

ARIZONA HANDBOOK OF CULTURAL RESOURCES PROCEDURES
(How to Comply with Section 106 of the National Historic Preservation Act)
 (September, 2006)
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INTRODUCTION

- *"the spirit and direction of the Nation are founded upon and reflected in its historic heritage".*
- *"the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural... benefits will be maintained and enriched for future generations of Americans".*
- *"historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency".*

United States Congress, October 15, 1966

By the 1960s, it had become well documented in the United States that thousands of archaeological and historic properties had been, and were continuing to be, inadvertently destroyed as the result of Federal or federally assisted projects. The U.S. Congress concluded that "in the face of ever-increasing extensions of urban centers, and residential, commercial, and industrial developments, the present governmental and non-governmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation."

The result was passage of the National Historic Preservation Act of 1966 (**NHPA**). While this Act and its subsequent amendments have many historic preservation goals, one of its foremost purposes is to stop the inadvertent destruction of historic properties by federally assisted projects. Some of the key provisions enacted towards this end were:

- Creation of the Advisory Council on Historic Preservation (**ACHP**), an independent cabinet-level agency charged with writing historic preservation regulations, consulting with federal agencies on under-takings that may affect historic properties, and reporting to Congress on Federal agency compliance with the Act (Section 201).
- Creation within the Governor's office of each state and territory, a State Historic Preservation Officer (**SHPO**) with responsibility for consulting with Federal agencies on all undertakings and compiling a statewide database of cultural and historic properties (Section 101).
- Creation of a National Register of Historic Places (**NRHP**) "composed of districts, sites, buildings, structures, and Objects significant in American history, architecture, archaeology, engineering, and culture" (Section 101).
- A requirement that Federal agencies consult with the Advisory Council on any federally assisted undertaking that might affect historic properties (Section 106).

Section 106 of the Act states more fully that:

“The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State... shall, prior to the approval of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation... a reasonable opportunity to comment with regard to such undertaking. (16 U.S.C. 470f).”

The procedures by which Federal agencies comply with Section 106 were subsequently established by the Advisory Council in Title 36 Part 800 of the Code of Federal Regulations (36 CFR 800). Also written into this regulation is a provision allowing the development of agreement documents between Federal agencies and the Advisory Council for the purpose of streamlining Section 106 consultation requirements where appropriate. In 2001, NRCS entered into such an agreement with the Advisory Council and the National Conference of State Historic Preservation Officers. This National Programmatic Agreement ratified the policies and procedures developed by NRCS in General Manual 420 (Social Sciences) Part 401 (Cultural Resources Policy), and Part 601 (Cultural Resources Procedures). Under the agreement, the streamlined NRCS procedures are considered:

“... appropriate for technical assistance and advice on the delivery of small-scale conservation practices... to diverse landowners who are dependent upon timely assistance in the production of agricultural commodities. The remainder of NRCS responsibilities for compliance with Section 106... will be met by processes consistent with ACHP regulations (36 CFR 800).” (Part 401.21).

The National Agreement also required that NRCS State offices develop additional agreements with individual State Historic Preservation Officers for the purpose of further adjusting procedures to local circumstances (Stipulation 4). This present Handbook was developed to comply with the requirements of Stipulation 4 of the National Agreement. It implements the NRCS cultural resources policies established in GM 420 Part 401, while replacing the National Procedures found in Part 601. It also sets forth the minimum requirements for compliance with 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended.

NRCS PERSONNEL RESPONSIBILITIES UNDER THIS PART

NRCS personnel responsibilities for compliance with Section 106 are not changed from those stated in GM 420 Part 401.12, which are as follows:

Chief: The NRCS Chief is the responsible Federal Official for protecting historic properties in NRCS soil and water conservation programs, and signing documents allowing adverse effects on historic properties when the agency and other consulting parties fail to agree on the terms of treatment.

State Conservationist: Within each state...the NRCS State Conservationist is the responsible Federal Official for cultural resources compliance and the protection of historic properties in all NRCS activities.

District Conservationists: Within each district, the persons responsible for ensuring that the provisions of this part are implemented in their areas and offices.

Cultural Resources Specialist: These are individuals who meet the minimum education and experience requirements for the Secretary of Interior (SOI) Standards and Guidelines and are responsible for providing policy and procedural guidance for considering and managing cultural resources and historic properties, including oversight and quality control or assurance. They also conduct cultural resources investigations, evaluations, and develop treatment plans for treatment.

PROCEDURES FOR CONSIDERING CULTURAL RESOURCES IN NRCS ACTIONS

Complying with Section 106 of the National Historic Preservation Act and related regulations

The number of steps which may be necessary to fully consider cultural resources in any given situation may vary depending on whether such resources are found in the work area, whether they are significant, and other circumstances. The list below contains the maximum number of steps, that might be required of field office personnel before proceeding with assistance when significant cultural resources are present. Specific guidelines for each of these steps,, including when they are unnecessary, are provided in the following Section. A flow chart is also appended. Remember, it is always wise (and legally mandated) to begin the cultural resources review process as early as possible in conservation planning.

1. Determining if an Undertaking Requires a Cultural Resources Investigation
2. Determining the Appropriate NRCS Level for Cultural Resources Investigation
3. Determining the Area of Potential Effect
4. Conducting a Cultural Resources Review
5. Conducting a Field Inspection
6. Recording Cultural Resources
7. Determining Impacts (Effects)
8. Developing a Treatment (Avoidance) Plan
9. Reporting Results and Obtaining Comments

1. Determining if an Undertaking Requires a Cultural Resources Investigation:

ACHP regulations (36 CFR 800.16) defines an undertaking as "...any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." This includes practically everything that the NRCS does. A cultural resources investigation must be undertaken if a NRCS program or practice has the potential for affecting cultural resources. Most NRCS programs and practices have been pre-evaluated with respect to their potential for impacting cultural resources. Practices that do and do not require a cultural resources

investigation are listed in the APPLICABILITY AND EXCEPTIONS section of this Handbook (Page 13). They are generally categorized as follows:

- ***Exempt Programs and Practices*** (Page 14): If any of the assistance activities proposed in the conservation plan are listed in this category, they are unlikely to affect cultural resources and will not require a cultural resources investigation. Document this determination in the conservation file, and exclude the area that will be affected by the activity from further consideration under this handbook. If all practices included in the plan fall within this list, document the fact in the conservation file and proceed with the assistance.
- ***Practices Considered Likely to Affect Cultural Resources*** (Page 21): If the practices proposed in the conservation plan are listed in this category, they will usually require a cultural resources investigation. You will, however, note that a potential exemption is provided for even these practices at the beginning of the list (existing equivalent or greater ground disturbance). If the exemption appears to apply for all or any significant part of the work area, document the evidence and seek concurrence from the CRS to limit or forego further compliance activity. If documented concurrence is received, proceed with the assistance, otherwise, continue to the next step.

2. Determining the Appropriate NRCS Level for Cultural Resources Investigation

NRCS field office personnel who have completed Modules 1-8 of the NRCS CRM Training Course are permitted to independently conduct the cultural resources survey for all linear practices, such as pipelines and fences, and all block surveys covering 100 acres or less of ground. Block surveys of areas covering more than 100 acres or known to contain cultural resources other than isolated artifacts must be supervised by a CRS. NRCS personnel conducting surveys may be assisted by the cooperating farmers or ranchers, and by tribal technical specialists in associated disciplines. Cooperators and technical specialists from other fields may not constitute more than 50% of the survey crew and may not conduct surveys independently.

3. Determining the Area of Potential Effect:

The next step is to identify the geographic area or areas within which the undertaking could cause impacts to any cultural resources that *might* be present. The law and regulations define the area of potential effect very broadly to include all areas that may receive direct, indirect, and foreseeable long-term impacts from a federal undertaking. When defining this area consider:

- ***Direct impacts or effects.*** These are the easiest to predict and are essentially those impacts which result from the practice itself at the time and place of installation (land leveling, ditching, seeding, etc.).
- ***Indirect and long-term impacts or effects.*** These are more difficult but no less important to foresee, and may include (but are not limited to) such things as:

- Impacts to the "setting, feelings, and associations" of cultural resources (this will usually apply to historic-era structures or traditional cultural properties);
- Off site impacts from peripheral or temporary project activities like vehicle traffic, staging areas, or stock piling;
- Off site impacts due to quarrying by federal contractors or subcontractors for construction materials;
- Future actions taken by the participant which were made possible by NRCS assistance and which were reasonably foreseeable;
- Limiting or preventing access to a sacred or traditional use site through structural practices.

NOTE: The courts have repeatedly upheld and enforced the broad and inclusive language of NHPA with respect to the area of potential effect. It will be important to remember that it is *not* necessarily the same as the site of the practice or assistance itself and will usually be more extensive. Defining this area accurately is a critical step that if done poorly may seriously undermine the remaining portions of the review process.

4. Conducting a Cultural Resources Records Review:

Once the area of potential effect has been established, the next step is to determine whether any or all of it has been previously examined for cultural resources and if any such resources are already known to exist. Although all of the following sources need not be checked for each conservation plan, they must be consulted under the conditions stated below:

Always Consult.

- ***The private landowner or cooperator.*** *These persons* will often have much useful information about local historic and prehistoric resources. They should always be asked and their responses should be recorded and considered during planning.
- ***The Arizona CRS,*** if the practice is 100 acres or more and will involve high impact practices like brush eradication or when an archaeological site is found. The most recent version of the Advisory Council on Historic Preservation regulations requires that individual federally recognized Native American tribes be consulted on all federal undertakings on federal, state, and private lands within the geographic areas that are of interest to each tribe. The Arizona State Conservationist and Arizona CRS will undertake this consultation. The current practice is to consult on all non-exempt practices involving over 100 acres, on all areas where sites are known to be located, and on all projects where sites have been found. The survey reports for small surveys where no archaeological sites are found are forwarded to the tribes on a quarterly basis. These procedures will probably be modified as we develop programmatic agreements with more of the 21 federally recognized tribes in Arizona.

