

**PROTOTYPE PROGRAMMATIC AGREEMENT BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
NATURAL RESOURCES CONSERVATION SERVICE ARKANSAS STATE OFFICE
AND
THE ARKANSAS STATE HISTORIC PRESERVATION OFFICER,
REGARDING CONSERVATION ASSISTANCE**

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) administers numerous voluntary assistance programs, special initiatives, and grant and emergency response programs for soil, water, and related resource conservation activities available to eligible private producers, States, commonwealths, Federally Recognized Tribal governments, other government entities, and other applicants for conservation assistance, pursuant to the Agricultural Improvement Act of 2018 (2018 Farm Bill, Public Law 115-334); 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 (PPA); and

WHEREAS, the NRCS Arkansas State Office has consulted with the Arkansas State Historic Preservation Officer (SHPO) and followed the instructions in the Advisory Council on Historic Preservation (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 PPA in consultation with the National Conference of State Historic Preservation Officers (NCSHPO) and its members, interested Indian tribes, Native Hawaiian organizations, interested historic preservation organizations, such as the National Trust for Historic Preservation, and the ACHP; and

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

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

WHEREAS, this PPA 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 and government-to-government consultation with Indian tribes to negotiate the State-based Prototype Agreement; and

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

WHEREAS, the NRCS has consulted with the Arkansas SHPO to enter into this State-based PPA as a signatory party; and

WHEREAS, this PPA does not modify the NRCS’ responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the concerned Indian tribe, and recognizes that historic properties of religious and cultural significance to an Indian tribe may be located on ancestral homelands or on officially ceded lands near or far from current settlements; and

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

NOW, THEREFORE, the NRCS Arkansas State Office and the Arkansas SHPO agree that undertakings in State of Arkansas shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties, and further agree that these stipulations shall govern this State-based PPA and all of its parts until it expires or is terminated.

STIPULATIONS

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

I. Applicability.

- a. Once executed by the NRCS Arkansas and the Arkansas SHPO, this State-based PPA sets forth the review process for all NRCS undertakings subject to Section 106 in the State of Arkansas.
- b. Execution of this State-based PPA does not replace any existing project-specific Section 106 agreements (Memoranda of Agreement or Programmatic Agreements).
- c. This State-based PPA applies only when there is a Federal Preservation Officer (FPO) in the FPAC National Headquarters (NHQ) who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716).
- d. This State-based PPA applies only where there is staffing or access to staffing (through contracted services or agreements with other agencies or Tribes) who meet the Secretary of Interior's Professional Qualification Standards in the NRCS Arkansas state office.
- e. The definitions found in 36 CFR Part 800.16(a) through (y) shall apply to this State-based PPA.

II. Roles and Professional Qualifications.

- a. The NRCS Arkansas State Conservationist is responsible for oversight of all NRCS staff carrying out historic preservation compliance work under this State-based PPA.
- b. The NRCS Arkansas State Conservationist shall ensure all NRCS staff carrying out historic preservation compliance work on their behalf are appropriately qualified. The NRCS Arkansas State Conservationist shall ensure that NRCS Arkansas State Cultural Resources Specialist (CRS) and the Assistant Cultural Resources Specialist (ACRS) shall meet the Secretary of the Interior's Professional Qualification Standards qualifying them to coordinate the Section 106 reviews of undertakings, including identification and evaluation of historic properties and determination of effects within an undertaking's area(s) of potential effects (APE(s)) as applicable to those being addressed; e.g., site, building, structure, landscape, resources of significance to Federally Recognized Tribes and other consultation parties as invited by the NRCS Arkansas per 36 CFR Part 800.3(e) and (f).
- c. The NRCS Arkansas State Conservationist is responsible for initiating and enacting consultation protocols with the Arkansas SHPO, and government-to-government consultation with Tribes and/or their THPO to develop consultation protocols. Implementation of the resulting protocols may be delegated to qualified NRCS cultural resource staff but may not be carried out on behalf of NRCS by another federal agency.
- d. The NRCS Arkansas CRS/ACRS shall provide technical historic property and resource information on behalf of the State Conservationist for use in Section 106 findings and determinations, after appropriate consultations with the SHPO, Tribes, and discussions with the landowner. The CRS/ACRS shall monitor and oversee the work and reporting of all NRCS cultural resources personnel and professional service consultants. The CRS/ACRS 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. The CRS/ACRS shall create a state specific training program for NRCS personnel in Section 106 historic preservation compliance (as set forth and outlined in NRCS' operational guidance, the National Cultural Resources Procedures Handbook, Title 190, Part 601).
- f. The CRS/ACRS in Arkansas shall oversee development of the scopes of work for investigation of the APE(s) for identified undertakings (see 36 CFR Part 800.4). The NRCS may use professional service contractors, consultants, or partners to assist with cultural resources compliance studies. NRCS Arkansas shall ensure these individuals are supervised and/or their products reviewed by the CRS/ACRS who meet the Secretary of Interior's Professional Qualifications Standards as per Stipulation II.b above.
- g. NRCS Arkansas remains responsible for all consultation with the Arkansas SHPO, Tribes, and THPOs and all determinations of NRHP eligibility and effect. NRCS Arkansas may not delegate consultation for findings and determinations to professional services consultants or producers/applicants for conservation assistance.
- h. NRCS Arkansas shall provide the Arkansas SHPO with sufficient data, as defined in 36 CFR 800.11, on a proposed undertaking and its APE(s). SHPO shall respond to communications from NRCS Arkansas within thirty (30) calendar days, defined as starting the first business day after dissemination. Failure of SHPO to respond within the designated timeframe shall not preclude NRCS Arkansas from moving to the next step in the Section 106 process. However, a failure to respond within the allotted time will not be considered a de facto concurrence with determinations and/or findings.
- i. Electronic mail (email) will serve as one of the official correspondence methods for communication regarding this PPA and its provisions. NRCS Arkansas will ensure that agency level policy and guidelines are followed, which include hard-copy mail and telephone calls as other official correspondence methods for communication the Arkansas SHPO and other consultation partners. The Arkansas SHPO will inform NRCS Arkansas of any change in name, address, email address, or phone number of any point-of-contact.
- j. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.

