 b. NRCS State Conservationist is the responsible federal agency official for Section 106
- 14 purposes, including consultation with the SHPO, Tribal Historic Preservation Officer(s),
- 15 Indian tribes, and NHOs, making all Section 106 findings and determinations, and
- 16 implementation of this PA;
- 17 c. NRCS Cultural Resource Specialist (CRS) shall inform the State Conservationist’s
- 18 Section 106 findings and determinations, including the determination as to whether a
- 19 particular action constitutes an undertaking with the potential to affect historic properties
- 20 pursuant to 36 CFR § 800.3(a). The CRS shall monitor and oversee the work and
- 21 reporting of all NRCS Field Office Personnel, technical service contractors, and technical
- 22 service providers.
- 23 d. NRCS Field Office Personnel shall conduct those activities associated with cultural
- 24 resources as set forth in the National Cultural Resources Procedures Handbook, Part 601
- 25 (*and summarized here*)
- 26 e. If appropriate, NRCS and its applicants may use technical service contractors and
- 27 technical service providers to assist with cultural resources work. NRCS shall ensure
- 28 employed contractors or providers meet the relevant professional qualifications to address
- 29 the resources likely to be encountered or evaluated.

Comment [KEYF9]: Does this need to be more specific that each State office should have access to folks who meet professional qualifications?

Comment [k10]: Any more detail needed here about oversight or CRS’ responsibilities?

31 III. Training.

- 32 a. NRCS shall require personnel conducting cultural resources work to take, at a minimum,
- 33 the NRCS Cultural Resources Training Modules.
- 34 b. NRCS shall require CRS and/or other NRCS personnel overseeing cultural resource work
- 35 to take the NRCS Cultural Resources Training Modules and the ACHP’s Section 106
- 36 Essentials course, or a similar course if approved by the NRCS Federal Preservation
- 37 Officer (FPO), within the first calendar year of their employment.
- 38 i. NRCS personnel shall review training completion with their supervisor and will
- 39 include updates and training reviews in their “Individual Development Plans.”
- 40 ii. NRCS personnel shall take refresher cultural resources training every *five (?)*
- 41 years.
- 42 c. NRCS may invite the SHPO/Indian tribe/NHO to participate in field and classroom
- 43 training.

- 1 d. NRCS shall encourage all personnel conducting or overseeing cultural resources work to
- 2 take additional training as provided by the SHPO, Indian tribe, NHO, ACHP, National
- 3 Park Service, or other relevant agency regularly. Such training shall be referenced in
- 4 “Individual Development Plans.”
- 5
- 6 IV. Lead federal agency.
- 7 a. For any undertaking for which the NRCS is the lead federal agency for Section 106
- 8 purposes per 36 CFR § 800.2(a)(2), it shall follow the terms of this PA for that
- 9 undertaking.
- 10 i. NRCS shall notify the SHPO/Indian tribe/NHO of its involvement in the
- 11 undertaking and the involvement of the other federal agencies.
- 12 b. For any undertaking for which the NRCS is not the lead federal agency for Section 106
- 13 purposes, including those undertakings for which the NRCS provides technical assistance
- 14 to other USDA or federal agencies, the terms of this PA shall not apply to that
- 15 undertaking.
- 16
- 17 V. Consultation to develop state programmatic agreements.
- 18 a. Where a State Level Agreement (SLA) between the NRCS and SHPO exists pursuant to
- 19 the 2002 amended nationwide Programmatic Agreement, the NRCS and SHPO shall
- 20 consult to determine whether it can be amended to meet the standards and directions in
- 21 this Prototype Agreement. NRCS should invite interested Indian tribes or NHOs to
- 22 participate in this discussion. *(If SLA can be amended, provide standard amendment*
- 23 *language/cover sheet?).*
- 24 i. To integrate consultation with Indian tribes or NHOs in an existing SLA, the
- 25 parties may consider appending consultation protocol(s) to the agreement.
- 26 b. Where a consultation protocol exists between the NRCS and an Indian tribe, the NRCS
- 27 and Indian tribe shall determine whether that protocol should continue in force, be
- 28 amended, or be replaced by a new agreement following this Prototype Agreement.
- 29
- 30 VI. Identification of undertakings requiring no further review.
- 31 a. The NRCS shall consult with the relevant SHPO, Indian tribe(s), or NHOs to identify
- 32 those undertakings that are not likely to affect or adversely affect historic properties
- 33 under certain identified conditions and therefore, require no further Section 106 review
- 34 with the SHPO’s/tribe’s/NHO’s office. These undertakings are listed in Appendix 1,
- 35 appended to this agreement.
- 36 b. The list of undertakings provided in Appendix 1 may be modified through consultation
- 37 between the NRCS State Conservationist and the SHPO/tribe/NHO without requiring an
- 38 amendment to this PA. Any changes to Appendix 1 shall be appended to this PA when
- 39 signed by the State Conservationist and SHPO/tribe/NHO and shall take effect on the
- 40 date of the final signature.
- 41 i. NRCS shall provide the ACHP a copy of any modifications to Appendix 1.
- 42
- 43 VII. Process for documenting undertakings requiring no further review.

