

MS601 MISSISSIPPI CULTURAL RESOURCES PROCEDURES HANDBOOK

SUBPART A – General

MS601.00 – Purpose

The purpose of this document is to provide a procedural reference and guidance for NRCS personnel on processes for cultural resources consideration on private and state lands in Mississippi. Activities on state lands may also be subject to additional requirements of the managing state agency. Procedures for cultural resources activities on federal or tribal lands will be established in separate agreements negotiated with the land management agencies and tribal authorities, or on a case-by-case basis.

MS601.01 – Introduction & Overview

The Mississippi NRCS has developed a process to comply with requirements of the National Historic Preservation Act (NHPA) and 36CFR800. Our agency mission results in many small actions on private land in which federal involvement may be planning assistance, technical advice, project design, cost sharing, purchase of easements, and/or approval. NHPA requires that NRCS take into account the effects of its actions on historic properties.

Federal regulations, 36CFR800, identify how to comply with section 106 of NHPA. The Mississippi NRCS compliance process detailed in this handbook identifies the appropriate level of effort that is commensurate with the nature of potential effects and the degree of federal involvement. This process will meet NRCS's legal requirements and avoid adverse effects to significant cultural resources in Mississippi.

It is NRCS policy to consider cultural resources early in the planning process. This means that upon identification of an undertaking, a cultural resources review should be completed. If the information on potential cultural concerns is identified early, the undertaking can be designed to

avoid potentially significant resources or areas of potential cultural concern.

Completing the cultural resources review prior to initiating contracts or other commitments can prevent delays and contract modifications.

The compliance process works best when sufficient time is allowed for each step. Most cultural resources compliance reviews are completed upon a determination of negative results for the field inspection and site file review. However, if the site file review or field inspection results in the identification of cultural resources, a cultural resources survey may need to be conducted by a Cultural Resources Specialist (CRS).

The CRS will also evaluate the potential for cultural resources to be present within the Area of Potential Effect (APE) based on physiographic setting, the extent of previous disturbances, soils and geomorphology, and the distribution of previously recorded resources in the vicinity of the APE. If these factors indicate a high probability for undocumented cultural resources, a cultural resources survey may be necessary.

It is best to schedule archaeological survey during periods when bare ground is visible. At other times, ground preparation (such as disking previously plowed fields) or subsurface testing may be required. This adds time and cost to the undertaking. If the survey identifies cultural resources within the APE that can not be avoided, consultation with the Mississippi State Historic Preservation Officer (SHPO) is required. The SHPO has 30 days to comment on an undertaking. If the SHPO objects within the 30 days, NRCS must consult to determine the appropriate course of action. Consultation can be a lengthy process.

MS601.02 – Trained Personnel

Only NRCS employees

{or district employees, state employees, and contractors (including TSPs) conducting data gathering of cultural resources information for NRCS compliance needs}

who have completed the NRCS Cultural Resources Training Program Modules 1-8 may make decisions on determinations of undertakings, may conduct cultural resources field inspections, or may monitor construction. If trained personnel are not available, the Field Office should complete and submit the MS-CR-1 form directly to the Mississippi Cultural Resources Specialist.

SUBPART B – Procedures for Cultural Resources Consideration during NRCS Activities in Mississippi

MS601.10 – Step-wise Process

The following steps will be followed to ensure that effects of NRCS activities on cultural resources are thoroughly considered in the earliest planning stages and that protection of historic properties is accomplished as efficiently as possible.

- Step 1:** Determine if the NRCS practice is an undertaking requiring cultural resources review.
- Step 2:** Determine the Area of Potential Effect (APE).
- Step 3:** Determine if known cultural resources are in or near the APE.
- Step 4:** Conduct a field inspection for cultural resources.
- Step 5:** Avoid cultural resources.
- Step 6:** Evaluate the significance of cultural resources.
- Step 7:** Minimize or mitigate adverse effects on historic properties.

***Reminder:** Submit all cultural resources documentation as soon as possible before planning is complete.*

MS601.11 – Step 1: Determine if the NRCS practice is an undertaking requiring cultural resources review.

A. Identify **all** conservation practices to be implemented for a plan.

B. Consult the *Classification of Conservation Practice Effects on Cultural Resources* document (**Effects Document**) to determine the ranking of all planned practices. Conservation practices are classified as Review (**R**) or Exempt (**E**).

