MATTHEW G. BEVIN
GOVERNOR

DON PARKINSON
SECRETARY

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL
THE STATE HISTORIC PRESERVATION OFFICE
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REGINA STIVERS
DEPUTY SECRETARY

CRAIG A. POTTS
EXECUTIVE DIRECTOR
& STATE HISTORIC
PRESERVATION OFFICER

June 7, 2016

Mr. William Sharp
USDA Natural Resource Conservation Service
771 Corporate Drive, Suite 210
Lexington, KY 40503

Re: Prototype Programmatic Agreement (PPA) between Kentucky State Historic Preservation Office and Kentucky Natural Resources Conservation Service State Office

Dear Mr. Sharp:

Enclosed please find the signed Prototype Programmatic Agreement (PPA) which has been reviewed by my staff and details how our offices will coordinate for NRCS undertakings in Kentucky.

Should you have any questions, feel free to contact Nick Laracuente of my staff at 502.564.7005, extension 122.

Sincerely,

Craig A. Potts,
Executive Director and
State Historic Preservation Officer

CP:nrl KHC # 47000

PROTOTYPE PROGRAMMATIC AGREEMENT

BETWEEN THE

US DEPARTMENT OF AGRICULTURE,

KENTUCKY NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE

AND KENTUCKY STATE HISTORIC PRESERVATION OFFICER

REGARDING CONSERVATION ASSISTANCE

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) administers numerous voluntary assistance programs, special initiatives, and grant and emergency response programs for soil, water, and related resource conservation activities available to eligible private producers, States, commonwealths, Federally Recognized Tribal governments, other government entities, and other applicants for conservation assistance, pursuant to the Agricultural Act of 2014 (2014 Farm Bill, Public Law Farm Bill113-79); Soil Conservation and Domestic Allotment Act of 1935 (Public Law 74-46, 16 U.S.C. 590 a-f, as amended); the Flood Control Act of 1944 (Public Law 78-534, as amended); the Watershed Protection and Flood Prevention Act (Public Law 83-566, as amended, 16 U.S.C. 1001-1012); the Agricultural and Food Act of 1981 (Public Law 97-98, 95 Stat. 1213); the Agricultural Credit Act (Public Law 95-3341, Title IV, Section 403); Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624); the Flood Control Act of 1936 (Public Law 74-738); the Food Security Act of 1 985 (Public Law 99-198, as amended); the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104-127); and executive and secretarial orders, implementing regulations and related authorities; and

WHEREAS, NRCS, through its conservation assistance programs and initiatives, provides assistance for activities with the potential to affect historic properties eligible for or listed in the National Register of Historic Places (NRHP), including National Historic Landmarks (NHLs)and therefore constitute undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and its implementing regulations, 36 CFR Part 800, including the provisions of these regulations addressing NHLs at 36 CFR Part800.10; and

WHEREAS, NRCS has determined that the requirement to take into account the effects to historic properties of its undertakings may be more effectively and efficiently fulfilled through the use of a Prototype Programmatic Agreement (Prototype Agreement); and

WHEREAS, the NRCS Kentucky State Office has consulted with the Kentucky State Historic Preservation Office (SHPO) and followed the instructions in the ACHP letter that accompanied the Prototype Agreement, dated November 21, 2014; and

WHEREAS, NRCS also is responsible for fulfilling the requirements of the National Environmental Policy Act (NEPA), including the use of categorical exclusions, and coordinating NEPA and Section 106 reviews, as appropriate; and

WHEREAS, NRCS developed this Prototype Agreement in consultation with the National Conference of State Historic Preservation Officers (NCSHPO) and its members, interested Indian tribes, Native Hawaiian organizations, interested historic preservation organizations,(such as the National Trust for Historic Preservation), and the Advisory Council on Historic Preservation (ACHP); and

WHEREAS, in accordance with 36 CFR Part 800.14(b)(4), the ACHP has designated this agreement as a Prototype Agreement, which allows for the development and execution of subsequent prototype agreements by individual NRCS State office(s) (State-based Prototype Agreements) to evidence compliance with Section 106; and

WHEREAS, this State-based Prototype Agreement conforms to the NRCS Prototype Agreement as designated by the ACHP on November 21, 2014, and therefore, does not require the participation or signature of the ACHP when the NRCS State Office and the SHPO agree to the terms of the State-based Prototype Agreement; and

WHEREAS, this Prototype Agreement replaces the 2002 nationwide "Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers relative to Conservation Assistance," as amended in 2011 and 2012, which expired on November 20, 2014; and

WHEREAS, the NRCS State Conservationist is the responsible federal agency official within the state for all provisions of Section 106, including consultation with the SHPO, NHOs, and government-to government consultation with Indian tribes to negotiate the State-based Prototype Agreement; and

WHEREAS, the State-based Prototype Agreement does not apply to undertakings occurring on or affecting historic properties on Tribal lands, as defined by Section 301(14) of the NHPA, without prior agreement and execution of a State-based Prototype Agreement with the concerned Indian tribe; and

WHEREAS, the NRCS has consulted with Indian tribes and NHOs during development of the national Prototype Agreement; and

WHEREAS, this Prototype Agreement does not modify the NRCS' responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties and properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the concerned Indian tribe or NHO, and recognizes that historic

properties of religious and cultural significance to an Indian tribe or NHO may be located on ancestral homelands or on officially ceded lands near or far from current settlements; and

WHEREAS, when NRCS conducts individual Section 106 reviews for undertakings under this State-based Prototype Agreement, it shall identify and invite other agencies, organizations, and individuals to participate as consulting parties; and

NOW, THEREFORE, the NRCS Kentucky State Office and the Kentucky SHPO agree that undertakings in Kentucky shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

NRCS shall ensure that the following stipulations are met and carried out:

I. Applicability.

a. Once executed by the NRCS and the state of Kentucky SHPO, this State-based Prototype Agreement sets forth the review process for all NRCS undertakings subject to Section 106 in the Commonwealth of Kentucky.

b. Execution of this State-based Prototype Agreement supersedes any existing State Level Agreement with Kentucky SHPO and/or consultation protocols executed under the previous NRCS nationwide Programmatic Agreement, but does not replace any existing project-specific Section 106 agreements (Memoranda of Agreement or Programmatic Agreements).

c. This State-based Prototype Agreement applies only when there is a Federal Preservation Officer (FPO) in the NRCS National Headquarters (NHQ) who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716).

d. This State-based Prototype Agreement applies only where there is staffing or access to staffing (through contracted services or agreements with other agencies or Indian tribes) who meet the Secretary of Interior's Professional Qualification Standards in the Kentucky NRCS State Office

II. Roles and Professional Qualifications.

a. The NRCS Kentucky State Conservationist is responsible for oversight of its performance under this State-based Prototype Agreement.

b. NRCS Kentucky shall ensure all NRCS staff or individuals carrying out Section 106 historic preservation compliance work on its behalf, including the NRCS Kentucky State senior historic preservation professional staff member (the Cultural Resources Specialist (CRS), or Archaeologist, or Historian), are appropriately qualified to coordinate the reviews of resources and historic properties as applicable to the resources and historic properties being addressed

(site, building, structure, landscape, resources of significance to Indian tribes, NHOs, and other concerned communities). Thus, these staff and consultants must meet the Secretary of the Interior's Professional Qualification Standards as presented in the latest version of the Kentucky Heritage Council's *Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports* [Appendix D] and have the knowledge to assess the resources within an undertaking's area of potential effects (APE).

c. The Kentucky State Conservationist is responsible for consultation with the Kentucky SHPO, and government to government consultation with Indian tribal leaders and/or their THPO to develop consultation protocols. These responsibilities may not be delegated to any other staff, nor carried out on behalf of NRCS by another federal agency.

d. The NRCS Kentucky CRS/Archaeologist/Historian or professional consultants shall provide technical historic property and resource information to the State Conservationist for use in Section 106 findings and determinations, after appropriate consultations with the SHPO, Indian tribes, NHOs, and discussions with the landowner. The CRS/Archaeologist/Historian shall monitor and oversee the work and reporting of all NRCS field office personnel and professional service consultants. The CRS/Archaeologist/Historian shall also assist the State Conservationist in determining whether an undertaking has the potential to affect historic properties, triggering Section 106 review, pursuant to 36 CFR Part 800.3(a).

e. NRCS field office personnel involved in implementing this State-based Prototype Agreement, after completion of NRCS' web, classroom, and field awareness training acquired through USDA's AgLearn training site, shall work with the CRS/Archaeologist/Historian, as feasible, in completing historic preservation compliance (Section 106) field records for the agricultural producer's (NRCS' client or voluntary applicant for assistance) files and for use in producing initial historic property identification records (as set forth and outlined in NRCS' operational guidance, the National Cultural Resources Procedures Handbook, Title 190, Part 601).

f. The CRS/Archaeologist/Historian in Kentucky shall oversee development of the scopes of work for investigation of the APEs for identified undertakings (see 36 CFR Part 800.4). The NRCS may use professional service contractors or consultants or partners to assist with cultural resources compliance studies. NRCS shall ensure these contractors meet the Secretary of Interior's Professional Qualifications Standards as presented in the latest version of the Kentucky Heritage Council's *Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports* [Appendix D].

g. NRCS remains responsible for all consultation with the SHPO, Indian tribes and THPOs and NHOs, and all determinations of NRHP eligibility and effect. NRCS may not delegate consultation for findings and determinations to professional services consultants or producers/applicants for conservation assistance.

h. Kentucky SHPO, if provided sufficient data on a proposed undertaking and APE for the proposed undertaking by NRCS Kentucky State Office shall consult and provide a response to

NRCS within 30 calendar days. The definition of sufficient data is provided in 36 CFR Part 800.11.

i. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.

III. Training.

a. NRCS shall require personnel conducting cultural resources identification and evaluation work to complete, at a minimum, the NRCS Web-based (in USDA AgLearn) and field Cultural Resources Training in modules and the ACHP's Section 106 Essentials course.

b. NRCS shall require CRS/Archaeologist/Historian and/or other NRCS personnel overseeing cultural resource work to take the NRCS Cultural Resources Training Modules (awareness training) and the ACHP's Section 106 Essentials course, or a course with similar content, if approved by the NRCS FPO. Training must be completed within the first calendar year after execution of this State-based Prototype Agreement. NRCS personnel shall review and update training completion with their supervisors and include their training in their Individual Development Plans.

c. NRCS may invite the SHPO/Indian tribe/NHO or staff to participate in presentations at agency classroom or field trainings.

d. NRCS shall encourage all personnel conducting or overseeing cultural resources work to take additional appropriate specialized training as provided by the SHPO, Indian tribes, NHOs, the ACHP, National Park Service, General Services Agency or other agencies, as feasible.

e. At all times CRS and SHPO staff are encouraged to consult and coordinate on an informal basis in order to facilitate the implementation of the terms of this agreement.

f. The Kentucky NRCS and Kentucky SHPO preservation professionals are encouraged to participate in joint projects and undertakings relating to historic preservation which promote the conservation of natural and cultural features, contribute to public education, or which benefit the preservation, protection, or interpretation of cultural and historic resources within a community or region of the Commonwealth.

IV. Lead Federal agency.

a. For any undertaking for which the NRCS is the lead federal agency for Section 106 purposes per 36 CFR Part 800.2(a)(2), NRCS staff shall follow the terms of this State-based Prototype Agreement. NRCS shall notify the SHPO and Indian tribes of its involvement in the undertaking and the involvement of the other federal agencies.

b. For any undertaking for which the NRCS is not the lead federal agency for Section 106 purposes, including those undertakings for which the NRCS provides technical assistance to other USDA or other federal agencies, the terms of this State-based Prototype Agreement shall not apply to that undertaking. If the lead federal agency agrees, NRCS may follow the approved alternative procedures in place for that agency.

V. Review Procedures.

a. In consultation with the Kentucky SHPO, NRCS shall identify those undertakings with little to no potential to affect historic properties and list those undertakings in Appendix [A]. Upon the determination by the [CRS/Archaeologist/Historian] that a proposed undertaking is included in Appendix [A], the NRCS is not required to consult further with the SHPO for that undertaking.

b. The list of undertakings provided in the Appendix [A] may be modified through consultation and written agreement between the NRCS State Conservationist and the SHPO without requiring an amendment to this State-based Prototype Agreement. The NRCS State office will maintain the master list and will provide an updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly.

c. Undertakings not identified in Appendix [A] shall require further review as outlined in Stipulation V.c. The NRCS shall consult with the SHPO to define the undertaking's APE, identify and evaluate historic properties that may be affected by the undertaking, assess potential effects, and identify strategies for resolving adverse effects prior to approving the financial assistance for the undertaking.

1. NRCS may provide its proposed APE, identification of historic properties and/or scope of identification efforts, and assessment of effects in a single transmittal to the SHPO and Indian tribes, provided this documentation meets the substantive standards in 36 CFR Part 800.4-5 and 800.11.

2. The NRCS shall attempt to avoid adverse effects to historic properties whenever possible; where historic properties are located in the APE, NRCS shall describe how it proposes to modify, buffer, or move the undertaking to avoid adverse effects to historic properties.

3. Where the NRCS proposes a finding of "no historic properties affected" or "no adverse effect" to historic properties, the SHPO who shall have 30 calendar days from receipt of this documented description and information to review it and provide comments. The NRCS shall take into account all timely comments.

i. If the SHPO, Indian tribe, or another consulting party, disagrees with NRCS' findings and/or determination, it shall notify the NRCS within the 30 calendar day time period. The NRCS shall consult with the SHPO or other consulting party to attempt to resolve the disagreement. If

the disagreement cannot be resolved through this consultation, NRCS shall follow the dispute resolution process in Stipulation VIII below.

ii. If the SHPO does not respond to the NRCS within the 30 calendar day period and/or the NRCS receives no objections from other consulting parties, or if the SHPO concurs with the NRCS' determination and proposed actions to avoid adverse effects, the NRCS shall document the concurrence/lack of response within the review time noted above, and may move forward with the undertaking.

4. Where a proposed undertaking may adversely affect historic properties, NRCS shall describe proposed measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR Part 800.6, including consultation with other consulting parties and notification to the ACHP, to develop a Memorandum of Agreement to resolve the adverse effects. Should the proposed undertaking have the potential to adversely affect a known National Historic Landmark, the NRCS shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to the NHL in accordance with Section 110(f) of the NHPA and 36 CFR Part 800.6 and 800.10, including consultation with the ACHP and the Southeast Region National Park Service, Regional National Historic Landmark Program Coordinator, to develop a Memorandum of Agreement.

VI. Emergency and Disaster Management Procedures (Response to Emergencies)

a. NRCS shall notify the SHPO immediately or within 48 hours of the emergency determination, following the NRCS' Emergency Watershed Program (EWP) final rule (see Section 216, P.L. 81-516 Final Rule, 7 CFR Part 624 (April 2005).

b. The NRCS State office shall prepare procedures for exigency (following the rules for NRCS' (EWP) regarding immediate threat to life and property requiring, response within 5 days) in consultation with the SHPO [Appendix B].

c. If the NRCS State office has not developed specific procedures for responding to exigencies, the NRCS shall follow the recently approved guidelines for Unified Federal Review issued by the Department of Homeland Security, Federal Emergency Management Service (DHS, FEMA), the Council on Environmental Quality (CEQ), and the ACHP in July 2014, or the procedures in 36 CFR Part 800.12(b).

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

a. Where construction has not yet begun and a cultural resource is discovered after Section106 review is complete, the NRCS shall consult to seek avoidance or minimization strategies in

consultation with the SHPO and Indian tribes, and/or to resolve adverse effects in accordance with 36 CFR Part 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 to historic properties are found after implementation, installation, or construction has begun. When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS State Conservationist's Office, CRS, supervisory NRCS personnel for the area, and the landowner/applicant.

1. NRCS CRS shall inspect the discovery within 24 hours, if weather permits, and in consultation with the local NRCS official (field office supervisor or District or Area Conservationist), the SHPO, the NRCS State engineering or program supervisor, as appropriate), the landowner/producer (whomever NRCS is assisting), the CRS shall establish a protective buffer zone surrounding the discovery. This action may require inspection by tribal cultural resources experts in addition to the CRS.

2. All NRCS contact with media shall occur only under the direction of the NRCS Public Affairs Officer, as appropriate, and the State Conservationist.

3. Security shall be established to protect the resources/historic properties, workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and NRCS policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the State Conservationist determines it is appropriate and safe for the resources and workers.

4. NRCS CRS shall notify the SHPO and the ACHP no later than 48 hours after the discovery and describe NRCS' assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Indian tribes, the SHPO, and technical experts (such as historic landscape architects) not employed by NRCS.

5. The SHPO, Indian tribes and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

6. NRCS shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects.

7. NRCS shall provide a report to the SHPO, Indian tribes and the ACHP of the actions when they are completed.

c. When human remains are discovered, the NRCS shall follow all applicable federal, tribal, and state burial laws and ordinances, including the Native American Graves Protection and Repatriation Act, and implementing regulations and related human rights and health statutes, where appropriate. NRCS shall also refer to the ACHP's Policy Statement regarding Treatment

of Burial Sites, Human Remains and Funerary Objects and the ACHP's Section 106 Archaeology Guidance. NRCS shall also follow USDA and NRCS policy on treatment of human remains and consultation.