- ***The Federal land manager, when on Federal land.*** The managing agency will usually employ a CRS and NRCS generally expects other federal agencies to conduct the cultural resources investigation as a condition of receiving conservation assistance. If it is decided that NRCS personnel will conduct the investigation, consult any records maintained by the agency of cultural resources on lands under their jurisdiction.
- ***The State land manager when on state land.*** As is the case with Federal agencies, NRCS generally expects state agencies to undertake cultural resources investigation as a condition of receiving conservation assistance. If it is decided that NRCS personnel will conduct the investigation, consult any records maintained by the agency on lands under their jurisdiction. If the State requests NRCS staff to conduct or assist with the cultural resources review, inquire if a permit needs to be issued.
- ***The tribal government when on tribal land.*** Many tribes in Arizona have cultural resources staff, ordinances, and permitting requirements that take precedence over NRCS *policies* and procedures. Tribes may also prefer to conduct cultural resources investigation for NRCS-assisted actions themselves. If it is mutually decided that NRCS personnel will conduct the investigation, and any necessary permit has been issued, it will be essential to consult any cultural resources records maintained by the tribe. The participant and/or tribal government may also be able to provide the names of elders and traditional religious leaders who can be a very important source of information about cultural resources. Elders are also typically the only source of information about traditional cultural places and sacred or ceremonial sites. Always address tribal cultural resources concerns during planning and scoping meetings. The CRS should always be consulted before initiating a field inspection on tribal lands if there are any uncertainties about tribal requirements.

Consider consulting:

- The Arizona CRS should be consulted if the conservation proposal is unusually complex. This can be done quickly using E-mail, fax, telephone, or other convenient means. Simply provide the Township, Range, and Section(s) for the area of potential effect. The CRS has electronic access to various cultural resources databases and is also located conveniently to the SHPO records office. The CRS can report the results of the site records check to the field office using the quickest means available. Please provide as much lead-time as possible. The CRS is often in travel status or otherwise engaged.
- National Environmental Policy Act (NEPA) scoping and environmental documents prepared by, or for, Federal and State agencies. The scoping process conducted as a part of NEPA compliance may aid in identifying cultural resources indicators in the natural environment and may also aid in locating actual cultural resources and/or knowledgeable cultural resources specialists.
- Local museums, historical societies, and libraries.

Evaluate Results

If sufficient data is on record, there may be no need to go further with the investigation. On the other hand, even when good information from previous investigations is available, it may be necessary to relocate cultural resources in order to verify their locations and plan for avoidance.

- If the area of potential effect has been wholly included in a previous survey or field inspection and no cultural resources were found, go on to step 8 (Reporting Results and Obtaining Comments).
- If the Cultural Resources Review indicates that the area of potential effect has not been included in a previous survey, proceed to the next step (Conducting Field Inspection).

5. Conducting a Field Inspection

The next step is to physically locate previously undetected cultural resources in the area of potential effect. Field Inspections can only be conducted by NRCS employees who have completed the NRCS National Cultural Resources Training Modules 1-8. NRCS non-specialists conduct non-collection inspections only. Artifacts should never be removed from the location of their discovery, and digging to aid in discovering or interpreting cultural resources should never be done during the survey phase of an investigation.

Methodology. Field inspections shall be conducted on foot. As a matter of standard practice, field inspections should cover the entire area of potential effect by means of straight parallel paths (transects), guided by compass bearings, flagging, or other suitable controls. When working with *linear* practices like fences, ditches, and pipelines, the field inspection will cover the working area where soil will be disturbed along the line of the practice and a 50 foot (15 meter) buffer zone on each side of the working area. In these cases the proposed route of the linear practice shall have been staked or otherwise suitably marked on the surface prior to the survey. When conducting *block surveys* the spacing between parallel transects will vary somewhat depending on surface visibility (the amount of bare or exposed earth), but should be narrow enough that the field of view from adjacent transects overlaps enough to detect even small cultural resources. Under good viewing conditions the standard interval is 15 meters (no more than 50 feet). Spacing may need to be less in circumstances where visibility is poor and archaeological site potential is high. State and federal land managers may have special requirements. Take these into account when designing your survey. A 50-foot (15-meter) buffer zone around the block practice must also be surveyed. A single person can effectively survey about 50 acres per day on foot.

Evaluating Results. If no cultural resources are found, proceed to step 9 (Reporting Results and Obtaining Comments). When cultural resources are found, proceed to the following step.

NOTE: Complete coverage of the area of potential effect will normally, but not always, be necessary. Topography may make systematic parallel transects impractical and cultural resources unlikely. When such factors are present, discuss appropriate alternative methodologies with the CRS.

6. Recording Cultural Resources:

Most archaeologists define cultural resources sites based on considerations of the age of cultural remains, the density and diversity of artifacts and features, and the spatial arrangements of remains within the area under consideration. Minimally, archaeological sites should contain physical remains of past human activity that are at least 50 years old, and should meet at least one of the following additional criteria:

- 30 or more artifacts of a single class (i.e., 30 sherds, 30 lithics, 30 tin cans) within an area no more than 50 feet (15m) in diameter, except when all pieces appear to originate from a single source (i.e., one ceramic vessel, one glass bottle, one core, etc.), or;
- 20 or more artifacts if two or more classes of artifacts are represented (i.e., pottery sherds and chipped stone, nails and glass, etc.), within an area 50 feet (15m) in diameter. or;
- One or more archaeological features in temporal association with any number of artifacts, or;
- Two or more temporally associated cultural features without artifacts.

All cultural resources meeting minimum site criteria as described above will be recorded and reported as stated in Step 9 (REPORTING RESULTS AND OBTAINING COMMENTS).

"Isolated features" without associated artifacts and **Isolated Artifacts** should also be recorded on the Isolated Occurrence Record (see appendices). An "isolated feature" is defined as a non-linear feature that does not have any other features within a 325-foot radius (100m). An "isolated artifact" is defined as a single artifact or a small group of artifacts (flakes, pot sherds, cans, etc.) that do not constitute a site, as defined above.

NOTE: Traditional cultural places, which are sites that are important to tribes or other ethnic groups owing to their sacred or traditional associations, may not contain any material remains at all. They must still be taken into account during cultural resources planning. Such places will normally become known to the conservation planner during the cultural resources review (step 4) as the result of questioning tribal elders, the cooperators, or other local residents. Site boundaries and recordation in these cases will require the assistance of the informant(s), and should also involve a CRS.

7. Determining Effects (Impacts)

When cultural resources have been recorded and their location and extent are known, it is necessary to determine if the undertaking will impact the resources. An undertaking is considered to have an impact or effect whenever it may cause any change in the quality of the historical, architectural, archeological, or cultural values of the resource. The determination of effect for any undertaking on cultural resource will generally fall into one of three formal categories: "Adverse Effect," "No Historic Properties Affected," and "No Adverse Effect." Beneficial impacts are possible but are rare.

Adverse Effects include such things as:

- Destruction or alteration of all or any part of a cultural resource;
- Introduction of visual, audible, or atmospheric elements that are out of character with the resource or which will alter its setting (usually applies to historic structures and traditional cultural places rather than prehistoric sites);
- Removal or relocation of any associated structures, artifacts or features;
- Transfer or sale of the resource without adequate restrictions regarding preservation, maintenance, or use.
- Introduction of greater traffic and use of an area, whether temporarily or permanently, including changes in vehicular traffic routes resulting from construction of fences and other structural practices;
- Reasonably foreseeable changes in drainage, sedimentation, and erosion patterns;
- Independent or future actions taken by a private landowner, made possible by an NRCS undertaking, which are known to or are reasonably foreseeable by NRCS.

When it is found that the undertaking will have an *Adverse Effect* on any cultural resources located during the field inspection, proceed immediately to the next step (Developing a Treatment plan).

No Historic Properties Affected. This determination overlaps to a large extent with "*No Adverse Effect*" (below). It is applied when there are no cultural resources in the area of potential effect of the undertaking or when the significant cultural resources (i.e., those determined to be eligible for nomination onto the National Register of Historic Places) that are present in the area of potential effect will not be damaged because they will be avoided during the undertaking. This determination will be made by the CRS in consultation with the SHPO.

No Adverse Effect. This determination may be proposed in situations where effects would not alter the characteristics that would make the property National Register eligible or where the undertaking has been modified, or conditions imposed, such that impacts are reduced to an acceptable level (Consult the following section on Developing a Treatment plan). This

determination will be made by the CRS in consultation with the SHPO. If it is unclear whether or not the undertaking will adversely impact identified cultural resources, consult the CRS.

8. Developing a Treatment (Avoidance) Plan.

In order to avoid time-consuming determinations of significance, NRCS normally assumes that cultural resources discovered during a field inspection are significant (i.e., eligible for nomination onto the National Register of Historic Places), and whenever possible, mitigates adverse effects by *avoiding* the resources through:

- Moving the practice to another area;
 - Changing the work limits;
 - Changing to an acceptable alternative practice or measure;
 - Modifying the practice design;
 - Withdrawing assistance
-
- In order to be acceptable, avoidance measures must effectively remedy any effects, direct or indirect, identified in the previous section. In *general, archaeological sites must be avoided by a minimum of 50 feet, including any associated buried deposits*). To be safe, plan to avoid sites by a minimum of 100 feet whenever possible;
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- It will usually be necessary to physically mark the site to be avoided with flagging, temporary barriers, or other suitable means prior to or concurrent with practice implementation. When to flag the site is usually a trade off between risks posed by construction activity and those that may result from advertising the site's location to the wrong persons. In areas with easy public access, avoid flagging or other markers of site location until just prior to work in the area. All markers should be removed after the work is done.
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- To the greatest extent possible, involve the cooperators, landowners, contractors and others who will be responsible for implementing the assistance activity, in marking sites and planning for avoidance. Areas to be avoided can also be graphically depicted on construction or engineering plans if necessary.
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- The cooperator or contractor must be provided with a written statement of the requirements for avoidance and a clear map.
-
- NRCS Field Office personnel or the CRS will **monitor** (observe) all practice activities that take place within 100 feet (30 meters) of any archaeological site. It will not normally be necessary for Field Office personnel or the CRS to monitor practice that are not close to known archaeological sites. Cooperators and contractors will, however, be advised that they must stop work and advise the NRCS representative in the event that they uncover buried cultural resources during NRCS funded activities. In complex situations involving multiple cultural resources, it may also be necessary to monitor all or significant portions of the practice activities. This will be established in consultation with the CRS and the SHPO.