Cultural Resources consideration must be documented for **all** practices, but the level of cultural resources review and the need for on-site assessments by the CRS will vary based on the ranking of individual practices.

Land Leveling and Terraces:

Conservation Practices relating to land leveling and terracing must be submitted to the SHPO for individual review. These practices include: precision land forming (462), irrigation land leveling (464), dike (356), structure for water control (587), and terrace (600). Delineate the practice(s) area on a Conservation Plan Map or a GIS shape file and forward to the Cultural Resources Specialist (CRS). SHPO has up to 30 days to comment on individual requests for review.

C. A conservation or management system involving more than one type of practice covering the same geographic area is a Review practice if **any** practice within that area is classified as Review (R).

***Note:** Practices not covered by the “Classification of Conservation Practice Effects on Cultural Resources” document should be treated as Review (R) until an amendment is made placing the practice into the appropriate category.*

- *Notify the CRS if a practice is not listed in the Effects Document.*

D. After determining all practice effect classifications, proceed to **Step 2**.

MS601.12 – Step 2: Determine the Area of Potential Effect (APE).

A. Establish the APE by determining all direct and indirect impacts.

The APE is the geographic area or areas where NRCS planned activities may cause changes in the character or use of cultural resources.

The APE should encompass all lands that would be directly or indirectly affected by the proposed practice. For example, the APE should cover the “footprint” of the actual conservation practice/structure, as well as all access and haul roads, borrow areas, areas where spoil will be deposited, temporary storage areas, and staging areas. In some cases with very large or elevated projects, the APE may include visual effects beyond property lines. Other kinds of indirect effects may also need to be considered on a case-by-case basis.

B. After establishing the APE, proceed to **Step 3**.

MS601.13 – Step 3: Determine if known cultural resources are in or near the APE.

As early as possible, conduct a background review of available information to determine if previously known cultural resources are present in or near the APE.

Refer to the State Archaeological Site File Section Grid, the National Historic Landmarks (NHL) list, the National Register of Historic Places (NRHP) list, and the Mississippi Landmarks list to determine if a known archaeological site or historic property is located within the same Section, Township and Range as the proposed practice.

Note: Notify the ACRC or CRS if cultural resources are present within any practice area.

A. Exempt (E):

Document “E” practices on the *Environmental Effects for Conservation Plans and Area wide Conservation Plans (MSEE-CPA-52)* form, or on the Conservation Assistance Notes (CPA-6).

(1) If no known archaeological sites or historic properties are located within the Section, complete the cultural resources compliance process by making a note on the CPA-52 or CPA-6 form indicating, **“Practice(s) Exempt from Cultural Resources Review.”** File the completed form in the customer or project folder.

(2) If previously recorded cultural resources are identified within the same Section as the proposed practice area, delineate the practice(s) APE on a Conservation Plan Map or a GIS shape file and forward to the Area Cultural Resources Contact (ACRC) for a State Site Files review. The ACRC will determine if the site is within the APE of the practice. If the site is within or near the practice APE, the ACRC will forward the documentation to the CRS. The CRS will evaluate the potential practice effects to determine if an on-site assessment prior to the completion of planning is necessary. In some cases, a site assessment by the CRS will be required to document the nature and condition of the resource.

a.) If no site assessment is necessary, the evaluation by the CRS will complete the cultural resources compliance process. File the completed CPA-52 or CPA-6 form in the customer or project folder.

b.) If an on-site assessment by the CRS is required, the CRS will contact the appropriate NRCS personnel to arrange access to the practice area. The CRS will minimally document the results of the assessment by completing the *Mississippi Cultural Resources Survey Summary Form (MS-CR-2)*. File the completed form(s) in the customer or project folder. Updated site information will be recorded on the appropriate MDAH forms by the CRS.

The on-site assessment by the CRS will conclude the review process for “E” practices unless the CRS discovers there are unanticipated cultural resources concerns or there is a need to avoid the resource. In those situations, proceed to **Step 5**.

If unexpected discoveries are made prior to or during construction/implementation, see MS601 Subpart C – *Procedures for Construction Discoveries*.

