

**PROTOTYPE PROGRAMMATIC  
AGREEMENT BETWEEN THE  
US DEPARTMENT OF AGRICULTURE,  
LOUISIANA NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,  
AND THE  
CHITIMACHA TRIBE OF LOUISIANA  
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 113-79); 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 1985 (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), 54 U.S.C. 306108, and its implementing regulations, 36 CFR Part 800, including the provisions of these regulations addressing NHLs at 36 CFR Part 800.10; 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 Louisiana State Office has consulted with the Chitimacha Tribe of Louisiana and their Tribal Historic Preservation Officer (THPO) 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 (NHO), 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 Louisiana State Office and the Chitimacha Tribe of Louisiana 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 54 U.S.C. 300319 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 the Chitimacha Tribe of Louisiana and has invited the Chitimacha Tribe of Louisiana to enter into this State-based Prototype Agreement as a signatory; 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 Louisiana State Office and the Chitimacha Tribe of Louisiana agree that undertakings in the State of Louisiana 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 Chitimacha Tribe of Louisiana, this State-based Prototype Agreement sets forth the review process for all NRCS undertakings subject to Section 106 in the State of Louisiana.
- b. Execution of this State-based Prototype Agreement supersedes any existing consultation protocols with Chitimacha Tribe of Louisiana 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 Louisiana NRCS state office.

### **II. Roles and Professional Qualifications.**

- a. The NRCS Louisiana State Conservationist is responsible for oversight of its performance under this State-based Prototype Agreement.
- b. NRCS Louisiana shall ensure all NRCS staff or individuals carrying out Section 106 historic preservation compliance work on its behalf, including the NRCS Louisiana State senior historic preservation professional staff member (the Cultural Resources Specialist (CRS)), 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, and other concerned communities). Thus, these staff and consultants must meet the Secretary of the Interior's Professional Qualification Standards and have the knowledge to assess the resources within an undertaking's area of potential effects (APE).
- c. The Louisiana State Conservationist is responsible for consultation with the Louisiana SHPO and government-to-government consultation with the Chitimacha Tribe of Louisiana 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 Louisiana CRS and/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, and discussions with the landowner. The CRS shall monitor and oversee the work and reporting of all NRCS field office personnel and professional service consultants. The CRS 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 and Cultural Resources Point of Contact (Appendix B, Section II) 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, 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 Louisiana CRS 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 Louisiana shall ensure these contractors meet the Secretary of Interior's Professional Qualifications Standards.
- g. NRCS remains responsible for all consultation with the SHPO, Indian tribes and THPOs, 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. The Chitimacha Tribe of Louisiana and/or THPO, if provided sufficient data on a proposed undertaking and APE for the proposed undertaking by NRCS Louisiana shall consult and provide a response to NRCS Louisiana within thirty (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.
- j. Electronic mail (email) will serve as one of the official correspondence methods for communications regarding this Prototype Agreement. NRCS Louisiana will ensure that agency level policy and guidelines regarding consultation are followed which include hard-copy mails and telephone calls as other official correspondence methods for communication with the Chitimacha Tribe of Louisiana and/or THPO. The Chitimacha Tribe of Louisiana and/or THPO will inform NRCS Louisiana of any change in name, address, email address, or phone number of any point-of-contact.

### **III. Training.**

- a. NRCS Louisiana 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 modules and the ACHP's Section 106 *Essentials* webinar for NRCS employees.
- b. NRCS shall require CRS 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 Chitimacha Tribe of Louisiana and/or THPO and 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.

#### **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/Indian tribe 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 Chitimacha Tribe of Louisiana and/or THPO, NRCS Louisiana shall identify those undertakings with little to no potential to affect historic properties and list those undertakings in Appendix A. Also listed in Appendix A are undertakings that have the potential to affect historic properties and undertakings that have a high potential to affect historic properties. Undertaking with little or no potential to affect historic properties will not require further consultation with the Chitimacha Tribe of Louisiana.

b. The list of undertakings provided in the Appendix A may be modified through consultation and written agreement between the NRCS Louisiana State Conservationist and the Chitimacha Tribe of Louisiana and/or THPO without requiring an amendment to this State-based Prototype Agreement. The NRCS Louisiana 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 that have the potential to affect historic properties and those that have a high potential to affect historic properties identified in Appendix A shall require further review as outlined in Stipulation V.c and Appendix B. NRCS Louisiana shall consult with the Chitimacha Tribe of Louisiana and/or THPO 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 Louisiana 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 Chitimacha Tribe of Louisiana and/or THPO provided this documentation meets the substantive standards in 36 CFR Part 800.4-5 and 800.11.

2. NRCS Louisiana shall attempt to avoid adverse effects to historic properties whenever possible; where historic properties are located in the APE, NRCS Louisiana shall describe

how it proposes to modify, buffer, or move the undertaking to avoid adverse effects to historic properties.

3. Where NRCS Louisiana proposes a finding of “no historic properties affected” or “no adverse effect” to historic properties, the Chitimacha Tribe of Louisiana and/or THPO shall have thirty (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 Chitimacha Tribe of Louisiana and/or THPO, or other consulting parties, disagrees with NRCS’ findings and/or determination, it shall notify the NRCS Louisiana within the thirty (30) calendar day time period. NRCS Louisiana shall consult with the Chitimacha Tribe of Louisiana and/or THPO, or other consulting parties to attempt to resolve the disagreement. If the disagreement cannot be resolved through this consultation, NRCS Louisiana shall follow the dispute resolution process in Stipulation VIII below.

ii. If the Chitimacha Tribe of Louisiana and/or THPO does not respond to the NRCS Louisiana within the thirty (30) calendar day period and/or the NRCS Louisiana receives no objections from other consulting parties, or if the Chitimacha Tribe of Louisiana and/or THPO concurs with the NRCS’ determination and proposed actions to avoid adverse effects, NRCS Louisiana 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 Louisiana 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 NHL, the NRCS shall, to the maximum extent possible, undertake such planning and actions that may be necessary to minimize harm to the NHL in accordance with 54 U.S.C. 306107 of the NRHP and 36 CFR 800.6 and 800.10, including consultation with the ACHP and respective Nation Park Service, Regional National Historic Landmark

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

a. NRCS shall notify the Louisiana SHPO, Indian tribes, and other consulting parties 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 Louisiana State Office can 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 Louisiana SHPO, Indian tribes, and other consulting parties. These procedures may be modified through consultation and written agreement between the NRCS Louisiana State Conservationist and the Chitimacha Tribe of Louisiana without requiring an amendment to this State-based Prototype Agreement.

c. If NRCS Louisiana 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 Section 106 review is complete, NRCS Louisiana shall consult to seek avoidance or minimization strategies in consultation with the Chitimacha Tribe of Louisiana and/or THPO, and other consulting parties to resolve adverse effects in accordance with 36 CFR Part 800.6 (Appendix B, Section VI).

b. NRCS Louisiana 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 (Appendix B, Section V). When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS Louisiana State Conservationist's Office, CRS, supervisory NRCS personnel for the area, and the landowner/applicant.

1. NRCS Louisiana 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, concerned Indian tribes, the SHPO, the NRCS State engineering or program supervisor, as appropriate), the landowner/producer (whomever NRCS is assisting), the NRCS Louisiana CRS shall establish a protective buffer zone surrounding the discovery. This action may require inspection by tribal cultural resources experts in addition to the NRCS Louisiana 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. NRCS Louisiana will coordinate public relations positions with any Indian tribe that may attach religious and cultural significance to a cultural resource prior to the release of any information pertaining to the cultural resources in question.