VIII. Dispute resolution.

a. Should any consulting or signatory party to this State-based Prototype Agreement object to any actions proposed or the manner in which the terms of the agreement are implemented, the NRCS State Conservationist and CRS shall consult with such party to resolve the objection. If the State Conservationist determines that such objection cannot be resolved, he or she will:

1. Forward all documentation relevant to the dispute, including the State Conservationist's proposed resolution, to the NRCS FPO and Senior Policy Official (SPO Deputy Chief for Science and Technology) and the ACHP. The ACHP shall provide the FPO, SPO, and State Conservationist with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRCS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and any signatory or consulting parties, and provide them with a copy of this written response. NRCS will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, NRCS may make a final decision on the dispute and proceed. Prior to reaching such a final decision, NRCS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties, and provide them and the ACHP with a copy of the written response.

b. The NRCS Kentucky Office responsibility to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remains unchanged.

c. Any consulting party to State-based Prototype Agreement may request the ACHP provide its advisory opinion regarding the substance of any finding, determination, or decision regarding compliance with its terms.

d. At any time during the implementation of the State-based Prototype Agreement, a member of the public may submit an objection pertaining to this agreement to the NRCS State Conservationist, in writing. Upon receiving such an objection, the State Conservationist shall notify the NRCS SPO and FPO, Indian tribes and the SHPO, take the objection into account, and consult with other consulting parties as appropriate to resolve the objection. The NRCS State Conservationist shall notify the SPO, FPO, Indian tribes and SHPO of the outcome of this process.

IX. Public Involvement

The NRCS State Conservationist will ensure the public is involved in the development of this State-based Prototype Agreement and participates in Section 106 review as set forth above in Section V (reference to other parties).

X. Annual reporting and monitoring.

a. Every year following the execution of this agreement, commencing December 1, 2016, until it expires or is terminated, the NRCS Kentucky State Conservationist shall provide all consulting parties (including those parties who participate in the consultation but do not sign the agreement) and the FPO a summary report detailing work undertaken pursuant to its terms, including a list of undertakings falling under Appendix [A] as well as undertakings that required further review; a summary of the nature and content of meetings held with SHPO; and an assessment of the overall effectiveness of the State-based Prototype Agreement. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NRCS' efforts to carry out the terms of this agreement.

1. The NRCS FPO shall use the state reports to provide, through the NRCS SPO, an annual report to the ACHP.

2. The State Conservationist shall use the state report to assess the need for annual meetings with the SHPO and Indian tribes each fiscal year.

b. The State Conservationist will participate in an annual review with the NRCS Regional Conservationist regarding the effectiveness of the prototype agreement and submit a written (email) report following this review to the SPO (Deputy Chief for Science and Technology).

c. The NRCS State Conservationist, Indian tribes or SHPO may request that the ACHP participate in any annual meeting or agreement review.

XI. Compliance with applicable State law and Tribal law (when on Tribal lands).

NRCS shall comply with relevant and applicable state law, including permit requirements on state land, and with relevant and applicable tribal law, when on tribal lands.

XII. Duration of Prototype Agreement.

This State-based Prototype Agreement will be in effect for 10 years from the date of execution unless amended or terminated pursuant to Stipulation XIII below.

XIII. Amendment and termination.

a. This State-based Prototype Agreement may be amended if agreed to in writing by all signatories. The amendment will be effective on the date a copy, signed by all of the signatories, is filed with the NRCS FPO, SPO, and the ACHP.

b. If any signatory to this State-based Prototype Agreement, or the ACHP, determines that its provisions will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII.A. If within 30 calendar days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories.

c. If this State-based Prototype Agreement is terminated, or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, NRCS shall comply with 36 CFR Part 800 for all individual undertakings in Kentucky.

d. NRCS will consider requests from other USDA agencies to become a signatory to the State-based Prototype Agreement following formal written requests and appropriate discussion with and approval by the NRCS FPO and SPO, and joint USDA Agency -NRCS State Office consultation with the ACHP, NCSHPO, and Indian tribes/THPOs, and other consulting parties, as appropriate. Such inclusion of the USDA agency may require amendment to this State-based Prototype Agreement.

Execution of this State-based Prototype Agreement by the NRCS and SHPO and implementation of its terms evidence that NRCS has taken into account the effects of its undertakings in Kentucky State on historic properties and afforded the ACHP a reasonable opportunity to comment.

Signatory Parties

By: _____ Date: 6-15-16

Karen Woodrich, State Conservationist, Kentucky Natural Resources Conservation Service

By: _____ Date: 6-8-16

Craig A. Potts, Kentucky State Historic Preservation Officer

Approved as to form and legality:

By: _____ Date: June 2, 2016

Legal Counsel, Kentucky Tourism, Arts & Heritage Cabinet

APPENDIX A

LIST OF UNDERTAKINGS REQUIRING NO FURTHER SECTION 106 REVIEW IN KENTUCKY BY NRCS

Pursuant to Stipulation V.a. above, in consultation with the Kentucky SHPO, the NRCS through the qualified CRS as described in Stipulation II.b., has classified the following undertakings as having little or no potential to affect historic properties. Kentucky NRCS is not required to consult further with the SHPO under Section 106 for programmatic undertakings listed in this section.

Exempt conservation practices

(Includes Practices considered NG or Non ground disturbing on cultural resource matrix list)

# 472	Access Control (472)
# 372	Building Envelope Improvement (672)
# 372	Combustion System Improvement (372)
# 327	Conservation Cover (327)
# 328	Conservation Crop Rotation (328)
# 332	Contour Buffer Strips (332)
# 330	Contour Farming (330)
# 340	Cover Crop (340)
# 342	Critical Area Planting (342)
# 374	Farmland Energy Improvement (374)
# 382	Fence (382)
# 386	Field Border (386)
# 393	Filter Strip (393)
# 399	Fishpond Management (399)
# 511	Forage Harvest Management (511)
# 666	Forest Stand Improvement (666)
# 422	Hedgerow Planting (422)
# 595	Integrated Pest Management (595)
# 449	Irrigation Water Management (449)

# 670	Lighting System Improvement (670)
# 484	Mulching (484)
# 590	Nutrient Management (590)
# 521C	Pond Sealing or Lining Bentonite Sealant (521C)
# 521D	Pond Sealing or Lining Compact Clay treatment (521D)
# 521A	Pond Sealing or Lining Flexible Membrane (521A)
# 521B	Pond Sealing or Lining Soil Dispersal (521B)
# 338	Prescribed Burning (338)
# 528	Prescribed Grazing (528)
# 344	Residue Management Seasonal (344)
# 345	Residue Management Mulch Till (345)
# 346	Residue Management Ridge Till (346)
# 329	Residue Management No-Till and Strip Till (329)
# 558	Roof Runoff Structure (558)
# 367	Roof and Covers (367)
# 557	Row Arrangement (557)
# 646	Shallow Water Management for Wildlife (646)
# 585	Strip cropping (585)
# 660	Tree and Shrub Pruning (660)
# 645	Upland Wildlife Habitat Management (645)
# 633	Waste Recycling (633)
# 634	Waste Transfer (634)
# 351	Well Decommissioning (351)
# 644	Wetland Wildlife Habitat Management (644)
# 380	Windbreak/Shelter Break Establishment (380)
# 650	Windbreak/Shelter Break Renovation (650)
# 384	Woody Residue Treatment (384)

Other activities requiring no further Section 106 review

Conservation Technical Assistance (CTA) – Advice or technical assistance, including the development, review, and/or approval of a conservation plan or technical designs when NRCS provides no financial assistance for their implementation or otherwise exercises no control over implementation. NRCS will advise the producer when proposed activities of this type appear to have the potential to affect historic properties and provide the name(s) of possible contacts (e.g., SHPO, OSA, and KAS) who may provide guidance on identifying and treating historic properties. Additionally, the NRCS planner will advise the producer that state and local laws may be applicable.

Technical Determinations – Technical determinations based upon empirical or factual findings and determinations of compliance or non-compliance including but not limited to, wetland determinations, determinations of highly erodible land, certification of the existence of a wetland or highly erodible land, determination of prime and unique farmland, and the like.

Soil Survey – The NRCS conducts soil survey activities that involve no ground disturbance or are limited to small-scale field investigations, such as small shovel holes, auger holes, probe holes, and core holes; the potential for these activities to affect historic properties is minimal. Larger scale field investigations, such as soil investigations, do have a potential to affect historic properties and require review as an undertaking. Additionally, the discovery provisions outlined in Section VII above apply to any cultural resources or historic properties identified during soil survey of any scale.

Analysis of data from technical determination of resources inventories, including but not limited to soil survey, plant materials for conservation recommendations, and river basin studies.

Development and revision of technical standards and specifications.

Resource inventory, monitoring, field trials, and other information gathering activities that do not involve subsurface disturbance.

Conservation easement purchases, the management plans for which do not call for structural modification or removal, or ground disturbing activities.

United States Department of Agriculture

NRCS

Natural Resources Conservation Service
771 Corporate Drive, Suite 210
Lexington, KY 40503-5479

CONSERVATION PRACTICE MATRIX FOR CULTURAL RESOURCE REVIEWS Revised July 2013			
See Key P.4	**Practice**	**Practice Code**	**Potential impact on archaeological site(s)**
	Access Control (Ac.) (472)	472	NG
	Access Road (Ft.)(560)	560	G
	Agrichemical Handling Facility (No.) (596)	596	G
	Animal Mortality Facility (No.) (316)	316	G
	Animal Trails and Walkways (575)	575	PG
	Aquaculture Pond (Ac.) (397)	397	G
1	Brush Management (Ac.) (314)	314	PG
	Building Envelope Improvement (No.) (672)	672	NG
	Channel Bed Stabilization (Ft.) (584)	584	PG
2	Clearing and Snagging (Ft.) (326)	326	PG
3	Closure of Waste Impoundment (No.) (360)	360	PG
	Combustion System Improvement (No.) (372)	372	NG
4	Composting Facility (No.) (317)	317	PG
	Conservation Cover (Ac.) (327)	327	NG
	Conservation Crop Rotation (Ac.) (328)	328	NG
	Constructed Wetland (656)	656	G
	Contour Buffer Strips (332)	332	NG
	Contour Farming (Ac.) (330)	330	NG
	Cover Crop (340)	340	NG
	Critical Area Planting (Ac.) (342)	342	NG
6	Deep Tillage (Ac.) (324)	324	PG
	Dike (Ft.) (356)	356	G
	Diversion (Ft.) (362)	362	G
7	Dry Hydrant (432)	432	PG
8	Early Successional Habitat Development/Management (Ac.) (647)	647	PG
	Farmstead Energy Improvement (No.) (374)	374	NG
	Fence (Ft.) (382)	382	NG
	Field Border (Ft.) (386)	386	NG
	Filter Strip (area) (393)	393	NG
8	Firebreak (394)	394	PG
	Fishpond Management (No.) (399)	399	NG
11	Forage and Biomass Planting (Ac.) (512)	512	PG
	Forage Harvest Management (511)	511	NG
	Forest Stand Improvement (Ac.) (666)	666	NG

	Forest Trails and Landings (Ac.) (655)	655	G
	Grade Stabilization Structure (No.) (410)	410	G
	Grassed Waterway (Ac.) (412)	412	G
9	Heavy Use Area Protection (No.) (561)	561	G
	Hedgerow Planting (Ft.) (422)	422	NG
10	Herbaceous Weed Control (Ac.) (315)	315	PG
	Integrated Pest Management (IPM) (Ac.) (595)	595	NG
	Irrigation Land Leveling (Ac.) (464)	464	G
	Irrigation Pipeline (Ft.) (430)	430	G
	Irrigation Reservoir (Ac. Ft.) (436)	436	G
	Irrigation System, Micro-irrigation (Ac.) (441)	441	G
	Irrigation System, Surface and Subsurface (Ac.) (443)	443	PG
	Irrigation Water Management (Acre) (449)	449	NG
4	Karst Sinkhole Treatement (No.) (527)	527	PG
	Land Clearing (Ac.) (460)	460	G
	Land Smoothing (Ac.) (466)	466	G
	Lighting System Improvement (No.) (670)	670	NG
	Lined Waterway or Outlet (Ft.) (468)	468	G
	Livestock Pipeline (Ft.) (516)	516	PG
	Mulching (Ac.) (484)	484	NG
	Nutrient Management (Ac.) (590)	590	NG
5	Obstruction Removal (Ac.) (500)	500	PG
	Open Channel (Ft.) (582)	582	G
	Pond (No.) (378)	378	G
	Pond Sealing or Lining (No.) Bentonite Sealant (No.) (521C)	521 C	NG
	Pond Sealing or Lining (No.) Compacted Clay Treatment (No.) (521D)	521 D	NG
	Pond Sealing or Lining, Flexible Membrane (No.) (521A)	521 A	NG
	Pond Sealing or Lining (No.) Soil Dispersant (No.) (521B)	521 B	NG
	Precision Land Forming (Ac.) (462)	462	G
	Prescribed Burning (Ac.) (338)	338	NG
	Prescribed Grazing (Ac.) (528)	528	NG
	Pumping Plant (No.) (533)	533	G
	Recreation Area Improvement (Ac.) (562)	562	G
	Recreation Land Grading and Shaping (Ac.) (566)	566	G
	Residue Management: Seasonal (Ac.) (344)	344	NG
	Residue Management: Mulch Till (Ac.) (345)	345	NG
	Residue Management: No-Till and Strip Till (Ac.) (329)	329	NG
	Residue Management: Ridge Till (Acre) (346)	346	NG
	Restoration and Management of Declining Habitats (643)	643	PG
12	Riparian Forest Buffer (Ac.) (391)	391	PG
10	Riparian Herbaceous Cover (Ac.) (390)	390	PG
	Road/Trail/Landing Closure and Treatment (Ft.) (654)	654	G
	Roof Runoff Structure (No.) (558)	558	NG
	Roofs and Covers (No.) (367)	367	NG
	Row Arrangement (Ac.) (557)	557	NG
4	Seasonal High Tunnel System for Crops (Sq-ft) (798)	798	PG

	Sediment Basin (No.) (350)	350	G
	Shallow Water Management for Wildlife (Ac.) (646)	646	NG
11	Silvopasture Establishment (Ac.) (381)	381	PG
13	Spoil Spreading (Ac.) (572)	572	PG
10	Sprinkler System (No. and Ac.) (442)	442	PG
	Spring Development (No.) (574)	574	G
	Stream Crossing (No.) (578)	578	PG
14	Stream Habitat Improvement and Management (Ac.) (395)	395	PG
	Streambank and Shoreline Protection (Ft.) (580)	580	G
	Stripcropping (Ac.) (585)	585	NG
	Structure for Water Control (No.) (587)	587	PG
	Subsurface Drain (Ft.) (606)	606	G
	Surface Drainage Field Ditch (Ft.) (607)	607	G
	Surface Drainage Main or Lateral (Ft.) (608)	608	G
	Terrace (Ft.) (600)	600	G
	Tree/Shrub Pruning (Ac.) (660)	660	NG
	Tree/Shrub Establishment (Ac.) (612)	612	PG
	Tree/Shrub Site Prep (Ac.) (490)	490	PG
	Underground Outlet (Ft.) (620)	620	G
	Upland Wildlife Habitat Management (Ac.) (645)	645	NG
11	Vegetated Treatment Area (Ac.) (635)	635	PG
	Vertical Drain (630)	630	PG
	Waste Facility Closure (No.) (360)	360	PG
	Waste Recycling (Ac.) (633)	633	NG
	Waste Storage Facility (No.) (313)**	313	G
	Waste Transfer (No.) (634)	634	NG
	Waste Treatment Lagoon (359)	359	G
	Water and Sediment Control Basin (Ft.) (638)	638	G
	Water Well (No.) (642)	642	PG
	Watering Facility (No.) (614)	614	PG
	Well Decommissioning (351)	351	NG
	Wetland Creation (658)	658	G
	Wetland Restoration (Ac.) (657)	657	G
	Wetland Wildlife Habitat Management (Ac.) (644)	644	NG
	Windbreak/Shelterbelt Establishment (Ac.) (380)	380	NG
	Windbreak/Shelterbelt Renovation (650)	650	NG
	Woody Residue Treatment (Ac.) (384)	384	NG

NG - non-ground disturbing
PG - potentially ground disturbing
G - ground disturbing

In all cases of a cultural resource review for G or PG practices, a CPA-52A must be completed and approved, either by the Cultural Resource Specialist or the District Conservationist, as applicable in the above matrix .

1	District Conservationist can approve all treatment methods other than by use of heavy equipment.
2	District Conservationist can approve for snagging only.
3	District Conservationist can approve if fill material is obtained from existing berm only.
4	District Conservationist can approve if construction does not disturb the soil more than 6" deep.
5	District Conservationist can approve if no earthwork is involved.
6	District Conservationist can approve if deep tillage was previously applied on field (documentation must exist).
7	District Conservationist can approve if no earthwork is involved other than concrete box around riser stand.
8	District Conservationist can approve if being installed on previously cropped land or establishment/management activities do not disturb soil more than 6" deep.
9	District Conservationist can approve if construction does not disturb the soil more than 6" deep, or APE is in a heavily disturbed feedlot area (must document on the CPA-52a)
10	District Conservationist can approve if installation does not disturb the soil more than 6" deep.
11	District Conservationist can approve if land has been previously cropped.
12	District Conservationist can approve if zone was previously cropped and tree planted zone is no wider than 120 feet at the widest point (measured from the stream bank) and the remaining zone is planted to grass.
13	District Conservationist can approve if the spoil spreading operation does not apply a layer more than a 12" deep at the deepest point.
14	District Conservationist can approve if manipulation is within the streambanks (not including the banks themselves) and does not include stump removal on streambanks.
15	District Conservationist can approve if diameter is no more than 36' across and no more than five drains are installed in the APE.

APPENDIX B

PROCEDURES FOR EMERGENCY RESPONSE

(Appended to Stipulation VI.)