B. Review (R):

(1) Check or contact the following sources and document the results on the *Mississippi Cultural Resources Review Form (MS-CR-1)*.

a.) Interview the owner/operator or others knowledgeable about the history of the area to determine if they are aware of cultural resources in or near the practice area.

b.) Check historical maps, aerial photos, soil surveys, USGS topographic quadrangle maps, old conservation plans, and other relevant sources for buildings and other cultural features (Indian mounds, old railroad grades, cemeteries, etc.) more than 50 years old that may have been located within or adjacent to the APE.

c.) Check the State Archaeological Site File Section Grid to determine if a known archaeological site is located within the same Section, Township and Range as the proposed practice.

d.) Check the cultural resources information file to see if the APE is near a Mississippi Landmark, an NHL, or an NRHP property.

(2) After completing the background review, proceed to **Step 4**.

Tip: Find a volunteer from the local historical or archaeological society to assist with background cultural resources reviews and setting up a cultural resources information file.

Important!! If a National Historic Landmark property will be affected by the undertaking, NRCS is required to notify the Secretary of the Interior/National Park Service pursuant to 36CFR800.10.

MS601.14 – Step 4: Conduct a field inspection for cultural resources.

A. Visually examine the practice area.

Early in conservation planning, walk over the APE looking for environmental and cultural indicators that suggest the presence of cultural resources, and document current land use.

Look for artifacts. For example; arrowheads, flakes/chips, Indian pottery, square nails, purple or dark green glass, historic ceramics), dark soils, shell accumulations, bone, rock outcrops, remains of historic buildings, earthen structures (such as, mounds, old roadbeds, civil war earthworks, etc.), cemeteries, or other evidence of cultural resources. If human remains or burial markers are discovered, follow procedures in MS601 Subpart D – *Procedures for the Discovery of Human Remains and Burial Markers*.

(1) In order to conduct a visual surface inspection for artifacts, the ground surface must have a minimum of 30% bare ground visible throughout the APE. If less than 30% bare ground is visible, MDAH’s *Guidelines for Archaeological Investigations and Reports in Mississippi* require systematic shovel testing. This type of survey must be conducted by a CRS. However, any areas of bare ground within the APE should be inspected when encountered (for example, log landings, skid trails, woods/field roads, erosion areas, bare patches in fields, tree-throws, animal burrows, etc.).

(2) If the practice APE is large (greater than 40 acres), you may submit the *Cultural Resources Review Form (MS-CR-1)* directly to the CRS prior to the field inspection. The

CRS will evaluate the need for a formal survey or recommend portions of the practice area for field inspection or monitoring.

NRCS personnel should expect that some of their activities will have cultural resources present, especially on uplands (ridge tips, benches or saddles), natural levees, terraces along broad floodplains and knolls within floodplains.

Rule of thumb: If it looks like a good place to live or camp to you, it is possible that someone in the past thought the same thing. Be sure to thoroughly check these areas for cultural material. Remember, the landscape and land use has changed over time, however, and cultural resources may be found in unexpected places.

B. Document Results.

Document the results of the field inspection (*either positive or negative*) on the *Mississippi Cultural Resources Review Form (MS-CR-1)*, and forward to the ACRC for a Mississippi State Site Files review.

Tip: Include photographs of the practice area to document previous disturbance, or to record potential historic above ground features. Photographs of the general landscape conditions are not required, but can be useful for cultural resources evaluation.

C. Site File Review.

The ACRC will check the practice area against the Mississippi State Site Files to determine if previously recorded cultural resources are within or near the practice area. The ACRC will then forward the documentation to the CRS for evaluation.

Proceed with Planning if:

A. No archaeological sites are listed in the Mississippi Archaeological Site File Section Grid within the same Section, Township, and Range as the proposed practice, **and** no NHL, NRHP or Mississippi Landmark properties are located within or near the APE.

and;

B. No cultural resources are found during the field inspection,

and;

C. One or more of the following:

- 1) There is Good to Moderate (100-30%) bare ground surface visibility, or;
- 2) The practice is located on a Slope greater than **10%** vertical gradient, or;
- 3) Soils in the practice area consist of heavy clay or are poorly-drained gley soils, or;
- 4) Area is severely eroded or deflated, or orange clay subsoil is evident at the surface, or;
- 5) The disturbance that will be caused by the practice will not exceed the depth of previous disturbances (e.g., existing normal plowzone – not subsoiler/chisel plow depth), or;
- 6) The area of potential disturbance is of minimal size (less than 1 acre or a narrow, linear area of disturbance like a pipeline trench).