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 Louisiana CRS shall notify the Chitimacha Tribe of Louisiana and/or THPO 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 Chitimacha Tribe of Louisiana and/or THPO, the SHPO (where appropriate), and technical experts (such as historic landscape architects) not employed by NRCS.

5. The Chitimacha Tribe of Louisiana and/or THPO, SHPO (where appropriate), and ACHP shall respond as quick as possible but within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

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

7. NRCS Louisiana shall provide a report to the Chitimacha Tribe of Louisiana and/or THPO, the SHPO (where appropriate), 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, when on tribal or federal lands, 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. For discoveries of human remains on state or private land in Louisiana, NRCS will follow the provisions of the Louisiana Unmarked Human Burials Site Preservation Act (R. S. 8:671-681) (Appendix B, Section VI).

### **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 NRCS Louisiana 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 Louisiana 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 Louisiana 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 Louisiana 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 Louisiana 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-base Prototype Agreement, a member of the public may submit an objection pertaining to this agreement to the NRCS Louisiana State Conservationist, in writing. Upon receiving such an objection, the NRCS Louisiana State Conservationist shall notify the NRCS SPO and FPO, the Chitimacha THPO, 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, and the Chitimacha Tribe of Louisiana and/or THPO of the outcome of this process.



## **IX. Public Involvement**

The NRCS Louisiana 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, 2017, until it expires or is terminated, the NRCS Louisiana 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, a summary of the nature and content of meetings held with the Chitimacha Tribe of Louisiana and/or THPO, 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 Louisiana State Conservationist shall use the state report to assess the need for annual meetings with the Chitimacha Tribe of Louisiana and/or THPO each fiscal year.

b. The Louisiana 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 Louisiana State Conservationist and the Chitimacha Tribe of Louisiana and/or THPO 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 Louisiana 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, as appropriate, in the State of Louisiana.

d. NRCS Louisiana 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 or NHOs, 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 Louisiana and the Chitimacha Tribe of Louisiana and implementation of its terms is evidence that NRCS has taken into account the effects of its undertakings in State of Louisiana on historic properties and afforded the ACHP a reasonable opportunity to comment.

**Signatory Parties**

K. D. Norton

Date 12/21/2018

Kevin D. Norton

State Conservationist, Louisiana Natural Resources Conservation Service

Melissa Darden

Date 12-13-18

Melissa Darden

Chairman, Chitimacha Tribe of Louisiana

## APPENDIX A

### NRCS LOUISIANA PRACTICES AND ENHANCEMENTS AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

Pursuant to Stipulation V.a. above, in consultation with the Chitimacha Tribe of Louisiana, the NRCS Louisiana State Conservationist, and NRCS Conservation Specialists, the NRCS, through the qualified CRS as described in Stipulation II.b., has determined that there are programmatic undertakings that have little or no potential to affect cultural resources. NRCS Louisiana is not required to consult further with the Chitimacha Tribe of Louisiana and/or THPO for the programmatic undertakings listed in this section.

- a) Conservation 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 will provide the name(s) of possible contacts (e.g. SHPO) 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.
- b) 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.
- c) Soil Survey and Nation Resources Inventory (NRI) activities that involve no ground disturbance or limited to small-scale investigations, such as small shovel tests, auger holes, probe holes, core holes, and small soil investigations pits, the potential for these activities to affect historic properties is minimal. Large soil investigation pits 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 resource or historic properties identified during soil survey of any scale.
- d) Analyses of data from technical determinations of resource 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 where management plans do not call for structural modification or removal, or ground disturbing activities.

Pursuant to Stipulation V.a. above, in consultation with the Chitimacha Tribe of Louisiana, the NRCS Louisiana State Conservationist, and NRCS Conservation Specialists, the NRCS, through the qualified CRS as described in Stipulation II.b., has determined that specific conservation practices and/or enhancements can be grouped into three categories based on their effect on cultural resources. Below is a synopsis of these categories followed by Table 1. Table 1 presents each practice and/or enhancement, its numeric code, description, and potential to affect or not affect cultural resources under certain conditions.

#### **A. Conservation Practices that have a high potential to affect Cultural Resources**

Some conservation practices have a high potential to affect cultural resources when installed according to standard NRCS criteria. Practices which are primarily structural and involve excavation, grading, shaping, and other disturbance beyond normal farming activities are included in this category and are considered undertakings. These practices are likely to affect archaeological sites, Traditional Cultural Properties, standing buildings/structures, and landscapes. This category of conservation practices will require consultation with the Louisiana SHPO, Chitimacha Tribe of Louisiana and/or THPO, and Indian tribes. These practices will also require cultural resources investigations that may include reconnaissance or Phase I archaeological surveys, standing building/structure documentation and evaluation, and landscape documentation and evaluation. These practices are rated ground disturbing (G) for archaeological survey purposes. Cultural resources investigations will follow the guidelines in Appendix B, Sections III and IV.

#### **B. Conservation Practices that have a potential to affect Cultural Resources**

The potential of some conservation practices to affect cultural resources is variable and dependent primarily on the method used to implement these practices. Practices in this category are considered to have little or potential to affect cultural resources if no previously recorded cultural resource is present; if the activity will not exceed the depth, extent, and kind of disturbance caused by previous cultivation/tillage; and if the practice will not produce a visual or obstructive adverse effect. Practices in this category are considered to have the potential to affect cultural resources if they disturb previously undisturbed or “new” ground, involve a different type of disturbance, have alternative types of implementation that requires decisions as to their effect on cultural resources, if they produce visual and/or obstructive adverse effects, or produce an adverse effect on standing buildings/structures 50 years or older. NRCS Louisiana will consult with the Louisiana SHPO, Chitimacha Tribe of Louisiana and/or THPO, and Indian tribes on a case-by-case basis for these conservation practices to determine an appropriate course of action. These practices are rate potential ground disturbing (PG) for archaeological survey purposes. Cultural resources investigations will follow the guidelines in Appendix B, Sections III and IV.

#### **C. Conservation Practices that little or no potential to affect Cultural Resources**

Some conservation practices and enhancements are primarily management related and will not have any physical effects or alter a cultural resource. These practices are rated non-ground disturbing (NG) for archaeological survey purposes. NRCS Louisiana is not required to consult with the Louisiana SHPO, Chitimacha Tribe of Louisiana and/or THPO, and Indian tribes for conservations practices and enhancements in this category.