When it does not appear that a cultural resource can be effectively avoided, or when avoidance would be unduly difficult, costly, or otherwise impractical, the CRS shall be consulted. If coordination with the CRS does not result in a remedy, the CRS may consult with the SHPO to determine if the cultural resource(s) are significant according to regulations of the ACHP (36 CFR 60.4), or forward recommendations regarding the continued feasibility of the undertaking to the Assistant State Conservationist - Technology.

NOTE: Treatment in the case of cultural resources that embody additional values, including traditional, sacred, or architectural sites, or which may be significant for their association with important people or events, will generally be more difficult to assess and must always be developed in consultation with the CRS, SHPO, and any potentially interested or concerned parties.

9. Reporting Results and Obtaining Comments.

All cultural resources activities performed in connection with NRCS-assisted undertakings are subject to review and approval by the SHPO. All NRCS reports will be made using standard Arizona NRCS formats, including the Field Inspection Record, the Isolated Occurrence Record, and the Arizona State Museum Archaeological Site Card (Appended).

- ***When No Cultural Resources are Found:***

If the cultural resources records review/field inspection indicates that there are no cultural resources within the area of potential effect, send the *Field Inspection Record* (with project boundaries mapped on the appropriate USGS 7.5' quadrangle) (example appended), to the CRS as soon as the inspection is complete. The CRS will provide copies to the SHPO on behalf of the field office, but the field office need not wait for a response before implementing assistance.

- ***When Cultural Resources are Found and Can be Avoided***

If cultural resources were found in the area of potential effect as the result of the archaeological records review or field inspection (i.e., survey), the conservation plan is subject to consultation with the SHPO before implementation. If impacts to the cultural resources can be avoided, send the *Field Inspection Record* and the *Arizona State Museum Site Card(s)* to the CRS for review and submittal to the SHPO. When asked to comment, the SHPO is required by state law to respond within 30 working days of receipt of the request, concurring with or objecting to the treatment plan. *Do not proceed with assistance until written concurrence from the CRS/SHPO has been received.*

- ***When Cultural Resources are Found and Cannot be Avoided***

If adverse effects to cultural resources cannot be fully mitigated by avoiding the resource, send the completed *Field Inspection Record* and the *Arizona State Museum Site Card(s)* to the CRS with an explanation of the problem. If coordination with the CRS fails to produce a solution, the CRS will consult with the SHPO and will consider complying

with 36 CFR 60 to determine if the resource(s) is/are eligible for inclusion in the National Register of Historic Places (NRHP).

If the affected resource(s) is/are determined to be ineligible for inclusion in the NRHP, assistance can be implemented upon notification by the CRS.

If the resource(s) is/are found to be eligible for inclusion in the **NRHP**, the CRS may consider:

- Development of a treatment plan in consultation with the SHPO and the ACHP;
- Withdrawal of assistance from the undertaking; or,
- Proceeding with actions to mitigate adverse effects as outlined in **SPECIAL SITUATIONS**, after a final determination by the NRCS Chief or delegated representative.

If consultation between NRCS, the ACHP, and the SHPO results in a mutually acceptable treatment plan, the field office may have responsibility for implementing all prescribed treatment measures prior to or concurrent with delivery of assistance.

APPLICABILITY AND EXCEPTIONS

Classification of the Effects of Conservation Assistance on Cultural Resources

This Section attempts to classify many recurrent NRCS actions according to their potential for impacting cultural resources, and is the first source to be used in determining whether assistance activities, including programs, policies, procedures, practices, and other service to the agency's clients may constitute an undertaking.

Exempt Program

Management Exemption: The following program activities are primarily management related and considered exempt from the cultural resources investigation requirement:

- National Resources Inventory, water supply forecasts, snow and range surveys, wetlands inventories, resource monitoring, and other forms of noninvasive resource data collection;
- National Cooperative Soil Survey program activities that involve no ground disturbance, or are limited to small scale field investigations such as small shovel holes, auger holes, probe holes, and/or core holes. Larger scale field investigations such as soil investigation pits require a cultural resources investigation for the area of potential affect and for a 50 foot (15 meter) buffer around the area of potential effect.

- Providing basic information on soil and water conservation and crop production;
- Providing general planning assistance of a district-wide or similar nature;
- Most administrative actions with the exception of actions undertaken to acquire, construct, lease, or demolish facilities for the purpose of carrying out agency missions.

Farmed Soils Exemption: Farmed soils that have been previously slip plowed, "deep tilled," or leveled to a depth of 36 or more inches are exempt from the cultural resource investigation requirement. It is, however, necessary to reliably establish that these disturbances have occurred and to establish that no National Register eligible sites exist on or around the property before proceeding with the conservation plan. Field Office personnel developing a conservation plan for such soils shall undertake the following actions:

- Interview the cooperator or prior property owners to establish:
 - what leveling, plowing, and/ or tilling activities have taken place on the property
 - when those activities took place, and
 - who did the leveling, plowing, and/or tilling.
- Certify the "what", "when", and "by whom" of these activities in the Cultural Resources section (VI) of the Arizona NRCS Environmental Evaluation Worksheet (AZ-CPA-1) for the conservation plan.
- Provide the CRS with a description of the planned undertaking (use the standard Field Inspection Record form) and a map of the undertaking so that the CRS can check the Arizona State Museum and SHPO site records to insure that National Register eligible sites have not been recorded on or around the location of the undertaking.
- When verbal or written clearance is received from the CRS, proceed with the undertaking (after certifying this clearance on the AZ-CPA-1).

Exempt Practices

The following practices are non-intrusive or minimally so and will usually have a benign or beneficial effect on cultural resources when installed according to standard NRCS criteria. These practices can generally be installed without archaeological consultation; however, a number of practices occur in both lists depending on certain conditions. These practices are marked with an "*" denoting exception to the exemption:

***Alley cropping* (311).** Trees or shrubs planted in a set or series of single or multiple rows with agronomic, horticultural crops or forages cultivated in the alleys between the rows of woody plants.

* **Brush Management** (314). Managing and manipulating stands of brush on rangeland, pasture land, and recreation and wildlife areas by mechanical, chemical, or biological means (Hand-operated chainsaw cutting, cut and leave or hand pile with a rubber-tired Agra Axe, chemical, or biological applications of the practice only).

* **Channel Vegetation** (322). Establishing and maintaining adequate plants on channel banks, berms, spoil, and associated areas. (does not include shaping of channel banks).

Conservation Cover (327). Establishing and maintaining perennial vegetative cover to protect soil and water resources on land retired from agricultural production.

Conservation Cropping Sequence (328). An adapted sequence of crops designed to provide adequate organic residue for maintenance or improvement of soil tilth.

Conservation Tillage (329). Any tillage and planting system in which at least 30 percent of the soil surface is covered by plant residue after, planting to reduce soil erosion by water; or, where soil erosion by wind is the primary concern, at least 1000 pounds per acre of flat small grain residue-equivalent are on the surface during the critical erosion period.

Contour Buffer Strips (332). Narrow strips of permanent, herbaceous, vegetative cover established across the slope and alternated down the slope with parallel, wider cropped strips.

Contour Farming (330). Farming sloping land in such a way that preparing land, planting, and cultivating are done on the contour.

Contour Orchard and Other Fruit Area (331). Planting orchards, vineyards, or, small fruit so that all cultural operations are done on the contour.

Cover and Green Manure Crop (340). A crop of close growing grasses, legumes, or small grain grown primarily for seasonal protection and soil improvement. It usually is grown for 1 year or less, except where there is permanent cover as in orchards.

Cross Wind Ridges (589A). Ridges formed by tillage or planting and aligned across the prevailing wind erosion direction.

Cross Wind Stripcropping (589B). Growing crops in strips established across the prevailing wind erosion direction, and arranged so that strips susceptible to wind erosion are alternated with strips having a protective cover that is resistant. This practice applies to cropland or other lands where crops are grown.

Cross Wind Trap Strips (589C). Herbaceous cover resistant to wind erosion established in one or more strips across the prevailing wind erosion direction. This practice applies to cropland or other lands where crops are grown.

Deferred Grazing, Arizona Interim (352). Removing domestic livestock grazing from an area for a prescribed period to meet a specified objective.

Delayed Seedbed Preparation (354). Any cropping system in which all of the crop residue and volunteer vegetation are maintained on the soil surface until approximately 3 weeks before the succeeding crop is planted. This practice applies to cropland or other lands where crops are grown.

Early Successional Habitat Development/Management (647). Manage early plant succession to benefit desired wildlife or natural communities.

***Fencing** (382). Enclosing or dividing an area of land with a suitable permanent structure that acts as a barrier to livestock, big game, or people. Includes electric fences (when installed by hand without mechanical preparation only).

Field Border (386). A strip of perennial vegetation established at the edge of a field by planting or by converting it from trees to herbaceous vegetation or shrubs. Installation does not exceed the depth, extent or kind of previous disturbance.

Filter strip (393). A strip or area of vegetation for removing sediment, organic matter, and other pollutants from runoff and wastewater.

Fish Pond Management (399). Developing or improving impounded water to produce fish for domestic use or recreation.

Fish Stream Improvement (395). Improving a stream channel to make a new fish habitat or to enhance an existing habitat.

Forage Harvest Management (511). The timely cutting and removal of forages from the field as hay, greenchop, or silage.

Forest Land Management (409). Forest land management for the benefit of the environment through which needed erosion control and water quality practices are applied in combination with needed silvicultural practices.