III. Training.

- a. In addition to the CRS/ACRS as defined above in Stipulation II.b, NRCS Arkansas shall require personnel conducting cultural resources identification and evaluation work to meet, at a minimum, the professional qualifications as defined by the Office of Personnel Management's General Schedule Qualifications Standards for the Archeology Series, 0193.
- b. NRCS requires certified planners to take the NRCS Cultural Resources Training Modules. Cultural resource training will be developed by NRCS Arkansas specifically for Field Office staff to better support cultural resource requirements and evaluations by the CRS/ACRS.
- c. NRCS Arkansas may invite the Arkansas SHPO, Tribal staff, and THPOs to participate in presentations at agency classroom, field or statewide trainings.
- d. NRCS Arkansas shall encourage all personnel conducting or overseeing cultural resources work to take additional appropriate specialized training as provided by the Arkansas SHPO, Tribes, the ACHP, National Park Service, National Preservation Institute, or other federal or state agencies, as feasible.

IV. Lead Federal Agency.

- a. For undertakings for which the NRCS Arkansas is the lead federal agency for Section 106 purposes per 36 CFR Part 800.2(a)(2), NRCS Arkansas staff shall follow the terms of this State-based PPA. NRCS Arkansas shall notify the Arkansas SHPO and Tribes of its involvement in the undertaking and the involvement of the other federal agencies.
- b. For any undertaking for which the NRCS Arkansas is not the lead federal agency for Section 106 purposes, including those undertakings for which the NRCS Arkansas provides technical assistance to other USDA or other federal agencies, the terms of this State-based PPA shall not apply to that undertaking. If the lead federal agency agrees, NRCS Arkansas may follow the approved alternative procedures in place for that agency.

V. Review Procedures.

- a. In consultation with the Arkansas SHPO and other partners, NRCS Arkansas shall identify those conservation practices with little to no potential to affect historic properties as well as undertakings with the potential to affect historic properties. The classification of undertakings is provided in Appendix A. Proposed undertakings situated within areas of prior disturbance, such as former reservoirs, fishponds, chicken house complexes, borrow pits, etc., are considered to have no effect to historic properties and no further Section 106 consultation or review is required for their implementation (see Appendix A). However, some prior disturbances, e.g., cultivation, land leveling, etc., do not in all scenarios constitute an action which would destroy a historic property (if present), and will therefore be subject to a desk review by the CRS/ACRS before making a no effect determination. If such a determination is infeasible, the undertaking will be assessed via the below-listed protocols.
 1. Undertakings classified as “No Effect” (“N”) are considered to have no potential to cause effects to historic properties and no further Section 106 consultation or review is required for their implementation. This determination can be made by NRCS Arkansas Field Office staff based on the practices as defined in Appendix A.
 2. Undertakings categorized as “Possible Effect” (“P”) are considered to have the potential to cause effects to historic properties except when non-intrusive or non-ground disturbing practice scenarios will be implemented. The CRS/ACRS will perform a desk review, with the assistance of Field Office and/or Technical/Engineering staff if necessary, to determine whether the proposed practices have the potential to affect historic properties. Following this cross-disciplinary desktop review, the undertaking will be classified as having either no potential to cause effects to historic properties (“N”) or potential to cause an effect to historic properties (“E”). Those undertakings classified as “E” are subject to the review process discussed in V.a.3 below.
 3. Finally, undertakings indicated as “Effect” (“E”) are considered to have the potential to cause effect to historic properties. Such undertakings shall require further review as outlined in Stipulations V.c. and d.
- b. The list of conservation practices provided in the Appendix A may be modified through consultation and written agreement between the NRCS Arkansas State Conservationist, the Arkansas SHPO, and other consultation partners without requiring an amendment to this State-based PPA. The NRCS State office will maintain the master list and will provide an

- updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly.
- c. Conservation practices not exempted under Appendix A shall require further review. The NRCS shall, through consultation, propose the undertaking's APE(s), identify, and evaluate historic properties that may be affected by the undertaking, assess potential effects, and identify strategies for resolving adverse effects prior to authorizing the start of installation of the conservation practice or providing the financial assistance for the undertaking.
 1. NRCS Arkansas CRS/ACRS shall review all undertakings not exempted under Appendix A, establish the APE(s), and determine the scope and level of appropriate effort as defined by agreement and/or Section 106.
 2. Resources utilized for this review will include but are not limited to: areas of concern/interest provided by Tribal consultation partners; the Arkansas Archeology Survey's Automated Management of Archeological Site Data in Arkansas (AMASDA) database; data provided by the Arkansas Historic Preservation Program (AHPP); historic map resources; NRCS soil surveys; and various forms of historic and modern imagery.
 - i. If no potential effects are identified by NRCS, the project will be allowed to proceed as planned, provided other consultation partner concerns have been satisfied through consultation and/or agreement protocols. A record of this "no effect" determination will be kept by NRCS staff for documentation and provided quarterly to SHPO via an ESRI shapefile or similar geospatial format.
 - ii. If a project's APE presents a potential effect to a known or possibly as yet unidentified historic property, a field investigation will be determined necessary before proceeding with this project (see V.d).
 - d. When the need for a field investigation is identified per V.c.2.ii, the following are the NRCS Arkansas cultural resources staff procedures for identifying historic properties:
 1. Field methods utilized during this field investigation will be at the discretion of the attending archaeologist, in coordination with the CRS and/or ACRS, and will reflect the conditions encountered within the project APE(s).
 2. Assessment of the APE(s) will include surface inspection supplemented by shovel testing of known areas of concern and/or locations presenting an elevated probability to hold unrecorded historic properties.
 3. If no historic properties are encountered, an abbreviated project identification form documenting a determination of "no effect" will be disseminated to SHPO and other consultation partners for concurrence (see Appendix B)
 4. If diagnostic cultural materials, large artifact concentrations, and/or intact deposits are encountered within the APE(s), an attempt will be made to assess the extent and integrity of the location during the field investigation. An initial assessment of mitigative strategies, if required, will be conducted while on location. Mitigation options will be discussed by NRCS Arkansas staff and the project client(s) to determine possible alternatives when necessary.
 5. If significant cultural materials were encountered during the field investigation, a more detailed project identification form will be generated (see Appendix B). This reporting will include the identification of any locations suggestive of a historic property, a proposed effect determination, and/or any mitigation measures that may be required for the project APE(s). SHPO and other consultation partners will be