**TABLE 1**

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
560	Access Road	Shaping, grading, sub-grading, compaction, drainage, and fill material.	G	
311	Alley Cropping	Dependent on the type of planting method (hand or mechanical) and size of Tree or shrub planted.	PG	
591	Amendments for Treatment of Agricultural Waste	Chemical or biological amendments to wastewater. Applications are limited to manual or other methods above-ground.	NG	No effect, management related only
365	Anaerobic Digester, Ambient Temperature	Excavation, shaping, grading, compaction and fill material.	G	
366	Anaerobic Digester, Controlled Temperature	Shaping, grading, sub-grading, compaction, drainage, fill material and concrete.	G	
316	Animal Mortality Facility	Shaping, grading, sub-grading, compaction, drainage, fill material and concrete.	G	
575	Animal Trails and Walkways	Shaping, grading, sub-grading, compaction, drainage, and fill material.	G	
450	Anionic Polyacrylamide (PAM) Erosion Control	Application of water soluble anionic polyacrylamide through existing surface and sprinkler irrigation systems.	NG	No effect if within present tillage regime and no new construction
397	Aquaculture Ponds	Excavation, shaping, grading, and compaction.	G	
370	Atmospheric Resources Quality Management	The management involved in atmospheric resource quality management is non ground disturbing. However, any facilitating practices or referred practices within the standard and specifications may be considered ground- disturbing or potentially ground disturbing.	NG	No effect if management related and there is no ground disturbing activities, previously recorded archaeological sites, or structures 50 years or older
310	Bedding	Establishment of ridges or furrows by plowing or blading.	PG	
314	Brush Management	Mechanical removal of non-herbaceous vegetation by heavy farm equipment. Chemical removal may be considered ground disturbing.	PG	
672	Building Envelope Improvement	Modification or retrofit of the building envelope of an existing agricultural structure.	NG	No effect if building is less than 50 years in age
322	Channel Bank Vegetation	Hand planting or seeding material along disturbed channel banks.	G	No effect if within present tillage regime or previously disturbed banks
584	Channel Stabilization	Heavy equipment is used to place concrete or metal structures within channel bottom.	G	
326	Clearing & Snagging	Heavy equipment is used to clear vegetation within channel and along banks.	G	
360	Closure of Waste Impoundments	Removing waste from existing structure by pumping with irrigation equipment or other pumping equipment then land applying waste or wastewater through spreaders is non-ground disturbing. If utilizing fill material to backfill waste impound ground disturbance will occur.	PG	

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
317	Composting Facility	Shaping, grading, sub-grading, compaction, drainage, fill material and placement of concrete.	G	
327	Conservation Cover	Planting permanent vegetative cover of grasses, legumes, trees, or shrubs.	PG	
328	Conservation Crop Rotation	An adapted sequence of crops involving planting of annual crops on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime
656	Constructed Wetland	Excavation, shaping, grading, compaction and fill material.	G	
332	Contour Buffer Strips	Dependent on grade needed to establish vegetative cover.	PG	
330	Contour Farming	Dependent on grade needed to establish vegetative cover.	PG	
331	Contour Orchard and Other Fruit Areas	Dependent on the planting method and vegetation used.	PG	
340	Cover Crop	Establishment of grasses, legumes, or small grains using on-farm equipment.	PG	No effect if within present tillage regime
342	Critical Area Planting	Eroded areas that require shaping with heavy equipment before planting is considered ground disturbing. Around man-made structures, the area has been previously shaped and graded hence the planting itself is not ground-disturbing.	PG	
402	Dam	Excavation, shaping, grading, compaction and fill material.	G	
348	Dam, Diversion	Excavation, shaping, grading, compaction and fill material.	G	
324	Deep Tillage	Equipment including chisels, subsoilers, or rippers that operate below any previous plow zone.	G	
356	Dike	Heavy farm equipment or construction equipment is used to place soil into a berm.	G	
362	Diversion	Heavy farm equipment or construction equipment is used to excavate a channel and place soil into a berm.	G	
554	Drainage Water Management	The management involved in implementing drainage water management not any facilitating practices that are considered potentially ground-disturbing or ground disturbing.	NG	No effect if there are no ground disturbing activities, previously recorded archaeological sites, or structures 50 years or older
432	Dry Hydrant	A hole drilled, dug, driven, bored, jetted, or otherwise constructed for permanent pipeline.	G	No effect if there are no previously recorded archaeological sites
647	Early Successional Habitat Development/Mgt.	The management involved in maintaining early successional habitat. Any facilitating practices or referred practices within the standard and	PG	



CODE	PRACTICE	PRACTICE EXTENT	RATING	EFFECT
592	Feed Management	Management of nutrients fed to livestock or poultry.	NG	No effect, management related only
382	Fence	Dependent on size of post and depth.	PG	No effect if there are no previously recorded archaeological sites
386	Field Border	Dependent on the type of site preparation, planting method, and vegetation used (grasses or shrubs).	PG	
393	Filter Strip	Dependent on type of site preparation needed and planting method.	PG	
394	Firebreak	Creating a new firebreak by disking or plowing.	G	
396	Fish Passage	Excavation, shaping, grading, and compaction.	G	
398	Fish Raceway or Tank	Excavation, shaping, grading, and compaction.	G	
399	Fishpond Management	Regulating water flow, feed, and forage in a pond.	NG	No effect, management related only
511	Forage Harvest Management	The timely cutting and removal of forages involving on- farm equipment.	NG	No effect if there are no ground disturbing activities, previously recorded archaeological sites, or structures 50 years or older
490	Forest Site Preparation	Pushing and piling, chopping or disking.	G	
384	Forest Slash Treatment	Treatment includes above-ground methods including burning, chipping, mulching, and/or removal.	NG	No effect if there are no ground disturbing activities, previously recorded archaeological sites, or structures 50 years or older
666	Forest Stand Improvement	If species are to be removed with a chainsaw, or other hand tools and left on the ground or injected with chemicals and left standing it is considered non-ground disturbing. If trees are to be cut and/or removed with heavy equipment, then it is ground-disturbing.	NG	No effect if there are no ground disturbing activities, previously recorded archaeological sites, or structures 50 years or older
655	Forest Trails and Landings	Shaping, grading, sub-grading, compaction, and fill material.	G	
383	Fuel Break	A strip or block of land on which the vegetation, debris and detritus have been reduced and/or modified to control or diminish the risk of the spread of fire crossing the strip or block of land.	PG	
410	Grade Stabilization Structure	Trenching for pipe with water control appurtenance(s). Excavation, shaping, grading, and fill material.	G	
412	Grassed Waterway	Excavation, shaping, grading, and compaction.	G	
548	Grazing Land Mechanical Treatment	Mechanical treatments include subsoiling, chiseling, or ripping.	G	
561	Heavy Use Area Protection	Shaping, grading, sub-grading, compaction, drainage, and fill material.	G	
422	Hedgerow Planting	Dependent on the type of planting method (hand or mechanical) and vegetation used (grasses or shrubs).	PG	No effect if planting by hand
423	Hillside Ditch	Excavation, shaping, grading, and compaction.	G	
428B	Irr. Water Conveyance, Ditch and Canal Lining, Flexible Membrane	Site will already be previously disturbed through pond construction. Irrigation Canal or Lateral and Irrigation Field Ditch is considered a ground-disturbing practice.	NG	No effect if within the footprint of the previously disturbed pond, canal, or field ditch