Forest Stand Improvement (666). To manipulate species composition and stocking by cutting or killing selected trees and understory vegetation.

Grasses and Legume in Rotation (411). Establishing grasses and legumes or a mixture of them and maintaining the stand for a definite number of years as part of a conservation cropping system.

Hedgerow Planting (422). Establishing a living fence of shrubs or trees in, across, or around a field.

Herbaceous Wind Barriers (603). Herbaceous vegetation established in rows or narrow strips across the prevailing wind direction.

Heavy Use Area Protection (561). Protecting heavily used areas by establishing vegetative cover, by surfacing with suitable materials, or by installing needed structures.

Irrigation Canal or Lateral (320). A permanent ditch or side conduit constructed to convey water from the source of supply to one or more farms system (only when it can be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications. [see "Farmed Soils Exemption on page 14]).

Irrigation Field Ditch (388). A permanent irrigation ditch constructed to convey water from the source of supply to a field or fields in a farm distribution system (only when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications[NOTE: Certify this with dates and the names of the persons who did the leveling, etc. on the project EE]).

****Irrigation Land Leveling (464).*** Reshaping the surface of existing or previously cropped land to planned irrigation grades (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications. [see "Farmed Soils Exemption on page 14]).

****Irrigation System, Sprinkler (442)*** A planned irrigation system in which all necessary facilities are installed for efficiently applying water by means of perforated pipes or nozzles operated under pressure (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** *Irrigation System, Surface and Subsurface (443).*** A planned irrigation system in which all necessary water-control structures have been installed for efficient distribution of irrigation water by surface means, such as furrows, borders, contour levees, or contour ditches, or by subsurface means (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

****Irrigation System, Trickle (441).*** A planned irrigation system in which all necessary facilities are installed for efficiently applying water directly to the root zone of plants by means of applicators (orifices, emitters, porous tubing, perforated pipe) operated under low pressure. The applicators can be placed on or below the surface of the ground (only when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** *Irrigation Water Conveyance, Non-reinforced Concrete Ditch and Canal Lining (428A).*** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** *Irrigation Water Conveyance, Flexible Membrane Ditch and Canal Lining Specifications (428B)*** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

****Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining*** (428C). A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Irrigation Water Conveyance, Rigid Gated Pipeline (430-HH). A rigid line of pipe, with closely spaced gates, installed as part of a surface irrigation system.

**** Irrigation Water Conveyance, Rock and Mortar Ditch and Canal Lining*** (428AA-1). A hand placed fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (only when installed in an existing water conveyance or when installed in an existing water conveyance or when it is reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Irrigation Water Management (449). Determining and controlling the rate, amount, and timing of irrigation water in a planned and efficient manner.

Land Reclamation, Fire Control (451). Controlling or extinguishing fires in coal refuse.

Land Reclamation, Landslide Treatment (453). Treating in place of material, mine spoil (excavated overburden), mine waste, or overburden to reduce down slope movement.

Land Smoothing (466). Removing irregularities on the land surface by use of special equipment.

Livestock Exclusion (472). Excluding livestock from an area not intended for grazing.

Mulching (484). Applying plant residues or other suitable materials not produced on the site to the soil surface.

Nutrient Management (590). Managing the amount, form, placement, and timing of applications of plant nutrients.

Pasture and Hayland Management (510). Proper treatment and use of pastureland or hayland.

****Pasture and Hayland Planting*** (512). Establishing and reestablishing long term stands of adapted species of perennial, biennial, or reseeding forage plants. (does not include grassed waterways or outlets on cropland).

Prescribed Burning (338). Applying fire to predetermined areas under conditions that the intensity and spread of the fire are controlled.

Prescribed Grazing (528A). The controlled harvest of vegetation with grazing or browsing animals.

Pest Management (685). Managing agricultural pest infestations (including weeds, insects, and diseases) to reduce adverse effects on plant growth, crop production, and environmental resources.

Pond Sealing or Lining (521). Installing fixed lining of impervious material or treating the soil in a pond mechanically or chemically to impede or prevent excessive water loss.

* ***Range Planting*** (550). Establishment of adapted perennial vegetation such as grasses, forbs, legumes, shrubs, and trees (non-mechanical portions of the practice only).

Recreation Area Improvement (562). Establishing grasses, legumes, vines, shrubs, trees, or other plants or selectively reducing stand density and trimming woody plants to improve an area for recreation.

Regulating Water in Drainage Systems (554). Controlling the removal of surface or subsurface runoff, primarily through the operation of water control structures.

Residue Management (329A, 329B, and 344). Managing the amount, orientation, and distribution of crop and other plant residue on the soil surface.

Restoration and Management of Declining Habitats (643). Restoring and conserving rare or declining native vegetation communities and associated wildlife species.

Riparian Forest Buffer (391A). An area of trees and/or shrubs located adjacent to and up gradient from water bodies.

Riparian Herbaceous Cover (390). Riparian areas are ecosystems that occur along watercourses or at the fringe of water bodies. Riparian herbaceous cover consists of grasses, grass-like plants, and forbs.

* ***Rock Barrier*** (555). A rock retaining wall constructed across the slope to form and support a bench terrace that will control the flow of water and check erosion on sloping land (when no excavation is required).

Roof Runoff Management (558). A facility for collecting, controlling, and disposing of runoff water from roofs.

Row Arrangement (557). Establishing a system of crop rows on planned grades and lengths primarily for erosion control and water management.

Shallow Water Management for Wildlife (646). Managing shallow water on agricultural lands and moist soil areas for wildlife habitat.

Soil Salinity Management (non-irrigated) (571). Management of land, water, and plants to control, harmful accumulations of salts on the soil surface or in the root zone on non-irrigated areas.

Stripcropping, Contour (585). Growing crops in a systematic arrangement of strips or bands on the contour to reduce water erosion.

Stripcropping, Field (586). Growing crops in a systematic arrangement of strips or bands across the general slope (not on the contour) to reduce water erosion.

Stripcropping, Wind (589). Growing wind-resisting crops in strips alternating with row crops or fallow and arranged at angles to offset adverse wind effects.

Surface Roughening (609). Roughening the soil surface of a cultivated field by ridge or clod forming tillage.

Toxic Salt Reduction (610). Reducing or redistributing the harmful concentrations of salt and/or sodium in a soil.

Tree/Shrub Establishment (612). Establishing woody plants by planting or seeding.

Tree/Shrub Pruning (660A). Removing all or selected branches from trees and shrubs.

Underground Barrier (190). A barrier installed beneath the surface of the ground to prevent the piping of water due to animal burrows and other disturbances.

Use Exclusion (472). Excluding animals, people, or vehicles from an area.

Waste Utilization (633). Using agricultural waste or other waste on land in an environmentally acceptable manner while maintaining or improving soil and plant resources.

Well Decommissioning (351). The sealing and permanent closure of a water well that is no longer in use.

Wetland Enhancement (659). The modification or rehabilitation of an existing or degraded wetland, where specific functions and/or values are modified for the purpose of meeting Specific project objectives. Some functions may remain unchanged while others may be degraded.

Wildlife Upland Habitat Management (645). Creating, maintaining, or enhancing areas, including wetland, for food and cover for upland wildlife.

Wildlife Wetland Habitat Management (644). Retaining, creating, or managing wetland habitat for wildlife

Windbreak/Shelterbelt Establishment (380). Linear plantings of single or multiple rows of trees or shrubs for environmental purposes.

Windbreak/Shelterbelt Renovation (650). Widening, partial replanting, removing and replacing selected trees and shrubs to improve an existing windbreak.

Woodland Direct Seeding (652). Planting tree seed by hand or by mechanical means.

Non-Exempt Practices (Requiring a Cultural Resources Investigation).

The following conservation practices have a high potential to impact cultural resources when installed according to standard NRCS criteria, and will normally require a complete archaeological review. Be aware however that even these practices may be exempt if the ground disturbance associated with them will not exceed the depth, extent, or kind (severity) of existing disturbance. Remember also that an “*” denotes exceptions.

Access Road (560). A travelway constructed as part of a conservation plan.

Bedding (310). Plowing, blading, or otherwise elevating the surface of flat land into a series of broad, low ridges separated by shallow, parallel dead furrows.

***Brush Management (314).** Managing and manipulating stands of brush on rangeland, pasture land, and recreation and wildlife areas by mechanical, chemical, or biological means. (Hand-operated chainsaw cutting, cut and leave or hand pile with a rubber-tired Agra Axe, chemical, or biological applications of the practice are exempted).

*** Channel Vegetation (322)** Establishing and maintaining adequate plants on channel banks, berms, spoil, and associated areas (shaping of natural channel banks only).

Chiseling and Subsoiling (324). Loosening the soil, without inverting and with a minimum of mixing of the surface soil, to shatter restrictive layers below normal plow depth that inhibit water movement or root development.

Clearing and Snagging (326). Removing snags, drifts, or other obstructions from a channel.

Composting Facility (317). A facility for the biological stabilization of waste organic material.

Commercial Fishponds (397). A water impoundment constructed and managed for commercial aquaculture production.

Constructed Wetland (656). A wetland that has been constructed for the primary purpose of water quality improvement.

Controlled Drainage (335). Control of subsurface and surface water through use of drainage facilities and water control structures.

Covered Anaerobic Lagoon (360). A constant volume lagoon designed for methane production and recovery in conjunction with a separate waste storage facility.

*** Critical Area Planting (342).** Planting vegetation, such as trees, shrubs, vines, grasses, or legumes, on highly erodible or critically eroding areas (shaping portion of practice only).

Dam, Diversion (348). A structure built to divert part or all of the water from a waterway or a stream into a different watercourse, an irrigation canal or ditch, or a water-spreading system.

Dam, Floodwater Retarding (402). A single-purpose dam designed for temporary storage of floodwater and for its controlled release.

Dam, Multiple-Purpose (349). A dam constructed across a stream or a natural watercourse that has a designed reservoir storage capacity for two or more purposes, such as floodwater retardation and irrigation water supply, municipal water supply, and recreation.