Comment [k11]: In considering existing SLAs, and development of new agreements off tribal lands, require meeting among State Conservationist, SHPO, tribes, NHOs (and other consulting parties- e.g., local governments?) to discuss the structure and scope of subsequent agreement(s), and to identify the greatest efficiencies in a coordinated Section 106 review process. Include this information in ACHP’s instruction letter and note participants and outcome in Whereas clause.

Comment [KEYF12]: To be appended to NRCS State Office agreements, not the national Prototype Agreement, and developed through consultation with individual SHPO(s), THPO(s), tribe(s), and NHO(s).

- 1 a. The CRS and the State Leadership Team will determine whether a proposed undertaking
- 2 meets the criteria as listed in Appendix 1.
- 3 i. The CRS shall complete the form provided in Appendix 2 in making this
- 4 **determination**. This form shall be retained in the State Office and provided to
- 5 consulting parties upon request.
- 6 ii. If the CRS or the SHPO/tribe/NHO questions the use of the form for any
- 7 particular undertaking or series of undertakings, the CRS shall consult with the
- 8 SHPO/tribe/NHO and relevant NRCS field office personnel to review the criteria
- 9 as listed in Appendix 1 and the form in **Appendix 2**. NRCS shall inform the
- 10 ACHP of the outcome of such a review.
- 11 b. The NRCS shall consult with applicants, representatives of local governments, and any
- 12 other consulting parties, as appropriate, for undertakings identified in stipulation VI and
- 13 Appendix 1 on a case by case basis pursuant to 36 CFR Part 800.
- 14

Comment [k13]: On a case by case basis as the undertaking is proposed, or upfront (ahead of time) for a series of undertakings? What should be the role for field office personnel?

Comment [k14]: Suggest providing standard form at national level for consistency in information gathering and reporting?

VIII. Consultation process for undertakings with potential to affect historic properties that require further review.

- 15
- 16
- 17 a. When an undertaking is proposed that is not listed in Appendix 1, the **NRCS** shall consult
- 18 with the SHPO/tribe/NHO in determining the undertaking’s area of potential effects
- 19 (APE), identifying and evaluating historic properties that may be affected by the
- 20 undertaking, assessing potential effects, and resolving adverse effects prior to approving
- 21 the grant or release of funds for the undertaking.
- 22 i. The NRCS can provide information relating to the identification of historic
- 23 properties and assessment of effects in a single submittal, provided it meets the
- 24 minimum requirements identified in Appendix 3.
- 25 ii. Where the NRCS determines that no historic properties are located in the APE
- 26 for a proposed undertaking, the NRCS shall describe the basis for its
- 27 determination.
- 28 iii. The NRCS will attempt to avoid effects to historic properties whenever possible;
- 29 where historic properties are located in the APE, NRCS shall describe how it
- 30 proposes to modify, buffer, or move the undertaking to avoid effects to historic
- 31 properties.
- 32 iv. Where NRCS determines that its undertaking would affect but not adversely
- 33 affect historic properties in the APE, it shall describe how historic properties
- 34 would be affected.
- 35 b. **NRCS** shall provide the determination and documentation listed above in stipulation
- 36 VIII.a. to the SHPO/tribe/NHO.
- 37 c. The SHPO/tribe/NHO shall have thirty (30) calendar days from receipt of documentation
- 38 to review the NRCS’ determination and provide comments. The NRCS shall take into
- 39 account any comments provided by the SHPO/tribe/NHO.
- 40 i. If the SHPO/tribe/NHO disagrees with NRCS’ determination, it shall notify the
- 41 NRCS within the thirty calendar day time period referenced above. The NRCS
- 42 shall consult with the SHPO/tribe/NHO to attempt to resolve the disagreement.
- 43 d. If the SHPO/tribe/NHO does not respond to the NRCS within the thirty day calendar
- 44 period, or if the SHPO/tribe/NHO concurs with the NRCS’ determination and proposed

Comment [k15]: CRS?

Comment [k16]: CRS?