- provided the standard review period to concur with the provided findings of effect and mitigation measures, if necessary.
6. NRCS Arkansas recognizes that proper site recordation is essential for the protection of historic properties within the state. When sites are encountered during field investigations, the relevant forms documenting these locations will be submitted to the Arkansas Archeological Survey for inclusion into the state record. Since this documentation is not a required element in the review process, forms will be submitted to on a periodic basis (e.g., quarterly). Site numbers received by NRCS will be forwarded to SHPO for their records.
 - e. While undertakings that may adversely affect historic properties will be avoided in most cases, NRCS Arkansas 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.

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

- a. NRCS shall notify the SHPO and other consultation partners immediately or within 48 hours of the emergency determination, following the NRCS' Emergency Watershed Program (EWP) final rule (see Section 216, P.L. 81-516 Final Rule, 7 CFR Part 624 (April 2005).
- b. The NRCS State office shall prepare procedures for exigency (following the rules for NRCS' EWP regarding immediate threat to life and property requiring, response within five (5) days) in consultation with the SHPO.
- c. If the NRCS Arkansas State office has not developed specific procedures for responding to exigencies, the NRCS shall follow the recently approved guidelines for Unified Federal Review issued by the Department of Homeland Security, Federal Emergency Management Service (DHS, FEMA), the Council on Environmental Quality (CEQ), and the ACHP in July 2014, or the procedures in 36 CFR Part 800.12 (b).

VII. Post-Review Discoveries of Cultural Resources or Historic Properties and Unanticipated Effects to Historic Properties.

- a. Where construction has not yet begun and a cultural resource is discovered after Section 106 review is complete, the NRCS Arkansas shall consult to seek avoidance or minimization strategies in consultation with the SHPO, and/or to resolve adverse effects in accordance with 36 CFR Part 800.6.
- b. The NRCS Arkansas shall ensure that every contract for assistance includes provisions for halting work/construction in the area of any discovery or unanticipated effects to historic properties are found after implementation, installation, or construction has begun.
- c. When such a post-review discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS Arkansas State Conservationist's Office, CRS/ACRS, supervisory NRCS personnel for the area, and the landowner/applicant.
 1. NRCS Arkansas CRS/ACRS shall inspect the discovery within 48 hours, if weather permits, and in consultation with the local NRCS official (Field Office staff and/or the District or Area Conservationist), the SHPO, concerned Tribes, the NRCS State engineering or program supervisor, as appropriate), the landowner/producer (whomever NRCS is assisting), the CRS/ACRS shall establish a protective buffer zone surrounding

the discovery. This action may require inspection by tribal cultural resources experts in addition to the CRS/ACRS.

2. All NRCS Arkansas contact with media shall occur only under the direction of the NRCS Public Affairs Officer, as appropriate, and the State Conservationist.
 3. Security shall be established to protect the resources/historic properties, workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and NRCS policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the State Conservationist determines it is appropriate and safe for the resources and workers.
 4. NRCS CRS/ARCS shall notify the SHPO and the ACHP no later than 48 hours after the discovery and describe NRCS' assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Tribes, the SHPO, and technical experts (such as historic landscape architects) not employed by NRCS.
 5. The SHPO and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.
 6. NRCS Arkansas shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects. NRCS Arkansas shall provide a report to the SHPO and the ACHP of the actions when they are completed.
- d. When human remains are discovered, the NRCS Arkansas shall follow all applicable federal, tribal, and state burial laws and ordinances (Arkansas' Act 753 of 1991 and Act 1533 of 1999), 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 Arkansas 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 Arkansas shall also follow USDA and NRCS policy on treatment of human remains and consultation.

VIII. Dispute Resolution.

- a. Should any consulting or signatory party to this State-based PPA 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 for thirty (30) days. If the State Conservationist determines that such objection cannot be resolved, they will:
 1. Forward all documentation relevant to the dispute, including the State Conservationist's proposed resolution, to the NRCS FPO and Senior Policy Official (SPO Deputy Chief for Science and Technology), and the ACHP. The ACHP shall provide the FPO, SPO, and State Conservationist with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRCS Arkansas 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 Arkansas 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 Arkansas 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 Arkansas's responsibility to carry out all other actions subject to the terms of this State-based PPA that are not the subject of the dispute remains unchanged.
 - c. Any consulting party to State-based PPA may request the ACHP provide its advisory opinion regarding the substance of any finding, determination, or decision regarding compliance with its terms.
 - d. At any time during the implementation of the State-based PPA, a member of the public may submit an objection pertaining to this agreement to the NRCS Arkansas State Conservationist, in writing. Upon receiving such an objection, the State Conservationist shall notify the NRCS SPO and FPO, the SHPO, take the objection into account, and consult with all consulting parties as appropriate to resolve the objection. The NRCS State Conservationist shall notify the SPO, FPO, SHPO of the outcome of this process.