Following these procedures for emergency response, the NRCS shall take into account the effects of their undertakings on significant cultural properties, including historic properties, while insuring that the main agency priority is the protection of life and property.

a. If the President declares an area to be a major disaster area, the NRCS will provide assistance which will be coordinated with the Federal Emergency Management Agency (FEMA). FEMA is the lead federal agency for Presidentially-declared natural disasters. As outlined in Stipulation IV, the terms of this State-based Prototype Agreement shall not apply to that undertaking. If the FEMA or its designee agrees, NRCS may follow the approved alternative procedures in place for that agency.
b. When the Kentucky NRCS State Conservationist determines that a watershed impairment exists, but the President does not declare an area to be a major disaster area, FEMA does not coordinate assistance and NRCS will assume the role of lead federal agency for all Emergency Watershed Program (EWP) final rule (see Section 216, P.L. 81-516 Final Rule, 7 CFR Part 624 (April 2005) and 36 CFR 800.12, the NRCS shall consult with the Kentucky SHPO as outlined below.
    1. NRCS shall notify the Kentucky SHPO and Indian tribes immediately or within 48 hours of the emergency determination.
    2. Kentucky SHPO and Indian tribes shall respond to this notification within seven days providing comments, as well as providing the NRCS with a list of historic properties and a map(s) showing the showing the location of these properties within the designated disaster area. If circumstances do not permit seven days for comment, the NRCS shall notify the Kentucky SHPO and Indian tribes to invite comments within the time available.
    3. For an emergency where there is a future, but not immediate, threat to life and property, the NRCS shall follow the review procedures outlined in Stipulation V. of this agreement with the exception that the Kentucky SHPO and Indian tribes shall respond within 15 days, or within the time available, to NRCS's findings and/or determinations.
    4. For an exigency where there is an immediate threat to life and property, the NRCS shall follow the procedures outlined in Stipulation V. as circumstances allow. The Kentucky SHPO and Indian tribes shall respond to the NRCS's findings and/or determinations within seven days or within the available time period as determined by the State Conservationist. Under extraordinary circumstances and pursuant to 36 CFR 800.12 (d) and 36 CFR

78.3, the State Conservationist retains the right to waive the provisions of Section 106 and 110 of NHPA and proceed with providing emergency assistance to eliminate an imminent threat to human life or property without Kentucky concurrence. If the State Conservationist makes use of their waiver authority, the NRCS shall notify the Kentucky SHPO, Indian tribes, and Secretary of Interior in writing pursuant to 36 CFR 78.4.

APPENDIX C

GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT

USDA	United States Department of Agriculture
NRCS	Natural Resources Conservation Service
ACHP	Advisory Council on Historic Preservation
NHL(s)	National Historic Landmark(s)
NRHP	National Register of Historic Places
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
NCSHPO	National Conference of State Historic Preservation Officers
NHO	Native Hawaiian Organization
NEPA	National Environmental Policy Act
CEQ	Council on Environmental Quality
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
NHPA	National Historic Preservation Act
FPO	Federal Preservation Officer (Federal Preservation Officer)
SPO	Senior Policy Official (NRCS)
NHQ	National Headquarters (NHQ)
APE	Area of Potential Effect—from ACHP regulations 36 CFR Part 800
CRS	Cultural Resources Specialist (NRCS—meets Secretary of Interior's Professional Qualification Standards, generally an archaeologist or historian)
EWP	Emergency Watershed Program (NRCS program)

APPENDIX D

Kentucky Heritage Council's Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports

Specifications for Conducting Fieldwork And Preparing Cultural Resource Assessment Reports

Issued By

Kentucky State Historic Preservation Office
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I. INTRODUCTION

All fieldwork and cultural resource assessment reports subject to review by the Kentucky State Historic Preservation Officer shall conform to these "Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports" (hereafter referred to as the SHPO's Specifications). These Specifications were drafted to cover projects subject to compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. The Specifications are intended to supplement the Secretary of the Interior's "Standards and Guidelines for Archaeology and Historic Preservation" (*Federal Register* 48, No. 190/Thursday, September 29,1983) (hereafter referred to as the Secretary's Standards). Although not regulatory in nature, the Secretary's Standards are cited as a minimal level of performance in the Advisory Council on Historic Preservation's regulations 36 CFR Part 800, "Protection of Historic Properties". A major change in this edition of the SHPO's Specifications is that it includes, for the first time, procedures for the identification and evaluation of historic structures. In addition to providing guidance on Section 106 projects, the SHPO's Specifications are also useful for Kentucky Heritage Council (KHC) subgrantees who undertake cultural resource studies as part of their Federal or State grants.

The Kentucky SHPO's Specifications are designed to assist Historians, Architectural Historians and Archaeologists regarding the selection and use of appropriate field methodologies and for gathering technical inventory information for historic structures and archaeological properties that might be located within a Federal undertaking's area of potential effects (36 CFR Part 800.4[b][1]). The Specifications also provide instructions for completing cultural resource assessment reports including site descriptions, evaluations of National Register eligibility (36 CFR Part 800.4[c]), analysis of project impacts (36 CFR Part 800.5), and recommendations for avoidance or other forms of mitigation of adverse effects.

Principal Investigators who fail to follow these Specifications for projects subject to review by the Kentucky SHPO risk having the review of their reports delayed or the reports rejected. In some cases, projects with deficient reports may be cleared on the condition of the report being corrected within a specified time. Principal Investigators who persist in submitting reports which fail to meet the Specifications or who refuse to make reasonable changes recommended by the SHPO may be removed from the SHPO's list of qualified consultants.

A. Definitions

1. **Adverse Effect:** Means an alteration that diminishes those characteristics of a historic property which qualify it for inclusion in the National Register. The specific process for determining adverse effect is found in 36 CFR Part 800.5[a-b]. See also **No Adverse Effect**.

2. **Advisory Council, Council, or ACHP**: Means the Advisory Council on Historic Preservation which was created by the National Historic Preservation Act of 1966 as the Federal agency with the lead responsibility for developing and implementing regulations to carry out the Section 106 process.

3. **Agency**: Refers to the lead Federal agency that is responsible for an undertaking. If, for example, the undertaking is the issuance of a permit or approval, an agency such as the Corps of Engineers or Federal Deposit Insurance Corporation might be the lead agency. If the undertaking is a direct Federal action, such as construction of erosional control devices, then an agency such as the U.S. Forest Service or the Natural Resources Conservation Service might be the lead agency. In some cases such as Community Development Block Grants awarded by HUD, a legal delegation of the Federal agency's responsibility has been given to a unit of local government; for the purpose of carrying out a Section 106 review, a local mayor or county judge might act as the responsible Federal Agency Official.

4. **Area of Potential Effects**: The area of potential effects (APE) is defined as the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist (36 CFR Part 800.16[d]). The APE may be different for archaeological sites and historic structures.

5. **Archaeological Site**: In the Commonwealth of Kentucky, an archaeological site is defined by the SHPO as any location where human behavior has resulted in the deposition of artifacts, or other evidence of purposive behavior at least 50 years of age. The terms "isolated find" or "spot find" are restricted to a single artifact recovered under conditions of good visibility or when artifacts have been redeposited from another context. Most historic structures also contain archaeological deposits. In Kentucky, the accepted practice is to assign archaeological site numbers to these remains, in recognition that their National Register eligibility is evaluated independently of the standing structure. It is not uncommon for a historic structure to be evaluated as ineligible for inclusion in the National Register while the associated archaeological deposits are evaluated as eligible, and vice versa.

6. **Consulting Parties**: According to the Advisory Council on Historic Preservation's regulations, an Agency Official "shall involve the consulting parties ... in findings and determinations made during the section 106 process" (36 CFR Part 800.2[c] [1-5]. Depending on the undertaking, consulting parties can include the State Historic Preservation Officer (SHPO); Tribal Historic Preservation Officer (THPO); Indian Tribes and Native Hawaiian organizations; representatives of local governments; and applicants for Federal assistance, permits, licenses and other approvals (36 CFR Part 800.2[c] [1-5]). Consulting parties may also include certain individuals and organizations with a demonstrated interest in the undertaking (i.e., legal, economic, professional, or advocacy).

7. **Data Recovery**: When an agency's proposed action will cause an adverse effect to a historic property listed in or eligible for listing in the National Register, the agency initiates consultation with the SHPO (36 CFR Part 800.6[a]). The purpose of the consultation is to seek agreement, usually through a Memorandum of Agreement (MOA), on the ways to avoid, minimize, or mitigate the adverse effect to a listed or eligible historic property. One way of mitigating adverse effect is

though archaeological data recovery. However, before data recovery is carried out, a research design and data recovery plan must be developed and approved by the agency and the SHPO. For further guidance in developing a data recovery plan, see *Treatment of Archaeological Properties: A Handbook* (Advisory Council on Historic Preservation) and *Consulting About Archaeology Under Section 106* (Advisory Council on Historic Preservation 1990).

8. **Evaluation**: Evaluation is the process of determining whether identified properties meet defined criteria of eligibility for inclusion in an inventory of historic properties. The Kentucky Heritage Council maintains two historic inventories: the **Survey of Historic Sites in Kentucky** and an inventory of Kentucky properties on the **National Register of Historic Places**. The National Register inventory is basically a subset of the larger Survey of Historic Sites in Kentucky Inventory. See also **Identification** and **Registration**.

9. **Historic Context**: The significance of properties is evaluated for the National Register within a historic context. The historic context is a narrative which identifies and evaluates the significant patterns that properties represent. Within the historic context, the importance of individual properties is compared, allowing significant properties to be recognized and enabling good management decisions to be made.

10. **Historic Property**: For the purpose of these Specifications, a historic property is a tangible property (building, structure, archaeological site, or object) which is fifty years of age or older. This definition is different from that used in the Secretary's Standards, which defines "historic property" as a district, site, building, structure, or object listed in or eligible for listing in the National Register of Historic Places. In application, we have found the Secretary's definition confusing because it places in "limbo" categories of resources such as properties not yet evaluated, or those which are over fifty years of age but do not meet the threshold for listing in the National Register. Throughout this document we will use terms such as National Register "**listed**", "**eligible**", or "**ineligible**" historic properties in order to avoid this confusion.

11. **Identification:** Identification is undertaken for the purpose of locating historic properties and is composed of a number of activities which include, but are not limited to archival research, informant interviews, field survey and analysis. See also **Evaluation** and **Registration**.

12. **Intensive Survey**: Intensive survey is a "systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance within specific historic contexts" (*Federal Register* 48:44739). The goals of an intensive survey are twofold: identification of all cultural resources within the area of potential effects and evaluation of those resources against the criteria for inclusion in the National Register (36 CFR Part 60.4). Sometimes it is not possible to determine site

significance during an intensive survey and additional investigations must be carried out. Intensive surveys are the most common type of surveys for the Section 106 review process and should be the default mode unless otherwise agreed to in advance by the agency and SHPO. Throughout this document, intensive surveys are referred to as "Phase I, Intensive Surveys". See also **Testing** and **Mitigation.**

13. **Isolated Find**: An "isolated find" (also called a "spot find") is defined as a single artifact recovered under conditions of good visibility or when artifacts have been redeposited from another location.

14. **Kentucky Heritage Council, or KHC**: A State agency under the Education, Arts and Humanities Cabinet responsible for carrying out the Commonwealth's historic preservation programs. As provided by State regulation, the Director of the KHC is designated by the Governor to be the **State Historic Preservation Officer.**

15. **Mitigation Plan:** When impacts to National Register eligible sites can not be avoided, a Mitigation Plan is developed by the Federal Agency Official in consultation with the SHPO, which specifies what actions will be taken to offset the damage to or loss of a historic property. For archaeological excavation projects, a Mitigation Plan is also called a **Data Recovery Plan**, which is sometimes called Phase III.

16. **National Register of Historic Places, or National Register**: A listing of our nation's most significant historic, architectural, and archaeological sites which is maintained by the National Park Service, under the direction of the Secretary of the Interior.

17. **No Adverse Effect:** If the Agency Official and SHPO agree, a potential finding of Adverse Effect can be amended to No Adverse Effect if the undertaking is modified or conditions are imposed, such as the subsequent review of plans for rehabilitation by the SHPO to ensure consistency with the Secretary's Standards or other applicable guidelines to avoid adverse effects. Due to recent changes in the Advisory Council's regulations, archaeological sites undergoing mitigation by data recovery no longer qualify for No Adverse Effect findings. Generally, No Adverse Effect findings are between the Agency Official and SHPO, and are not reviewed by the Advisory Council unless the Advisory Council is participating in the review or there is an objection from a consulting party.

18. **No Historic Properties:** If identification and evaluation efforts find that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them, the Agency Official in consultation with the SHPO may make a finding of No Historic Properties present.

19. **Reconnaissance Survey**: A reconnaissance survey is defined as "an examination of all or part of an area accomplished in sufficient detail to make generalizations

about the types and distributions of historic properties that may be present" (*Federal Register* 48:44739). Both predictive models and "landform" surveys are considered to be specific types of reconnaissance surveys. Reconnaissance surveys are most appropriately used to help develop a historic context. The results of a reconnaissance survey can provide an estimate of the number and types of historic properties expected in a particular area. Survey findings can also guide management decisions based on an area's sensitivity relative to historic preservation. Thus, they can be useful when there are multiple alternatives for a project location, or when it is necessary to access the archaeological potential of areas that will not be immediately affected or subject to Section 106 requirements. However, a reconnaissance survey generally can not be used to make final evaluations for Section 106 reviews, and project areas will usually require a more intensive survey to complete the identification process.

20. **Registration:** Registration is the formal recognition of properties evaluated as significant. See also **Identification** and **Evaluation**.

21. **Section 106**: Refers to Section 106 of the National Historic Preservation Act of 1966, as amended, and the review process established by the ACHP regulations, 36 CFR Part 800.

22. **State Historic Preservation Officer, or SHPO**: An official established by the NHPA of 1966 who is appointed or designated by each State governor to administer statewide historic preservation programs, and to participate in the Section 106 review process. In Kentucky, the Director of the Kentucky Heritage Council is designated by the Governor as the SHPO.

23. **State Plan**: Means the State Historic Preservation Plan developed by the SHPO. The archaeological component of the State Plan has been published as *The Archaeology of Kentucky: Past Accomplishments and Future Directions* (Pollack 1990).

24. **Testing:** The purpose of testing is to provide additional information on an archaeological site in order to establish its eligibility for listing in the National Register of Historic Places, and to gather information needed to develop a data recovery plan should the site be destroyed by the undertaking. Throughout this document, testing may be referred to as "Phase II".

25. **Undertaking**: An undertaking is a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license, or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. See also the definition for **Agency** .

B. Relevant Legislation and Regulations

1. **National Historic Preservation Act of 1966**: The National Historic Preservation Act (NHPA or the Act) is the primary piece of legislation providing protection for our nation's historic resources. The Act and its later amendments establish the Federal government's policy on historic preservation and the national historic preservation program. Section 201 of the Act creates the Advisory Council on Historic Preservation as an independent Federal agency responsible for advising the President and Congress on matters relating to historic preservation; Section 101 of the Act requires the Secretary of the Interior to establish a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. Section 101 also provides for each State governor to establish a State Historic Preservation Officer to coordinate preservation activities in that State; Section 106 of the Act requires responsible Federal Agency Officials prior to the approval or expenditure of Federal funds on an undertaking or prior to the issuance of any license or permit, to take into account the effects of their undertakings on properties included in or eligible for inclusion in the National Register. The Federal Agency Official must afford the Advisory Council an opportunity to comment on these undertakings. The Advisory Council's regulation 36 CFR Part 800 establishes the process by which Federal agencies must obtain Council comments. Section 110 of the act requires the heads of all Federal agencies to assume responsibility for the preservation of historic resources they own or control. This includes conducting surveys to identify and evaluate such properties, and to nominate eligible properties to the National Register. The full text of the NHPA is available from the National Park Service's web site (Appendix 1).

2. **Department of the Interior Regulations:**

   a. 36 CFR Part 60: Authorizes the Secretary of the Interior to establish and maintain a National Register of Historic Places pursuant to Section 101 of the NHPA.

   b. 36 CFR Part 63: Establishes a process for Federal agencies to identify and evaluate the eligibility of properties for inclusion in the National Register. The regulations explain how to request a Determination of Eligibility from the Secretary of the Interior.

3. **Advisory Council on Historic Preservation Regulations**

   a. 36 CFR Part 800: These regulations implement Section 106 of the National Historic Preservation Act. They are the basic regulations that explain how a Federal agency is to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the National Register. The regulations define how agencies are to identify historic properties, consult with the SHPO and other consulting parties, establish National Register eligibility of historic properties, assess the effects of projects on

them, and develop measures to avoid, minimize or mitigate adverse effects on National Register listed or eligible properties. The full text can be seen at the Advisory Council's web site (Appendix 1).