- Indicate the decision to proceed with planning in the “Additional Comments” field on the MS-CR-1 form and describe which conditions under “C” above were met.

- If the decision to proceed with planning is made by the field office, the ACRC/CRS will not notify the field office of the outcome of the site file review unless a potential cultural resources concern is discovered by the ACRC/CRS.

D. Outcome of Field Inspection and Review.

The results of the field inspection and site file review will result in either no cultural resources identified or cultural resources identified within or near the APE.

(1) No Cultural Resources identified

If cultural resources have not been previously identified within or near the APE, and no cultural resources were located during the field inspection, the CRS will assess the need for a formal cultural resources survey. The CRS will take into account physiographic setting, soils and geomorphology, the extent of previous physical disturbance, the distribution of previously recorded resources in the vicinity of the APE, and other relevant factors to make a professional evaluation as to the potential of the APE to contain undocumented cultural resources and the need for a cultural resources survey.

a.) If no previously identified cultural resources are located within or near the APE, and the CRS determines that the APE has little or no potential to contain cultural resources, the determination by the CRS will complete the cultural resources review process. File the completed form and proceed with planning.

b.) If the CRS determines that the APE has the potential to contain previously unrecorded cultural resources, a cultural resources survey will be conducted pursuant to MS601.14(E) *Cultural Resources Survey*, or the CRS will recommend monitoring of the APE during practice implementation.

(2) Cultural Resources identified

Cultural resources within or near the APE may be discovered during the NRCS field inspection and/or during the Mississippi State Site Files review process.

a.) Cultural Resources discovered during the NRCS field inspection.

i.) If a cultural resource is present within the APE, mark the precise location of the resource on the Plan Map, a USGS 7.5

minute topographic quadrangle, aerial photograph, or a GIS shapefile. If a GPS receiver is available, record the approximate center of the cultural resource location/artifact scatter with a GPS waypoint (Latitude/Longitude or UTM coordinates). Otherwise, flag the location of the material and leave flags in the field.

ii.) Collect a small sample of artifacts only with landowner permission and if you document the precise location of the find; or if there is an immediate threat to the resource. Keep artifacts from different locations bagged separately and label each bag with a unique designation (such as, the farm, tract and field numbers and county).

iii.) Photograph any visible features (dark soil stains, dense artifact concentrations, or other above ground historic features).

iv.) The CRS will contact appropriate NRCS personnel to arrange an on-site assessment to document the resource prior to the completion of planning. Proceed to **Step 5**.

b.) Previously Recorded Cultural Resources.

i.) If previously recorded historic properties (sites listed in or eligible for listing in the National Register) are identified by the ACRC within or adjacent to the APE, the CRS will contact appropriate NRCS personnel to arrange an on-site assessment to document the resource prior to the completion of planning. Proceed to **Step 5**.

ii.) If cultural resources previously considered ineligible or known resources that have not been evaluated for National Register eligibility are found to be within or near the APE, the CRS will consider the need for an on-site assessment on a case-by-case basis. The nature of the resource, level of previous documentation, and other relevant factors will be considered when making a determination on whether to revisit previously recorded resources. For example, single artifact occurrences or light artifact scatters with previously well-documented disturbances will not normally be revisited.

(A) If a site visit is not required, the determination by the CRS will complete the cultural resources review process. File the completed form in the customer or project folder, and proceed with planning.

(B) If a site visit is necessary, the CRS will contact appropriate NRCS personnel to arrange an on-site assessment to document the resource prior to the completion of planning. Proceed to **Step 5**.

E. Cultural Resources Survey

All formal cultural resources surveys conducted by the CRS will be minimally documented on the *Mississippi Cultural Resources Survey Summary Form* (MS-CR-2). The CRS will contact appropriate NRCS personnel to arrange access to the area to conduct the cultural resources survey. Survey methodology will conform to MDAH's *Guidelines for Archaeological Investigations and Reports in Mississippi*.

a.) If no cultural resources are identified during the cultural resources survey, the investigation will be documented by the CRS on the *Mississippi Cultural Resources Survey Summary Form* (MS-CR-2). A copy of the *Mississippi Cultural Resources Survey Summary Form* (MS-CR-2) along with the completed *Mississippi Cultural Resources Review Form* (MS-CR-1) will be returned to be included in the customer or project folder. Planning may proceed upon receipt of the cultural resources documentation.

b.) If cultural resources are identified during the Cultural Resources Survey within the APE, proceed to **Step 5**.