IX. Public Involvement.

The NRCS State Conservationist will ensure the public is involved in the development of this State-based PPA and participates in Section 106 review as set forth above in this agreement as set forth above in Stipulation V.c and d through sharing of the State-based PPA with local Soil and Water Conservation Districts and the NRCS Arkansas Technical Advisory Committee.

X. Annual Reporting and Monitoring.

- a. Every year following the execution of this agreement, commencing December 1, 2023, until it expires or is terminated, the NRCS Arkansas State Conservationist shall provide all consulting parties—including those parties who participate in the consultation but do not sign the agreement—and the FPO a summary report detailing work undertaken pursuant to its terms, including a list of undertakings falling under Appendix A as well as undertakings that required further review; a summary of the nature and content of meetings held with the Arkansas SHPO; and an assessment of the overall effectiveness of the State-based PPA. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NRCS' efforts to carry out the terms of this agreement.
 1. The NRCS FPO shall use the state reports to provide, through the NRCS SPO, an annual report to the ACHP.
 2. The State Conservationist shall use the state report to assess the need for annual meetings with the SHPO each fiscal year.
- b. The State Conservationist will participate in an annual review with the NRCS Regional Conservationist regarding the effectiveness of the State-based PPA and submit a written (email) report following this review to the SPO (Deputy Chief for Science and Technology).
- c. The State Conservationist, SHPO, or Tribes 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 Arkansas 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.

- a. This State-based PPA will be in effect for 10 years from the date of execution unless amended or terminated pursuant to Stipulation XIII below.
- b. The duration of this State-based PPA shall be extended for an additional five (5) years through the amendment process described in Stipulation XIII.a if there are no objections from any of the signatories.

XIII. Amendment and Termination.

- a. This State-based PPA 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 PPA, 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 XIII.a. If within thirty (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 PPA is terminated or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, NRCS Arkansas shall comply with 36 CFR Part 800 for all individual undertakings in Arkansas.
- d. NRCS Arkansas will consider requests from other USDA agencies to become a signatory to the State-based PPA 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 Tribes/THPOs, and other consulting parties, as appropriate. Such inclusion of the USDA agency may require amendment to this State-based PPA.

XIV. Effective Date of this State-based PPA

This State-based PPA shall take effect October 1, 2022, following the execution by the NRCS Arkansas State Conservationist and the SHPO. Additional attachments or amendments to this State-based PPA shall take effect on the dates they are fully executed by the NRCS Arkansas SHPO.

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

SIGNATORY PARTIES

**PROTOTYPE PROGRAMMATIC AGREEMENT
BETWEEN THE US DEPARTMENT OF AGRICULTURE,
NATURAL RESOURCES CONSERVATION SERVICE ARKANSAS STATE OFFICE,
AND THE ARKANSAS STATE HISTORIC PRESERVATION OFFICER,
REGARDING CONSERVATION ASSISTANCE**



Digitally signed by MICHAEL SULLIVAN

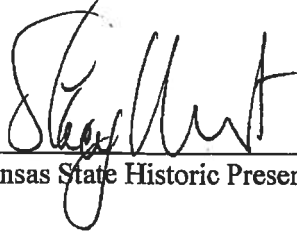
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State Conservationist, Arkansas Natural Resources Conservation Service

SIGNATORY PARTIES

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Arkansas State Historic Preservation Officer

Date: 7-29-22

APPENDIX A

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

Pursuant to Stipulation V.a. above, in consultation with Arkansas SHPO, the NRCS, through the qualified CRS as described in Stipulation II.b., has determined that the following on-farm practices have little or no potential to affect historic properties as per Stipulation V.a.1.

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

<u>Practice #</u>	<u>Practice Name</u>	<u>Conditions</u>	<u>Category</u>	<u>Notes</u>
309	Ag Chemical Handling Facility	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
310	Bedding	No cultural resource concerns, clear to proceed	N	
311	Alley Cropping	No cultural resource concerns, clear to proceed	N	
313	Waste Storage Facility	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
314	Brush Management	No cultural resource concerns, clear to proceed	N	
315	Herbaceous Weed Control	No cultural resource concerns, clear to proceed	N	
316	Animal Mortality Facility	No cultural resource review if installed within the limits of the existing construction-disturbed area	P	
320	Irrigation Canal or Lateral	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
324	Deep Tillage	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
326	Clearing and Snagging	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
327	Conservation Cover	No cultural resource concerns, clear to proceed	N	
328	Conservation Crop Rotation	No cultural resource concerns, clear to proceed	N	
329	Residue Management	No cultural resource concerns, clear to proceed	N	
330	Contour Farming	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
331	Contour Orchard & other perennial area	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	
332	Contour Buffer Strips	Cultural Resource Review Required, unless covered by Stipulation V.a.	E	