4. Commonwealth of Kentucky

a. Kentucky Heritage Commission enabling legislation: In 1966, the Kentucky Heritage Commission (currently the Kentucky Heritage Council) was established by KRS 171.3801 through 171.384 with the mandate to "preserve and protect all meaningful vestiges of Kentucky's heritage for succeeding generations and to engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, and social aspects of Kentucky's history". Among other responsibilities, the agency is to "prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance". The director of the KHC is designated by the statute as the State Historic Preservation Officer, whose responsibilities include "the development of the State historic preservation program; the direction of a comprehensive statewide survey of historic properties; nomination of historic properties to the National Register; working with Federal, State, and local agencies in the management of historic properties; conducting a review process for publicly funded, assisted, and licensed undertakings that may affect historic properties within the State; reviewing Federal undertakings that may affect historic properties, assisting Federal agencies in carrying out their historic preservation responsibilities; and developing a comprehensive statewide historic preservation plan".

b. Kentucky Antiquity Act: KRS 164.705 through 164.735 declares it to be the public policy of the Commonwealth of Kentucky to preserve archaeological sites and objects of antiquity for the public benefit and limit the exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology and anthropology. The act prohibits the willful damage or destruction of archaeological sites or objects of antiquity on lands owned or leased by the Commonwealth or any State agency or any political subdivision or municipal corporation of the Commonwealth. The Department of Anthropology at the University of Kentucky is responsible for issuing permits to conduct archaeological investigations on lands covered by this legislation. Violation of KRS 164.705 to 164.735 is a Class D Felony (KRS 164.990).

c. Kentucky Cave Protection Act: KRS433.870 through 433.885 makes it illegal to wrongfully disturb or damage cave surfaces or materials found therein including archaeological remains, or to unlawfully dump, store or dispose of garbage, refuse, dead animals, sewage, or toxic substances in a

cave, or to burn within a cave anything that would produce smoke or gas which is harmful to any naturally occurring organisms in the cave, or to unlawfully remove or disturb any naturally occurring organisms in a cave. The regulations create a permitting process for archaeological investigations in caves. The permits are to be issued by the State Archaeologist, and the investigations are to be carried out under the supervision of the State Archaeologist and the Kentucky Heritage Council. Violation of the Kentucky Cave Protection Act may be a Class A or Class B Misdemeanor.

d. Kentucky Burial and Cemetery Regulations: There are numerous Kentucky statutes and regulations relating to burials and cemeteries. Some of the more important regulations include:

1. Duty of Person, Hospital, or Institution Finding or Possessing Dead Body--Duties of Coroner, Law Enforcement Officer, Embalmer, Funeral Director or Ambulance Service (KRS 72.020);

2. Burial, Removal and Transit permits--Regulations (KRS 213.110);

3. Form of Burial Permit (KRS 213.120). This establishes a permitting process for exhuming and transporting burials, and permits are issued by the State Dept. of Health Services, Vital Statistics;

4. Evidence of Dedication or Use of Land as Burying Ground (KRS 381.710);

5. Desecration of Venerated Objects (KRS 525.110); and

6. Abuse of Corpse (KRS 525.120).

C. The Section 106 Review Process

In accordance with Section 106 of the National Historic Preservation Act, and its implementing regulation, 36 CFR Part 800, issued by the Advisory Council on Historic Preservation (Council or ACHP), each Federal agency must determine how its programs and undertakings affect historic properties, and afford the Council an opportunity to comment. This consultation first takes place between the Federal agency and State Historic Preservation Officer (SHPO). In the following discussion, parts of the Council's regulations relating to consultation with Native Americans and various members of the public are omitted. The reader is urged to consult the full text of the Council's regulations which can be found at their web site (Appendix 1).

A SHPO may receive notice and a request to review Federal undertakings from many different sources. The Kentucky SHPO is first notified on the majority of Federal undertakings through the Kentucky State Clearinghouse, a unit within the State Department of Local Government. Any applicant for Federal grants and other kinds of Federal assistance must have their project reviewed by the Clearinghouse, which routes

project descriptions to fourteen different State agencies for review and comment on various potential cultural and environmental impacts. The Clearinghouse assigns each project a unique identification number which is used to track the project throughout its review process.

The SHPO also learns of Federal undertakings directly from the Federal agencies whom are either initiating a project, or issuing a permit for a project. Examples include permits issued by the U.S. Army Corps of Engineers, undertakings at military facilities such as Fort Knox or Fort Campbell, and activities within Federal parks and forests, such as Mammoth Cave National Park or Daniel Boone National Forest.

In many cases, State agencies or units of local government act on behalf of a Federal agency and contact the SHPO directly. The Kentucky Department of Surface Mining Reclamation Enforcement (DSMRE) operates under a statewide delegation of responsibility approved by the Federal Office of Surface Mining. On a daily basis, DSMRE consults directly with the SHPO on the Section 106 review of individual surface mining permits. Similarly, communities with delegated authority from HUD to administer Community Development Block grants work directly with the SHPO to determine if their undertakings are affecting historic properties.

The SHPO has thirty days to reply to a request to review an undertaking, as long as all necessary documentation is provided by the project sponsor or applicant. Frequently, the SHPO can quickly clear a project as having no potential to impact historic properties listed in or eligible for listing in the National Register. But in some instances, more extensive consideration is required. If the project impact area has not been sufficiently examined for archaeological or historic architectural resources, a survey may be needed. In such cases, the SHPO notifies the Federal agency or other project sponsor that a survey is recommended. Occasionally, the agency has questions about the need for a survey or disagrees with the SHPO's recommendations. When this occurs, the SHPO and Agency Official continue consultation until they reach concurrence on a course of action. But in most cases, the Agency Official or applicant acts upon the SHPO's recommendations and selects a qualified consultant from a list maintained by the SHPO. Some agencies, such as the Forest Service and Corps of Engineers have their own qualified professionals on staff who may carry out cultural resource assessments.

When surveys are recommended, they are carried out by qualified professionals in accordance with standards issued by the Secretary of the Interior and by the SHPO. These standards outline how field work is to be performed, how sites are to be recorded and evaluated, and how resulting reports are to be prepared. Whether historic, architectural, or archaeological, the objectives of Section 106 surveys are to identify all properties in the area of a project's potential environmental impact, and to evaluate them in terms of their eligibility for inclusion in the National Register of Historic Places. The evaluation must also give opinions of project impact upon listed or eligible historic resources. The project survey report is submitted to the SHPO for review and comment.

Once the Federal agency has identified all historic properties listed or eligible for listing in the National Register, and the SHPO concurs, the Agency Official consults with the SHPO

and determines if any of the listed or eligible National Register properties will be affected by the undertaking. If no National Register listed or eligible properties are present, the project proceeds with no further Section 106 consultation. If listed or eligible historic properties are present, but are not affected, again the project proceeds without further consultation. But if there are effects on National Register listed or eligible properties, additional consultation is required.

For each historic property listed in or eligible for the National Register that is affected by an undertaking, the Federal Agency Official must, in consultation with the SHPO, apply the criteria of adverse effect [36 CFR Part 800.4 (a)]. If adverse effect is determined, the agency must notify the Advisory Council on Historic Preservation (ACHP) and afford them an opportunity to participate in the consultation. If the Council does not participate, the Federal agency and SHPO continue consultation, and attempt to find ways to avoid, minimize, or mitigate impacts to listed or eligible properties. Once an agreement is reached, it is formalized by the Federal agency in a document such as a Memorandum of Agreement (MOA), which is signed by the SHPO and any other consulting parties, with a copy supplied to the ACHP. The Federal agency satisfies its Section 106 responsibilities by carrying out the terms of the MOA.

In summary, a cultural resource assessment for either historic, architectural, or archaeological resources is carried out when the Federal agency and SHPO agree that more information is needed to identify National Register listed or eligible resources within a project's area of environmental impact, and to determine how these are affected. These fieldwork and reporting standards outline how cultural resource assessments shall be carried out in the Commonwealth of Kentucky.

II. PROFESSIONAL QUALIFICATIONS

A. Responsibilities of the Principal Investigator

The Principal Investigator is responsible for all aspects of the field work, report preparation and content, National Register evaluation recommendations, preliminary evaluations of project effects, cultural resource management suggestions, and proper curation of project artifacts and records at an approved curation facility. The Principal Investigator is also responsible for ensuring that all other project personnel have sufficient experience to perform assigned duties. Due to these responsibilities, the Principal Investigator is typically a senior, highly experienced professional, well exceeding the minimal requirements for professionalism established in the Secretary's Standards. Each agency, institution or consulting firm submitting cultural resource assessment reports to the Kentucky SHPO for review must also submit or have on file at the Kentucky Heritage Council *curriculum vitae* for each Principal Investigator as well as key personnel who may serve in a supervisory role. These will be reviewed by the KHC Site Protection Program staff. Firms and organizations with qualified Principal Investigators and supervisory staff may be placed on the Kentucky SHPO's list of Section 106 consultants.

B. Qualifications for a Principal Investigator

The Principal Investigator is the preservation professional responsible for the overall quality of the background research, field work, and resulting cultural resource assessment report. All Section 106 investigations subject to review by the Kentucky SHPO must be carried out under the direct supervision of a qualified Principal Investigator who meets or exceeds the minimum professional requirements established in the Secretary of the Interior's Standards, as determined by the Kentucky SHPO. Because historic properties are evaluated in a regional context, the Kentucky SHPO requires that all Principal Investigators working on Kentucky Section 106 review projects have a minimum of twelve months of professional field experience in the eastern United States, of which at least three months must be in Kentucky or the Ohio Valley (southern Ohio, southern Indiana, southern Illinois, western West Virginia, Kentucky and Tennessee). In some instances analytical and report writing experience within the Ohio Valley may be substituted for up to two months of field experience. Some agency officials may require additional experience beyond this minimum. Principal Investigators shall also have a good working knowledge of the Section 106 review process set forth in the Advisory Council's regulation 36 CFR Part 800. It is critical that the Principal Investigator thoroughly understands the procedures for determining National Register eligibility, and for evaluating project effect on historic resources. Throughout this document, the terms "Investigator", "Historian", "Architectural Historian", or "Archaeologist" may be used to mean the Principal Investigator, or qualified professionals working under the supervision of the Principal Investigator.

1. Secretary's Standards for Professional Qualifications

The Secretary of the Interior's Standards for professional qualifications in archaeology, history, and architectural history are those used by all Federal

agencies and have been previously published in the Code of Federal Regulations (36 CFR Part 61) and the *Federal Register* (48:44738-447390).

a. General Information

1. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. Additional areas or levels of expertise may be needed, depending upon the complexity of the task and the nature of the historic properties involved. In the following definitions a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time work adding up to the equivalent of a year of full-time experience.

2. Please note that while additional years of experience and research may be substituted for the graduate degree for professionals in history and architectural history, the Secretary's Standards do not allow for substitution of experience for the graduate degree for recognition as a professional Archaeologist. Also, there is no provision for "grand fathering" individuals who do not have a graduate degree in anthropology or archaeology.

b. History

The minimum professional qualifications in history are

1. A graduate degree in history or closely related field; or

2. A bachelor's degree in history or closely related field plus one of the following:

   i. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization, agency, museum, or other professional institution; or

   ii. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

c. Architectural History

The minimum professional qualifications in architectural history are

1. A graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history; and

i. A minimum of two (2) years of full-time professional experience applying the theories, methods and practices of Architectural history that enables professional judgments to be made about the identification, evaluation, documentation, registration or treatment of historic properties in the united States and its territories and

ii. Products and activities that demonstrate the successful application of acquired prophecies in the discipline to the practice of historic preservation or

2. A bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

i. A minimum of four (4) years of full-time professional experience applying the theories, methods and practices of Architectural history that enables professional judgments to be made about the identification, evaluation, documentation, registration or treatment of historic properties in the United States and its territories and

ii. Products and activities that demonstrate the successful application of acquired prophecies in the discipline to the practice of historic preservation.

d. Archaeology

The minimum professional qualifications in archeology are

1. A graduate degree in archeology, anthropology, or closely related field plus:

i. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

ii. At least four months of supervised field and analytic experience in general North American archeology; and

iii. Demonstrated ability to carry research to completion.

2. In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period.

3. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

C. Qualifications for Field Supervisors

The Kentucky SHPO may approve qualified Field Supervisors to carry out the field work under the direction of a qualified Principal Investigator, and to serve as the resulting report author. In some cases, additional areas or levels of expertise may be needed for Field Supervisors, depending on the complexity of the project and the nature of the historic properties involved.

1. For Archaeological Projects

In recognition of different levels of complexity and responsibility between Phase I, Phase II, and Phase III projects, the Kentucky SHPO accepts the following minimal qualifications for archaeological Field Supervisors working under the direction of an archaeological Principal Investigator. It is assumed that the Field Supervisor will be the primary report author. When this is not the case, the lead author must also meet the specifications outlined below. The SHPO may place any conditions or limitations deemed appropriate on the Field Supervisor if exceptions to these qualifications are granted. In the following requirements, "experience" means actual time spent in the field or lab, not a general period of employment. For example, five days of field or lab work would count as one week of experience, and twenty days would count as a month of experience.

a. Survey Projects (Phase I)

1. Undergraduate degree in Archaeology or Anthropology with an emphasis in Archaeology;

2. A minimum of four months archaeological laboratory experience; and

3. Twelve months field experience in North American archaeology, of which at least three months must be in Kentucky or the Ohio Valley (southern Ohio, southern Indiana, southern Illinois, western West Virginia, Kentucky and Tennessee). In some instances analytical and report writing experience within the Ohio Valley may be substituted for up to two months of field experience.

b. Testing Projects (Phase II)

1. Two years full-time graduate school in Archaeology or Anthropology with an emphasis in Archaeology;

2. Demonstrated ability to analyze artifacts and write reports; and

3. Twelve months of field experience in North American archaeology, of which at least three of the twelve months must be in Kentucky or the Ohio Valley (southern Ohio, southern Indiana, southern Illinois, western West Virginia, Kentucky and Tennessee) and at least four of the twelve months must be excavation. At least one of the twelve months must be as a Field Supervisor on Phase I projects. In some instances analytical and report writing experience within the Ohio Valley may be substituted for up to two months of field experience.

c. **Mitigation Projects (Phase III)**

1. Graduate degree in Archaeology or Anthropology with an emphasis in Archaeology;

2. Demonstrated ability to analyze artifacts and write reports; and

3. Twelve months of field experience in North American archaeology, of which at least three of the twelve months must be in Kentucky or the Ohio Valley (southern Ohio, southern Indiana, southern Illinois, western West Virginia, Kentucky and Tennessee) and at least six of the twelve months must be excavation. At least four of the twelve months must be as a Field Supervisor on Phase I and Phase II projects. In some instances analytical and report writing experience within the Ohio Valley may be substituted for up to two months of field experience.

2. **For Historic Architectural Projects**

Historians and Architectural Historians working as Field Supervisors under the direction of an Architectural History Principal Investigator shall themselves meet the Secretary's Standards. It is suggested by the Kentucky SHPO that Historians and Architectural Historians have at least 6 months of field experience in the eastern United States prior to serving as a Field Supervisor. Once approved by the SHPO as a Field Supervisor, the individual may lead a field survey of historic structures, make evaluations and recommendations of National Register eligibility, make evaluations of project impacts upon historic structures, serve as the primary author of a cultural resource assessment report, and perform other professional preservation activities. However, at all times this work must be conducted under the direct supervision of a SHPO approved Architectural History Principal Investigator.

III. PRIOR TO INITIATING FIELDWORK

A. Contact the Kentucky Heritage Council

Prior to initiating fieldwork on a Section 106 survey or testing project, the Investigator is encouraged to contact the Kentucky Heritage Council, State Historic Preservation Office. Because most surveys for Section 106 undertakings are being conducted upon the recommendation of the SHPO, there may be specific information on sites, project boundaries, field methods, or other project details the Investigator will need to discuss with the SHPO Site Protection Program staff. This is especially true for Phase II archaeological testing projects because the SHPO may have outlined specific procedures to be followed or tasks to be accomplished. Historic architectural surveys also require close coordination with SHPO staff, and background research at the Kentucky Heritage Council will be necessary to examine survey records and to identify historic contexts.

The Kentucky Heritage Council maintains a computerized statewide inventory of historic and architectural sites, including records for Kentucky properties listed in the National Register of Historic Places. This is supported by original historic site survey forms, photographs, and historic site locations plotted on 7.5 minute U.S.G.S. topographic maps. At the time of this writing, these records are being processed for inclusion in the statewide GIS system. Other resources at the KHC include bibliographies of Kentucky archaeological reports, a large reference library of archaeological and historic architectural reports prepared in response to Section 106 projects, and extensive environmental review project histories.

The KHC issues site numbers for all historic buildings and other structures. Historic site numbers may be obtained by completing a KHC Historic Structures Inventory form (available at the KHC web site). All historic resource assessment reports submitted to the SHPO for Section 106 review must include KHC numbers for each property described or evaluated that is 50 years old or older.

B. Historic Sites Check

For historic architectural surveys, the Investigator must examine the historic site inventory records at the KHC. An appointment is recommended, and it is always an excellent idea to call in advance to be sure appropriate staff will be available who can assist you in your records search. This should also include a review with SHPO Site Identification Program staff and an examination of records to determine if historic contexts and historic property types applicable to the project area have been previously developed. As of this edition of the Specifications, the Kentucky SHPO will no longer do site checks by telephone. The Heritage Council charges a fee for all site checks. This is a project specific fee. The fee is 100 dollars per project. Requests for electronic (GIS) data are charged an additional fee. However, requests for paper site checks may incur an additional 40-dollar charge. For those data requests that take more than one hour to complete, there is an additional charge of 40 dollars per hour.

C. Archaeological Sites Check

In Kentucky, the Office of State Archaeology (OSA) at the University of Kentucky Department of Anthropology in Lexington assigns archaeological site numbers. OSA maintains archaeological site locations and maps of previously surveyed project areas that are now accessible by GIS. Additional records that should be consulted at OSA include original records such as site survey forms, topographic maps, archaeological survey, testing, and mitigation reports, county correspondence records, comprehensive bibliographic references linked to the National Archaeological Database, as well as their research library.

An archaeological sites check is initiated by registering each project with OSA at the time access is requested to the OSA database and files, or OSA is requested to provide a sites check for the investigator. The investigator must provide OSA with a working title for the project (including agency-assigned project or item numbers), name of the principal investigator and affiliation, client, and lead agency. This information will be used to track progress of cultural resource assessment projects from the initial sites check to permanent curation of recovered archaeological remains and records with an approved repository (see section VIII.B.). The purpose of registering projects is to ensure that OSA maintains complete and accurate information on all archaeological projects in Kentucky, and that all contractors are fulfilling their responsibilities with regard to the SHPO's guidelines.

OSA charges a fee for all site checks. This is a project specific fee. The fee is 100 dollars per project. Requests for electronic (GIS) data are charged an additional fee. However, requests for paper site checks may incur an additional 40-dollar charge. For those data requests that take more than one hour to complete, there is an additional charge of 40 dollars per hour.

