

EXHIBIT A

GM 420, PART 601, HOPI
10/9/03

HANDBOOK OF CULTURAL RESOURCES PROCEDURES FOR HOPI
TRIBAL LANDS

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
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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 with its subsequent amendments has 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 undertakings 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),

- and 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 expenditure 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**).

Section 800.2(c)(3) was added to the regulations in 2000. This requires that federal agencies consult with relevant tribes that might claim cultural affinity in the area of any federal undertaking, regardless of whether or not the undertaking is on federal lands.

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. Under the Programmatic Agreement with the Advisory Council and the Hopi Tribe Cultural Preservation Office, the streamlined NRCS procedures are considered:

“... appropriate to NRCS programs that involve numerous small and repetitive undertakings whose timely delivery is vital to diverse Hopi clientele active in agricultural production.”

This handbook supplements GM 420, Parts 401 and 601 (Cultural Resources Policy and Procedures) for the Natural Resources Conservation Service (NRCS) when working on lands of the Hopi Tribe. This handbook is also part of the "Programmatic Agreement Among the Natural Resources Conservation Service, the Hopi Cultural Preservation Office, the Arizona State Historic Preservation Office, and the Advisory Council On Historic Preservation, Regarding Compliance with Section 106 of the National Historic Preservation

Act. As Exhibit A of the Agreement, the policies and procedures set forth herein are binding on all parties.

POLICY

NRCS provides assistance to protect, maintain, and improve, soil, water, air, plant, and animal resources. Social, cultural, and economic considerations are a part of this assistance. NRCS recognizes that cultural resources are an integral part of our national heritage and that properties of traditional cultural and religious significance to the Hopi exist in many parts of the southwestern United States. The NRCS, as a federal agency, recognizes its responsibilities for historic preservation, particularly as they are defined in the National Historic Preservation Act (NHPA) and Hopi Tribal Ordinance No. 26. Under the authority and provisions of these statutes, NRCS identifies cultural resources as both historic properties and Hopi sacred and traditional cultural places (TCPs) and shall ensure that such cultural resources are considered in all actions and programs. NRCS will:

Identify historical cultural resources and plan for their protection early in the planning and environmental evaluation processes, and consult with the Hopi CPO about potential TCPs for all assistance activities classified as "non-exempt practices".

Protect cultural resources in their existing condition and location to the fullest extent practicable by avoiding adverse effects or impacts. If avoidance is not feasible, NRCS will consider evaluating the significance of any threatened cultural resource in consultation with the CPO according to the criteria of significance found in 36 CFR 60.4.

If a cultural resource is found to be significant and the effect of a proposed NRCS undertaking will be adverse, NRCS will consult with CPO, Hopi participants, the SHPO, the ACHP, and other interested parties as appropriate, to develop mitigation measures before considering withdrawal of assistance. NRCS will inform participants in its programs about the importance of the cultural environment and provide information on opportunities to enhance understanding of the importance of cultural resources on the lands of the Hopi Tribe.

Where applicable, on a case by case basis, the NRCS will attempt to procure access from private landowners and Native American groups for Hopi tribal members to conduct TCP investigations. If the cooperator denies access, the NRCS will consider terminating the conservation contract of the cooperator.

SUBPART A – LEGAL AUTHORITIES AFFECTING CULTURAL RESOURCES PROTECTION ON HOPI TRIBAL LANDS.

Hopi Tribal Statutes

Hopi Tribal Ordinance No. 26. Provides for the protection of places and objects of sacred, historical, and scientific interest on the Hopi Reservation, provides a means of enforcing these protective measures; and provides for the licensing of all scientific and historical exploration or excavation on the Reservation.

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 Statutes

American Indian Religious Freedom Act of 1978 (PL 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.

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 as a 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.

Archaeological and Historical 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 mitigation costs. Moneys expended on inventory and evaluation during the planning phase do not count against this limitation.

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 Council on Historic Preservation (ACHP). Section 106 (16 U.S.C. 470F) 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 (NRBP) 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.

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 Order 11593 (36 CFR 8921), 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-federal 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 No. 13007, Indian Sacred Sites assures protection and preservation of Indian religious practices by preventing any Federal action that may adversely affect access to, ceremonial use of or the physical integrity of sacred sites.

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.

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 CFR 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.

Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (48 CFR 44716); Provides technical guidance on archeological and historic preservation activities and methods.

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

SUBPART B – 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's 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 archeology; 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 may be necessary and are outlined on page 30 below.

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, petroglyphs, 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.

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).

SUBPART C - CONSIDERING CULTURAL RESOURCES IN NRCS ACTIONS ON LANDS OF THE HOPI TRIBE.

Introduction

NRCS personnel shall fulfill NRCS requirements for cultural resources protection on Hopi Tribe lands by faithfully executing the procedures set forth in this Section.