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333	Gypsum Application	No cultural resource concerns, clear to proceed	N	
338	Prescribed Burns	Cultural resource review if burning planned with 200 yards of Caves or Bluffs where Shelters may be present	P	
340	Cover Crop	No cultural resource concerns, clear to proceed	N	
342	Critical Area Planting	Cultural resource review required if practice involves ripping of compacted soil layer.	P	
344	Residue Management, Seasonal	No cultural resource concerns, clear to proceed	N	
345	Residue & Tillage Management, Mulch Till	No cultural resource concerns, clear to proceed	N	
346	Residue & Tillage Management, Ridge Till	No cultural resource concerns, clear to proceed	N	
349	Dam, Multiple Purpose	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
350	Sediment Basin	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
351	Well Decommissioning	No cultural resource concerns, clear to proceed	N	
355	Water Well Testing	No cultural resource concerns, clear to proceed	N	
356	Dike	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
359	Waste Treatment Lagoon	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
360	Closure of Waste Impoundments	No cultural resource concerns, clear to proceed	N	
362	Diversion	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
366	Anaerobic Digester, Controlled Temp.	No cultural resource concerns, clear to proceed	N	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

367	Roofs and Covers	No cultural resource concerns, clear to proceed	N	
372	Combustion System Improvements	No cultural resource concerns, clear to proceed	N	
374	Farmstead Energy Improvements	No cultural resource concerns, clear to proceed	N	
378	Pond	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
380	Windbreak/Shelterbelt Establishment	No cultural resource concerns, clear to proceed	N	
381	Silvopasture Establishment	Cultural resource review required if mechanical installation procedures used.	P	
382	Fence	No cultural resource concerns, clear to proceed	N	
383	Fuel Break	No cultural resource concerns, clear to proceed	N	
384	Woody Residue Treatment	No cultural resource concerns, clear to proceed	N	
386	Field Border	No cultural resource concerns, clear to proceed	N	
388	Irrigation Field Ditch	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
390	Riparian Herbaceous Cover	No cultural resource concerns, clear to proceed	N	
391	Riparian Forest Buffer	No cultural resource concerns, clear to proceed	N	
393	Filter Strip	No cultural resource concerns, clear to proceed	N	
394	Firebreak	Cultural resource review not required if replenishing previously installed firebreaks.	P	
395	Stream Habitat Improvement & Management	No cultural resource review if work is limited to the stream channel (No heavy equipment allowed on bank without C.R. review)	P	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

397	Commercial Fishponds	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
399	Fishpond Management	No cultural resource concerns, clear to proceed	N	
402	Dam, Floodwater Retarding	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
410	Grade Stabilization Structure	No cultural resource review if installed within the limits of the existing disturbed area	P	
412	Grass Waterway	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
420	Wildlife Habitat Planting	No cultural resources concerns, clear to proceed	N	
422	Hedgerow Planting	No cultural resource concerns, clear to proceed	N	
428	Irrigation Ditch Lining	No cultural resource concerns, clear to proceed	N	
430	Pipeline	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
432	Dry Hydrant	No cultural resource concerns, clear to proceed	N	
436	Irrigation Storage Reservoir	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
441	Irrigation System, Micro-Irrigation	No cultural resource concerns, clear to proceed	N	
442	Irrigation System, Sprinkler	No cultural resource concerns, clear to proceed	N	
443	Irrigation System, Surface & Subsurface	No cultural resource concerns, clear to proceed	N	
447	Irrigation System Tailwater Recovery	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
449	Irrigation Water Management	No cultural resource concerns, clear to proceed	N	
450	Anionic Polyacrylamide Erosion Control	No cultural resource concerns, clear to proceed	N	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

453	Land Reclamation, Landslide Treatment	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
460	Land Clearing	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
462	Precision Land Forming	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
464	Precision Land Leveling	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
466	Land Smoothing	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
472	Access Control	No cultural resource concerns, clear to proceed	N	
484	Mulching	No cultural resource concerns, clear to proceed	N	
490	Forest Site Preparation	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
511	Forage Harvest Management	No cultural resource concerns, clear to proceed	N	
512	Pasture & Hay Planting	No cultural resource concerns, clear to proceed	N	
516	Pipeline	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
521	Pond Sealing	No cultural resource concerns, clear to proceed	N	
527	Karst Sinkhole Treatment	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
528	Prescribed Grazing	No cultural resource concerns, clear to proceed	N	
533	Pumping Plant	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
533	Pumping Plant (Pump Automation Scenario)	No cultural resource concerns, clear to proceed	N	
543	Land Reconstruction, Abandoned Mined Land	Cultural Resource Review Required, unless covered by Stipulation V.a	E	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

548	Grazing Land Mechanical Treatment	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
554	Drainage Water Management	No cultural resource concerns, clear to proceed	N	
557	Row Arrangement	No cultural resource concerns, clear to proceed	N	
558	Roof Runoff Structure	In-house cultural resource review by CRS staff: If no sites present, then clearance can be given without consultation.	P	
560	Access Road	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
561	Heavy Use Area Protection	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
572	Spoil Spreading	Desk review relating to the original spoil source. A separate cultural resource review not required if originating location is part of another NRCS Undertaking requiring Cultural Resources Review.	P	
574	Spring Development	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
575	Animal Trails and Walkways	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
578	Stream Crossing	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
580	Streambank & Shoreline Protection	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
582	Open Channel	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
584	Stream Channel Stabilization	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
585	Stripcropping	No cultural resource concerns, clear to proceed	N	
587	Structure of Water Control	No cultural resource concerns, clear to proceed	N	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

588	Cross Wind Ridges	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
590	Nutrient Management	No cultural resource concerns, clear to proceed	N	
591	Amendments for Treatment of Ag Waste	No cultural resource concerns, clear to proceed	N	
592	Feed Management	No cultural resource concerns, clear to proceed	N	
595	Pest Management	No cultural resource concerns, clear to proceed	N	
600	Terrace	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
601	Vegetation Barrier	No cultural resource concerns, clear to proceed	N	
603	Herbaceous Wind Barriers	No cultural resource concerns, clear to proceed	N	
606	Subsurface Drain	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
607	Surface Drainage, Field Ditch	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
608	Surface Drainage, Main or Lateral	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
609	Surface Roughening	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
612	Tree / Shrub Establishment	No cultural resource concerns if hand planting only; Mechanical Planting requires a CR Review.	P	
614	Watering Facility	No cultural resource concerns, clear to proceed	N	
620	Underground Outlet	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
629	Waste Treatment	No cultural resource concerns, clear to proceed	N	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