Kentucky archaeological site survey forms must be obtained from OSA and completed for each archaeological site or cemetery discovered during a survey. OSA will issue site numbers upon their acceptance of completed archaeological site survey forms. All archaeological assessment reports submitted to the SHPO for Section 106 review must include OSA numbers for each site or cemetery described or evaluated. However, archaeological site survey forms no longer need to be submitted to the SHPO.

D. Other Facilities and Resources

After completing background research at OSA and KHC, the Investigator may need to check additional records. Early maps should be examined for each initial survey project in order to locate potential historic structures. In Frankfort, the Kentucky Historical Society and the State Department for Libraries and Archives have major collections of historic maps and documents that will assist the Investigator. In particular, the Kentucky Historical Society has extensive information on cemeteries. In Lexington, at the University of Kentucky, the William T. Young Library and the Department of Anthropology William S.

Webb Museum of Anthropology have extensive collections that might be useful. In Louisville, the University of Louisville Archaeological Program and the Speed Museum are good sources for background research. At Murray State University in Murray, map locations of regional archaeological sites are available, plus duplicate copies of Cultural Resource Management reports reviewed by the SHPO since approximately 1991.

It is also becoming more common for local communities to have historic preservation offices, and to maintain inventories of local historic properties and districts. At this time, the cities of Lexington, Louisville, Newport, and Covington have designated local Historic Preservation Officers, and maintain inventories of historic sites. Some of this information may not yet be available at the KHC. There are also approximately two dozen communities designated Certified Local Governments that receive historic preservation funding from the KHC, and carry out local Survey and National Register programs. Investigators are responsible for checking these local inventories.

E. Agency Procedures and Permits

Investigators should be familiar with the procedures that various Federal (i.e., the Corps of Engineers and the Forest Service) and State agencies (i.e., the Department of Surface Mining Reclamation Enforcement and the Kentucky Transportation Cabinet) have established procedures regarding Section 106 and other environmental review work. Archaeologists are responsible for securing the necessary permits pursuant to KRS 164.720 from the OSA for surveys on State, county, or municipally owned or leased land and for ARPA permits for Federal land. All Investigators should be aware that individual Federal agencies may have in place Programmatic Agreements negotiated with the SHPO and ACHP that modify how the agency meets its Section 106 responsibilities. These agreements may define special requirements for surveys or assessment reports. It is the responsibility of the Investigator to be aware of such agreements.

F. Discovery of Human Remains

If during the course of an archaeological investigation human remains are encountered, the local coroner and a law enforcement agency must be notified (KRS 72.020). A permit is required to collect, excavate, and transport human remains (901 KAR 5:090). Permits may be obtained from Vital Statistics, Department for Health Services, 275 East Main Street, Frankfort, Kentucky, 40601 (telephone: 502-564-8966).

IV. FIELDWORK FOR ARCHAEOLOGICAL INVESTIGATIONS

A. Levels of Archaeological Investigations

For the purpose of these Specifications, archaeological investigations have been divided into three levels: Phase I: Intensive Archaeological Survey, Phase II: Archaeological Testing, and Phase III: Archaeological Data Recovery. Although this usage differs from that of the Secretary's Standards, it more closely approximates current usage in Kentucky.

1. Phase I: Intensive Archaeological Survey

a. Section 106 undertakings that require an archaeological assessment are first examined at a Phase I Intensive Survey level. Phase I Intensive Surveys should attempt to locate all archaeological resources that occur within a project area, to provide a description of these resources, and when possible, to make recommendations concerning National Register eligibility. Most archaeological sites are considered eligible under Criterion D for the important information they may contain, but may also qualify under Criteria A, B, or C. Areas with adequate ground visibility will be walked at systematic intervals, and subsurface investigation techniques, such as shovel probing, will be used to explore areas of poor visibility. Areas of substantial alluvial or colluvial deposits shall be deep tested during the Phase I Intensive Survey. Phase I Intensive investigations should attempt to document an archaeological site's boundaries, age, condition, and significance through both archival and field investigations. Inventory forms are completed for newly recorded sites, and existing forms are updated for previously known sites.

b. If the Archaeologist completes a survey and determines that no archaeological sites are present within the area of project impact, a management recommendation of "no archaeological sites present" would be appropriate. In addition, the Archaeologist would normally make a recommendation that no further archaeological investigations are needed. A recommendation of "no National Register listed or eligible archaeological sites present" can also be made when archaeological sites are present if the Archaeologist can clearly demonstrate that these are not eligible due to loss of physical integrity or insufficient scientific data content. Many sites located during a Phase I survey can be evaluated as having either extensive disturbance or little potential for archaeological significance. Some sites, however, can not be evaluated during Phase I because they require further subsurface testing or other special recording and investigatory techniques. If archaeological sites are found during a Phase I survey that can not be adequately evaluated for National Register eligibility, these shall be treated as potentially eligible sites that need to be further evaluated during Phase II.

2. Phase II: Archaeological Testing

a. Phase II Archaeological Testing takes place when additional information is needed in order to determine whether or not a site meets the criteria for inclusion in the National Register of Historic Places or to collect data needed to develop an archaeological mitigation plan. Phase II should include sufficient archival and field investigations to make explicit statements concerning the historical and/or scientific significance of each identified site and its eligibility for inclusion in the National Register. Sites are evaluated to determine the nature and extent of archaeological resources and the site's physical integrity, and to document the site's research potential as it relates to the State Plan. Phase II testing operations shall be of sufficient intensity to evaluate significance and effectively plan the mitigation of project impacts through data recovery, should it be required. Any areas of archaeological potential not investigated during Phase I should be surveyed at this time. A Phase II report will provide refined management recommendations based on the additional information collected.

b. **Site Not Eligible**: If the Investigator determines through testing that a site does not meet the National Register criteria, or the integrity requirement, a finding should be made that the site is Not Eligible. The Investigator shall document this finding and recommend no further archaeological investigations for the purpose of the Section 106 review process.

c. **Eligible Site**: If the Investigator determines, through testing, that a site meets the National Register criteria, the Investigator shall evaluate the possibility of avoidance and in-place preservation with a deed covenant. If preserved in-place, a recommended finding of No Effect would be appropriate. If in-place preservation is not possible, then mitigation by data recovery may be required. This would be a finding of Adverse Effect, requiring a formal Memorandum of Agreement between the SHPO and Federal Agency Official. A research design and data recovery plan would need to be developed. While the Phase II testing report is not the appropriate document for development of a full data recovery plan, it shall include general recommendations for level of effort and suggested procedures for data recovery.

3. Phase III: Archaeological Data Recovery

Phase III data recovery takes place when there will be an adverse effect to a site listed in or eligible for listing in the National Register and mitigation by excavation of all or portions of the site becomes necessary. For Phase III projects, the Agency Official and SHPO consult and determine the scope of work needed. Upon acceptance by the Advisory Council, the Federal Agency implements the data recovery plan.

B. Phase I: Intensive Survey

1. Coverage

a. All undisturbed, accessible areas within the project impact area must be surveyed, even if the potential for locating archaeological sites is low. Any areas not surveyed must be documented in the survey report with an explanation why coverage was not possible.

b. The survey strategy will be dependent upon surface visibility, geomorphology, and topographic features.

2. Determination of Visibility

a. The Archaeologist in the field is responsible for determining if visibility is good or poor. Good ground visibility is 50 percent or more free of vegetation or other cover. Commonly, project areas have a range of visibility conditions which require the use of different survey techniques. It is not acceptable to inspect bare spots such as cow paths, ground hog holes, or dirt roads instead of plowing or shovel probing when visibility is less than 50 percent.

b. Color photographs are to be taken of representative project environments, and areas where different survey strategies were used.

3. Pedestrian Survey

a. In level or nearly level areas of good visibility, the interval between surveyors shall be determined by the field Archaeologist based upon observed field conditions, but shall not exceed 20 m.

b. In level or nearly level areas of poor visibility that have been previously cultivated, an effective method to improve ground visibility is plowing, either entire areas or alternate strips not exceeding 20 m between strips. Previously undisturbed areas should not be plowed.

c. An acceptable alternative to plowing is the placement of screened shovel probes at an interval not exceeding 20 m between probes or transects. Probes shall be approximately 30 cm in diameter, and shall be excavated to culturally sterile subsoil or bedrock. The fill must be screened through 1/4 inch hardware cloth. The approximate location of shovel proves should be shown on project maps. On rare occasions, soil conditions may make screening of probes too difficult. In such cases, the Archaeologist may elect to trowel sort the fill. This must be justified in the survey report.

d. Areas with known Revolutionary War or Civil War battles should be subjected to coverage with metal detectors. Consultation with the SHPO is encouraged in these cases.

e. In areas with a slope greater than 15 %, a pedestrian survey with visual inspection is acceptable. However, such areas must be closely inspected for caves, quarries, benches, rock faces, and rock overhangs. All rock faces should be closely inspected for pictographs and petroglyphs. Rock overhangs (i.e., rock shelters) shall be carefully examined using multiple techniques. A minimum of 5 screened shovel probes shall be placed in each shelter, unless intact deposits are encountered or the investigations are restricted by roof fall, looting, or other field conditions. Records must be kept for each probe including its location, depth, soil profile, artifact yield, and other pertinent information. Each shovel probe shall be given a unique field designation, and materials recovered from it are to be analyzed and cataloged by discrete provenience. If looter pits are observed, the Archaeologist shall carefully examine the walls of the pit for intact deposits. If intact deposits are found, a section of the wall shall be documented and profiled. In the case of extensive looting, a sample of looter pits can be recorded. If benches are discovered, these shall be examined using any of the above techniques.

f. With the exception of mechanical deep testing, the use of heavy machinery is not acceptable during Phase I Intensive Survey without prior approval by the SHPO's staff.

4. Subsurface Reconnaissance

a. Areas of substantial alluvial, colluvial and eolian deposition have the potential to contain significant buried archaeological deposits, especially in low energy depositional environments (e.g., overbank alluvium) even when no surface site is present. (The presence or absence of surface cultural material is not a strong predictor for the presence or absence of subsurface sites.) In defining substantial deposition, we are referring to vertical accumulation where archaeological remains can exist at depths greater than can be sampled by typical surface survey techniques (pedestrian survey and shovel testing), deposits generally below 50-60 cm.

b. Subsurface investigations of small project areas (10 acres or less) with little depositional or landform variation should be carried out in a systematic manner using backhoe trenches or coring. The placement of trenches or cores will be at the Archaeologist's discretion but not more than 50 m apart.

c. A professional geomorphologist or geoarchaeologist should be consulted when assessing project areas that include large areas (greater than 10 acres) of substantial alluvial, colluvial or eolian deposition to assist in the identification of landforms that are most likely to contain intact archaeological deposits. The geomorphologist/geoarchaeologist can assist

the field Archaeologist in devising appropriate sampling strategies based on the types of landform/sediment assemblages in the project area.

If there are questions about the need for a geomorphological study, subsurface reconnaissance or the extent, type and placement of sampling units, the field Archaeologist is encouraged to consult with SHPO staff.

1. **Machine Trenching.** The minimum length of each machine excavated trench will be 3 m, and the depth will be dependent upon the geological situation and safety considerations (see OSHA Standards for Excavation Safety, 29 CFR 1926 Subpart P). A record must be kept for each trench including its location, depth, soil profile, artifact yield, and other pertinent information. At least one long wall of each trench should be cleaned with shovel and/ or trowel and inspected for cultural remains. If no cultural remains are found, the Archaeologist will record representative examples of trench profiles. When cultural zones are present and OSHA safety standards will permit, at least one long wall of each trench will be profiled and photographed.

2. **Coring.** Machine coring or hand bucket auguring can be used to assess the depositional characteristics of a study area. They also can be effective in locating buried archaeological materials when the extracted soil is screened. Site identification/visibility is increased when the sediments are subject to flotation and identification of small-scale remains. Because of their relatively small diameter (typically 3-4 inches), close interval coring is needed to sample the subsurface at the same level of intensity as shovel testing. The coring interval will depend on size of the core and sampling technique (dry screening verses flotation). A record must be kept for each core including its location, depth, soil profile, artifact yield, and other pertinent information.

5. Determination of Boundary and Artifact Collection

An archaeological site is defined as a location where human behavior has resulted in the deposition of artifacts or other evidence of purposive behavior at least fifty years of age. The terms "isolated find" or "spot find" shall be restricted to a single artifact recovered under conditions of good visibility or artifacts redeposited from another context. Archaeological sites are to be described in terms of their potential significance and spatial extent.

Investigators are encouraged to use GPS to record the locations of archaeological sites (see Appendix 4). Each site should be documented with color photographs. Site descriptions shall address physical integrity, horizontal and vertical extent, and range and density of cultural material. Appropriate methods include, but are not limited to the following:

a. In areas of good visibility, a systematic surface collection of prehistoric and historic cultural materials shall be made. The Archaeologists may devise any sampling procedure appropriate for the circumstances; however, a representative sample must be collected. The vertical extent of the deposit shall be defined (e.g., shovel or auger probes) and an assessment made of potential for intact cultural deposits. Survey methodologies incorporating non-collection of surface artifacts are not acceptable to the SHPO except for very unusual circumstances and require prior approval.

b. In areas of poor visibility, screened shovel probes shall be excavated to determine the horizontal and vertical extent of the site area. On large sites, the interval between probes should be no greater than 20 m. On small sites, the interval should be reduced. The Archaeologist must keep records for each probe including its location, depth, soil profile, artifact yield, and other pertinent information. Each shovel probe shall be given a unique field designation, and materials recovered from it are to be analyzed and cataloged by discrete provenience.

6. **Historic Archaeological Sites (greater than 50 years of age)**

a. For historic archaeological sites, all structural remains (ruins) and other features shall be recorded and mapped to the same standard as prehistoric sites. The Archaeologist shall attempt to establish site function, length of occupation, and identity or social/economic background of the occupants. Archival research may include a review of county historical records, a check of old maps, a deed search, or interviews with local residents.

b. All standing structures over fifty years of age shall be photographed, mapped, described, and the surrounding area evaluated for archaeological potential. The map shall minimally be a schematic plan of the site showing the relationship of all standing structures to the project boundaries and terrain. Photographs should be keyed to the map. Note: If an archaeological survey finds no archaeological sites, but standing structures are present that need to be documented pursuant to this paragraph, the survey still qualifies for the abbreviated No Find reporting format provided the above information is included.

1. This information on standing structures is basically requested in order to assist SHPO staff in determining whether a professional historic architectural survey should be carried out. The documentation is not expected to be equivalent to the documentation that would be undertaken by a Historian or Architectural Historian.

2. If the Investigator knows a historic architectural survey is scheduled for the property or has already been carried out, upon approval by the SHPO this information may be omitted.

c. Historic graves and cemeteries over fifty years of age are to be recorded and evaluated for archaeological potential. Permanent site numbers shall be obtained from OSA. In addition to the OSA archaeological site inventory form, the Investigator is encouraged to complete the cemetery forms in Appendix 2, which should be included as an appendix in the survey report. If the SHPO determines the grave or cemetery may have potential significance under Criterion A, B, or C the SHPO may request additional evaluation by a historian or architectural historian.

C. Phase II: Archaeological Testing

1. **Testing Strategies**: The methodology employed at a site will be selected in consultation with the SHPO and agency Archaeologist, and carried out in accordance with a research design. This strategy will depend upon what is known about the site. Outlined below are a few examples of possible testing methods. In most cases a combination of some of these methods will be necessary

   a. **Controlled Surface Collection**. Distribution of all cultural materials shall be recorded and a representative sample collected (e.g., stake-leash, piece plot, collection by grid units or transects, etc.).

   b. **Shovel Probes or Small Units**. Shovel probes or small units (or post holes) shall be excavated on a grid. Shovel probes shall be approximately 30 cm x 30 cm, while small units shall measure at least 50 cm x 50 cm. The fill must be screened through 1/4 inch hardware cloth. Records must be kept for each probe including location, depth, soil profile, artifact yield, and other pertinent information. Each shovel probe shall be given a unique field designation, and materials recovered from it are to be analyzed and cataloged by discrete provenience.

   c. **Test Units**. The number and placement of the excavation test units will be determined in consultation with the SHPO and agency Archaeologist. This testing plan shall take into consideration the site's horizontal and vertical boundaries and the nature of the cultural materials likely to be encountered. Units shall be at least 1 m x 1 m, be excavated by either natural stratigraphy or arbitrary levels, and the fill must be screened. Appropriate flotation and radiocarbon samples shall be retrieved, processed, and analyzed so the information can be used to evaluate site significance, and to assist in the development of a data recovery plan (should this pose a problem with project scheduling, the Archaeologist should consult with the SHPO and agency Archaeologist). Samples not analyzed must be curated. In general, all cultural material from test units shall be collected. Any material not collected, such as fire-cracked rock must be quantified.

   d. **Heavy Machinery**. Heavy machinery on archaeological sites should be used with caution. The amount of information likely to be revealed must be weighed against impacts on the site. Areas shall not be stripped prior to conducting a controlled surface collection or excavation of shovel probes,

small units or test units. Heavy machinery shall not be used to remove subplowzone deposits.

e. **Remote Sensing**. The use of either near-surface geophysical survey techniques (e.g., magnetometry, resistivity, conductivity, ground penetrating radar, metal detectors, etc.) or remote sensing techniques (e.g., color IR, TIMS, b/w, or false color IR, etc.) is encouraged where applicable and when carried out by experienced individuals. However, the Investigator should consult with the SHPO staff if remote sensing is being considered.

f. **Archival Research**. For historic sites, a thorough examination of county records, local histories, old maps, census records, agricultural schedules, and the like shall be conducted. Previous landowners should be identified and information collected to describe the history of the property. Together with the archaeological data, the level of archival and oral historical research shall be of sufficient scope to arrive at an overall assessment of a site's research potential.

2. **Site Map and Permanent Datum**: A contour map of appropriate scale shall be made. At least one permanent marker (e.g., steel rod or pipe) shall be placed at any site recommended for further work. The marker should be easy to relocate and identify, and be labeled on the site map.