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
428C	Irr. Water Conveyance, Ditch and Canal Lining, Galvanized Steel	Site will already be previously disturbed through pond construction. Irrigation Canal or Lateral and Irrigation Field Ditch is considered a ground-disturbing practice.	NG	No effect if within the footprint of the previously disturbed pond, canal, or field ditch
428A	Irr. Water Conveyance, Ditch and Canal Lining, Plain Concrete	Site will already be previously disturbed through pond construction. Irrigation Canal or Lateral and Irrigation Field Ditch is considered a ground-disturbing practice.	NG	No effect if within the footprint of the previously disturbed pond, canal, or field ditch
430	Irrigation Water Conveyance, Pipeline	Trenches are backfilled ranging from 24-30 inches. Pipe may be placed below 30 inches depending on its diameter.	G	
320	Irrigation Canal or Lateral	Heavy farm or construction equipment is used to clear and excavated canal or lateral.	G	
388	Irrigation Field Ditch	Heavy farm or construction equipment is used to clear and excavated field ditch.	G	
464	Irrigation Land Leveling	Earthmoving equipment such as a fixed blade, grader or earth pan is used.	G	No effect if within existing rice fields
552	Irrigation Regulating Reservoir	Heavy farm or construction equipment is used to excavate reservoir and construct embankments. Fill material may be needed for embankments.	G	
436	Irrigation Storage Reservoir	Heavy farm or construction equipment is used to excavate reservoir and construct embankments. Fill material may be needed for embankments.	G	
441	Irrigation System, Micro-irrigation	Pipeline may be placed just below or within the plow zone or below the plow zone. Retrofits are non-ground disturbing.	PG	No effect if retrofit only
442	Irrigation System, Sprinkler	Pipeline is ground-disturbing when installed under 430DD. Retrofits are non-ground disturbing.	PG	No effect if retrofit only
443	Irrigation System, Surface & Subsurface	Pipeline may be placed just below or within the plow zone or within the plow zone or below the plow zone.	PG	
447	Irrigation System, Tail water Recovery	Heavy equipment or construction equipment is used to excavate reservoir and construct embankment. Fill material may be needed for embankments.	G	
449	Irrigation Water Management	Managing water supplies for irrigation	NG	No effect, management related only
460	Land Clearing	Use of heavy equipment, extensive site disturbance.	G	
543	Land Reclamation, Abandoned Mined Land	These sites are already or will be highly disturbed from mining activity, but reshaping may occur on undisturbed areas adjacent to existing mine.	G	No effect if restricted to previously disturbed mining property
544	Land Reclamation, Currently Mined Land	These sites are already or will be highly disturbed from mining activity, but reshaping may occur on undisturbed areas adjacent to existing mine.	G	No effect if restricted to previously disturbed mining property
453	Land Reclamation, Landslide Treatment	These sites are already or will be highly disturbed from landslide activity, but reshaping may occur on unstable areas.	G	No effect if restricted to previously disturbed mining property

CODE	PRACTICE	PRACTICE EXTENT	RATING	EFFECT
455	Land Reclamation, Toxic Discharge Control	There are four primary methods for controlling toxic mine drainage: (1) mine sealing, (2) infiltration control, (3) "daylighting," and (4) neutralization and precipitation.	G	No effect if restricted to previously disturbed mining property
466	Land Smoothing	Smoothing out surface with on-farm equipment.	G	
670	Lighting System Improvement	Complete replacement or retrofitting of one or more components of an existing agricultural lighting system	NG	No effect if building is less than 50 years in age
468	Lined Waterway or Outlet	Excavation, shaping, grading, and compaction.	G	
717	Livestock Shade Structure	Shade fabric supported with metal structure placed on surface.	NG	No effect if building is less than 50 years in age
634	Manure Transfer	A conveyance system using structures or conduits involving shaping, sub-grading, compaction, and placement of concrete.	G	
457	Mine Shaft & Audit Closing	Closure of underground mine openings by filling, plugging, capping, installing barriers, gating, or fencing.	PG	No effect if restricted to previously disturbed mining property
482	Mole Drain	Dependent on the depth of the mole drain and the plow zone.	PG	
353	Monitoring Well	A hole drilled, dug, driven, bored, jetted, or otherwise constructed.	G	No effect if there are no previously recorded archaeological sites
484	Mulching	Composted or synthetic material is placed by hand or machine on the surface.	NG	No effect if within present tillage regime or produces no subsurface disturbance
590	Nutrient Management	Recordkeeping and/or risk assessment. Spreading of organic waste on surface with on-farm equipment.	NG	No effect, management related only
500	Obstruction Removal	Use of heavy equipment for removal of structures to natural obstructions.	G	
582	Open Channel	Excavation, shaping, and grading.	G	
512	Pasture & Hay Planting	Dependent on the type of site preparation and planting method.	PG	
595	Pest Management	Recordkeeping and/or risk assessment is non-ground disturbing. If non-native, invasive species are to be removed with a chainsaw, or other hand tools and left on the ground or treated with chemicals and left standing then it is non-ground disturbing.	NG	No effect if management related
516	Pipeline	Trenches are excavated ranging from 3 feet or more.	G	
378	Pond	Excavation, shaping, grading, compaction and if embankment, fill material.	G	
521	Pond Sealing or Lining, Bentonite Sealant	Site will already be previously disturbed through pond construction. Pond is considered a ground-disturbing practice.	NG	No effect if within the footprint of existing pond only

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
521	Pond Sealing or Lining, Compacted Clay Treatment	Site will already be previously disturbed through pond construction. Pond is considered a ground-disturbing practice.	NG	No effect if within the footprint of existing pond only
521	Pond Sealing or Lining, Flexible Membrane	Site will already be previously disturbed through pond construction. Pond is considered a ground-disturbing practice.	NG	No effect if within the footprint of existing pond only
521	Pond Sealing or Lining, Soil Dispersant	Site will already be previously disturbed through pond construction. Pond is considered a ground-disturbing practice.	NG	No effect if within the footprint of existing pond only
462	Precision Land Forming	Earthmoving equipment such as a fixed blade, grader or earth pan is used.	G	
338	Prescribed Burning	Is typically a non-ground disturbing, but may threaten above-ground structures that are within the vicinity.	NG	No effect if there are no structures 50 years or older
528	Prescribed Grazing	The management involved in implementing a rotational grazing schedule, not any facilitating practices, that could be considered ground-disturbing or potentially ground-disturbing.	NG	No effect, management related only
533	Pumping Plant	Shaping, grading, sub-grading, and placement of foundation. If the pumping plant is floating, it is non-ground disturbing. All pipeline associated with the pumping plant is referred to the appropriate practice.	G	
550	Range Planting	Dependent of the type of site preparation, planting method and vegetation used.	PG	No effect if broadcast seeding or within present tillage regime
562	Recreation Area Improvement	Dependent on the type of planting method (hand or mechanical) and size of tree/shrub planted. If selective removal method involves chainsaw, or other hand tools and left on the ground or treated with chemicals and left standing it is non-ground disturbing. If selective removal method involves cutting and/or removed with heavy equipment, it is ground-disturbing.	PG	
566	Recreation Land Grading and Shaping	Shaping and grading.	G	
568	Recreation Trail and Walkway	Shaping, grading, sub-grading, compaction, and fill material.	G	
345	Residue and Tillage Management, Mulch Till	Tillage on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime
329	Residue and Tillage Management, No Till/Strip Till/Direct Seed	Tillage on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime
346	Residue and Tillage Management, Ridge Till	Tillage on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime
344	Residue Management, Seasonal	Tillage on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
643	Restoration and Management of Rare and Declining Habitats	The management involved, not any facilitating and/or restorative practices that are considered ground- disturbing.	PG	No effect if within present tillage regime
391	Riparian Forest Buffer	Dependent on the type of site preparation, planting method, and vegetation used.	PG	
390	Riparian Herbaceous Cover	Dependent on the type of site preparation, planting method, and vegetation used.	PG	
555	Rock Barrier	Excavation, grading, compaction, and if embankment, fill material.	G	
558	Roof Runoff Structure	Gutters and downspouts are considered non-ground disturbing. Any underground outlet is ground-disturbing.	PG	No effect if there are no previously recorded archaeological sites and building is less than 50 years in age
557	Row Arrangement	Planning row direction, grade, and length on previously established cropland.	NG	No effect if within present tillage regime
570	Runoff Management System	May include light to heavy grading to divert and retain water in swales, ditches, and small basins. Could also be accomplished through the placement of hay bales, temporary soil berms, or other materials.	G	
610	Salinity and Sodic Soil Management	Management of land, water and plants to control and minimize accumulations of salts and/or sodium on the soil surface and in the crop rooting zone. May involve potentially ground-disturbing or ground-disturbing practices.	PG	
798	Seasonal High Tunnel	Anchoring will almost always involve ground disturbance.	PG	
350	Sediment Basin	Excavation, grading, sub-grading, compaction, and if embankment, fill material.	G	
646	Shallow Water Development and Management	Excavation, shaping, grading, compaction and if embankment, fill material.	PG	
381	Silvopasture Establishment	Planting permanent vegetative cover of grasses, legumes, trees, or shrubs.	PG	
632	Solid/Liquid Waste Separation Facility	Shaping, grading, sub-grading, compaction, drainage, fill material and placement of concrete.	G	
572	Spoil Spreading	Use of heavy equipment needed spread surplus material.	G	
574	Spring Development	Excavation, grading, compaction, and if embankment, fill material.	G	
578	Stream Crossing	Excavation, grading, compaction, and if embankment, fill material.	G	
395	Stream Habitat Improvement and Management	Excavation, shaping, and grading.	PG	
580	Streambank and Shoreline Protection	Shaping, grading, compaction, and/or placement of stabilizing materials (i.e. rock).	G	