Note: New and updated information for all cultural resources identified during NRCS field inspections and cultural resources surveys will be recorded by the CRS on the appropriate forms and submitted to MDAH.

MS601.15 – Step 5: Avoid cultural resources.

A. With involvement of the CRS and the landowner, avoid the cultural resource by:

- (1) Moving the practice to an alternative location,
- (2) Changing to a conservation practice that will not have an adverse effect on the cultural resource, or
- (3) Redesigning the work limits of the conservation practice to maintain a buffer of at least 50 feet around the cultural resource.

B. If cultural resources can be avoided through project modification, the proposed actions may proceed without direct consultation with MDAH. All avoidance measures completed during a given period will be documented in the *Mississippi NRCS Summary Report of Cultural Resources Activities*.

C. Most NRCS actions with cultural resources present within the APE will come to this conclusion.

D. If a cultural resource site cannot be avoided, proceed to **Step 6**.

MS601.16 – Step 6: Evaluate the significance of cultural resources.

A. In some situations the cultural resource may lay precisely where the conservation activity must occur. In these instances the CRS, with the assistance of MDAH and other consulting parties, will determine if the resource is eligible for listing in the National Register of Historic Places (**NRHP**). The CRS will make recommendations regarding NRHP eligibility and effects to cultural resources and submit documentation with these findings to MDAH and other consulting parties for review and comments. The CRS will provide sufficient documentation for MDAH and other consulting parties to make an eligibility determination and evaluate the effects of the proposed undertaking on historic properties. Documentation will

minimally conform to MDAH's *Guidelines for Archaeological Investigations and Reports in Mississippi* and 36CFR800.11. MDAH shall provide written comments within thirty (30) calendar days of receipt for all requests for review of findings and determinations.

(1) If all parties concur that the NRHP criteria are **not** met, the cultural resource will be considered **ineligible**. A copy of the final cultural resources documentation will be maintained at the NRCS State Office and a copy of the MDAH concurrence letter will be returned to be included in the customer or project folder. Planning may proceed upon receipt of the concurrence letter.

(2) If there is disagreement among the consulting parties regarding NRHP eligibility and that disagreement cannot be resolved, NRCS will obtain a formal determination of eligibility from the Keeper of the National Register.

(3) If all parties concur that any of the NRHP criteria are met, the cultural resource will be considered NRHP **eligible** (that is, an **historic property**). NRCS will continue to work with the landowner, MDAH and other consulting parties as described in **STEP 5** to develop and evaluate alternatives or modifications to the undertaking to avoid effects to historic properties.

B. If the landowner chooses not to change or modify the conservation practice to avoid the historic property, NRCS may withdraw assistance. This is a decision of the State Conservationist. Withdrawal of assistance for cultural resources purposes will follow procedures detailed in Section 601.27 of the *National Cultural Resources Procedures Handbook*. If the decision is made to withdraw NRCS assistance, NRCS will inform the participant within five (5) working days of the decision, including in the notification the specific reasons for withdrawal. NRCS is mandated by law to ensure that federally assisted conservation activities will not adversely affect historic

properties without first considering these effects and consulting with MDAH and other interested parties.

C. If the landowner chooses to minimize or mitigate effects rather than avoid the historic property, and NRCS decides to continue assistance, proceed to **Step 7**.

MS601.17 – Step 7: Minimize or mitigate adverse effects on historic properties.

A. NRCS, MDAH, the landowner, and other consulting parties will apply the Criteria of Adverse Effect pursuant to 36CFR800.5 and continue to consult to seek a solution that accommodates the needs of all concerned, serves the public interest, and ideally promotes the protection and enhancement of historic properties.