These procedures are consistent with NRCS policies and program specific regulations, the provisions for programmatic compliance found in 36 CFR 800.3(b), and the stipulations set forth in the Programmatic Agreement. As part of the Agreement (Exhibit A), the procedures found herein are legally binding. The remainder of NRCS responsibilities for compliance with NHPA will be met by processes consistent with 36 CFR 800.

Procedures

The number of steps that may be necessary for NRCS personnel to fully consider cultural resources in any given situation will vary depending on whether or not such resources are found in the work area 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 cultural resources are present. Specific guidelines for each of these steps, including when they are unnecessary, are provided in the following Section.

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. Notifying the BIA
6. Conducting a Field Inspection
7. Recording Cultural Resources
8. Determining Impacts (Effects)
9. Developing a Treatment (Avoidance) Plan
10. 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 30). They are generally categorized as follows:

- ***Exempt Programs and Practices*** (Pages 33-40): 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*** (Pages 40-48): 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 and the CPO 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

At the present time, all cultural resources investigations on the Hopi Reservation must be supervised by a CRS (i.e., someone who meets the Secretary of the Interior’s Qualification Standards for archaeologists). The CRS may be assisted by NRCS Field Office personnel who have completed Modules 1-8 of the NRCS CRM Training Course, by the cooperating farmers or ranchers, and by Hopi Tribe 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.). Normally, the APE will include the area to be disturbed, plus a 50 foot wide buffer zone around the disturbance zone, for block projects. For linear projects the APE will normally be a 20 foot wide working area along the fence line or pipeline and a 50 foot wide buffer zone on either side of the working area (total =120 feet).
- ***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 Hopi Cultural Preservation Office (CPO).*** The first step in any cultural resources survey is to apply for a Hopi survey permit. This is done by providing the CPO with a narrative description of the project, a map of the project on the 1:24,000 scale, and a list of the participating personnel. The CPO will issue a survey permit. The CPO archaeological atlas must be consulted to determine if there have been previous surveys in the area and whether sites are known to exist in the area, before beginning the survey.
- ***The cooperator.*** These persons will often have much useful information about local historic resources, prehistoric resources, and TCPs. They should always be interviewed about such resources, and their responses should be recorded and considered during planning.
- ***The Hopi Tribe Cultural Resources Advisory Task Team (CRATT).*** This organization is a council of senior members of the Hopi Tribe who are familiar with the locations of sacred and traditional cultural places. A presentation of each project located on the Hopi Reservation should be scheduled for the monthly CRATT meeting. CRATT Team members may wish to visit the project area. Where appropriate, on a case by case basis, the NRCS will attempt to procure access to project areas for Hopi Tribal Members for TCP investigations from private landowners and other Native American groups. In cases where the cooperator denies access, the NRCS may consider terminating the contract.
- ***The CRS.*** The CRS will conduct a Cultural Resources Background Review, and must supervise the survey. A CRS must also record any archaeological sites found by field office personnel on smaller block surveys and on surveys of linear projects.

Evaluate Results. 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).

If the area of potential effect has been wholly included in a previous survey there may be no need for a field inspection, If, however, sites were recorded; it may still be necessary to relocate the resources in order to verify their locations and plan for avoidance.

If there is record of a previous, adequate survey, and if the area of potential effect has been wholly included in that previous survey or field inspection, and if no cultural resources were found, go on to step 10 (Reporting Results and Obtaining Comments).

5. Notifying the Bureau of Indian Affairs

The bureau of Indian Affairs (BIA) must be notified about all projected undertakings and archaeological surveys on Hopi tribal lands. This is done by sending copies of the project description and project maps with a cover letter to:

Superintendent
Bureau of Indian Affairs
Hopi Agency
P.O. Box 158
Keams Canyon, AZ 86034

This notification should take place at the same time that the permit request letter and map are submitted to the CPO. No further reporting to the BIA is required. Hopi survey reports and site reports are not sent to the BIA.

6. Conducting a Field Inspection

The next step is to physically locate cultural resources in the area of potential effect. If the area of potential effect has not been previously and sufficiently inspected, a systematic field inspection designed to detect unrecorded cultural resources must be conducted.

All cultural resources investigations on the Hopi Reservation must be supervised by a CRS (i.e., someone who meets the Secretary of the Interior's Qualification Standards for archaeologists). The CRS may be assisted by NRCS Field Office personnel who have completed Modules 1-8 of the NRCS CRM Training Course, by the cooperating farmers or ranchers, and by Hopi Tribe technical specialists in associated disciplines. Cooperators and technical specialists from other fields may not constitute more than 50% of the survey crew.

NRCS conducts 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.

Methodology. 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 may consist of one or more irregular transects following the area of effect, but the paths of all transects

must cover the area of potential effect with the same 15 meter interval as in straight transects. 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. All field surveys will be performed on foot, except to meet specific survey participant needs (i.e. handicapped, medical etc.). Approval to conduct a survey other than by pedestrian means must be requested from the CPO through the CRS.