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
585	Strip cropping	Establishment of grasses, legumes, or small grains using on-farm equipment.	PG	No effect if within present tillage regime
587	Structure for Water Control	Trenching for pipe with water control appurtenance(s). Excavation, shaping, grading, and fill material.	G	
606	Subsurface Drain	Trenches are excavated to accommodate pipe.	G	
607	Surface Drainage, Field Ditch	On-farm equipment is used to excavate field ditch.	G	
608	Surface Drainage, Main or Lateral	Heavy farm or construction equipment is used to excavate main or lateral.	G	
609	Surface Roughening	Tillage on previously established cropland using on-farm equipment.	PG	No effect if within present tillage regime, no previously recorded archaeological site, and no building 50 years or older
600	Terrace	Shaping, grading, compaction, and embankment.	G	
612	Tree/Shrub Establishment	Dependent on the planting method and vegetation used.	PG	
660	Tree/Shrub Pruning	Pruning trees/shrubs on previously established forestland or cropland.	NG	No effect if hand work
620	Underground Outlet	Trenches are backfilled ranging from 24-30 inches and pipe may be placed below 30 inches depending on its diameter.	G	
645	Upland Wildlife Habitat Management	Generally a management practices, but can include ground-disturbing practices that are cost-shared including mechanical, or heavy equipment, applications.	PG	No effect if management related
472	Use Exclusion	The management involved, not any facilitating practices that are classified as potentially ground-disturbing or ground-disturbing (i.e. fence, watering facility).	NG	
601	Vegetative Barrier	Dependent of the type of site preparation, planting method and vegetation used.	PG	
630	Vertical Drain	A hole drilled, dug, driven, bored, jetted, or otherwise constructed.	G	No effect if there are no previously recorded archaeological sites
367	Waste Facility Cover	Cover and anchorage system with pipe above-ground.	NG	No effect if there are no previously recorded archaeological sites or structures 50 years or older
313	Waste Storage Facility	Excavation, shaping, grading, compaction, and fill material.	G	
629	Waste Treatment	If utilizing chemical or biological treatments without any mechanical manipulations. If shaping, grading, sub-grading, compaction, drainage, fill material and placement of concrete for use of mechanized treatments then the practice is ground-disturbing.	PG	
629	Waste Treatment	In-house pasteurization of broiler litter	NG	No effect, management related only
359	Waste Treatment Lagoon	Excavation, shaping, grading, compaction, and fill material.	G	

<b>CODE</b>	<b>PRACTICE</b>	<b>PRACTICE EXTENT</b>	<b>RATING</b>	<b>EFFECT</b>
633	Waste Utilization	Collection and surface application of collected manners, bedding material and other biodegradable products safe for land application.	NG	No effect if within present tillage regime
635	Wastewater Treatment Strip	Dependent of the type of site preparation, planting method and vegetation used.	PG	
638	Water and Sediment Control Basin	Excavation, shaping, grading, compaction, and if embankment, fill material.	G	
636	Water Harvesting Catchment	Excavation, shaping, grading, compaction and fill material.	G	
642	Water Well	A hole drilled, dug, driven, bored, jetted, or otherwise constructed.	G	No effect if there are no previously recorded archaeological sites
614	Watering Facility	Shaping and grading required for adequate drainage.	G	
640	Water spreading	Excavation, shaping, grading, compaction and fill material.	G	
351	Well Decommissioning	Removing old equipment and plugging a previously established well.	G	No effect if within previously disturbed well property
355	Well Water Testing	Testing for physical, biological, and chemical characteristics of well water.	NG	No effect, management related only
658	Wetland Creation	Usually consists of other practices such as tree planting, dike construction, or placement of water control structures to accomplish objectives.	G	
659	Wetland Enhancement	May consist of other practices such as tree planting, dike construction or placement of water control structures to accomplish objectives.	PG	
657	Wetland Restoration	May consist of other practices such as tree planting, dike construction or placement of water control structures to accomplish objectives.	PG	
644	Wetland Wildlife Habitat Management	Generally a management practices, but can include ground-disturbing practices that are cost-shared including mechanical, or heavy equipment, applications.	PG	

**APPENDIX B**  
**NRCS Louisiana Procedures for Cultural  
Resources Review and Field Investigations**

**I. Introduction**

NRCS policy, procedural references, and guidance for compliance with the National Historic Preservation Act (NRHP) of 1966 and its implementing regulations, 36 CFR Part 800 was established by the NRCS General Manual 420, Part 401 and the NRCS *National Cultural Resources Procedures Handbook* (H190 Part 601). General Manual 420, Part 401 defines responsibilities for general and lead Federal agencies, personnel, consulting parties, and the manner in which NRCS considers cultural resources in its programs and activities. It also discusses training and use of NRCS personnel and NRCS conservation partners for limited cultural resources identification.

The NRCS *National Cultural Resources Procedures Handbook* was developed to provide procedural reference and guidance on processes the NRCS, its conservation partners, and consultants use to identify, evaluate, and protect historic properties and other cultural resources in order to comply with the NRHP, 36 CFR Part 800, and other related authorities. The handbook provides additional guidance on NRCS responsibilities in the cultural resources compliance process, provides additional procedures for the identification, avoidance, and determination of effects on cultural resources that may be impacted by NRCS undertakings.

Both documents provide the primary guidance for compliance with the NRHP by NRCS Louisiana. When applied in accordance with the NRCS Louisiana Prototype Agreement, these procedures serve as alternative procedures to the Advisory Council on Historic Preservation (ACHP) regulations. These procedures streamline the Section 106 process appropriate for conservation technical and financial assistance as well as for other activities conducted by NRCS Louisiana.

**II. Section 106 Compliance Responsibilities for NRCS Louisiana Undertakings**

The following individuals and/or groups and their Section 106 responsibilities for NRCS Louisiana undertakings are:

- a) **The NRCS Louisiana State Conservationist.** This individual is the responsible federal official for cultural resource compliance for NRCS undertakings in Louisiana. The Louisiana State Conservationist has approval authority for all NRCS undertakings and is responsible for ensuring that appropriate actions are taken in order to comply with Section 106. The NRCS Louisiana State Conservationist or designee is also responsible for conducting cultural resources consultation with the State of Louisiana Historic Preservation Office (SHPO), federal and state agencies, Indian tribes/Tribal Historic Preservation Offices (THPO), and other interested parties.