B. NRCS will notify the Advisory Council on Historic Preservation (**Council**) and other consulting parties of an adverse affect finding by providing the documentation specified in 36CFR800.11(e). Copies of the documentation will be provided to the landowner and other consulting parties subject to the confidentiality provisions of 36CFR800.11(c). The Council shall advise NRCS within fifteen (15) days of receipt of the notice whether it will participate pursuant to 36CFR800.6(a)(1)(iii)

C. The range of actions that can be taken to minimize or mitigate adverse effects is considerably broad and may include; altering the design or location of the project, limiting the magnitude of the project, adopting a planned program of preservation and maintenance, rehabilitating or moving historic properties, documenting the historic property prior to destruction (includes architectural, engineering, historical and archaeological documentation), or recovering data from an archaeological site through controlled excavation before the conservation practice is installed.

D. Most conservation assistance will not require this step because site evaluation and mitigation costs can be substantial. The State Conservationist is responsible for deciding when technical assistance (TA) or financial assistance (FA) funds are to be used for complying with Section 106. The NRCS General Manual, Part 401 and National Bulletin 390-5-7 provide guidance regarding the use of program TA and FA funds for cultural resources compliance activities.

E. Resolution of Adverse Effects.

(1) If after notification the Council chooses not to participate in consultation, and NRCS, MDAH and other consulting parties agree on how the adverse affects will be resolved, the consulting parties will develop and sign a Memorandum of Agreement (MOA). The executed MOA will be maintained at the NRCS State Office and a copy will be filed with the Council prior to approval of the undertaking. The MOA provides documentary evidence that NRCS has met the requirements of Section 106, and

governs the undertaking and all of its parts. NRCS will ensure that the undertaking is carried out in accordance with the MOA. Construction/implementation may proceed upon satisfactory completion of the mitigation measures specified in the MOA.

(2) If the Council chooses to participate in consultation, the Council will be a signatory of the MOA.

(3) If agreement cannot be reached among NRCS, MDAH, the landowner, and/or other consulting parties on measures to resolve adverse affects,

a.) NRCS may withdraw assistance from the undertaking following procedures in Section 601.27 "Procedures for the Withdrawal of Assistance" of the *National Cultural Resources Procedures Handbook*, or

b.) If NRCS chooses to continue assistance due to special circumstances, follow procedures detailed in Section 601.26 of the *National Cultural Resources Handbook*.

SUBPART C – PROCEDURES FOR CONSTRUCTION DISCOVERIES

MS601.20 – General

The following procedures apply to all discoveries excluding human remains and burial markers that occur while carrying out any NRCS activity that has the potential to cause effects to cultural resources.

- A. The procedures in MS601 Subpart B must have been completed before a discovery situation exists. If those responsibilities have not been completed, this section does not apply.
- B. If human remains or burial markers are found during construction/implementation; follow the procedures in MS601 Subpart D - *Procedures for the Discovery of Human Remains and Burial Markers*.
- C. NRCS may, at its discretion, assume that any cultural resource discovered during construction is NRHP eligible for purposes of this section.
- D. New and updated information for all cultural resources identified during construction will be recorded by the CRS on the appropriate forms and submitted to MDAH.

MS601.21 – Discoveries prior to construction

If new information becomes known prior to commencing construction or known historic properties will be affected in unanticipated ways, NRCS will consult with MDAH and other consulting parties to determine eligibility and/or consider effects to historic properties.

- A. If construction/implementation is not scheduled to commence within 90 days of the discovery, procedures will follow those discussed under section MS601.16.
- B. If the proposed implementation date is within 90 days of the discovery, follow procedures in section MS601.22.

MS601.22 – Discoveries after commencing construction

If previously unidentified archaeological remains or other cultural resources are discovered after commencing construction, NRCS will complete the following steps:

Step 1: Stop work immediately and protect the cultural resource.

Request that all activities cease in the immediate vicinity of the discovery (a 50 foot buffer is appropriate) and call the CRS and your supervisor.

It may be appropriate to cover the discovery with plastic sheeting and mark the area with flagging or other appropriate markers to protect the resource prior to an on-site assessment by the CRS, especially if more than 24 hours will elapse between discovery and the CRS visit. Take photographs (include a scale) if there are immediate threats to the integrity of the discovery. Do not remove artifacts or rebury the discovery.

In the event that the action affecting the resource is not halted, consider immediately suspending assistance, and inform the landowner and sponsor that continuing to affect the resource may result in withdrawal of NRCS assistance.