Dike (356). An embankment constructed of earth or other suitable materials to protect land against overflow or to regulate water.

Diversion (362). A channel constructed across the slope with a supporting ridge on the lower side.

* **Fencing (382).** Enclosing or dividing an area of land with a suitable permanent structure that acts as a barrier to livestock, big game, or people (mechanical portion of the practice, only)

Firebreak (394). A strip of bare land or fire-retarding vegetation.

Fish Raceway or Tank (398). A channel or tank with a continuous flow of water constructed or used for high-density fish production.

Floodwater Diversion (400). A graded channel with a supporting embankment or dike on the lower side, constructed in lowland areas and subject to flood damage.

Floodway (404). A channel, usually bounded by dikes, used to carry flood flows.

Forest Harvest Trails and Landings (655). Laying out, constructing and using forest harvest trails and landings.

Forest Site Preparation (490). Treating areas to encourage natural regeneration of desirable trees and shrubs, or to permit artificial regeneration by planting or direct seeding.

Grade Stabilization Structure (410). A structure used to control the grade and bank, dam, or wall cutting in natural or artificial channels.

Grassed Waterway (412). A natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

Grazing Land Mechanical Treatment (548). Renovating, contour furrowing, pitting, or chiseling native grazing land by mechanical means.

Hillside Ditch (423). A channel that has a supporting ridge on the lower side constructed across the slope at definite vertical intervals and gradient with or without a vegetative barrier.

* **Irrigation Canal or Lateral (320).** A permanent ditch or side conduit constructed to convey water from the source of supply to one or more farms system (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14"]).

***Irrigation Field Ditch (388).** A permanent irrigation ditch constructed to convey water from the source of supply to a field or fields in a farm distribution system (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation Land Leveling (464).** Reshaping the surface of existing or previously cropped land to be irrigated to planned grades (unless it is reliably established that the land has been previously slip plowed, "deep ripped," or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Irrigation Pit or Regulating Reservoir (552A & B). A small storage reservoir constructed to regulate or store a supply of water for irrigation.

Irrigation Storage Reservoir (436). An irrigation water storage structure made by constructing a dam.

***Irrigation System, Sprinkler (442)** A planned irrigation system in which all necessary facilities are installed for efficiently applying water by means of perforated pipes or nozzles operated under pressure (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation System, Surface and Subsurface (443).** A planned irrigation system in which all necessary water-control structures have been installed for efficient distribution of irrigation water by surface means, such as furrows, borders, contour levees, or contour ditches, or by subsurface means (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Irrigation System, Tailwater Recovery (447). A facility to collect, store, and transport excess water from irrigation for reuse in a farm irrigation distribution system.

***Irrigation System, Trickle (441).** A planned irrigation system in which all necessary facilities are installed for efficiently applying water directly to the root zone of plants by means of applicators (orifices, emitters, porous tubing, perforated pipe) operated under low pressure. The applicators can be placed on or below the surface of the ground (when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation Water Conveyance, Aluminum Tubing or Asbestos Cement Pipeline (430AA & BB).** A pipeline and appurtenances installed in an irrigation system. (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

***Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining (428Q).** A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be

reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation Water Conveyance, Non-reinforced Concrete Ditch and Canal Lining (428A).**

A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral. (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation Water Conveyance, Flexible Membrane Ditch and Canal Lining (428B)**

A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

***Irrigation Water Conveyance, Galvanized Steel Ditch and Canal Lining (428Q).**

A fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

*** Irrigation Water Conveyance, Rock and Mortar Ditch and Canal Lining (428AA- 1).**

A hand placed fixed lining of impervious material installed in an existing or newly constructed irrigation field ditch, irrigation canal, or lateral (unless installed in an existing water conveyance or when it cannot be reliably established that the land has been previously slip plowed, "deep ripped", or leveled to specifications [see "Farmed Soils Exemption on page 14]).

Land Clearing (460). Removing trees, stumps, and other vegetation from wooded areas.

Land Reclamation, Shaft and Adit Closing (452). Closing vertical and horizontal underground mine openings.

Land Reclamation, Subsidence Treatment (454). Treating subsidence areas to reduce the harmful effects and provide for beneficial use.

Land Reclamation, Toxic Discharge Control (455). Control of acid or otherwise toxic aqueous discharges from abandoned mines or mine waste.

Land Reclamation, Highwall Treatment (456). Reducing harmful effects of highwalls that are the exposed vertical walls of mining projects in abandoned mined areas.

Land Reconstruction, Abandoned Mined Land (543). Restoring land and water areas that are adversely affected by past mining practices and increasing the productivity of the areas for a beneficial use.

Land Reconstruction, Currently Mined Land (544). Restoring currently mined land to an acceptable form and for a planned use.

Lined Waterway or Outlet (468). A waterway or outlet having an erosion-resistant lining of concrete, stone, or other permanent material. The lined section extends up the side slopes to a designed depth. The earth above the permanent lining may be vegetated or otherwise protected.

Manure Transfer (634). A manure conveyance system using structures, conduits, or equipment.

Mine Shaft & Adit Closing (457). Filling underground mines or closing exposed openings.

Mole Drain (482). An underground conduit constructed by pulling a bullet-shaped cylinder through the *soil*.

Obstruction Removal (500). Removal and disposal of unwanted, unsightly, or hazardous buildings, structures, vegetation, landscape features, trash, and other materials.

Open Channel (582). Constructing or improving a channel either natural or artificial, in which water flows with a free surface.

Pipeline (516). Pipeline installed for conveying water for livestock or for recreation (subsurface portion of practice only).

Pond (378). A water impoundment made by constructing a dam or an embankment or by excavating a pit or dugout.

Precision Land Forming (462). Reshaping the surface of land to planned grades.

Pumped Well Drain (532). A well sunk into an aquifer from which water is pumped to lower the prevailing water table.

Pumping Plant for Water Control (533). A pumping facility installed to transfer water for a conservation need, including excess surface or ground water; filling ponds, ditches, or wetlands; or pumping from wells, ponds, streams, and other sources.

* **Range Planting** (550). Establishment of adapted perennial vegetation such as grasses, forbs, legumes, shrubs, and trees (mechanical portion of practice only).

Recreation Land Grading and Shaping (566). Altering the surface of the land to meet the requirements of recreation facilities.

Recreation Trail and Walkway (568). A pathway prepared especially for pedestrian, equestrian, and cycle travel.

* **Rock Barrier** (555). A rock retaining wall constructed across the slope to form and support a bench terrace that will control the flow of water and check erosion on sloping land (when excavation is required, only).

Runoff Management System (570). A system for controlling excess runoff caused by construction operations at development sites, changes in land use, or other land disturbances.

Sediment Basin (350). A basin constructed to collect and store debris or sediment.

Spoil Spreading (572). Disposing of surplus excavated materials.

Spring Development (574). Improving springs and seeps by excavating, cleaning, capping, or providing collection and storage facilities.

Stock Trails and Walkways (575). A livestock trail or walkway constructed to improve grazing distribution and access to forage and water.

Streambank and Shoreline protection (580). Using vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels against scour and erosion.

Stream Channel Stabilization (584). Stabilizing the channel of a stream with suitable structures.

Structure for Water Control (587). A structure in an irrigation, drainage, or other water management system that conveys water, controls the direction or rate of flow, or maintains a desired water surface elevation.

Subsurface Drain (606). A conduit; such as plastic tubing, tile, or pipe; installed beneath the ground surface to collect and/or convey drainage water.

Surface Drainage, Field Ditch (607). A graded ditch for collecting excess water in a field.

Surface Drainage, Main or Lateral (608). An open drainage ditch constructed to a designed size and grade.

Terrace (600). An earth embankment, a channel, or a combination ridge and channel constructed across the slope.

Trough or Tank (614). A trough or tank, with needed devices for water control and waste water disposal, installed to provide drinking water for livestock.

Underground Outlet (620). A conduit installed beneath the surface of the ground to collect surface water and convey it to a suitable outlet.

Vertical Drain (630). A well, pipe, pit, or bore hole in porous, underground strata into which drainage water can be discharged.

Waste Management System (312). A planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas, in a manner that does not degrade air, soil, or water resources.

Waste Storage Pond (425). An impoundment made by excavation or earth fill for temporary storage of animal or other agricultural waste.

Waste Storage Structure (313). A fabricated structure for temporary storage of animal wastes or other organic agricultural wastes.

Waste Treatment Lagoon (359). An impoundment made by excavation or earth fill for biological treatment of animal or other agricultural waste.

Water and Sediment Control Basin (638). An earth embankment or a combination ridge and channel generally constructed across the slope and minor watercourses to form a sediment trap and a water detention basin

Water-Harvesting Catchment (636). A facility for collecting and storing precipitation.

Waterspreading (640). Diverting or collecting runoff from natural channels, gullies, or streams with a system of dams, dikes, ditches, or other means and spreading it over relatively flat areas.

Water Table Control (641). Water table control through proper use of subsurface drains, water control structures, and water conveyance facilities for the efficient removal of drainage water and distribution of irrigation water.

Well (642). A well constructed or improved to provide water for irrigation, livestock, wildlife, or recreation.

Wetland Creation (658). A wetland that has been created on a site location which historically was not a wetland or is a wetland but the site will be converted to a wetland with a different hydrology, vegetation type, or function than naturally occurred on the site.

Wetland Development or Restoration (657). Construction or restoration of a wetland facility to provide the hydrological and biological benefits of a wetland.

Wildlife Watering Facility (648). Constructing, improving, or modifying watering places for wildlife.