3. **Update Site Form:** Upon completion of Phase II, a revised survey form should be completed, incorporating any new information concerning the site and its National Register potential. The updated form should be submitted to OSA and the SHPO.

D. Phase III: Archaeological Data Recovery

If National Register listed or eligible sites are located during Phase I or Phase II investigations and can not be avoided and preserved in place, they may be subject to Phase III Archaeological Data Recovery. The Agency Official and SHPO will consult and develop a data recovery plan. A Memorandum of Agreement will be submitted to the Advisory Council indicating how the adverse effects on the eligible site will be mitigated. The data recovery plan will be appended to or referenced in the MOA. Once accepted by the Advisory Council, the Federal Agency is responsible for carrying out the data recovery plan. The data recovery plan will determine how fieldwork is to be conducted, as well as the structure and content of the mitigation report. The Kentucky SHPO also expects that most data recovery plans will have one or more public education components.

E. Curation

For archaeological projects which have recovered artifacts, the Investigator must contact an approved Kentucky curation facility and initiate curation procedures (see Section VIII).

V. FIELD WORK FOR HISTORIC ARCHITECTURAL SURVEYS

A. Evaluate Background Research

With the objective of evaluating the National Register eligibility of all resources in the project area, both as part of districts and individually, the Investigator will need to develop the range of relevant historic contexts to a sufficient degree to allow that evaluation. The Investigator should be aware of each previously recorded historic resource in or adjacent to the project area, and its current National Register status or potential significance. All existing individually listed National Register properties, district nominations, and multiple resource nominations should be identified and reviewed. The Investigator should identify existing historic contexts that may apply to the project area, and should consider new potential contexts. Relevant National Register guidance bulletins (available from the National Park Service's web site) should be consulted. The Kentucky State Plan *Preserving the Past-Envisioning the Future* (KHC 1999) and existing cultural landscape studies should be consulted for existing historic contexts.

B. Project Survey

1. A field survey of each project or alternate must be conducted by the Investigator. This survey must examine and document all buildings, historic sites, structures and associated cemeteries within the area of potential effect (APE) that are fifty years old or older. Survey forms for previously recorded sites should be updated, especially if these are over five years old.

2. Documentation for each fifty year old or older site shall include:

   a. A KHC Inventory Form including KHC site number (both a blank form and a completed example can be downloaded from the KHC web site, or printed copies can be provided upon request);

   b. Color (for the report) as well as black and white 35 mm photographs, and negatives (for the site inventory forms). The black and white photos do not need to be printed, but a contact sheet must be provided. The negatives should be sleeved in an 8 x 11 archival quality sheet, suitable for placing in a 3 ring binder maintained by the KHC. This documentation should also include an index of photographs. Scanned images are encouraged for the site inventory form;

   c. Historic and archival information;

   d. Architectural descriptions; and

   e. An analysis of the resource, which includes its physical setting, its area of significance and the National Register eligibility criteria which the site appears to meet if considered significant.

3. All sites documented must be plotted on 7.5 minute color U.S.G.S. maps in addition to project development maps. In urban areas, a city street map showing individual structures and street addresses may be used. Investigators are encouraged to use GPS to record the locations of historic sites.

4. Historic graves and cemeteries over fifty years of age are to be recorded and evaluated by Archaeologists unless these are associated with a historic site or complex. If documented during the historic architectural survey, a KHC site number should be obtained, and a KHC survey form completed. The optional cemetery forms in Appendix 2 of these Specifications may be included as an appendix in the historic structures survey report.

C. Coverage

1. The survey shall be of sufficient intensity to cover the APE, which may include both direct and indirect impacts.

2. The surveyor shall evaluate the interiors of buildings and outbuildings when such investigations are necessary to determine National Register eligibility.

D. Establish National Register Boundaries

1. The field assessment shall determine the National Register eligible boundaries of both individual or district properties.

2. Each National Register listed or eligible structure impacted by the project must be documented and evaluated. National Register boundaries must be established and justified. For farmsteads and complexes, this includes outbuildings, barns, fences, walls, wells, cisterns, cemeteries, etc, which shall be located on a site plan map and identified as contributing or non-contributing. Maps shall show the location of each structure and recommended National Register boundaries.

3. In some cases, project or agency limitations may restrict the Investigator from fully documenting large property or district boundaries. However, the Investigator must collect sufficient information to develop a historic context for the evaluation of each structure or district that may be affected by the project.

E. Re-evaluate Existing Information

Due to changes in a property's integrity, as well as the changes in our perspectives, both of which occur with the passage of time, it may be necessary to reevaluate previously recorded sites during the field survey. Changes to a historic property or district since initial recording or listing may require a redefinition of integrity assessment, significance evaluation, or boundary definition. For example, the boundaries of some properties may upon professional re-evaluation be expanded as a result of defining areas of significance for the property not included in the original nomination. In some cases, individually listed properties and districts may be found to be part of a larger eligible district.

VI. REPORTING FORMAT WHEN CULTURAL RESOURCES ARE LOCATED

Each cultural resource assessment report shall be printed on 8 ½ " x 11" acid free paper, and shall be bound at the left margin. Two copies of archaeological reports must be submitted to the Kentucky SHPO. For historic architectural assessments, only one report copy is required by the SHPO. In selecting cover stock and bindings, please take into consideration that the report will become a reference document for future researchers and cultural resource managers. Unbound reports or reports stapled at a corner or side will not be accepted by the SHPO.

The report must be submitted as an independent document, physically separate from other evaluations relating to the undertaking. **Historic architectural surveys and archaeological surveys must be described in separate reports. They can not be combined**. Additionally, official Kentucky Historic Resources Site Survey Forms (KHC 91-2 or KHC 91-3, available from the KHC web site) and Kentucky Archaeological Site Survey Forms (available from the Office of State Archaeology) must be completed for newly discovered historic architectural or archaeological resources. If the site has been previously reported, an updated form shall be submitted if the Investigator has new information regarding the site. Each site survey form must have a permanent site number from the KHC for historic sites or OSA for archaeological sites, or the report will not be accepted for review. Do not bind site survey forms within the report. Archaeological site survey forms no longer need to be submitted to the KHC, they are required only by the OSA.

A. Introductory Pages

1. Title Page, including:

   a. Title, author, date;

   b. Name of institution, agency, or consulting firm conducting the investigations, including address, telephone number, fax number, e-mail address and contract number;

   c. Name, address, contact person, phone number and fax number of the client for whom the report was prepared, if appropriate;

   d. Principal Investigator's name, affiliation, address, phone number, fax number, e-mail address and dated signature. Revised reports must include a new dated signature block for the Principal Investigator; and

   e. Lead State and/or Federal agency, including permit or other project identification name and number.

2. Table of Contents page, arranged in accordance with the sequence of topical headings. Page numbers for each chapter or appendix must be provided.

3. List of Figures, Plates, or Tables.

4. Report Abstract summarizing the conclusions and cultural resource management recommendations reached in Section VI.

B. Introduction to the Project and APE

Discuss the nature of the project and its potential impact on historic sites, districts, or archaeological resources; minimally, include:

1. Project sponsors, contract/permit name or numbers, and other appropriate agency specific information, include the regulatory or statutory authority under which the cultural resource assessment is being conducted.

2. Give a thorough project description, including geographic limits of the project boundaries and how these were determined. State the size of the project area in acres, and the number of acres surveyed. Define the APE and explain how it was determined. Color photos showing overall views of the project area and general survey conditions shall be included.

3. Project boundaries and the APE shall be depicted on 7.5 minute USGS topographic quadrangle maps and printed in color. In urban areas being surveyed for historic architectural resources, city street maps may be used in addition to topographic maps. These maps must include the quadrangle name, a scale, north arrow, and date. In some cases, supplemental maps will be needed. These may include project planning maps, construction maps, plans, and specifications to the extent these are available. Oversized maps may be appended in a map pocket bound within the report, or if very large, bound in a separate volume.

4. State the purpose of the report and discuss the scope of work. In evaluating the work, the SHPO needs to understand why the work is being done and know of any restrictions placed upon the Investigator or survey team. Restrictions might include refusal of access by property owners, adverse weather conditions, dangerous building conditions restricting entrance, etc.

5. Give the date of the OSA sites check, the specific dates of the field investigations, the names and titles of those conducting the fieldwork, and the amount of time spent in the field.

6. Summarize the findings and recommendations of the investigations. This should include identification of all sites recorded or investigated and recommendations of their National Register eligibility.

7. State at which approved Kentucky curation facility project field notes, artifacts, and records will be permanently curated.

C. The Environmental Setting

1. **For Archaeological Assessment Reports:**

   a. Describe the physiographic division, landform type, locality type(s), drainage and nearest water source, and the dominant soil association;

   b. Describe the present environment of the project area as it affects the selection of field methods used to locate cultural resources and to recover archaeological data; and

   c. Discuss the prehistoric environment (if possible and/or appropriate) and how it may have differed from the contemporary environment of the project area. Discuss how this difference might have affected settlement patterns in the area.

2. **For Historic Architectural Assessment Reports:**

   a. Discuss the natural environment of the project area, from the historic period through the present; and

   b. Discuss environmental influences on historic and architectural developments in the area. Possible examples are location, distribution, and spacing of settlements; availability and selection of construction materials; development and evolution of architectural styles; etc.

D. Previous Investigations and Summary of Known Sites

Present a review of previously known sites and historic or archaeological investigations in the project area. The starting point should be a file check at OSA for archaeological surveys or at the KHC for historic architectural surveys. This section of the report shall include an overview of the history and prehistory of the general project area and a discussion of relevant current research.

1. **Archaeological Assessment Reports:** The focus of this section shall be a review of the previous archaeological investigations (both historic and prehistoric) of the project area. Minimally, all previously reported historic and prehistoric sites within a 2 km radius of the project area shall be identified and described. If the report is describing a Phase II testing project the review should be limited to historic context(s) in question (e.g., Archaic). The author shall draw from the State Plan in addition to other relevant references such as site survey forms, reports and associated maps on file at the OSA or KHC, county atlases, Sanborn maps, early 20th century 15 minute topographic maps, county highway maps, geological survey reports and maps, and historical descriptions of archaeological sites that may be relevant. This information shall include, but is not limited to the following:

   a. Names of Investigators or institutions; dates of research;

b. Purpose of research and research methodology;

c. Results of research;

d. Descriptions of individual sites (may be presented in tabular form);

e. Provide a 7.5 minute color USGS topographic quadrangle map showing the project boundary, APE, and location of previously recorded archaeological sites **within** the **APE** ***(DO NOT SHOW MAP LOCATIONS FOR SITES OUTSIDE THE APE).*** This map must include the quadrangle name, a scale, north arrow, and date;

f. National Register status (may be presented in tabular form); and

g. The results of archival investigations, including potential historic archaeological sites within the APE revealed by these investigations .

2. **Historic Architectural Assessment Reports**: First, the author shall present a general history of the community or county. Next, the author shall describe previous survey work in the project area. Minimally, this should include all historic architectural investigations and sites within 2 km radius of the project. What was the intensity or bias in the survey? Did the survey cover all above-ground historic property types or was it limited to sites with architectural merit or sites related to a single theme? This discussion shall include, but is not limited to the following:

a. Names of investigators or institutions that have previously conducted historic architectural surveys in the project area, dates of research;

b. Purpose of the surveys;

c. Survey methodologies;

d. The results of the surveys, including sites or districts, or multiple resource areas identified;

e. Provide a 7.5 minute color USGS topographic quadrangle map showing the project boundary, APE, and location of previously recorded sites or districts **within** the APE. This map must include the quadrangle name, a scale, north arrow, and date;

f. Summary of existing historic contexts that have been defined;

g. Recommendations by previous Investigators concerning National Register eligibility and actual nominations prepared; and

h. Recommendations made by previous Investigators concerning

management or treatment of historic resources in the project area.

E. Research Design (Phase II Testing Only)

For archaeological testing reports, after considering the environment and previous investigations, state relevant research questions or management issues that can be addressed by the investigations. The Investigator shall consult the archaeologicalcomponent of the State Plan, entitled *The Archaeology of Kentucky: Past Accomplishments and Future Directions* (Pollack 1990).

F. Field Methods

Field techniques shall be described in such a way that reviewers and future researchers may reconstruct what was done and why.

1. **Archaeological Assessment Reports:** Present a detailed description and justification of field techniques employed. It is particularly important to describe the manner in which the horizontal and vertical limits, integrity, and other necessary site assessment data were obtained.

   a. Maps shall clearly show what ground area was walked, approximately where subsurface investigations were made, and provide relevant field information such as vegetation cover. Delineate any areas that were not surveyed and provide explanation and/or justification. Consultation with the lead agency prior to report submission is advised regarding areas not surveyed;

   b. Surface survey techniques: describe and justify in detail techniques used both in the general project area and on specific sites. Note locations examined, intervals between crew members, surface visibility conditions, and methods of collection;

   c. Subsurface survey techniques: describe in general terms all shovel probes, auger holes, backhoe trenches, and other types of subsurface exploratory units;

   d. Remote sensing techniques: describe and evaluate as appropriate;

   e. Test units: describe, in general terms, all archaeological test units, including their size, depth, types of levels used, and screen mesh size. Specific information for individual test units shall be presented with the site descriptions.

2. **Historic Architectural Assessment Reports:** Describe in detail and justify the selection of the field methods employed. This shall include:

   a. Survey methodology used in locating and recording potential historic

properties in the project area;

b. Description of areas surveyed, supported by detailed maps; and

c. Explanation and/or justification for areas within the project boundaries that were not surveyed, also depicted on maps.

G. Archaeology: Description and Analysis of Materials Recovered Historic Architecture: Context Development

1. **Archaeological Assessment Reports:** The description of laboratory methods should supply enough information so that they are clear to reviewers and other researchers. Minimally, the following shall be presented:

   a. A classification scheme (typology) for artifact description and analysis. If using a scheme developed by other Archaeologists, give full reference;

   b. A description and discussion of the assemblage from the project area, supported by illustrations and site distribution tables. Include measured attributes of diagnostic material, e.g., projectile points, prehistoric ceramics, window glass, etc. Illustrations of the materials collected shall include photographs and/or line drawings of all diagnostic artifacts, as well as examples of other artifacts such as bifaces, utilized flakes, etc. In case of a large quantity of recovered material, include representative examples;

   c. A discussion of cultural, temporal, and behavioral implications of the assemblage;

   d. Special analytical methods and techniques that were used; and

   e. Techniques used in analysis of any recovered paleoecological data.

2. **Historic Architectural Assessment Reports:** Historic contexts are continually being developed by the KHC as part of its on-going, comprehensive planning process. Investigators shall consult the KHC Site Identification Program staff to determine if historic contexts have been developed in relation to the project area. It may also be necessary for Investigators to develop historic contexts themselves, or to expand or refine existing contexts. For small or short-term projects, the development of a preliminary context may be sufficient. However, for a large or long-term project, a more detailed and fully articulated context is expected. It should be noted that the summary of the history of a county or project area is not the same as the development of a historic context.

   a. Describe how historic contexts were developed for use in evaluating properties in the project area;

   b. Identify the survey reports, planning reports, Multiple Resource Areas,

National Register files and KHC survey files which were consulted;

c. Define and summarize the existing historic contexts which are associated with the project area; and

d. Define and summarize new contexts that the Investigator has proposed or developed for the current project area.

H. Site Descriptions and Results

1. Archaeological Assessment Reports

a. **Site Descriptions**: This section of the report shall provide a discussion of all sites in the APE . Each site overview shall include a description of all materials recovered, summarized by provenience.

1. Describe each site in narrative form (dimensions, quantity of artifacts, and features). Include at least one color photograph of each site. Photographs shall be in the text immediately following the site description, and shall include a caption incorporating the OSA number. Discuss survey intervals, shovel probes, cores, test units, and site stratigraphy. Drawings of representative wall profiles from shovel probes, test units, and trenches shall be provided;

2. Individual site maps shall show topographic characteristics, placement of shovel or core tests, areas of systematic collecting strategies, locations of formal test units, and identified features. These maps must include a north arrow, scale, and legend;

3. Summarize the analysis and interpretation of all artifacts from surface and subsurface investigations. If controlled surface collections were taken, describe and interpret these in terms of density of materials, distribution of artifact types and possible activity areas. Enumerate, describe, and interpret features, including those above ground. Prepare profiles and plan view drawings of all features, or of typical examples in the case of a large number of features. Include tables of artifacts recovered, and their distribution by shovel proves, test units, levels, and features;

4. For historic archaeological sites, summarize the results of the archival research. For larger projects, the bulk of the archival research can be included as a separate background section with only site specific information presented in this section. Copies of old maps, deeds, wills, or other pertinent documents should be included

when applicable. All archival and oral history materials shall be

referenced in a systematic manner that will enable future researchers access to the sources;

5. If standing structures over fifty years of age were located during the archaeological assessment, incorporate the information requested from Section IV- B (6) (b) immediately after the description of recorded sites and/or "spot finds". Please note that Archaeologists should not make National Register eligibility recommendations for standing structures.

b. **Evaluation Process**: The significance of an archaeological site is usually based on the potential of the site to contribute to the understanding of the past. If a site is considered significant, it is also eligible for nomination to the National Register, normally under criterion D for important information it may contain. However, certain archaeological properties may be eligible under Criterion A for association with important events, under Criterion B for their association with the lives of important persons, or under Criterion C for architecture. The National Register criteria are fully defined in 36 CFR Part 63, which is available at the National Park Service web site (Appendix 1).

c. **Integrity Assessment:** Each archaeological site identified must be evaluated for integrity. Identify and explain any disturbances or alterations that have affected site integrity.

d. **National Register Evaluation:** For each site located, a statement of significance must be given with reference to the National Register criteria presented above. For sites considered eligible according to Criterion D, the Investigator shall provide an evaluation with regard to the potential of additional work to contribute information pertinent to research objectives identified in the appropriate archaeological historic context (see State Plan) or other questions developed by the researcher. This process shall be documented in sufficient detail for the reader to judge how these conclusions were reached. An opinion of potential significance shall be made for all sites within the project area.