Step 2: CRS will conduct an on-site assessment.

The CRS or ACRC will notify MDAH and other consulting parties within 48 hours of the discovery. The CRS will attempt to contact MDAH prior to the site assessment and request that an appropriate MDAH staff member accompany the CRS for an on-site inspection.

A. If an MDAH Staff member is available to accompany the CRS, the resource will be evaluated in the field to the extent feasible. If the CRS and MDAH staff member agree that the newly discovered cultural resource is clearly **not** NRHP eligible, construction

may resume. Examples of archaeological remains considered clearly ineligible for this evaluation are isolated artifact finds and low density scatters of artifacts restricted to the ground surface or disturbed upper soil horizons (plowzone, etc.) with little potential for intact subsurface features or deposits. The results of the site visit will be documented in a brief report, and submitted to MDAH and other consulting parties. If the resource requires further evaluation or is considered potentially eligible proceed to **STEP 3**.

B. If an MDAH staff member cannot visit the site, the CRS will report the results of the site visit to MDAH and other consulting parties to determine what actions need to be taken. Preference will be given to avoiding or minimizing further disturbance to the resource. The level of documentation required for reporting will be negotiated during this time. Proceed to **STEP 3**.

Step 3. Evaluate the Discovery.

MDAH and other consulting parties will be provided with documentation that minimally describes NRCS's assessment of the National Register eligibility of the discovery and proposed actions to resolve adverse effects. MDAH will respond within 48 hours of the notification.

A. If all parties concur that the cultural resource is **not** eligible, a copy of the final cultural resources documentation will be returned to be included in the customer or project folder. Construction/implementation may proceed upon notification from the CRS.

B. If all parties concur that the surviving portion of the site is NRHP eligible and the resource can be avoided through project modification, the avoidance measures will be documented and submitted to MDAH and other consulting parties. A copy of the final cultural resources documentation will be returned to be included in the customer or project folder. Construction/implementation may proceed upon notification from the CRS.

C. If all parties concur that the surviving portion of the site is NRHP eligible and cannot be avoided, proceed to **STEP 4**.

Step 4. Minimize or mitigate adverse effects on historic properties.

NRCS, MDAH, the landowner, and other consulting parties will continue to consult to seek a solution to minimize or mitigate further adverse effects to the historic property.

A. If data recovery is determined to be the preferred mitigation option, an MOA will be developed based on the Council's *Recommended Approach for Consultation on the Recovery of Significant Information from Archeological Sites*

B. If project effects are minimized without data recovery, an MOA will be developed outlining the responsibilities of all affected parties.

C. Other solutions may be negotiated among consulting parties as appropriate.

SUBPART D – PROCEDURES FOR THE DISCOVERY OF HUMAN REMAINS AND BURIAL MARKERS

MS601.30 – General

The following procedures apply to all discoveries of human remains and burial markers while carrying out any NRCS activity that has the potential to cause effects on cultural resources.

NRCS will follow the principles set forth in the revised Advisory Council on Historic Preservation (ACHP), *Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects* (revised February 23, 2007) in making decisions about the identification and treatment of burial sites, human remains, and funerary objects.

MS601.31 – Planning discoveries.

If human remains or burial markers are found during planning, record their exact location within the APE and document the finding on the *Mississippi Cultural Resources Review Form* (MS-CR-1).

A. Burial Markers: If burial markers (headstones, footstones, grave depressions or other indications of a burial site) are located, modify the practice area or propose an alternative practice to avoid potential impacts. Establish a 50 foot buffer between the boundary around the burial markers and any proposed practice related ground disturbance. Forward the completed *Mississippi Cultural Resources Review Form* (MS-CR-1) to the ACRC for review according to Subpart B - *Procedures for Cultural Resources Consideration during NRCS Activities in Mississippi*.

B. Human Remains: If human remains are found within a proposed practice area, call the CRS and your supervisor.

(1) If the remains are clearly of recent origin, contact the county coroner, sheriff, and/or board of supervisors immediately.

(2) If the remains are not of recent origin, the CRS will evaluate the discovery to determine the nature and approximate age of the remains.

(3) If the remains are in a disturbed context (for example, the surface of a cultivated field), not associated with an identifiable burial, and the proposed practice effects will not extend below existing ground disturbances, the remains will be examined by the CRS and left in situ.