SPECIAL SITUATIONS

Construction Discoveries

When the procedures for complying with Section 106 are completed, NRCS remains obligated to respond to and consider any unanticipated cultural resources discovered during implementation of an assistance activity. This includes contracts developed using engineering designs, technical specifications, cost share, and other assistance provided by NRCS (an exception may occur if another agency in a multi-agency undertaking has assumed responsibility for such discoveries through an agreement with SHPO). If a discovery occurs during implementation of NRCS assistance, the field office shall:

1. Inform the contractor, or the landowner or manager to halt work in the vicinity of the discovery to allow the significance of the resource to be determined (a stop-work or "discovery" clause should tie a part of every NRCS contract). Construction work at a safe distance from the discovery may proceed.
2. In the event that the action affecting the resource is not halted, inform the landowner and sponsor that continuing to affect the resource may result in withdrawal of assistance.
3. Take reasonable measures to cover or otherwise protect the discovery. This may include covering exposed resources with suitable material (tarpaulins, etc.), or demarcating the area with flags or temporary barriers in order to prevent further damage or disturbance.
4. Notify the CRS on the same working day as the discovery, or as soon thereafter as possible. This notification shall be by telephone followed by a brief written description of the circumstances.

The CRS will normally respond within 48 hours to any construction discovery and will assume responsibility for meeting the remaining requirements of this Section. If the CRS is unavailable, proceed as follows:

- Assume that the cultural resource is significant and maintain protective measures.
- Document the circumstances and nature of the discovery, and recommend feasible actions to avoid or minimize further adverse impacts.
- Send the documentation to the SHPO and follow any guidance received until the matter can be referred to a CRS.

NRCS may, at its discretion assume that the cultural resource is eligible for the National Register of Historic Places for purposes of this section, or the NRCS CRS shall consult with the SHPO about significance using the criteria in 36 CFR 60.4. Consultation between SHPO and NRCS regarding discoveries shall be completed within 10 working days of notification of the SHPO.

If consultation between the NRCS and the SHPO concludes in a determination that the resource is significant, NRCS and SHPO will develop feasible actions to minimize adverse effects to the resource.

If consultation between the NRCS and the SHPO concludes in a determination that the resources are not significant, work may proceed without further review under this section.

The **ACHP** may be invited to comment on any proposed treatment for discoveries involving significant cultural resources. This may occur simultaneously with SHPO consultation.

Construction Discoveries involving Human Remains

All human burials or remains are regulated by some form of legislation, no matter where they occur. In addition, human burials or remains will naturally be of special significance to individuals who knew the deceased, and perhaps also to the cultural or ethnic group to which the deceased belonged. In some cases, they may also be of considerable interest to the police. Therefore, the discovery of previously human remains in an unregulated context during NRCS conservation assistance always requires immediate action, above and beyond the basic procedures for construction discoveries stated above.

The laws governing the treatment of human remains vary depending on such things as the land ownership or legal jurisdiction where they are found, the antiquity of the remains, and in some cases, even their ethnicity. NRCS treatment of such remains will therefore also vary according to these same circumstances. For example, when found on Federal or Indian Land, the remains of Native Americans must be treated according to the provisions of the Native American Graves Protection and Repatriation Act. When occurring on state lands, the proper procedures are set forth in Arizona Revised Statute (A.R.S.) 41-844, while A.R.S. 41-865 establishes correct treatment with respect to private lands. Beyond this, all human remains are protected by the State Mortuary Statute (A.R.S. 11-593) and should be treated as a potential criminal case unless the archaeological context is sufficiently obvious or their antiquity is assessed by the CRS. Always contact the CRS. The CRS will normally respond within 24 hours to discoveries of this nature and will assume primary responsibility for further action. However, if the CRS is not available, notify the State Conservationist and proceed with the remaining steps of this section.

On State and Private Land. NRCS responsibilities for reporting the discovery of human remains on state and private land will generally be met by following normal construction discovery protocol as stated in the previous section (Construction Discoveries) with a copy to the Arizona State Museum (ASM).

On Federal or Indian Land: Any discovery of human remains on Federal or Indian land must also be reported to the responsible land manager, tribal authorities, and other appropriate authorities the same working day as the discovery occurs, or as soon thereafter as possible. Telephone calls should be followed by a brief but concise written report.

When to Contact the Police: The Coroner or Magistrate has authority to enter any jurisdiction or private holding to investigate a report of human remains. Consider the apparent age and context of the discovery. If the remains appear to be relatively recent, the procedures described above for reporting construction discoveries should also include notification to state or tribal police. Consider any clues to the antiquity of the remains. If

there are prehistoric artifacts in direct association (flakes, pottery, so forth), it can probably be safely assumed that the remains represent an archaeological site rather than a crime scene. If the remains are not clearly within an archaeological context, contact the local authorities.

Withdrawing Assistance

NRCS may elect to withdraw assistance from a participant when it is determined by the State Conservationist that the cost or other factors involved with cultural resource compliance jeopardizes the feasibility of an undertaking.

NRCS shall also consider withdrawing assistance if a participant, after application to NRCS:

- Carries out an irreversible action associated with requested technical assistance that adversely impacts a cultural resource prior to completion of NRCS compliance responsibilities, or
- Refuses to implement a recommended treatment plan; or
- Adversely effects cultural or historic property in order to evade the requirements imposed by Section 106 of the NHPA, or an approved conservation plan, provided that the participant has both the knowledge of the adverse effects and the legal power to prevent them.

All NRCS actions pertaining to the withdrawal of assistance because of cultural resources should be fully documented, including the specific reasons for the withdrawal, and reported to the participant within 10 working days of the decision.

Proceeding With An Adverse Effect

The regulations of the ACHP do not absolutely prohibit undertakings that will adversely affect significant cultural resources. They do however, require that the Section 106 process be followed to determine if there are reasonable alternatives for reducing or avoiding the adverse effect. When the procedures contained in this handbook have been implemented and no solutions or alternatives can be found, or no agreement can be reached among the agency, the SHPO, and the ACHP regarding treatment alternatives, the head of the federal agency may still elect to proceed with the undertaking.

If after implementing this handbook NRCS finds that treatment measures cannot be implemented and a decision is made to consider an undertaking that will adversely affect an historic property due to special circumstances or overriding public benefits, then case file documentation will be forwarded for a final determination by the Chief. The documentation will generally include:

- Copies of all relevant reports and correspondence compiled as a result of consultation among the NRCS, the SHPO, and the ACHP;
- A detailed summary of the circumstances and a recommendation by the CRS (with concurrence from the State Conservationist);

- A letter for signature of the NRCS Chief providing final notification to the SHPO and ACHP of NRCS intent to implement the undertaking that will cause adverse effects, and the reason for the decision.

Considering Cultural Resources During Emergency Work

NRCS emergency work procedures are implemented by the State Conservationist in response to requests from the local government for assistance after disaster events. The two types of emergency work recognized are *exigency* situations in which work must be completed within 10 days, and *nonexigency* situations that are completed within 220 days of fund obligation.

The guiding principle with respect to considering cultural resources during emergency work is to implement normal NRCS procedures for protecting cultural resources to the fullest extent practicable without endangering human life or property. If begun promptly, there will often be sufficient time to complete the process beginning on page 4 of this handbook. This will be particularly true of smaller, situations.

In cases where it is not possible or cost effective due to the severity or scale of the disaster, to implement normal cultural resources procedure, the State Conservationist may elect to implement the following procedures, which are based on directives contained in the NRCS National Watershed Manual (7 CFR 624) and 36 CFR 800.12. The State Conservationist may also elect to have the NRCS Chief, or designee, request an emergency waiver under 36 CFR 78 as an alternative for dealing with disasters of major scale. In such cases NRCS will either develop an appropriate plan consistent with 36 CFR Part 78, or execute a programmatic agreement with ACHP for considering historic properties.

Nonexigent Emergencies.

- NRCS personnel certified in the National Cultural Resources Training Program, the CRS and the SHPO will attempt to carry out the normal procedures outlined in this handbook to the fullest extent practicable, including standard comment response times and quarterly reporting procedures.
- If circumstances will not allow completion of the normal procedures established in this handbook, the procedures for exigent emergencies will be followed.

Exigent Emergencies.

- The NRCS is required to complete work on exigent emergencies within 10 days of release of funds for the emergency situation. If feasible, the CRS will conduct a cultural resources background check on the location of the emergency, and NRCS personnel certified in the National Cultural Resources Training Program will perform field inspections prior to emergency repairs in the area of potential effect.
- NRCS personnel will also attempt to carry out the normal cultural resources procedures of this handbook to the fullest extent practicable. The use of untrained

personnel to aid in field inspections will be governed by the scale of disaster and relief response needed and will be indicated during consultations with the SHPO.

- The NRCS will immediately notify the SHPO of the nature and location of the emergency, of the results of the cultural resources background check, whether or not a cultural resources inspection was conducted, and of the results of any inspection by the quickest possible means (preferably an electronic message with an attached map) and will proceed with the work required by the emergency.
- Should a cultural resource be discovered, the SHPO will be immediately notified. The NRCS and the SHPO will consult to evaluate the resource and determine an appropriate course of action. If no appropriate action can be taken to protect an identified cultural resource without endangering human life or property, the SHPO, the ACHP, Native American Tribes who have expressed a historical interest in the area where the emergency occurred will be informed immediately over the signature of the State Conservationist.
- The SHPO will be provided copies of all final reports of NRCS emergency work activities involving cultural resources. In any case where a cultural resource was damaged as the result of the disaster or the subsequent repair work, this notification will include the ACHP and the appropriate Native American Tribes.

FIELD OFFICE RESPONSIBILITY FOR SECURITY AND MAINTENANCE OF DATA

Security and Confidentiality of Records

As NRCS conducts its cultural resources responsibilities, sensitive information is collected, acquired, and generated on those resources. This section stipulates the limitations on public access to cultural resources information held by NRCS. The limitations are necessary to protect the resource itself and/or the area or place where they are located. The authority for these limitations comes from Section 304 of the National Historic Preservation Act (as amended) and Section 9(a) of the Archaeological Resources Protection Act of 1979. USDA Information Resource Management and Technical Guide policies and procedures also require proper use of databases and other documentation maintained by the NRCS.