632	Soil/Liquid Waster Separation Fac.	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
633	Waste Utilization	No cultural resource concerns, clear to proceed	N	
634	Manure Transfer	No cultural resource concerns, clear to proceed	N	
635	Vegetated Treatment Area	No cultural resource concerns, clear to proceed	N	
638	Water & Sediment Control Basin	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
642	Water Well	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
643	Restoration/Management of Declining Habitats	No cultural resource concerns if work is performed by hand/chemical application. If heavy machines are used, a review is required.	P	
644	Wetland Wildlife Habitat Management	No cultural resource concerns, clear to proceed	N	
645	Upland Wildlife Habitat Management	No cultural resource concerns, clear to proceed	N	
646	Shallow Water Management for Wildlife	No cultural resource concerns, clear to proceed	N	
647	Early Successional Habitat	No cultural resource concerns, clear to proceed	N	
649	Structure for Wildlife	No cultural resource concerns, clear to proceed	n	
650	Windbreak/Shelterbelt Renovation	No cultural resource concerns, clear to proceed	N	
655	Forest Trails and Landings	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
657	Wetland Restoration	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
658	Wetland Creation	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
659	Wetland Enhancement	Cultural Resource Review Required, unless covered by Stipulation V.a	E	
660	Tree/Shrub Pruning	No cultural resource concerns, clear to proceed	N	
666	Forest Stand Improvement	No cultural resource concerns if work is performed by hand. If heavy machines are used, a review is required.	P	
672	Building Envelope	No cultural resource concerns, clear to proceed	N	
717	Livestock Shade Structure	No cultural resource concerns, clear to proceed	N	

NRCS ARKANSAS LIST OF POTENTIAL ON-FARM PRACTICES THAT COULD BE IMPLEMENTED AND THEIR POTENTIAL TO AFFECT HISTORIC PROPERTIES

798	Seasonal High Tunnel	No cultural resource review if installed within the limits of an area of prior extensive disturbance or prior cultivation. If leveling/smoothing occurs or the practice is located in an Historic District or located near an historic property, then a cultural resources review is necessary.	P	
	Feral Hog Program	No cultural resource concerns, clear to proceed	N	
	Conservation Technical Assistance (CTA)	No cultural resource concerns, clear to proceed	N	See: CTA NI Title 190, Part 314 and Arkansas Bulletin 190-20-1 in Appendix C.
	Streamlining Cultural Resources Reviews around Poultry Houses	No cultural resource concerns, clear to proceed	N	See: Arkansas Bulletin 190-18-1
	Comprehensive Nutrient Management Plan	Cultural resource review if burning planned with 200 yards of Caves or Bluffs where Shelters may be present	P	

APPENDIX B
Reporting Templates

NRCS PROJECT IDENTIFICATION FORM

NRCS Project Number: AHPP Tracking Number:
County: Date(s) of Assessment:
USGS Quad(s): PLSS:
Practice Description(s):

Records Checked: AMASDA Site Files AHPP Database
 GLO Plats USGS Historic Maps
 1936 Highways Maps Other (See Summary)

Survey Methods: Shovel Testing Walkover/Pedestrian Survey
Avg. Test Depth: Other (See Summary)

Ground Conditions: Cultivated Forest
 Pasture Lawn
 Recently Deforested Prone to flooding

Presence of Cultural Resources: Yes No
Cultural Resources Observed: Historic Prehistoric

Materials Identified:

Report Format: Abbreviated Extended

Investigation Summary:

NRCS Archaeologist: Date:



Abbreviated Project Identification Form

Location Map

Figure 2. Conservation plan map plotted on aerial photograph, showing the locations of APEs, negative shovel tests, and other relevant information (scale).

NRCS PROJECT IDENTIFICATION FORM

NRCS Project Number: AHPP Tracking Number:
County: Date(s) of Assessment:
USGS Quad(s): PLSS:
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Records Checked: AMASDA Site Files AHPP Database
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 Pasture Lawn
 Recently Deforested Prone to flooding

Presence of Cultural Resources: Yes No
Cultural Resources Observed: Historic Prehistoric

Materials Identified:

Report Format: Abbreviated Extended

Investigation Summary:

NRCS Archaeologist: Date:



Extended Project Identification Form

Project Description

This is a NRCS conservation project to install...

Project Location

This project area is located ...

Investigation Methods

Research via the following map databases was conducted prior to fieldwork: Bureau of Land Management (BLM) General Land Office (GLO) plats (###), NRCS/SCS soil surveys, LiDAR imagery, Arkansas State Highway and Transportation Department Historical County Maps (1936), and the USGS Historical Topographic Map Explorer (####). The Arkansas Archaeology Survey's Automated Management of Archaeological Site Data in Arkansas (AMASDA) database was searched for documented archaeological site data. Historic site information was checked through the Arkansas Historic Preservation Program (AHPP) data available through the Arkansas GIS Office and the GIS layer provided by the SHPO. Lastly, a field investigation consisting of a combination of opportunistic shovel testing and pedestrian/walkover survey was conducted to determine the presence or absence of National Register of Historic Places (NRHP) -eligible sites within the Area of Potential Effect (APE).