(4) If the remains are located on an archaeological site [individual burials are considered archaeological sites under MDAH's *Guidelines*.], measures will be taken to protect and avoid the site as outlined in Section MS601.15; Step 5: Avoid cultural resources.

MS601.32 – Construction discoveries

If human remains or burial markers are found during construction/implementation, request that all activities cease in the immediate vicinity of the discovery and call the CRS and your supervisor. A 50 foot buffer around the discovery is appropriate if no additional indications of human remains or burial markers are present. However, activities should be halted in any nearby area reasonably suspected to overlie adjacent human remains or graves.

A. Burial markers: If burial markers (headstones, footstones, grave depressions or other indications of a burial site) are encountered during construction/implementation, the CRS will work with all interested parties to establish an adequate buffer around the cemetery. Once an appropriate boundary is established, planning or construction may resume. Temporary fencing, flagging or others markers may be necessary to delineate the cemetery boundaries during construction/

implementation. Earthmoving activities near the cemetery boundary may require monitoring to ensure that additional grave sites are not disturbed.

B. Human Remains: If human remains are encountered during construction/ implementation,

(1) If the remains are clearly of recent origin, contact the county coroner, sheriff, and/or board of supervisors immediately.

(2) If the remains are not of recent origin but are determined by the CRS to be non-Native American or there is a question as to their age and/or origin, contact the county coroner, sheriff, and/or board of supervisors within 24 hours of the discovery to begin

consultation regarding the treatment of the remains.

(3) If the remains are determined by the CRS to be Native American, the CRS will contact MDAH and other consulting parties within 24 hours of the discovery to develop an appropriate plan for treating the remains.

(4) NRCS personnel and the cooperator will take appropriate measures, such as erecting protective fences or barriers to protect the remains until the plan for treating the remains is completed.

(5) Construction activities at the site can recommence only after NRCS, MDAH and other consulting parties agree that the plan for treating the remains has been properly implemented.

SUBPART E – PROCEDURES FOR THE CONSIDERATION OF CULTURAL RESOURCES DURING EMERGENCY WORK

MS601.40 – General

NRCS shall use the following procedures to ensure that the need to protect life and property in an emergency is accomplished while taking cultural resources into account to the maximum extent possible and consistent with rapidly changing priorities and circumstances common to emergencies.

MS601.41 – Exigent situations.

A. Exigency situations are those that are completed within 30 to 40 days of fund obligation.

B. NRCS shall notify the SHPO and Tribes of funds obligated for exigency situations within 10 days of the disaster event or 2 days after access is permitted to damaged areas. This notification will include the types and amount of funds obligated, circumstances creating the urgent and compelling situation, work to be undertaken, and any consideration of historic properties, as appropriate. NRCS will document and avoid adverse effects to cultural resources discovered during exigency work to the fullest extent practicable.

MS601.41 – Non-exigent situations

A. Non-exigency situations are those that are completed within 220 days of fund obligation.

B. For non-exigencies, NRCS must prepare the project information in the form of Damage Survey Reports (DSR) for funding approval. Trained NRCS personnel will conduct a field inspection of the APE during project evaluation. The CRS/ACRC will review the DSRs and check the project locations against the Mississippi State Site Files to determine if previously known cultural resources are located within the DSR area.

(1) If the field inspection and review fails to locate cultural resources within the DSR area, and the CRS determines that the DSR area has little or no potential to contain cultural resources; the finding will be documented in a memo to the engineering staff.

(2) If cultural resources are discovered during field inspection, the CRS will be notified. The CRS will conduct an on-site assessment to document and evaluate the resource.

(3) If the review by the CRS locates previously known cultural resources or indicates high probability for cultural resources in the DSR area, a CRS will be involved in assessing potential effects to those properties and plan methods to avoid effects to the resource. If project effects cannot be avoided, the CRS will evaluate the cultural resources and notify MDAH for a five (5) day expedited review. The State Conservationist will make a final decision on implementing the undertaking based on the CRS evaluation, consultation on an appropriate course of action with MDAH and other consulting parties, and the need to protect life and property.

MS601.42 - Reporting

All emergency measures completed during a given period under this section will be documented in the *Mississippi NRCS Summary Report of Cultural Resources Activities* or in a summary report for the particular emergency.