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Date: August 31, 2009

WASHINGTON BULLETIN WA 190-9-3

SUBJECT: ECS - Cultural Resources in Conservation Planning

Purpose. To clarify current procedures and documentation requirements for activities related to cultural resources in the conservation planning process.

Expiration Date. September 30, 2009

Background. Washington NRCS has an operating agreement in place with the State Historic Preservation Officer (SHPO), referred to as the State Level Agreement (SLA), which was developed in accordance with Stipulation 2 of the nationwide Programmatic Agreement. This SLA serves as alternate procedures for NRCS to carry out Section 106 requirements in a streamlined manner. Washington NRCS has also secured similar agreements (Tribal Consultation Protocols) with several Native American Tribes, and is working toward additional agreements in the future. In instances where agreements with Tribes do not exist, NRCS is expected to comply with Advisory Council on Historic Preservation (ACHP) regulations (36 CFR Part 800) and assess the effects of undertakings that have the potential to affect National Register listed or eligible resources.

Questions have surfaced on implementation of the latest revisions to the SLA which became effective this fiscal year, as well as associated documentation requirements. The intent of this bulletin is to address several specific issues related to these questions, and is not meant as a substitute for national policy and procedures, including those that have been amended by Washington.

Initiating Consultation

- When planning exempt practices listed as unconditionally exempt in attachment 2 of the SLA: NRCS will not initiate consultation.
- When planning exempt practices listed as “exempt with conditions” in attachment 2 of the SLA: NRCS will not initiate consultation with SHPO. NRCS management will determine whether or not to consult with tribes based on data gathered from pedestrian survey and oral history. NRCS management may also seek guidance from the ACRS.
- When planning non-exempt practices: NRCS will initiate consultation with SHPO and tribes.
- When planning both exempt and non-exempt practices on tribal reservation lands: NRCS will initiate consultation with tribes.

For non-exempt practices, the APE will be preliminarily determined by qualified field staff with assistance as needed from the Area Cultural Resource Specialist. Consultation will be initiated by the Area Cultural Resource Specialist, and responses received will be used to further define the APE and to alert NRCS about potential Traditional Cultural Places (TCPs) or sites of religious or cultural significance within the APE.

DIST: E

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SHPO has agreed to provide a response within 15 calendar days. Tribes have 30 days to respond unless a different agreement is in effect. The draft consultation letter with sufficient detail about the project will be provided to the Area Cultural Resource Specialist who will finalize, transmit, and track the response time for the field office. There will be no formal reports prepared for exempt practices where there are no “hits” in the APE. When professional reports are required, they will be concise and will conform to Washington State DAHP standards.

If cultural resources or human remains are inadvertently discovered during practice implementation, construction will cease immediately and procedures outlined in the SLA will be followed.

The following table annotates consultation and documentation requirements.

Exempt Practices without Conditions		Exempt Practices with Conditions		Non Exempt Practices		On Reservation Projects
REQUIREMENT TO INITIATE CONSULTATION						
Tribes	SHPO	Tribes	SHPO	Tribes	SHPO	ACRS initiates consultation with tribe
Do not initiate consult.	Do not initiate consult.	NRCS mgmt decision	Do not initiate consult.	ACRS initiates consult. 30-day response period	ACRS initiates consult. 15-day response period	

REQUIREMENT TO DOCUMENT				
CRRW	Yes	Yes	Yes	Yes
Maps*	Yes	Yes	Yes	Yes
Pedestrian Survey	No	Yes	Yes, by qualified field staff	Yes, only by a qualified archaeologist
FO Oral Survey	No	Yes	Yes, by qualified field staff	Yes
Draft Consult. Letter	No	No, unless decision to consult	Yes	Yes, use THPO forms if any

* Required Maps: USGS Topo 1:24,000 scale and Conservation Plan Map. Maps will include all required elements.

Should you have any questions please contact Paul Scales, State Resource Conservationist, at paul.scales@wa.usda.gov for more information.

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State Conservationist