Investigation Results

Paragraphs

Summary and Conclusion

Paragraph

Extended Project Identification Form

Location Maps

Figure 1. Project Location Map showing tract boundaries (red polygon), previously recorded archaeological sites (red stars), and previously recorded AHPP historic sites (red circles) (1982 Pettus USGS topographic quadrangle map; 1:24,000 scale).

Extended Project Identification Form

Figure 2. Conservation plan map showing proposed firebreaks (orange polygons) with Tree/Shrub Establishment and Preparation occurring within the polygons, metal detector survey (pink dotted line), negative shovel tests (green dots), and artifacts (small white dots) (scale).

Extended Project Identification Form

Figure 3. Project location map. Top left: 1943 England topographic map, red polygon represents project area. Top right: LiDAR imagery, black polygon represents project area (green represents lower elevations and red represents higher elevations). Bottom: March 2017 Google Earth aerial photograph showing project area prior to recent clear cut, red polygon represents project area.

Extended Project Identification Form

Field Pictures

APPENDIX C

Additional Related Documents

Part 314 – NRCS Statement on Conservation Technical Assistance Program Activities With No Potential to Cause Effects to Historic Properties

314.0 Purpose

The purpose of this “NRCS Statement on Conservation Technical Assistance Program Activities that have No Potential to Cause Effects to Historic Properties” (the CTA statement) is to document NRCS’s determination that the conservation planning activities assisted by the agency’s Conservation Technical Assistance (CTA) Program have no potential to affect historic properties under section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. Section 306108, and its implementing regulations “Protection of Historic Properties” (36 CFR Pt. 800).

314.1 Background

A. NRCS has sought the input of the Advisory Council on Historic Preservation in the development of this CTA statement and its determinations regarding the potential of these activities to cause effects to historic properties.

B. The CTA Program rule, 7 CFR Part 610, provides the purpose and scope of the technical assistance furnished through the program. This rule provides that the CTA Program is the base technical assistance program for natural resource conservation for the NRCS. NRCS is assigned the responsibility by the Secretary of Agriculture for technical phases of planning and applying conservation practices on the land through decision makers. The assignment includes—

- (1) Assisting land managers to identify natural resource problems and opportunities.
- (2) Presenting the decision maker with needed and feasible conservation practices and systems to solve natural resource problems.
- (3) Planning and designing conservation practices on sites identified by the decision maker.
- (4) Providing assistance for installing conservation practices.
- (5) Certifying that practices installed are in accordance with NRCS standards.

C. The CTA Program provides land users with information and advice regarding proven conservation technology and the delivery system needed to achieve the benefits of a healthy and productive landscape. NRCS and those under its supervision provide technical assistance through this program to those land users that voluntarily seek its help to address opportunities, concerns, and problems related to the use of natural resources. The primary objectives of the CTA Program are to—

- (1) Assist individuals or groups of decision makers, communities, conservation districts, units of State and local government, Indian Tribes, and others to voluntarily conserve, maintain, and improve natural resources.
- (2) Provide community, watershed, and areawide technical assistance in collaboration with local units of government, to develop and implement resource management plans that conserve, maintain, and improve natural resources.
- (3) Assist agricultural producers to comply with the highly erodible land (HEL) and wetland (Swampbuster) conservation compliance provisions of the 1985 Food Security Act, as amended.

Title 190 – National Instruction

- (4) Assist decision makers to comply with Federal, State, Tribal, and local environmental regulations and related requirements, and to prepare them to become eligible to participate in other Federal, State, and local conservation programs.
- (5) Provide soils information and interpretation to individuals or groups of decision makers, communities, States, and others to aid sound decision making in the wise use and management of soil resources.
- (6) Collect, analyze, interpret, display, and disseminate information about the status, condition, and trend of soil, water, and related natural resources so that people can make informed decisions for natural resource use and management.
- (7) Assess the effects of conservation practices and systems on the condition of natural resources.

D. These conservation planning activities may be performed directly by NRCS in coordination with other agencies of USDA, or through a contract or a cooperative agreement, and may take place anywhere in the United States and its territories.

314.2 Policy

A. Pursuant to 36 CFR Section 800.3(a)(1), NRCS has determined that the technical assistance it provides to land users under the CTA Program results in the provision of nonbinding conservation planning information, recommendations, and advice that lacks the potential to cause effects to historic properties; therefore, NRCS has no further obligation under NHPA Section 106 for CTA Program activities.

- (1) The CTA statement only applies to the activities assisted by the CTA Program and is not an exhaustive list of all NRCS activities that may lack the potential to affect historic properties. NRCS may determine that other activities carried out or assisted by the agency also have no potential to affect historic properties. Such activities may be added to the CTA statement at a later date or may be addressed in the course of an NHPA Section 106 review for an individual project.
- (2) CTA Program conservation planning activities may relate to other NRCS financial assistance program undertakings that **do** have the potential to effect historic properties and those undertakings would require review under NHPA Section 106. For example, an NHPA Section 106 review would likely be required if a land user were to apply for NRCS funds to implement a conservation activity designed under the CTA Program. In that case, the section 106 review would take into account the effects of those actions proposed to be implemented.

B. NRCS, through the CTA Program, provides only nonbinding technical assistance in the form of guidance, information, and recommendations to land users who come to the NRCS voluntarily for such assistance. The land users may then use that guidance, information, and recommendations as they choose.

- (1) A land user is not required to seek NRCS's CTA Program assistance to implement any action, nor is the land user required to implement any portion of the plan. Therefore, the plans and information that result from NRCS's assistance lack the potential to affect historic properties.
- (2) NRCS does not disburse funds, require implementation, or permit or approve any actions through the CTA Program. If the land user elects to do something more with the conservation plan or information, then an NHPA Section 106 review may be triggered at that subsequent stage depending on whether the land user seeks Federal funding, a permit, or other Federal approval to carry out such implementation.