- b) **NRCS Louisiana District Conservationist.** District Conservationists are responsible for ensuring that all provisions for compliance with Section 106 and with NRCS Louisiana cultural resources policies are implemented in their areas and field offices.
- c) **State Cultural Resources Specialist (CRS).** The NRCS Louisiana State CRS oversees the implementation of cultural resources compliance policies for NRCS undertakings in Louisiana. The State CRS provides oversight and quality assurance during conservation planning as well as assisting NRCS Louisiana personnel and conservation planners with the identification of cultural resources during the planning process. The Louisiana State CRS also provides direct assistance to NRCS Area and Field Office personnel to complete cultural resources surveys and evaluations.
- d) **Cultural Resources Points of Contact (CR POC).** The CR POC are not cultural resource specialists but are NRCS personnel that have been trained for cultural resources and Section 106 review purposes. They do not participate in cultural resources field investigations. The POCs are required to take Training Modules 1-6, the Section 106 *Essentials* class, and more specific training provided by NRCS. They are also required to participate in classroom and field training specific to the State of Louisiana. There are five CR POC in Louisiana. Four are assigned specific areas of the state while the fifth is dedicated to large scale coastal projects. The POCs coordinate with Field Office personnel within their areas, collect Section 106 documentation for review and comment by the Louisiana SHPO and Indian tribes, maintain tracking sheets of undertakings in their respective areas, and notify the State CRS of any problems with the review process in their areas.
- e) **Agricultural Producers, Applicants for Assistance, and Project Sponsors (Cooperators).** NRCS Louisiana provides technical and financial assistance to agricultural producers, applicants for assistance, and project sponsors across the state to implement conservation undertakings. Financial assistance is comprised of federal funding delivered through several NRCS conservation programs and is therefore an undertaking and subject to Section 106 review. Cooperators also have responsibilities in the Section 106 process. These responsibilities include working with conservation planners to help identify cultural resources on their property, project implementation when authorized, make all necessary efforts and provisions to avoid and minimize impacts to cultural resources identified during the conservation planning process. All cooperators are entitled to and are encouraged to participate in the Section 106 process as a consulting party.

### III. Defining Cultural Resources

Cultural Resources encompass the physical evidence of past activities and accomplishments of both individuals and society (per the National Cultural Resources Training Series). Cultural Resources can include objects, sites, buildings, structures, districts (tangible evidence) as well as landscapes, locations of cultural

values, and vistas (non-tangible evidence) of activity and significance.

- a) **Archaeological Sites.** This category of cultural resources includes the tangible evidence of past activities that are of a certain age, are spatially circumscribed, and may or may not exhibit internal differentiation and diversity. NRCS Louisiana follows the Louisiana SHPO and the Louisiana Division of Archaeology definition of an archaeological site. To be considered an archaeological site for NRCS Louisiana undertakings, the remains of past human activity must be a locus that contains at least five artifacts and/or an intact feature, with either surface or subsurface provenience, and are at least 50 years old. Surface scatter sites must be five or more artifacts within an area no greater than 30 x 30 m. The Division of Archaeology will consider proposed exceptions to these conditions on a case-by-case basis.

Federal law and NRCS policy stipulate that all cultural resources that meet the criteria for an archaeological site must be evaluated for the NRHP. All NRHP eligibility are the responsibility of NRCS Louisiana CRS and are developed in consultation with the Louisiana SHPO, Indian tribes, and other interested parties in the cultural resources review process. Four criteria were developed in order to determine eligibility for the NRHP and are based on the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association (36 CFR Part 60.4):

- 1) Criterion A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- 2) Criterion B. That are associated with the lives of persons significant in our past; or
- 3) Criterion C. That embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- 4) Criterion D. That have yielded, or may be likely to yield information important in prehistory or history.

An archaeological site that possesses sufficient integrity and meets one or more of the Criteria listed above is eligible for the NRHP and is considered a *Historic Property*. This term is specific to those cultural resources that are either listed or eligible for inclusion in the Nation Register of Historic Places. The term *Historic Property* is inclusive of both prehistoric and historic sites and not used for cultural resources, regardless of type, determined to be not eligible for the NRHP. Archaeological sites determined to be historic properties are afforded special protection under federal law and NRCS policy. Therefore, conservation planners must take into account potential impacts to these resources and take

appropriate steps to avoid, minimize, or mitigate any adverse effects that may result from NRCS Louisiana activities.

- b) **Traditional Cultural Properties.** A Traditional Cultural Property (TCP) is a historic property that has cultural significance and may be eligible for inclusion in the NRHP. Tradition in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations usually orally or through practice. The traditional cultural significance of a historic property, the, is derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. These locations are intertwined with that community's history and are important in maintaining the cultural identity of that community. As with archaeological sites, TCPs must meet at least of the criteria listed above to be eligible for the NRHP. Some TCPs will have no material manifestations and will usually be identified during the consultation process with Indian tribes, informants, and local residents. TCPs must be taken into account during the planning process and their identification and treatment will require agreement among the Indian tribes, informants, local residents, and NRCS Louisiana CRS personnel.
- c) **Isolated Finds.** In the State of Louisiana, locations of cultural material that are more than 50 years old, but do not meet other qualifications for being recorded as a site will be considered Isolated Finds. Isolated Finds will be described and included in the report of investigations. By their definition, Isolated Finds are not eligible for the NRHP.
- d) **Standing Buildings/Structures.** A building is a structure created to shelter any form of human activity and include houses, barns, churches, hotels, or similar structures. Building may refer to a historically related complex such as a courthouse and jail or a house and barn. A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization constructed by humans and include canals, dams, roadways, railroad grades, mounds, cairns, roadway systems, and paths. The effects of NRCS Louisiana activities must be taken into account for any standing building/structure. If these effects cannot be avoided, the standing building/structure will be documented following the guidelines developed by the Louisiana Division of Historic Preservation. Documentation may require technical experts (historical architects, architectural historians) that are not employed by NRCS Louisiana.
- e) **Landscapes.** Landscapes are geographical areas that are defined by the interrelationship of their constituent resources and/or property types. Landscapes vary in composition and scale and may reflect natural and/or cultural processes that have been instrumental in shaping the land. Landscapes exhibit tangible evidence of the activities of the people who occupied, developed, used, and shaped the land as well as their beliefs, attitudes, traditions, and values. Landscape types include, but are not limited to, designed historic landscapes, historic residential suburbs, rural historic landscapes, traditional cultural properties, traditional cultural landscapes, and mining landscapes. Landscapes must be considered during the planning process and

their identification and treatment will require agreement among the Indian tribes, informants, local residents, and Louisiana CRS personnel. NRCS Louisiana shall attempt to avoid any adverse effect to landscapes. If these effects cannot be avoided, the landscape will be documented following the guidelines established by the NPS and the Louisiana Division of Historic Preservation. Documentation may require technical experts (e.g. tribal experts, landscape architects, historical architects, cultural geographers) that are not employed by NRCS Louisiana.

#### **IV. NRCS Louisiana Cultural Resources Investigations Procedures**

NRCS Louisiana will utilize a combination of procedures developed by NRCS and the Louisiana Division of Archaeology to guide the cultural resources compliance process as well as cultural resources investigations.