1 actions pursuant to VIII.a.ii-iv, the NRCS shall document the concurrence/lack of
 2 response, and may move forward with the undertaking.
 3 e. Where the NRCS determines that its undertaking may adversely affect a historic
 4 property, it shall notify the SHPO/tribe/NHO, and the ACHP, describe proposed
 5 measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR §
 6 800.6 to develop a Memorandum of Agreement to resolve the adverse effects.

Comment [k17]: CRS?

Comment [KEYF18]: Consider developing standard treatments to resolve adverse effects for certain routine undertakings?

IX. Public Outreach.

- a. The NRCS State Conservationist and CRS shall determine the appropriate level of public outreach for those proposed undertakings that may affect historic properties and require further Section 106 review.
 - i. Suggest standard public outreach methods?

Comment [KEYF19]: Perhaps include suggestions for outreach in the ACHP's instruction letter?

X. Emergency Procedures.

- a. Each NRCS State office should prepare procedures for exigency situations in consultation with the SHPO/tribe/NHO. (Define exigency situations).
- b. Each NRCS State office should prepare procedures for non-exigency situations in consultation with the SHPO/tribe/NHO. (Define non-exigency situations.)
- c. Where the NRCS State office has not developed specific procedures for responding to exigency and non-exigency situations, the NRCS shall follow the procedures in 36 CFR §800.12(b) and those procedures set forth in the NRCS Cultural Resources Procedures Handbook.

An example: "Such outreach may include, but not be limited to, posting online, public meetings, and publication in newspapers. NRCS will provide a reasonable amount of time for public response for each finding or consolidated findings. The NRCS State Conservationist/or designated NRCS official shall be responsible for receiving and responding to public comments, as appropriate."

XI. Post-review discoveries of cultural resources and unanticipated effects to historic properties.

- a. Where construction has not yet begun and a cultural resource is discovered after Section 106 review, the NRCS shall consult to resolve any adverse effects in accordance with 36 CFR 800.6.
- b. The NRCS shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects on historic properties found after construction has begun.
 - i. When such a discovery occurs, the (contractor) shall immediately notify the NRCS CRS, supervisory NRCS personnel for the area, and the landowner/applicant.
 - 1. NRCS CRS shall inspect the discovery (within 24 hours?) and establish a buffer zone (include standard size?) surrounding the discovery. Construction/work may resume outside the buffer zone.
 - 2. NRCS CRS shall notify the SHPO/tribe/NHO and the ACHP within 48 hours of the discovery and describe NRCS' assessment of the National Register eligibility of the property and proposed actions to resolve any adverse effects to historic properties.
 - 3. The SHPO/tribe/NHO and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

Comment [KEYF20]: Note that the following procedures may be modified in the consultation to develop the individual State PA.

- 1 4. NRCS shall take any comments provided into account and carry out
- 2 appropriate actions to resolve any adverse effects. Construction may then
- 3 resume on the project.
- 4 5. NRCS shall provide a report to the SHPO/tribe/NHO and the ACHP of
- 5 the actions when they are completed.
- 6 c. When human remains are discovered, the NRCS shall follow all applicable federal and
- 7 state laws, including the Native American Graves Protection and Repatriation Act and
- 8 state burial laws, where appropriate.
- 9 i. NRCS shall also refer to the NRCS Cultural Resources Handbook, and the
- 10 ACHP’s Policy Statement regarding Treatment of Burial Sites, Human Remains
- 11 and Funerary Objects and the ACHP’s Section 106 Archaeology Guidance.

XII. Dispute resolution.

- 14 a. Should any consulting party to this agreement object at any time to any actions proposed
- 15 or the manner in which the terms of this agreement are implemented, the NRCS State
- 16 Conservationist and CRS shall consult with such party to resolve the objection. If the
- 17 State Conservationist determines that such objection cannot be resolved, he or she will:
- 18 i. Forward all documentation relevant to the dispute, including the State
- 19 Conservationist’s proposed resolution, to the NRCS FPO and the ACHP. The
- 20 ACHP shall provide the FPO and State Conservationist with its advice on the
- 21 resolution of the objection within thirty (30) days of receiving adequate
- 22 documentation. Prior to reaching a final decision on the dispute, NRCS shall
- 23 prepare a written response that takes into account any timely advice or comments
- 24 regarding the dispute from the ACHP and signatories, and provide them with a
- 25 copy of this written response. NRCS will then proceed according to its final
- 26 decision.
- 27 ii. If the ACHP does not provide its advice regarding the dispute within the thirty
- 28 (30) day time period, NRCS may make a final decision on the dispute and
- 29 proceed accordingly. Prior to reaching such a final decision, NRCS shall prepare
- 30 a written response that takes into account any timely comments regarding the
- 31 dispute from the signatories to the agreement, and provide them and the ACHP
- 32 with a copy of such written response.
- 33 b. NRCS’ responsibility to carry out all other actions subject to the terms of this agreement
- 34 that are not the subject of the dispute remain unchanged.
- 35 c. Any consulting party to this agreement may request the ACHP provide its advisory
- 36 opinion regarding the substance of any finding, determination, or decision regarding
- 37 compliance with its terms.