All data and associated records resulting from recovery and analysis activities are the property of the NRCS. Upon request, NRCS will be allowed to provide copies of the results of analysis and other records to cooperators, cooperating agencies, or interested parties directly involved with an undertaking that require data recovery in accordance with data sharing policies. Such documentation is considered additional to that which is required to meet normal compliance documentation standards.

NRCS Field Offices shall protect cultural resources from intentional or inadvertent damage by restricting access to data and other information with distinguishing characteristics that would reveal their location. Such limitations are necessary to protect the cultural resources and the property upon which they are situated.

Access to such data and information will be restricted following the Department of the Interior's Guidelines for Restricting Information About Historic and Prehistoric Resources (National Register Bulletin 29). Under these Guidelines, it is assumed that public disclosure of such information would create a substantial risk of harm to either the resource or to the place where the resource is located.

When conducting cultural resources investigations, NRCS will collect, acquire, and generate the necessary information related to those resources. All cultural resources data and information resulting from agency assistance activities become the property of NRCS. Cultural resources location data shall be restricted from public access in order to protect the resource and the property upon which it is located.

NRCS employees will not collect artifacts while on official duty except when directed by a specialist.

NRCS employees shall use cultural resources information gained on the job only for official purposes or professional study.

Maintenance of Records

Documentation and organized records are essential to demonstrating agency compliance with cultural resources laws. Adequate records will also ensure management continuity and help prevent duplication of effort. For the purposes of this section, compliance documentation is all of the information that provides proof that NRCS complied with cultural resources requirements for a specific undertaking, and records the results of that process. This includes any records of decision, reports, correspondence, agreements, contract stipulations, and resource description and data.

At minimum, one complete copy of the compliance documentation for each undertaking shall be maintained at the office having direct responsibility for the undertaking, and another copy shall be sent to the CRS for filing at the State Office.

All Field Offices will keep an addendum to each participant's conservation file, a separate 420 record or file of cultural resources consideration and compliance actions. If cultural resources are encountered in an undertaking, a brief note of actions, results and recommendations will be included in the participant's plan file for future reference.

If NRCS cultural resources documentation is incomplete for projects or undertakings that will impact cultural resources, the record of compliance should be reconstructed through prior compliance contacts and state files.

GLOSSARY

Definitions of Terms Used in this Handbook

Adverse Effect means an alteration, as the result of a Federal or Federally assisted action, in the integrity of the qualities or characteristics that make an historic property eligible for the National Register of Historic Places. This may include reductions in the integrity of the location, design, setting, materials, workmanship, associations, or other qualities that are important in defining the historic significance of the property.

Advisory Council on Historic Preservation (ACHP) is the independent agency mandated to advise the President, Congress, and Federal agencies and review their activities related to historic properties. ACHP was established pursuant to title II of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470, as amended).

Area of Potential Effect (*APE*) is the geographic area or areas within which an undertaking may cause alterations in the character or use of any cultural resources present.

Criteria of Effect are standards/guidelines found in 36 CFR 800.9(a) which are used to determine whether an undertaking will have an effect on a cultural resource or historic property.

Criteria of Adverse Effect are standards, found in 36 CFR 800.9(b) which are used to determine whether the effects caused by an undertaking will be detrimental to the resource and include but are not limited to: 1) destruction or alteration of all or part of a property; 2) isolation from or alteration of the surrounding environment of the property; 3) introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting; 4) neglect of a property resulting in its deterioration or destruction; 5) transfer or sale of Federally owned, leased or controlled property without adequate consultation on restrictions for the preservation and maintenance of the historic property.

Cultural Resources is a broad term which encompasses virtually all of the traces of the past activities and accomplishments of people that are (generally), over 50 years old. It includes (1) tangible traces such as districts, sites, buildings, structures and objects; (2) less tangible traces such as dance forms, aspects of folklife, cultural or religious practices including places where such activities have traditionally occurred; (3) historical documents; (4) and some natural features such as landscapes, vistas, and cemeteries. Cultural resources may: (1) have little or no actual significance; (2) be included in or determined eligible for inclusion in the National Register of Historic Places or an equivalent register maintained at the state, local, or tribal level; (3) be unevaluated yet potentially eligible for inclusion in the National Register or a local equivalent.

Cultural Resources Field Inspection is an on-the-ground examination of the area of potential effect. These inspections may range in scope from: a) a reconnaissance survey that examines all or part of an area in sufficient detail to make generalizations about the types and distributions of cultural resources that may be present; to b) an intensive survey, which is a systematic examination of the entire area that may be impacted by an undertaking in sufficient detail to locate and document all cultural resources that may be directly or indirectly affected.

Cultural Resources Investigation is a general term that includes all activities necessary to identify, evaluate, and protect cultural resources which may be affected by an NRCS program or assistance activity. This includes literature and records research, coordination with external agencies and persons, talking with participants, sponsors, and other knowledgeable people, locating and recording cultural resources in the field, and developing and implementing plans to reduce or avoid (mitigate) adverse effects.

Cultural Resources Review refers specifically to that part of the investigation that is concerned with obtaining information on previous archaeological work or known cultural resources in the area of potential effect, or information (ethnographic, environmental, etc.), that will aid in designing field inspection strategy and locating cultural resources in the field.

Cultural Resources Specialist is a person meeting the Secretary of the Interior' Professional Qualification Standards listed in 36 CFR Part 61, Appendix A. These standards include a graduate degree in anthropology, archeology, or closely related field; and at least one full year of direct professional experience or equivalent training in the field; at least four months of supervised field and analytic experience in North American history or archaeology; and demonstrated ability to carry research to completion.

Discovery is a specialized term when used within the context of cultural resources compliance. It means the unanticipated occurrence of a cultural resource after a cultural resources investigation has been completed and a federal undertaking has commenced. In addition to actual cultural material, such a discovery may include the occurrence of previously unevaluated information, data, or a previously unanticipated impact to known cultural resources.

Effect is any change, beneficial or adverse, in the qualities that make an historic property eligible for inclusion in the National Register of Historic Places. Effects are determined by applying the ACHP's "Criteria of Effect" found in 36 CFR 800.9(a).

Eligibility the condition of meeting, or not meeting, the criteria of significance and integrity required for nomination onto the National Register of Historic Places.

Emergency Work is conducted according to the regulations outlined by the NRCS Emergency Watershed Protection (EWP) Program. Technical and financial assistance are provided when a natural occurrence causes an imminent threat to life or property by sudden impairment of and damage to a watershed [See Watershed Manual, Part 509A, 509.4(e)]. When a declared emergency exists, expedited cultural resources compliance procedures maybe necessary and are outlined on page 31 above.

Evaluation is the process of applying criteria found in 36 CFR 60.4 in order to determine the significance of a cultural resource.

Feature is a term used to denote discrete cultural resources, usually within a larger cultural resources site, that cannot (as distinct from artifacts), be easily removed or transported intact. Examples include structures, hearths, burials, ash stains, middens, petrographs, etc.).

Historic Property is any cultural resource, including prehistoric or historic districts, sites, buildings, structures, or objects, included in or eligible for inclusion in the National Register of

Historic Places, including artifacts, records, and material remains related to such a property or resource.

Identification is a process of using specific methods or techniques to locate and describe cultural resources (see also "Field Inspection").

Impacts are any changes, beneficial or adverse, in the character, quality, or use of a cultural resource. It is differentiated from *effects* in that it applies to all cultural resources, not just those determined to be eligible for the National Register.

Integrity is the sum of the qualities of location, design, setting, workmanship, materials, feeling, and association that a property must retain to convey its historic significance.

Lead Agency is the agency with primary legislative responsibility or designated Departmental authority to administer public lands or Federal programs and provide financial or technical assistance.

Treatment refers to actions that lessen or eliminate the impacts of NRCS undertakings on cultural and historic properties. These actions may include: 1) minimizing the impact by redesigning the undertaking (avoidance); 2) rectifying the impacts by repairing, rehabilitating, or restoring the affected cultural resource; 3) preservation and maintenance operations during the life of the action; and 4) compensating for the impact by moving or documenting the historic property or conducting data recovery.

National Register Criteria are the criteria established by the Secretary of the Interior for use in evaluating the eligibility of cultural resources for inclusion on the National Register of Historic Places, published at 36 CFR 60.

National Register of Historic Places (NRHP) is the Nation's official list of districts, sites, buildings, structures, and objects which meet the NRHP criteria for evaluation and are worthy of preservation because of their significance in American history, architecture, archeology, and culture. The NRHP is maintained by the Secretary of the Interior under the authority of section 101 of the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470a).

No Historic Properties Affected. This determination is applied when there are no cultural resources in the area of potential effect of the undertaking or when the significant cultural resources (i.e., those determined to be eligible for nomination onto the National Register of Historic Places) that are present in the area of potential effect will not be damaged because they will be avoided during the undertaking. This determination will be made by the CRS in consultation with the SHPO.

No Adverse Effect. This determination is applied where historic properties are present and will be affected, but the undertaking has been modified, or conditions imposed, such that impacts are reduced to a level acceptable to the SHPO. This determination will be made by the CRS in consultation with the SHPO. If it is unclear whether or not the undertaking will adversely impact identified cultural resources, consult the CRS.

NRCS Tribal State Technical Committee. A group tribal members who volunteer or are appointed by their tribes to advise the State Conservationist on Environmental Quality Incentives Program issues.

Section 106 Review is the action that implements the section of the National Historic Preservation Act of 1966, as amended, which requires Federal Agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation a reasonable opportunity to comment. This section is implemented in 36 CFR 800.

Significance is the quality of being eligible for inclusion in the National Register as the result of meeting the Criteria for Evaluation found in 36 CFR 60.4, or qualities that make a property eligible for protection under specific criteria contained in statutes such as AIRFA, NAGPRA, ARPA. See National Register of Historic Place bulletin No. 15 for a synopsis of the criteria of significance.

Site (cultural resource) is the location of an event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archeological value regardless of the value of any existing structures or uses. Examples are battlefields, historic campgrounds, ancient trails or gathering places, deposits of cultural debris, and historic farms.