- a) The first step in the cultural resources review process is to obtain consent from the applicant to release information concerning cultural resources located on that property so that NRCS Louisiana may enter into the consultation process with the appropriate consulting parties. Conservation planners must meet with the applicant, advise the applicant of the cultural resources review process, and obtain permission to disseminate information contained the Conservation Plan File to the appropriate parties.
- b) Conservation Planners will provide administrative as well as specific information about the Conservation Plan under consideration. Administrative information will include the applicant, the NRCS Louisiana contract number used to identify the undertaking, and the funding source that is used to implement the undertaking. These data and other are summarized in the Environmental Assessment Worksheet (NRCS-CPA-52) Form. Specific information provided by the Conservation Planners will include the extent of each conservation activity, enhancement, and practice that comprise the specific undertaking, the location of the undertaking using latitude/longitude coordinates, identify specific fields and tracts where the different activities, enhancements, and practices are to be implemented, a legal description consisting of township, range, and section information, and any other natural and/or made-made landscape feature, as appropriate. All information collected by the Conservation Planner will be graphically illustrated to scale on color aerial maps. When required, the Conservation Planner will also provide planning maps and engineering designs.
- c) The Conservation Planner will forward all pertinent information (forms, maps, etc.) to the NRCS Louisiana CRS and the CR POC responsible for that section of the State of Louisiana. The CRS and/or CR POC will compile a written description of each activity, enhancement, and practice in the undertaking. The CRS will review Appendix A of the NRCS Louisiana Prototype Agreement to determine whether the planned activities, enhancements, or practices for the specific undertaking is subject to further cultural resources investigation. The CRS and/or CR POC will access the Louisiana Cultural Resources Map/Viewer

maintained by the Louisiana Division of Archaeology to determine if any previously recorded cultural resources are located within the undertaking. If there are previous recorded resources with the undertaking, the CRS and/or CR POC, will make note of them and describe their location by the undertaking, respective USGS quadrangle sheet, township/range/section, tract, and field. **The Louisiana SHPO does not allow the collection and/or dissemination of specific cultural resources location data (e.g. latitude/longitude coordinates) from the Louisiana Cultural Resources Map/Viewer by an agency, archaeological contractor, and Indian Tribe/THPO that has access to the map/viewer.**

- d) The Conservation Planner will also determine if the landowner has any knowledge of cultural resources located within the undertaking. Subsequently, the CRS and/or CR POC will determine to the extent possible the land use history of the property, determine if National or State listed cultural resources are located within the property, and determine if any additional information was collected from local historians, museums, and historical societies. Information collected will be entered in the appropriate sections of the Louisiana Cultural Resources Site Review Form (LA CR-1 Form).
- e) The CRS and/or CR POC will assemble all cultural resources maps, planning maps, and forms for the particular undertaking. A letter describing all aspects of the undertaking will be drafted to accompany the other documentation. A preliminary determination of the undertaking effects will also be included in the letter. These documents will be sent to the Louisiana SHPO and the Indian tribes and/or their THPOs as part of the consultation process for review and comment.
- f) The documents sent to the Indian tribes THPOs and/or their representative will be based on each Indian tribes Area of Interest (AOI). These AOI are geographically based and defined by the respective Indian tribes that NRCS Louisiana consults with on Section 106 Review matters. The Indian tribes provide that information to NRCS Louisiana. NRCS Louisiana does not share or disseminate that information and restricts access to only eight (8) people in the State of Louisiana (the SRC, CRS, CRC, and five CR POCs). The Indian tribes also modify their AOI, adding parishes or removing them, for Section 106 Review purposes.
- g) If all consulting parties agree that the undertaking will produce no adverse effect, then no further cultural resources review is required and the undertaking will be implemented. The undertaking will also be implemented if no comments are received during the thirty (30) day review period. If any of the consulting parties determine that the undertaking will result in an adverse effect, a cultural resources survey will be conducted. Survey methodology will follow the guidelines developed by the Louisiana Division of Archaeology. Cultural Resources surveys will be conducted either by the NRCS Louisiana CRS and/or an archaeological contractor that meets the Secretary of Interior standard and also those required by the Louisiana Division of Archaeology.

- h) Reconnaissance surveys are designed for small APEs and appropriate for use in many non-urban settings. They allow for professional judgment in the number and placement of survey methods with the goal of assessing the presence or absence of sites in the most likely locations. A reconnaissance survey is a pedestrian survey with systematic subsurface testing implemented in areas where the APE is 10 acres in size or less, the APE is not located in an urban area, and does not contain a site that is eligible for the NRHP. Subsurface tests must be excavated at 30 m intervals across the area of direct surface and subsurface impact. Judgmental subsurface tests may be placed across the remainder of the APE, if appropriate, with at least one subsurface test per acre of area. If the APE is 1 acre or less, one subsurface test must be judgmentally placed across the APE to determine if an archaeological site is located with the survey and to assess the degree of subsurface disturbance, if present. Subsurface testing may include shovel tests, auger coring, soil probes, and mechanically excavated trenches depending on surface conditions and the potential for deeply buried sites. Shovel tests will measure 30 x 30 cm and be excavated to subsoil or 50 cm below ground surface. All soil from shovel tests will be screened through ¼ inch or finer hardware cloth. If screening is not possible or impractical, the soils will be carefully trowel sorted. The results of all shovel tests will be recorded on appropriate forms. The general stratigraphy revealed in the tests will be described in the report in terms of texture, depth below ground surface, and Muncsell soil color designations. Cultural material recorded from the shovel tests will be collected and recorded on appropriate forms. Representative profiles of the subsurface tests will be drafted and presented in the report of investigations. Overview photographs of the survey area as well as the subsurface tests will also be included in the report.
- i) The goal of a Phase I archaeological investigation is to locate and define the boundaries of every archaeological site within the APE. This must include an assessment, with supporting documentation, of the eligibility of every site identified within the APE for the NRHP. Such assessments apply to both newly reported and previously reported sites. Cultural Resources Investigation Permits (CRIP), issued by the Louisiana Division of Archaeology on state lands, are not required for Phase I surveys. A Phase I survey is a pedestrian survey with systematic subsurface testing implemented in APEs larger than 10 acres in size. Phase I surveys must examine the entire APE with systematic subsurface testing and pedestrian survey whenever possible. Subsurface testing may include shovel tests, auger coring, soil probes, and mechanically excavated trenches depending upon surface conditions and the potential for deeply buried sites. Survey strategy, pedestrian transect array, and the placement of subsurface tests will be justified in the report of investigations. Any field condition that limits or prohibits survey in any portion of the APE must be delineated on project maps and fully described in the report.
- j) In Phase I surveys, survey strategies will consider factors such as proximity to streams, topographic elevations, and slope, among others in determining high and low probability areas for the location of cultural resources. Pedestrian transects

will be spaced 30 m apart in areas determined to be high probability. Subsurface tests will be excavated every 30 m along each transect. Pedestrian transects will be spaced 50 m apart in areas determined to be low probability. Subsurface tests will be excavated every 50 m along each transect. Shovel tests will measure 30 x 30 cm and be excavated to subsoil or 50 cm below ground surface. All soil from shovel tests will be screened through ¼ inch or finer hardware cloth. If screening is not possible or impractical, the soils will be carefully trowel sorted. The results of all shovel tests will be recorded on appropriate forms. The general stratigraphy revealed in the tests will be described in the report in terms of texture, depth below ground surface, and Muncsell soil color designations. Cultural material recorded from the shovel tests will be collected and recorded on appropriate forms.