1. If a site <u>is not</u> considered eligible for the National Register, provide statements outlining the rationale for this evaluation;

2. If a site <u>is</u> considered eligible, provide evidence supporting its research significance, including references to the State Plan and other appropriate scholarly investigations. This shall include the relationships known or believed to be present at the site and topics that might be studied. Discuss the categories of data present or potentially present. Indicate information that can be inferred from these data categories individually or collectively;

3. If there is insufficient data to evaluate a site's National Register potential, then this shall be stated explicitly.

e. **Project Impacts:** For each archaeological site, including those not considered eligible, describe potential project impacts. Specify types of impact, direct and indirect, and portions of each site to be affected. If project activities will not impact the site, this should also be noted. If a portion of an archaeological site extends beyond the project boundary and can not be assessed during the survey, the Investigator should be careful to limit eligibility recommendations only to the portion of the site that has been documented and investigated. The remainder of the site outside the project area should be recommended for re-evaluation if impacted by future undertakings. It is also appropriate at this time to make recommendations for avoidance and in-place preservation with deed covenants.

2. **Historic Architectural Assessment Reports**

a. **Site Descriptions**: The historic resource inventory shall provide a summary of all properties or structures fifty years old or older in the project area. Properties less than fifty years of age should be mentioned, but do not require documentation unless there is a question about their age.

1. A detailed description of each resource shall be provided. Properties previously listed in the National Register shall be listed and their historic boundaries delineated on project maps contained within the report;

2. Each newly recorded resource shall be mapped and illustrated with at least one color photograph. In some cases, additional views may be needed to support recommendations of eligibility or ineligibility. The photograph must clearly show the property. A final evaluation may be delayed if the property is obscured in the photograph by weeds, brush, or trees. Photographs shall be in the text immediately following the property description, and shall include a caption incorporating the property name and KHC number.

3. The information provided on individual properties must be sufficient to allow the SHPO to evaluate each property within the project area based on the report.

b. **Evaluation Process**: In this section, the report provides an explanation of the process used to evaluate historic properties in relation to National Register criteria. The standards used in evaluating the integrity of historic properties shall be defined. This discussion shall also include an overview of historic contexts that have been developed for the project area. Contexts formally established in the State Plan, survey reports, Thematic National Register nominations or Multiple Resources Area National Register nominations may be referenced and very briefly summarized.

c. **Integrity Assessment:** Each previously recorded or newly recorded property fifty years old or older shall be evaluated for integrity according to

the basis for significance established by the historic contexts.

d. **National Register Evaluation**: Each previously or newly recorded property fifty years old or older shall be evaluated for National Register eligibility within the framework the historic contexts established in Section V-A. Existing National Register properties shall be reevaluated.

1. All newly recorded properties fifty years old or older must be evaluated individually against the National Register Criteria A, B, C, and D and in relation to National Register criteria for historic districts. Writing off properties with statements such as "the property is not eligible because there are better examples of this style elsewhere" or "the property is a vernacular example of ... (x) style and is therefore not eligible for the National Register" are not acceptable since they fail to address all of the National Register criteria;

2. Previously listed National Properties should be reevaluated. The report shall address whether the original boundary descriptions of National Register properties are appropriate. The project report should explore the possibility, particularly in the case of rural National Register listings, that larger areas should be considered eligible for the National Register when related to historic contexts such as agriculture. In some cases, a project survey may determine that a listed property no longer qualifies for the National Register or that changes to part of the property justify a recommendation for boundary reduction. In such cases, written and photographic documentation shall be provided on a Kentucky Historic Resources Inventory form and submitted with the report;

3. Previously recorded properties documented in the statewide inventory but not listed in the National Register should be evaluated or reevaluated against the Criteria;

4. Provide a property boundary map and a verbal boundary description with justification for each building or structure evaluated as eligible for the National Register. Include outbuildings and other features of interest, and distinguish between contributing and con-contributing elements.

5. If a newly recorded property is not considered eligible for listing in the National Register, provide justification for this evaluation.

e. **Project Impacts**: For each historic architectural site, describe potential project impacts. Specify types of impact, direct and indirect, and portions of each site to be affected. If project activities will not have an impact on the site, this should also be noted. It is also appropriate at this time to make any recommendations for avoidance and in-place preservation with deed covenants.

I. Summary and Recommendations

Given the considerations of the "Site Description and Results", for each project area, alignment or alternative considered, summarize the project findings and provide an analysis of the direct and indirect impacts on properties which are listed in or considered eligible for the National Register. If multiple alternatives are being considered, or if five or more sites are being summarized, supplement this discussion with tables. The Investigator shall make and justify recommendations with regard to the following:

1. **For Both Historic and Archaeological Assessment Reports**, provide:

   a. **No National Register Listed or Eligible Resources Present**:

      1. Summarize the survey and its findings, explaining why the sites or structures encountered do not qualify for listing in the National Register;

      2. Make a recommendation of No National Register Listed or Eligible Properties Present and No Effect on National Register Listed or Eligible Properties;

      3. Comment on the appropriateness of any research design that was developed. Relate any constraints on the survey that may have influenced the reliability of the information recorded; and

      4. State the disposition of field notes, artifacts, and other records.

   b. **National Register Listed or Eligible Sites Present**:

      1. List and review sites within or adjacent to the project area, and summarize their National Register status;

      2. Summarize the findings of effect for each site that is listed on or eligible for listing on the National Register. For sites under private ownership that are to be avoided and preserved in place within the project impact area, recommend formalizing this agreement with a protective deed covenant (Appendix 3);

      3. Summarize any recommendations for further investigations. If Phase II Archaeological Testing is recommended, provide specific recommendations for how this should be carried out;

      4. Summarize possible mitigation measures for each National Register listed or eligible site that may be adversely effected;

      5. Comment on the appropriateness of any research design that was developed. Relate any constraints on the survey that may have

influenced the reliability and value of the information recorded; and

6. State the disposition of field notes, artifacts, and other records.

J. References Cited

Both historic architectural and archaeological reports shall follow the format outlined by the Society for American Archaeology's style guide in *American Antiquity* 1992:749-770.

K. Appendices and Attachments

1. Unless already on file with the SHPO, include *curriculum vitae* for Principal Investigator and Field Supervisor.

2. Site location information should be included with the main body of the report, not in an appendix.

3. **Site survey forms are not to be bound within the survey report**.

4. Oversized maps may be appended in a map pocket bound within the report. However, unusually large maps should either be reduced in size, or bound in a separate volume.

5. Please bind one empty map pocket at the end of the report, which will be used by the SHPO and OSA to enclose review comments.

L. Phase III Mitigation Reports

Phase III mitigation reports will be prepared in response to a research design and data recovery plan. The research design and data recovery plan will be included in a Memorandum of Agreement (MOA) prepared by the SHPO and Agency Official. Upon acceptance of the MOA by the Advisory Council, the data recovery plan will be implemented. A draft mitigation report will be submitted by the Federal Agency to the SHPO for review and comment. The project Principal Investigator will incorporate changes into the final report which will be resubmitted to the Federal Agency and SHPO for review and approval. The terms of the MOA have not been met until the SHPO accepts the final report.

VII. REPORTING FORMAT WHEN NO CULTURAL RESOURCES ARE LOCATED

A. For Both Archaeological and Historic Architectural Assessments:

If the survey finds that no sites or structures are present in the project area, or structures are present but none are fifty years old or older, then the Principal Investigator may file an abbreviated report. Include the specified information for the following topics from Section VI:

1. Introductory Pages, Section VI-A;

2. Introduction to the Project, Section VI-B;

3. Previous Investigations and Summary of Known Sites including the results of the literature review and site check, Section VI-D;

4. Field Methods, Section VI-F; and

5. Summary and Recommendations. Explain in your professional opinion, why no historic or prehistoric sites were located, taking into consideration field conditions, survey methodology, history, settlement or occupation patterns in the area or neighborhood. Include a statement concerning project clearance or a need for further work if portions of the project area could not be surveyed during the present field work.

B. Exceptions for Phase I Intensive Archaeological Surveys

If during a Phase I Intensive Survey, either "spot finds" or historic structures over fifty years of age are located within the project boundary but no other sites are found, the report still qualifies for submittal in an abbreviated format under this Section. The spot finds and/or structures should be documented in accordance with Sections IV-B, and should be described after the discussion of Field Methods.

VIII. CURATION OF ARTIFACTS AND RECORDS

A. Historic Architectural Assessments

The submittal of site survey forms and original photographs along with the survey report meets all curation requirements for historic architectural assessment reports. No additional field notes or maps are required.

B. Archaeological Assessments

Curation normally should occur within 30 days after the consultation process between the SHPO and agency is concluded. Until curation occurs, all project records and artifacts must be available for inspection by the agency, the SHPO, or their representative. If curation cannot occur on this schedule, the agency and the SHPO shall consult and determine an acceptable schedule for meeting curation requirements. Failure to properly curate in accordance with these Specifications may be the basis for removal of an individual or firm from the SHPO's list of archaeological consultants.

1. Curation Requirements for Federal, State, and Municipal Lands

a. All artifacts and associated project records must be curated permanently at a Kentucky facility that meets minimum standards for curation established by the Secretary of the Interior. According to the Secretary's Standards, satisfactory curation occurs when:

1. Curation facilities have adequate space, facilities, and professional personnel;

2. Archaeological specimens are maintained so that their informational values are not lost through deterioration, and records are maintained to a professional archival standard;

3. Curated collections are accessible to qualified researchers within a reasonable time of having been requested; and

4. Collections are available for interpretive purposes, subject to reasonable security precautions.

b. The SHPO maintains a list of approved curation facilities within Kentucky, based on KHC staff evaluation of each facility. As of this edition, facilities in Kentucky that have requested consideration and have been approved for curation of Section 106 artifacts and records include Murray State University, the University of Louisville, and the University of Kentucky.

2. Curation of Artifacts from Private Land

a. In cases where private landowners request or require return of artifacts, the artifacts may be returned **only** after they have been subjected to a complete and thorough analysis, and **only** after the agency and SHPO have completed their review of the project report. Artifacts may **not** be turned over to a client or project sponsor who is not the owner of the property from which the materials were recovered. If a property owner attempts to require the Archaeologist to agree to return artifacts prior to approval of the report, the Archaeologist should decline to do the survey or testing, and notify the responsible sponsor, permit applicant or Agency Official. In almost all cases, if the Archaeologist takes care to explain the collection and curation process to the property owner, the owner will agree to curation;

b. If artifacts are returned rather than curated, the Archaeologist must curate all documentation concerning the collection with a curatorial facility that has been approved by the SHPO and agency. Examples of such documentation include: an itemized list of all artifacts; the analysis forms for the collection with standard items such as metrical attributes and description; photographs of all culturally and temporally diagnostic artifacts; and any other documents the curatorial facility requires.

3. Loan-back of Artifacts for Educational Exhibits

It is common for local project sponsors to request that a Principal Investigator allow the retention of select artifacts for display and exhibit. The SHPO encourages the development of local educational exhibits and displays. However, the proper venue for such request is with the curation facility through a temporary or permanent loan agreement.

IX. SUBMISSION OF REPORTS FOR SHPO REVIEW

A. Submission by Federal Agencies

Cultural resource assessment reports prepared for Section 106 projects shall be submitted by the lead agency to the SHPO in accordance with Section 800.4(b) and (c) of the Advisory Council's regulations. The report shall be submitted with a cover letter from the responsible agency summarizing their opinion of the report, and indicating if they concur in the report's findings and recommendations.

B. Submission by Project Applicants or State and Local Agencies

Survey reports are often submitted to the SHPO by project applicants and local or State agencies. The SHPO will continue to accept such reports, provided the practice is acceptable to the responsible agency and does not cause conflicts in the review process.

C. Submission Requirements

1. **SHPO Copies**: For archaeological assessments, three report copies must be submitted to : Director and State Historic Preservation Officer, Kentucky Heritage Council, 300 Washington Street, Frankfort, Kentucky 40601. The Heritage Council will provide one copy to OSA. **Note:** The SHPO no longer needs archaeological site survey forms. For historic architectural assessments, one report copy and one set of site survey forms (including original photographs) must be submitted to the Kentucky Heritage Council.

2. Each report submitted for SHPO review shall be accompanied by a letter of transmittal from the agency or applicant. The letter should:

   a. Cite the project and the nature of Federal or State involvement;

   b. Cite the survey report by title and author;

   c. Briefly summarize the report's findings and recommendations, and state whether the agency or applicant concurs with these; and

   d. Request SHPO review and comments concerning report content, findings, and recommendations.

3. For Phase II Archaeological Testing projects, submit updated site survey forms incorporating the results of the testing to both the SHPO and OSA.

X. OTHER CONSIDERATIONS

A. Flexibility in Application

The SHPO and staff understand that unforeseen events or unusual situations may arise that justify an exception to the Specifications. The SHPO is willing to work with the Principal Investigator or Agency Official in such cases, but deviations from the Specifications must be approved in advance by SHPO staff. The SHPO may conduct field inspections where warranted.

In application, the SHPO will not reject individual reports for minor and occasional variations from these Specifications, though reports with substantial deficiencies will not be accepted for review. Initially, report authors will be cautioned about items that do not comply. However, persistent failure to follow the SHPO's guidelines may result in a conditional project clearance pending receipt and approval of a revised report, or outright rejection of a report. Principal Investigators and/or report authors who refuse to correct report deficiencies may be removed from the SHPO's list of qualified consultants.

B. Late or Accidental Discovery

Principal Investigators should inform their clients that sites or structures discovered after initiation of a project must be reported to the Agency Official and the SHPO. Specifically, the ACHP's regulations require the Federal agency or project sponsor to take steps to avoid or minimize further impacts to such sites (36 CFR Part 800.13). If human remains are uncovered, work must cease and the local coroner and law enforcement agency must be notified in accordance with KRS 72:020.

C. Addendum or Supplemental Reports

Occasionally the SHPO or Agency Official may request that the Investigator conduct additional fieldwork or background research, and submit the findings in an addendum report. It is expected that an addendum or supplement will contain an explanation of why the additional work is being done, a discussion of field methods if they are different from those used during the original survey, a description of the findings, and any further recommendations that are appropriate. Maps, profiles, and other illustrations should be appended as warranted. The SHPO does not consider it appropriate to submit addendum or supplemental reports if:

1. More than three years have passed since the original report was written;
2. The report is written by someone other than the original author; or
3. The work to be reported is merely an additional and routine phase of the previous investigations.

Appendix 1

Contact Information and Useful Web Sites

Kentucky Heritage Council
300 Washington St.
Frankfort, KY 40601
voice (502) 564-7005
fax (502) 564-5820

Director & SHPO: David L. Morgan, ext. 111

Site Protection Program (Archaeology and Section 106 review)
Program Administrator: David Pollack, ext.123
Archaeology Coordinator: Charles Hockensmith, ext. 122
Archaeology Coordinator: Lori Sahlgren, ext. 118
Historic Preservation Coordinator: Janie-Rice Brother, ext. 121

Site Identification & Registration Program (National Register and Historic Survey)
Program Administrator: Rachel Kennedy, ext. 134
National Register Program Coordinator: Marty Perry, ext. 132
Survey Program Coordinator: William Macintire, ext. 124

Site Development Program (Tax Act, Main Street, T-21)
Program Administrator: Becky Shipp, ext. 133

Office of State Archaeology
Director: George Crothers
voice: (859) 257-8208
fax: (859) 323-1968
University of Kentucky
1020A Export Street
Lexington, KY 40506

Division of Environmental Analysis
Kentucky Transportation Cabinet
125 Holmes St.
Frankfort, KY 40622
voice: (502) 564-7250
fax: (502) 564-5655

Director: David Waldner
Archaeologist: Dan Davis
Archaeologist: Wayna Roach
Archaeologist: James Hixon
Archaeologist: Carl Shields
Historian: Rebecca Turner

Department of Surface Mining Reclamation Enforcement
Natural Resources and Environmental Protection Cabinet
#2 Hudson Hollow, U.S. 127 South
Frankfort, KY 40601
voice: (502) 564-2320
fax: (502) 564-6764
Supervisor, Critical Resources Review Section: Bud FennellArchaeologist:
Archaeologist: Rose Moore

U.S. Army Corps of Engineers
Louisville District:
Archaeologist: Susan Neumeyer (502) 315-6681
Archaeologist: Jan Marie Hemberger (502) 315-6872
Archaeologist: Keith Keeney (502) 315-6871
Nashville District:
Archaeologist: Rob Karwedsky (615) 736-5026
Huntington District:
Archaeologist: Bob Maslowski (304) 529-5647
Archaeologist: Brantley Jackson (304) 399-5136
Historian: Paige Cruz (304) 529-5608
Memphis District:
Archaeologist: Jimmy McNeil (901-544-0710)

US Forest Service
Forest Archaeologist, Cecil Ison (859) 745-3138
Stanton District Archaeology Technician, Johnny Faulkner (606) 663-2852
Stearns District Archaeologist, Randy Boedy (606) 376-5323
Morehead District Archaeologist, Frank Bodkin (606) 784-4163

Mammoth Cave National Park
Historian: Bob Ward (270) 749-2508
NEPA/106 Coordinator: Henry Holman 9270) 758-2254

Land Between the Lakes (U.S. Forest Service)
Archaeologist: Bob Wise (270) 924-2015

Tennessee Valley Authority
Archaeologist: Bennett Graham (865) 632-1583
Archaeologist: Danny Olinger (423) 632-1569

Big South Fork Wilderness Area
Archaeologist: Tom Des Jean (423) 569-9778, ext. 253

Natural Resources Conservation Service
Archaeologist: Bill Sharp (859) 315-6681

Useful Web Sites

Advisory Council on Historic Preservation	http://www.achp.gov
National Park Service	http://www.cr.nps.gov and http://www.cr.nps.gov/linklaws.htm#regs
Kentucky Heritage Council	http://www.kyheritage.org
Univ of Kentucky Dept of Anthropology	http://www.uky.edu/AS/Anthropology
KY Organization of Prof. Archaeologists	http;//www.kyopa.org
Society for American Archaeology	http://www.saa.org
Register of Professional Archaeologists	http://www.rpanet.org
List of Archival Resources in Kentucky	http://www.loc.gov/coll/nucmc/kysites.html

Appendix 2

Optional Forms for Recording Historic Graves and Cemeteries

When documenting a cemetery, complete either a KHC or OSA site survey form, plus the following optional cemetery forms: Kentucky Cemetery Supplemental Site Form, Kentucky Cemetery Field Log, and Kentucky Grave Marker Documentation Form. When completing these forms:

- Assign a separate number in sequential order for each cemetery burial component (i.e., Headstone, Footstone, Crude Field Stone, and Possible Grave Depression).
- Draw a sketch map showing the approximate distribution and location of all markers, crude field stones, and depressions showing non-native plantings and other "site specific" anomalies (i.e., fences, entrance gates, large trees if not in forested environment, etc.).
- Note any evidence of vandalism, and describe extent and specific markers affected.
- If recording one or more isolated graves, complete those portions of the Kentucky Cemetery Site Form that apply, plus the Field Log and Grave Marker forms.
- If recording one or more clusters of historic graves within a larger cemetery containing modern graves, it is not necessary to document the entire cemetery. Provide a sketch of the overall cemetery organization showing the location of the historic cluster. Then complete the appropriate forms for the historic cluster.
- If recording a cemetery that is primarily historic but with some modern graves, include the modern graves as part of the documentation.