State Historic Preservation Officer (SHPO) is the official appointed pursuant to section 101(b)(1) of the NHPA, as amended, who is responsible for administering the State Historic Preservation Plan, or is a designated representative authorized to act for the SHPO.

Traditional Cultural Properties (TCPs) are properties associated with the cultural practices or beliefs of a living community that are rooted in the history of the community, and are important in maintaining the continuing cultural identity of the community. TCPs may be determined eligible for the NRHP, and as such, are considered under the Section 106 process. Examples of TCPs include: 1) locations where Native American or other groups traditionally gather wild foods or medicines; 2) ethnic neighborhoods whose cultural character is important to those who live in them; 3) rural landscapes reflecting traditional patterns of agriculture or social interaction; and 4) landforms associated with Native American traditions and religious practices.

Undertaking is "...any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." (36 CFR 800.16).

LEGAL AUTHORITIES

An annotated List of Statutes Governing Cultural Resources Protection

Arizona State Statutes:

Arizona Revised Statute 11-593 applies to reporting deaths and requires any person having knowledge of the death of a human being or knowing of the existence of a body to promptly notify the nearest peace officer if the person was not under the care of a physician for a potentially fatal illness, died violently, was in good health, was in a prison, was a prisoner, died in an unusual or suspicious manner, died from occupational disease or occupational accident, died under anesthesia or in surgery, died in a way that presents a public health hazard, or was under treatment by prayer or spiritual means alone. This statute also requires the peace officer to notify the medical examiner, sets autopsy requirements, and requirements for county coordination with the Arizona Department of Public Safety.

Arizona Revised Statute 41-844, applies to State lands in Arizona and requires Federal agency personnel and all other persons to notify the Arizona State Museum when they find human remains which appear to be more than 50 years old, or when they find objects that might be of special significance to Native American peoples. Also under the statute, Native American groups can make claims to such objects when they are held by state institutions, such as museums. The objects of special importance include those used in religious ceremonies, and others that may be symbols of the cultural heritage of the Native American Indians in Arizona. Items included with a burial are also covered by the law.

Arizona Revised Statute 41-865 applies to private lands in Arizona, and requires that landowners or their agents notify the Arizona State Museum when materials that might be human remains are found. The museum then has up to 10 days, or more if permitted by the landowner, to consult with any groups that might be culturally affiliated with the remains, and to implement a decision about what to do with the materials. Groups to be consulted include Native American Indian tribes and any other organized cultural group that can reasonably represent the group to which the deceased belonged. This law also makes it a crime to profit financially from the sale of human remains or items buried with them as covered under the law.

Federal Legislation:

American Indian Religious Freedom Act of 1978 (P.L. 95-341, 92 Stat. 469, 42 U.S.C. 1996) declares that it is the policy of the United States to protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians the inherent right of freedom to believe, express, and exercise their traditional religions.

Antiquities Act of 1906 (P.L. 59-209, 34 Stat. 225, 16 U.S.C. 435; et seq.) provides for the protection of historic and prehistoric remains and any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction and appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations.

Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721, as amended; 16 U.S.C. 470a; et seq.); Establishes a federal permitting process for activities is requirement for the excavation or removal of archaeological materials from federal or Indian land and civil and criminal penalties for violations of the permitting requirements. Protected archeological materials must be at least 100 years in age.

Computer Security Act of 1987, establishes standards and guidelines for Federal computer systems, requires security plans by all operators of Federal computer systems that contain sensitive information, and mandatory periodic training for all persons involved in managing, using, or operating Federal computer systems that contain sensitive information.

Historical and Archeological Data Preservation Act of 1974 (P.L. 93-291, 88 Stat. 174, 16 U.S.C. 469a; et seq.) amends the Reservoir Salvage Act of 1960 and authorizes the Secretary of the Interior or the responsible Federal agency to undertake recovery, protection, preservation of historical and archeological data that would otherwise be lost as a result of Federal or Federally assisted activities. In addition, the Act authorizes Federal agencies to expend up to 1 percent of authorized project costs for the protection of archeological and historical data. This limitation applies only to treatment costs. Moneys expended on inventory and evaluation during the planning phase do not count against this limitation.

Historic Sites Act of 1935 (P.L. 74-292, 49 Stat. 666, 16 U. S.C. 461; et seq.) authorizes the establishment of National Historic Sites, the preservation of properties of national historical or archeological significance, and the designation of National Historic Landmarks. It also establishes criminal sanctions for violating regulations pursuant to the Act.

National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190, 83 Stat. 852,, 42 U.S.C. 4321; et seq.) declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

National Historic Preservation Act of 1966 (NHPA) (P.L. 89-665, 80 Stat. 915, as amended; 16 U.S.C. 470; et seq.) establishes a national policy for preserving the cultural environment and establishes the Advisory ACHP on Historic Preservation (ACHP). Section 106 (16 U.S.C. 47017) of this act also sets forth a Federal mandate for protection of properties listed in or eligible for listing in the National Register of Historic Places (NRHP) through review and comment by ACHP on proposed Federal, Federally assisted, or Federally licensed undertakings that may affect such properties.

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (P.L. 101-601, 25 U.S.C. 3001) requires Federal agencies and museums to inventory human remains and associated funerary objects and provide culturally affiliated tribes with collection inventories, requires repatriation on request to such tribes, establishes a grant program to assist in preparing inventories, and makes the sale or purchase of Native American human remains and associated grave goods illegal.

Reservoir Salvage Act of 1960 (P.L. 86-523, 74 Stat. 220, as amended; 16 U.S.C. 469; et seq.) provides for the preservation of historical and archeological materials or data, including relics and specimens, that might otherwise be lost or destroyed as a result of any Federal, or Federally assisted, licensed project, activity, or program.

Federal Regulations:

Departmental Regulation 3140-1, USDA ADP Security Policy establishes policy and personnel responsibilities for USDA to maintain a comprehensive security program to assure adequate protection of Automated Data Processing resources and incorporation of applicable laws and Federal regulations on sensitive information.

Departmental Manual 3140-1, USDA ADP Security Manual contains standards, guidelines, and procedures for the development and administration of ADP security programs and sensitive information.

Enhancement, Protection, and Management of the Cultural Environment (7 CFR 1) sets forth U.S. Department of Agriculture (USDA) general policy and procedural direction pertaining to the cultural environment.

National Register of Historic Places (36 CFR 60) sets forth procedures of the U. S. Department of the Interior (USDI), National Park Service, for nominations to the National Register of Historic Places by States and Federal agencies.

Protection of Historic and Cultural Properties (36 CFR 800) is a procedure established by ACHP for implementing section 106 of NHPA and authorizes publication of agency implementing procedures in the form of counterpart regulations.

Executive Orders:

Executive Order 11593 (36 FR 892 1), Protection and Enhancement of the Cultural Environment gives the Federal Government leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. This order directs Federal agencies to administer historic properties under their control in a spirit of stewardship and trusteeship for future generations. They are directed to initiate measures necessary to implement their policies, plans, and programs in ways that preserve, restore, and maintain Federally owned sites, structures, and objects of historical, architectural, or archeological significance. Executive Order 11593 directs that agencies, in consultation with ACHP, institute procedures ensuring that Federal plans and programs contribute to preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archeological significance. Under the order, Federal agencies are required to locate, inventory, and nominate to NRHP all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing in NRHP. The requirements of this executive order were incorporated into amendments to Section 110 of the National Historic Preservation Act (NHPA).

Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities. This order requires Federal agencies, subject to economic and operational considerations to give first consideration to historic properties when acquiring or locating new facilities. It removes barriers that have prevented the leasing and acquisition of Federal facilities in historic districts and requires Federal agencies to seek appropriate partnerships with state and local governments, Indian tribes, and private organizations to enhance the National Historic Preservation Program.

Executive Order 13007, Indian Sacred Sites, requires Federal land managers to avoid adversely affecting the physical integrity of Indian sacred sites on Federal land, and to accommodate

access to, and ceremonial use of, such sites by Indian practitioners. It also requires that where appropriate, the confidentiality of sacred sites is maintained.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires Federal agencies to develop an accountable consultation process to insure that the agencies do not infringe on Indian tribal self-government and sovereignty by promulgating regulations or submitting regulations to Congress without comment by the affected tribe or tribes.

Special Agreements, Directives, and Program

Secretary of Interior's Standards and Guidelines is the body of guidelines and associated standards created under authority of the National Historic Preservation Act of 1966 and published in 48 FR 44716 as "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines. This authority is designed to assist in organizing information gathered about historic preservation activities; to describe steps to be achieved by federal agencies, states, and others when planning for the identification, evaluation, registration, and treatment of historic properties, and to integrate the diverse efforts of the various entities performing historic preservation into a systematic effort to preserve the nation's cultural heritage. Within the NRCS mission, activities carried out by the agency's historic preservation program following Section 110 of NHPA should conform to the fullest practical extent with the Secretary's Standards and Guidelines.

Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (48FR44716); Provides technical guidance on archeological and historic preservation activities and methods.

NRCS General Manual (GM) 420 (Social Sciences), Parts 401 and 601 (Policy and Procedure for the Protection of Cultural Resources).

National Cultural Resources Training Program, National Employee Development Staff, Soil Conservation Service, United States Department of Agriculture provides cultural resources training for Soil Conservation Service employees mandated under multiple agreements with the Advisory ACHP on Historic Preservation and the National Conference of State Historic Preservation Officers.

Programmatic Agreement Among the USDA- Natural Resources Conservation Service, the Advisory Council On Historic Preservation, and the National Conference of State Historic Preservation Officers, Regarding Soil and Water Conservation Assistance Activities on Private and Public Lands (2001).

APPENDICES

Arizona Cultural Resources Procedures Flowchart

The NRCS "Field Inspection Record (completed)

The "Arizona State Museum Archaeological Site Card" (Completed)

The NRCS "Isolated Occurrence Record" (completed)