XIII. Annual reporting and monitoring.

- 40 a. Each (*insert a specific time period*) following the execution of this agreement until it
- 41 expires or is terminated, NRCS State Conservationist shall provide all consulting parties
- 42 (including those parties who participate in the consultation but do not sign the agreement,
- 43 and the FPO for compilation of national report?) a summary report detailing work
- 44 undertaken pursuant to its terms. Such report shall include any scheduling changes

Comment [KEYF21]: Specify further minimum information to be included?

- 1 proposed, any problems encountered, and any disputes and objections received in NRCS'
- 2 efforts to carry out the terms of this agreement.
- 3 b. *Require NRCS State Conservationist to report to NRCS HQ about whether an annual*
- 4 *meeting with the SHPO/Indian tribe/NHO was needed each fiscal year (why or why not),*
- 5 *or report on the meeting that was held with the SHPO/Indian tribe/NHO.*
- 6 c. *Require regular reviews of agreement at minimum 2-5 year intervals.*
- 7 d. *NRCS State Office, SHPO, Indian tribe, or NHO may request the ACHP participate in*
- 8 *any annual meeting or agreement review.*

Comment [KEYF22]: Is there a need to clarify what information can be shared with SHPO, Indian tribes, NHOs?

Comment [KEYF23]: Should this report be made available to the public? Confidentiality issues?

Comment [KEYF24]: Maybe require annual review for first 5 years, then one review every 5 years after?

- 10 XIV. Compliance with applicable state law and tribal law (when on tribal lands).
- 11 a. NRCS shall comply with relevant and applicable state law, including permit requirements
- 12 on state land, and with relevant and applicable tribal law when on tribal lands.

- 14 XV. Duration of PA.
- 15 a. This PA will be in effect for 20 years from the date of execution.

Comment [KEYF25]: Perhaps note, in the ACHP's instruction letter, that states can make this duration period shorter, but not longer?

- 17 XVI. Amendment and termination.
- 18 a. This agreement may be amended when such an amendment is agreed to in writing by all
- 19 signatories. The amendment will be effective on the date a copy signed by all of the
- 20 signatories is filed with the NRCS FPO and the ACHP.
- 21 b. If any signatory to this agreement, or the ACHP, determines that its terms will not or
- 22 cannot be carried out, that party shall immediately consult with the other parties to
- 23 attempt to develop an amendment per Stipulation XVI.a. If within thirty (30) days (or
- 24 another time period agreed to by all signatories) an amendment cannot be reached, any
- 25 signatory or the ACHP may terminate the agreement upon written notification to the
- 26 other signatories.
- 27 c. If agreement is terminated, NRCS shall comply with 36 CFR Part 800 for all
- 28 undertakings that have the potential to affect historic properties.

Comment [KEYF26]: Require all agreements, and amendments, to be filed with FPO and ACHP.

30 *Execution of this agreement by the NRCS and SHPO/Indian tribe/NHO and implementation of its terms*
 31 *evidence that NRCS has taken into account the effects of this undertaking on historic properties and*
 32 *afforded the ACHP an opportunity to comment.*

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1 **Appendix 1: NRCS state-level undertakings requiring no further Section 106 review.** (Consider and
2 address actions falling under each undertaking.)

3 **Appendix 2: Form for determining if undertaking meets the criteria in Appendix 1.**

4 **Appendix 3: Minimum Project Submittal Requirements.** (Describe minimum documentation to be
5 included with project submittals. Refer to requirements of 36 CFR § 800.11. Allow states to tailor as long
6 as meet minimum standards; e.g., where appropriate, may reference state historic preservation plan
7 guidelines.) The use of such a streamlined approach should be discussed in consultation with the
8 SHPO/tribes/NHOs.

9 **Appendix 4: Treatment Plan for Post-Review Discoveries and Unanticipated Effects.** (If needed, in
10 addition to or modifying the steps provided in stipulation XI.)

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12

13 ***Note:** Should the ACHP designate this prototype programmatic agreement, it would issue an instruction
14 letter to accompany the agreement document with guidelines for its implementation.

15