OSA/KHC # ______________

KENTUCKY CEMETERY SUPPLEMENTAL SITE FORM

Project Name: ______________ **Date:** ________ **Time of Day:** ________ **County:** ______________
Cemetery Name: ______________________________ **Project Site Number:** ______________
Name & Address of Owner: ____
Quadrangle/Date: ______________ **UTM Zone** ❒ **16;** ❒ **17** **Elevation:** __________
Northing: _/_/_/_/_/_/_/_/_/_/_/; **Easting:** _/_/_/_/_/_/_/_/_/
Ownership Type: ❒ Private; ❒ City; ❒ County; ❒ Federal; ❒ Unknown
Location (if within current City limits, give street address or street intersection; if rural give directions from two highway intersections) ____
____
____

Cemetery Type: ❒ Memorial Park; ❒ Religious; ❒ Family; ❒ Community; ❒ Military (not National); ❒ National; ❒ Municipal; ❒ "Rural Movement"; ❒ Company Town; ❒ Epidemic; ❒ Fraternal Order; ❒ Potter's Field; ❒ Prison/Institutional; ❒ Other (describe) ______________
Ethnic groups interred: ❒ White; ❒ African-American; ❒ Asian; ❒ American Indian; ❒ Other __________ **Setting:** ❒ hill/ridge top; ❒ spur; ❒ terrace; ❒ hollow/valley; ❒ floodplain; ❒ upland; ❒ other __________ **Dimensions:** ________ ft x ________ ft **Soil ph:** ________ **Soil Association:** ______________

Orientation of Cemetery (i.e., north-south axis): ____________ **Direction burials face:** ____________
Current Status: ❒ used for burials; ❒ maintained but not used; ❒ unattended or abandoned
Overall Condition: ❒ well maintained; ❒ some areas maintained, others neglected; ❒ poorly maintained; ❒ overgrown w/ weeds & brush; ❒ overgrown with brush & trees; ❒ disturbed by rodents or farm animals
Enclosure: ❒ none present or surviving; ❒ wire fence; ❒ wrought iron or steel; ❒ wood post or plank; ❒ picket or rail; ❒ stone wall; ❒ brick wall; ❒ concrete wall; ❒ brush/hedge; ❒ other: __________
Number of burials observed with: ______ inscribed markers; ______ uninscribed markers; ______ scraped earth; ______ earth mounds; ______ shell cover; ______ stone rubble cover; ______ possible grave depressions
List non-native plants and flowers observed (i.e., yucca or rose) ______________________________
Number of Monument Types Observed: ______ dressed stone, flush with ground; ______ rough field stone, flush with ground; ______ upright tablet; ______ above ground box tomb with rectangular or coffin-shaped slab;
______ above ground table marker; ______ die on base; ______ obelisk; ______ figural;
______ grave house; ______ other ______________
Materials used for markers: ❒ wood; ❒ dressed limestone; ❒ native limestone; ❒ native sandstone; ❒ brick; ❒ metal; ❒ marble; ❒ ceramic; ❒ concrete; ❒ other ______________
Stone Cutter's marks or manufacturing information: ______________________________
Condition of markers: ❒ generally in good condition; ❒ some sunken or tilted; ❒ some broken or in fragments; ❒ generally in poor condition; ❒ many sunken or tilted; ❒ many broken or in fragments; ❒ vandalized
Grave surface: ❒ scraped ground; ❒ mounded earth; ❒ stone rubble cover; ❒ shell cover
Grave offerings: (list any observed) ______________________________
Describe any structures: mausolea or grave houses ______________________________
____
chapel ____
entrance gate ____
Range of Death Dates: Earliest ______ Most Recent ______
Number of Death Dates by Years: ______ 1700s to 1800; ______ 1801 to 1825; ______ 1826 to 1850; ______ 1851 to 1875; ______ 1876 to 1900; ______ 1901 to 1925; ______ 1926 to present

Military Interments: ☐ Revolutionary War; ☐ War of 1812; ☐ Mexican War; ☐ Civil War; ☐ Spanish American War; ☐ WWI; ☐WWII; ☐ Korean War; ☐ Vietnam War

Surnames represented: _____

_____

Potential Significance for National Register of Historic Places

☐ **Not Considered Eligible** (Justify in terms of site integrity and failure to meet National Register Criteria A, B, C, and D): _____

_____

_____

_____

_____

_____

☐ **Considered Eligible under National Register Criteria A**

Briefly summarize historic event or development: _____

_____

_____

_____

_____

_____

☐ **Considered Eligible under National Register Criteria B**

List People Important in Local, State, or National History buried in the Cemetery:

Name: _____ Significance: _____

_____

Name: _____ Significance: _____

_____

Name: _____ Significance: _____

_____

☐ **Considered Eligible under National Register Criteria C**

Discuss significant architectural features, distinctive characteristics, style or methods of construction, or artistic values that would qualify: _____

_____

_____

_____

_____

☐ **Considered Eligible under National Register Criteria D**

Discuss important contributions to knowledge or significant scientific information that could be addressed by investigation of the cemetery: _____

_____

_____

_____

_____

_____

_____

Photos (roll/exposure): color _____ B/W _____

Local Contacts/Informants: _____

References and/or Inclusion in other surveys: _____

This form completed by: _____ **Affiliation:** _____

***Use blank sheet for Additional Notes or Sketch Map of Cemetery and Grave locations**

KENTUCKY CEMETERY FIELD LOG

Project Name: _____ **County:** _____
Cemetery Name: _____ **Site Number:** _____
Recorded By: _____ **Affiliation:** _____

Burial No.	Name	DOB	DOD	Marker Material	Epitaph (Y/N)	Comments (Commercial Marker, Statuary, Military Info., etc)

Burial No.	Name	DOB	DOD	Marker Material	Epitaph (Y/N)	Comments (Commercial Marker, Statuary, Military Info., etc)

Kentucky Grave Marker Documentation Form

Cemetery:_____ **County:**_____ **Site No.:**_____

Burial _____ Name:_____
DOB_____ DOD_____ Material_____
Inscription_____
_____
_____
Comments_____
_____
_____
_____
Photos: Roll_____Frames_____ Roll_____Frames_____

Burial _____ Name:_____
DOB_____ DOD_____ Material_____
Inscription_____
_____
_____
Comments_____
_____
_____
_____
Photos: Roll_____Frames_____ Roll_____Frames_____

Burial _____ Name:_____
DOB_____ DOD_____ Material_____
Inscription_____
_____
_____
Comments_____
_____
_____
_____
Photos: Roll_____Frames_____ Roll_____Frames_____

Appendix 3

Preservation Deed Covenant

In consideration of the conveyance of certain **[improved]** real property, hereinafter referred to as **[name of property]**, located in the **[City of _____,]** County of _____, State of_____, which is more fully described as:

[insert legal description]

[Name of property recipient] hereby covenants on behalf of **[himself, herself, itself]**, **[his, her, its]** heirs, successors, and assigns at all times to **[specify: Federal agency transferring the property, or SHPO, or other]** to maintain and preserve **[name all those exterior and interior features that qualify the property for inclusion in the National Register; these may be named within the body of the paragraph or included as an attachment]** as follows:

1.**[Name of recipient]** shall preserve and maintain **[name of property]** in accordance with the recommended approaches in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings(National Park Service, 1983) **[or specify other relevant standard, management plan, archaeological treatment plan, etc., with full citation]** in order to preserve and enhance those qualities that make **[name of property]** eligible for inclusion in the National Register of Historic Places.

2. No **[construction, alteration, remodeling/disturbance of the ground surface]** or any other thing shall be undertaken or permitted to be undertaken on **[name of property]** which would affect the **[structural]** integrity or the **[appearance/cultural use/archaeological value]** of **[name of property]** without the express prior written permission of **[Federal agency transferring the property, or SHPO, or other]** signed by a fully authorized representative thereof.

3. The **[Federal agency transferring the property, or SHPO, or other]** shall be permitted at all reasonable times to inspect **[name of property]** in order to ascertain if the above conditions are being observed.

4. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, **[Federal agency transferring the property, or SHPO, or other]** may, following reasonable notice to **[name of recipient]**, institute suit to enjoin said violation or to require the restoration of **[name of property]**. The successful party shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

5. **[Name of recipient]** agrees that **[Federal agency transferring the property, or SHPO, or other]** may at its discretion, without prior notice to **[name of recipient]**, convey and assign all or part of its rights and responsibilities contained herein to a third party.

6. This covenant is binding on **[name of recipient], [his/her/its]** heirs, successors, and assigns **[in perpetuity/for X years from the date of this instrument].** Restrictions, stipulations, and covenants contained herein shall be inserted by **[name of recipient]** verbatim or by express reference in any deed or other legal instrument by which **[he/she/it]** divests **[himself/herself/itself]** of either the fee simple title or any other lesser estate in **[name of property]** or any part thereof.

7. The failure of **[Federal agency transferring the property, or SHPO, or other]** to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

The covenant shall be a binding servitude upon **[name of property]** and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that **[name of recipient]** agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.

Appendix 4

Global Positioning Systems

Global Positioning Systems (GPS) can be a great aid in rapidly and accurately locating where you are on the earth and thereby greatly reducing spatial error of site location determination. HOWEVER, GPS has limitations and MUST be used correctly or greater error will be introduced. GPS units will give a coordinate, but the accuracy of that "position" depends on a number of factors that affect precision, including:

- Type of receiver used
- Number of available satellites
- Position of satellites (both relative to horizon and variances in their orbits)
- Intentional errors introduced by the military (currently turned off, but could be turned back on)
- Atmospheric conditions
- Multipath (signal reflection [Sources include: water, trees, buildings, fences, cliffs, and cars among others])
- Receiver noise (errors based on receiver configuration and its ability to accurately measure time).

Site positions derived from GPS should also report:

- Make/Model of receiver used
- Number of satellites tracked
- Date and time position was taken
- PDOP (Positional Dilution of Precision)
- horizontal 2D Standard Deviation Quality Measures, (1 SIGMA 68.3% of all values for a position will be within a specified distance from the average position). *Note: some inexpensive systems will not be able to compute this.*
- General landscape where position was taken (under trees, near building [distance and direction], near water [distance and direction], etc.)
- Specify the projection details the location data is recorded in. (UTM, Zone 16, Datum: NAD27, Spheroid: Clarke 1866).

Researchers utilizing GPS equipment in the field must be thoroughly informed as to the limitations and correct guidelines and procedures of use prior to initiating fieldwork.

Appendix 5

Report Preparation Checklist

Please note that this checklist does not take precedence over the report Specifications. It is meant only as a general guide: it is not exhaustive and there are some items that may pertain only to certain types of investigations (e.g., survey reports). It is the responsibility of the Principal Investigator and the lead agency to comply with the full text of the Specifications, and to ensure the accuracy and adequacy of all information contained in the report.

General

____ Transmittal letter from the Agency Official to the SHPO
____ Acid free paper, 8 ½ x 11 paper.
____ Report bound along left margin.
____ Two copies of archaeological reports or one copy of historic architectural reports submitted to the KHC as independent, free standing documents.
____ Historic architectural and archaeological reports not combined.
____ One set of historic site survey forms to the KHC; one set of archaeological site survey forms to the OSA.
____ Permanent, official site numbers issued by OSA or KHC.

Title Page

____ Project name, report author, report date.
____ Name, address, and contact information of institution, agency, or firm conducting the investigations, including applicable contract numbers.
____ Client information.
____ Principal Investigator's name, affiliation, contact information, and dated signature.
____ Lead Federal Agency and other involved Federal or State agencies, including permit or other project identification numbers.

Introductory Pages

____ Table of Contents.
____ List of Figures, Plates, or Tables.
____ Report Abstract summarizing conclusions and cultural management recommendations.

Report Introduction

____ Purpose of the report and scope of the work.
____ Specific dates of field investigations, and amount of time spent in the field.
____ Names of field directors, supervisors, crew members.
____ Restrictions or limitations on survey efforts.
____ Detailed project description and its potential impact on historic and archaeological resources.
____ Number of acres surveyed.
____ Project sponsors, contract/permit numbers.
____ Regulatory or statutory authority under which the assessment is being conducted.
____ Explanation of project boundaries, documented on 7.5 minute USGS topographic quadrangle maps, including previously recorded sites and districts within the APE.

____ Other project planning or construction maps, as necessary.
____ Oversized maps to be appended in a map pocket bound within report, or bound separately.
____ Color photographs showing overall views of project area and general survey conditions.
____ For archaeological reports, general physiographic setting, land forms, drainage and major water sources, and dominant soil association.
____ For historic architectural assessments, general characteristics of affected neighborhoods or characteristics of early historic settlements and architecture of the general vicinity.
____ Curation information for field notes, artifacts, and other records.
____ General overview of survey results, including potential impacts to historic resources.

Environmental Background

____ Discussion of present and past environmental conditions.
____ Potential environmental influences on historic and archaeological resources.

Previous Investigations

____ Statement concerning site check at OSA or KHC, and outcome of literature review.
____ Overview of the history and/or prehistory of the general project area.
____ Discussion of the results of archival investigations.
____ Discussion of previous survey work and its results.
____ National Register status of previously recorded sites and districts.
____ Maps showing locations of previously recorded sites and historic districts within the APE (but not outside the APE).
____ Previous cultural resource management recommendations.

Phase II Research Design

____ Relevant research questions.
____ Management issues.

Field Methods Section

____ Detailed description and evaluation of field methods used.
____ Discussion of survey techniques and variations due to different field conditions; subsurface investigations.
____ Description and discussion of shovel tests, test units, and any other excavations.
____ Maps showing archaeological survey walk routes, vegetation cover, locations of subsurface shovel probes or test units, and areas not surveyed.

Materials Recovered Section (Archaeological Assessments)

____ Discussion of general laboratory procedures.
____ Discussion of analytical methods and techniques.
____ Techniques used in analysis of any recovered paleoecological data.
____ Description and analysis of assemblage from the project area, including explanation of classification scheme.
____ Illustrations of diagnostic artifacts.
____ Discussions of cultural, temporal, and behavioral implications of the assemblages.

Context Development (Historic Architectural Assessments)

____ Description of historic context development.
____ Identification of sources used to develop contexts.
____ Define and summarize existing historic contexts associated with project area.
____ Define and summarize new contexts developed for the project area.

Site Descriptions and Survey Results

____ For all survey reports, maps showing all newly recorded sites, structures or districts. Site numbers shall be labeled directly on the map.
____ For archaeological surveys, a description of each individual site investigated, including setting, the results of surface and subsurface investigations, artifacts recovered, and features recorded.
____ Individual site plan maps showing site boundaries, survey walk areas or collection areas, placement of shovel or core tests, test units, trenches, and surface or subsurface features. Site datum must be shown on map.
____ Photos and drawings of test units, features, soil profiles.
____ Artifact illustrations.
____ Historic maps from archival investigations, as warranted.
____ Color xerox photos showing general overview of each archaeological site.
____ Archival and oral history of a site specific nature.
____ For architectural surveys, detailed descriptions of each structures fifty years or older, including at least one color photograph.
____ Architectural survey reports shall include a map showing all structures surveyed.
____ Illustrations of significant architectural details, as needed.
____ Discussion of evaluation process for historic structures or districts.
____ For all reports, National Register evaluation of eligibility or ineligibility for each site over fifty years of age in project impact area.
____ For all reports, description of project effects on each site.
____ For all reports, management recommendation for each site in area of project's impact.
____ For all reports, if further investigations are recommended, a brief suggested scope of work.

References Cited

____ All references in the body of the report are to be cited in the bibliography in *American Antiquity* format.
____ All citations in the bibliography to appear in the text of the report.

Appendices and Attachments

____ *Curriculum vitae* for Principal Investigator and Field Supervisors if not already on file with Kentucky SHPO, submitted as free standing Attachments.
____ Artifact tabulations as an Appendix, as warranted.
____ Optional cemetery forms as an Appendix, as warranted.
____ Site survey forms attached to but not bound with the report.