Title 190 – National Instruction

C. Form NRCS-CPA-52, “Environmental Evaluation Worksheet,” is completed for each plan. The purpose of this form is to document natural and cultural resource concerns. NRCS will advise land users to contact the State historic preservation officer (SHPO) and Tribal historic preservation officer (THPO) regarding any identified cultural resources on their property and avoid impacting those properties.

- (1) When known to NRCS, the agency will advise the land user when proposed practices that are to be installed without any Federal assistance appear to have the potential to affect historic properties and provide the names of possible contacts (e.g., the SHPO and THPO) who may provide guidance on identifying and protecting historic properties.
- (2) The plan will advise the land user that State or local cultural resources, historic preservation, or State burial laws may apply. These data may be used if the land user decides to implement the conservation plan without NRCS financial assistance.

314.3 Conclusion

A. NRCS’s CTA Program exclusively provides technical assistance. NRCS has determined that the planning activities it assists under this program have no potential to cause effects on historic properties under 36 CFR Section 800.3(a)(1). NRCS is providing technical assistance that is advisory only, with no ability to control or require any user’s actions. NRCS has no further obligation to conduct NHPA section 106 review for CTA Program activities.

B. If any planning assisted by the CTA Program were to be provided along with other activities that do have the potential to affect historic properties, NRCS will complete an NHPA Section 106 review for the undertaking. However, the review would not consider such activities that, while part of the overall undertaking, do not have the potential to effect historic properties. For instance, such activities would not be considered in establishing the area of potential effects for the undertaking or the assessment of its effects to historic properties.

C. For additional information regarding the contents of this CTA statement or its uses, please contact the NRCS Federal preservation officer.



1 OCT 01 2019

ARKANSAS BULLETIN NO. 190-20-1

SUBJECT: LTP – Cultural Resources Guidance for Conservation Technical Assistance (CTA).

Purpose: To provide clarification regarding cultural resources Section 106 policy for CTA

Expiration Date. September 30, 2020

Background. National Instruction, NI_190_314 - Part 314 – Natural Resources Conservation Service (NRCS) Statement on Conservation Technical Assistance Program Activities With No Potential to Cause Effects to Historic Properties, provides guidance and policy related to Section 106, responsibilities for the CTA program. Guidance has not been clear regarding the need for cultural resource reviews for CTA related projects.

Guidance:

NI_190_314 - Part 314 – NRCS Statement on Conservation Technical Assistance Program Activities With No Potential to Cause Effects to Historic Properties, outlines NRCS' responsibilities for compliance with the National Historic Preservation Act (NHPA) regarding Section 106, cultural resource reviews for CTA projects.

This guidance, states that NRCS' activities under the CTA program have been determined to have no potential to cause effects to historic properties; therefore, these activities do not require a Section 106 cultural resource review.

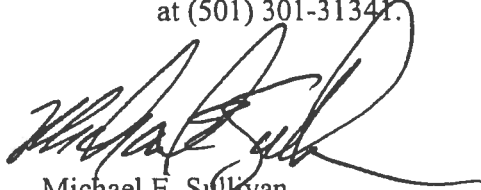
These activities include:

- Conservation Planning.
- Assistance provided to clients on projects that do not have a financial tie that requires the client to implement the plan or practice in order to get a financial assistance payment, i.e. EQIP, CSP, etc.
- Projects or plans that are provided to clients that may or may not be implemented by the client voluntarily.
- State Tax Credit designs and certifications.
- Comprehensive Nutrient Management Plans (when no FA is involved).
- Nutrient Management Plans.
- Conservation Activity Plans.
- Irrigation Water Management Plans.



Employees are encouraged to review National Instruction, NI_190_314 - Part 314 on the eDirectives system.

Contact. If you have any questions, contact Helen Denniston, State Resource Conservationist, at (501) 301-31341.

A handwritten signature in black ink, appearing to read "Michael E. Sullivan", written in a cursive style.

Michael E. Sullivan
State Conservationist



United States Department of Agriculture

VIA E-MAIL

JAN 19 2018

ARKANSAS BULLETIN NO. 190-18-1

SUBJECT: ECS- Streamlining Cultural Resources Reviews around Poultry Houses

ACTION REQUIRED BY: SEPTEMBER 30, 2018

Purpose: To reduce unproductive paperwork for some cultural resource reviews around poultry houses.

Expiration Date. September 30, 2018

Background. A variety of Environmental Quality Incentives Program (EQIP) practices are planned in support of poultry house operations. Frequently, these practices are installed directly on the prepared pads where existing houses are standing. Through the experiences of the Cultural Resource Specialists, it is agreed that a cultural resource review in these situations is unnecessary.

Explanation. The extensive amount of disturbance that occurs during construction of a poultry house pad will destroy any cultural resources that may have been present. Any planned practice that is completely contained on an existing poultry house pad cannot affect cultural resources – even if they were once present. Therefore, no cultural resource review is required in support of these activities because they cannot affect cultural resources.

Practices shown on the “cultural resource categorical exclusion” list are exempt from individual cultural resources review. Practices that are limited to a constructed pad which holds existing poultry house(s), are also exempt, although they are not on the exclusion list.

Contact. If you have questions on the information provided, contact John Riggs, Cultural Resource Specialist, at (501) 676-0283 ext. 3130.

Michael E. Sullivan
State Resource Conservationist



Natural Resources Conservation Service
Room 3416, Federal Building
700 West Capitol Avenue
Little Rock, Arkansas 72201-3215

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APPENDIX D
GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT

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