- k) If an archaeological site is discovered in a shovel test during pedestrian survey, the site will be delineated in the following manner. The transect shovel test will be designated site datum. Additional shovel tests will be excavated in a grid pattern arranged along the cardinal directions from site datum at 10 m intervals. Site boundaries are established when two negative (no cultural material) shovel tests at each shovel test gridline. Site maps will be drafted and will illustrate all positive (cultural material) and negative shovel tests as well as the site boundaries. The UTM coordinates of the archaeological site will be determined with a Global Positioning System (GPS) at the center of the site. If the site is large than 400 square meters, four additional GPS points will be collected from the site boundary area. Site forms and LA CAD coding sheets will be submitted to the Louisiana Division of Archaeology for review and comment. Louisiana State site numbers assigned by the Louisiana Division of Archaeology will be utilized in the report.
- l) At the completion of the project, investigators must assess if an identified site is “eligible”, “not eligible”, or “undetermined” for nomination to the NRHP. Federal guidelines do not recognize the term “potentially eligible” as a legitimate recommendation for the NRHP. The recommendation of “undetermined” for a site indicates that further investigations are necessary at the site to determine its eligibility for the NRHP and should be avoided. Documentation for these assessments will be provided in the report of investigations submitted to the Louisiana Division of Archaeology and the Indian tribes/THPOs for review and comments.

## **V. Unanticipated Discoveries**

- a) In the event of a discovery of a previously unidentified cultural resource, including but not limited to archaeological sites, standing structures, human remains, and TCPs, after the review process and during construction, the NRCS Louisiana CRS and/or Archaeological Contractor will immediately secure that portion of the APE by the most appropriate available means, to include but not necessarily limited to a 30 m radius buffer around the unexpected discovery and suspend work in that buffered area of the affected resource. The NRCS

Louisiana CRS will immediately notify the Louisiana SHPO, consulting Indian tribes/THPOs, and additional consulting parties, as appropriate, of the finding. Any previously unidentified cultural resource will be treated as though it is eligible for the NRHP until other determinations may be made. If consulting parties agree that the cultural resource is not eligible for the NRHP, then suspension of work will end. If the consulting parties agree that the cultural resource is eligible for the NRHP, the NRCS Louisiana, in consultation with the Louisiana SHPO, consulting Indian tribes/THPOs, and additional consulting parties, as appropriate, will develop a treatment plan or Standard Mitigation Measures agreement in accordance with Stipulation VII. NRCS Louisiana will implement the plan or Standard Mitigation Measures agreement once approved by the Louisiana SHPO, Indian tribes/THPOs, and additional consulting parties, as appropriate. If there is a disagreement that cannot be resolved, the formal dispute resolution provisions in Stipulation VIII will be implemented.

- b) The NRCS Louisiana will ensure that all contractors (non-archaeological) are made aware of the requirements of the Agreement. In the event that a contractor discovers a previously unidentified cultural resource, the contractor shall immediately notify the Louisiana CRS and/or CR POC and refrain from further project activities within a minimum of 30 m from the discovery (30 m radius no work buffer), and shall take reasonable efforts to avoid and minimize harm to the cultural resource. NRCS Louisiana will implement any additional measures though necessary to secure the cultural resource for safety and security concerns.

## **VI. Treatment of Human Remains**

- a) In the event that previously undiscovered burials including burial sites, human remains, or funerary items are discovered during a NRCS Louisiana undertaking on state or private land, the provisions of the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671-681 et. seq) will be implemented. Work must stop immediately within a minimum of 30 m from the discovery (30 m radius no work buffer) until and unless determined otherwise in consultation according to this agreement. The no work buffer zone will be secured and protected throughout the consultation process and beyond, if required.
- b) The individual(s) that made the discovery must immediately contact the appropriate local law enforcement agency and Parish Coroner's Office. If the individual(s) that made the discovery is an Archaeological Contractor, the Archaeological Contractor must also contact the NRCS Louisiana CRS to inform the CRS about the discovery. The NRCS Louisiana CRS will notify the State Archaeologist of the discovery as soon as possible but within 72 hours. Within 24 hours of notification, the State Archaeologist and the NRCS Louisiana CRS will notify the consulting Indian tribes that have indicated an interest in the area where the human remains were discovered.
- c) If the Coroner determines that the human remains are not part of a crime scene



and older than 50 years in age, the Louisiana Division of Archaeology has jurisdiction over the remains since they are located on state and/or private property. Should the burials, human remains, and/or funerary objects be determined to be Native American, NRCS Louisiana will provide information collected on the nature of the remains within five (5) days to the consulting Indian tribes/THPOs and the Louisiana SHPO. No human remains will be removed until jurisdiction is established, appropriate treatment plans developed in consultation, and the appropriate permits secured, if agreed upon.

- d) NRCS Louisiana, consulting Indian tribes/THPOs, Louisiana SHPO, Louisiana Division of Archaeology, living descendants, property owners, and other interested parties, as appropriate, will enter into consultation to determine an appropriate treatment plan for the newly discovered human remains and the most appropriate long term solutions. The most appropriate treatment, if feasible, is to protect the human remains and preserve them in situ. If it is determined during the consultation process that protection, avoidance, or repair is not feasible and the human remains must be removed from the undertaking APE, the human remains removal process will only be implemented after a treatment plan has been developed and agreed upon by all consulting parties. NRCS Louisiana will ensure that all stipulations of the treatment plan are implemented.

## **VII. Avoidance of Cultural Resources, Anticipatory Demolition, and Withdrawal of Assistance**

- a) **Avoidance of Cultural Resources.** H 190 Part 601.22 (C) and Section 110 of the NHPA state that cooperators that receive technical and financial assistance from NRCS Louisiana will make all necessary efforts to avoid and minimize impacts to cultural resources that are identified during the conservation planning process. This is important especially for those culture resources determined to be eligible for the NRHP. Avoidance of cultural resources will remain in effect for the lifespan of the conservation activity, enhancement, and practice that is being implemented in accordance with NRCS Farm Bill program rules. Failure to follow the policy could potentially result in a determination of adverse effect, mitigation when appropriate, contract termination, and withdrawal of technical and financial assistance.

Conservation activities, enhancements, and practices can be redesigned to avoid cultural resources. In some instances, the delivery of conservation assistance can be streamlined by placing a 30 m buffer around a cultural resource during the implementation process. If the avoided cultural resource is determined to be eligible for the NRHP after the consultation process, then Cooperators must ensure that the cultural resource remains avoided as described above.

- b) **Anticipatory Demolition.** NRCS Louisiana will not provide technical or financial assistance to Cooperators who intentionally destroy, remove, or adversely affect historic properties within a conservation planning area in an

effort to circumvent compliance with Section 106 of the NRHP as clearly stated in H 190 Part 601.27.A(2). If these actions do occur, NRCS Louisiana will ensure that Federal assistance is not used to cause or further an adverse impact to a cultural resource. Under these circumstances, NRCS Louisiana will follow its Procedures for the Withdrawal of Assistance found in GM 420 Part 401.23 and H 190 Part 601.27

- c) **Withdrawal of Technical and Financial Assistance.** The process for the withdrawal of assistance is outline in GM 420 Part 401.23 and H 190 Part 601.27. NRCS Louisiana will follow this process in situations when an adverse effect has occurred or will likely occur through a Cooperator's refusal to implement feasible mitigation measures. NRCS Louisiana will take the appropriate measures to document and asses the impacts and will document the actions and events leading to the withdrawal of assistance. The extent and duration of the withdrawal will vary according to the conservation activity, enhancement, and practice under which the impact occurred and may also vary at the discretion of the NRCS Louisiana State Conservationist.

**APPENDIX C  
GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT**

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