Spacing between parallel transects, the "transect interval", 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. The CPO maximum interval is 15 meters (no more than 50 feet); however, spacing may need to be less in circumstances where visibility is poor and archaeological site potential is high. In any case, do not exceed the 15-meter rule without coordinating with the CRS.

Evaluating Results. If no cultural resources are found, proceed to step 9 (Reporting and Obtaining Comments). If 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. The landscape, such as steep slopes or wetlands, may make systematic parallel transects impractical. When such factors are present, discuss appropriate alternative methodologies with the CRS.

7. Recording Cultural Resources

Most archaeologists define cultural resources sites based on considerations of the age of cultural remains, the density and types of artifacts and features, and the spatial arrangements of remains within the area under consideration. On Hopi Tribal Lands, 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:

- thirty (30) or more artifacts of a single class (i.e., 10 sherds, 10 lithics, 10 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.), in which case the findings would be considered an *isolated occurrence*, or;
- twenty (20) artifacts of two or more classes of artifacts are represented (i.e., pottery shards 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.
- Isolated features without associated artifacts should be recorded on the Isolated Occurrence Form (Appendix D). An "isolated feature" is defined as a non-linear feature that does not have any other features within a 325-foot radius (100m).
- Individual or small concentrations of artifacts not meeting site definition criteria should be documented as isolated occurrences.
- All cultural resources meeting minimum site criteria will be recorded and reported by the CRS, as detailed in Step 10 (Reporting Results and Obtaining Comments) using the CPO Archaeological Inventory Report Form.

NOTE: Traditional cultural properties, which are places that are important to tribes or other ethnic groups owing to their sacred or traditional associations, may lack material cultural remains, but 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 as the result of questioning tribal elders or other local residents or spokespersons. Recording of TCP site boundaries in these cases will require the assistance of the informant(s), and should also involve a CRS.

8. 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 CPO and, ultimately, the SHPO.

No Adverse Effect. This determination may be proposed 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.

9. 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, 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;
- or 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 especially if the CRS has not visited the site. Burial sites must always be avoided by at least 100 feet.
- 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. The best time to flag the site is usually a tradeoff 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, and remove the markings immediately upon completion of the work.
- 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.
- The cooperator or contractor must be provided with a written statement of the requirements for avoidance and a clear map, and clearly informed in writing, initialed by the cooperator, that CPO and SHPO clearance must be received before work can proceed.
- In complex situations involving multiple cultural resources or when construction may come close to a site, it will also be necessary to monitor (observe) all portions of the construction activity that occur within 50 feet of the site boundary.
- 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 consult with the CPO and the SHPO to determine if the cultural resource(s) are significant according to CPO and SHPO standards, or according to regulations of the ACHP (36 CFR 60.4). In some cases the CRS may forward recommendations regarding the continued feasibility of the undertaking to the Assistant State Conservationist - Technology.

NOTE: Mitigation 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, the CPO, the SHPO, and any potentially interested or concerned parties.

10. Reporting Results and Obtaining Comments

All cultural resources activities performed in connection with NRCS-assisted undertakings are subject to review and approval by the CPO and the SHPO. The reports for these undertakings will be developed by the CRS in a narrative format that includes a project description, project location data, documentation of a cultural resources records check, documentation that a TCP investigation has been conducted, a description and location data for all cultural resources located, and evaluation of the eligibility of each resource, and a management recommendation. In addition, all sites will be reported on the CPO Archaeological Inventory Report Form.

When No Cultural Resources are Found

If the CPO cultural resources records review indicates that the area of potential effect is included wholly within a previous field inspection, and if the CPO provided the information, no field inspection is necessary. Place a memo to file documenting this or other documentation in the case file and proceed with assistance.

If the record review indicating previous coverage and no cultural resources in the area was performed by Field Office Personnel or by the NRCS CRS; the CRS will send the results to the CPO, referencing the CPO or ASM number or report title. If the CPO does not object within 10 working days, no field inspection is necessary. Place the documentation in the case file and proceed with assistance.

If a field inspection was necessary, document the inspection and negative finding using the Hopi CPO Archaeological Inventory Report Form and a project map and send it to the CRS who will forward the final form to CPO. If no objection is received from NNHPD within 10 working days from receipt of the form at CPO, proceed with assistance.

When cultural resources are found and can be avoided

If cultural resources were found as the result of the records review, they will often need to be located and marked prior to construction as outlined above. The existing report can be used for archaeological site documentation; however, a narrative statement that documents the modifications that have been made to the undertaking to avoid the sites must be provided to the CPO. Send the statement to the CRS who will then forward it to CPO with a recommendation that the undertaking proceed.

If previously unrecorded cultural resources are found during the field inspection the CRS will:

- Determine whether the resource is an isolated occurrence or an archaeological site, under the definitions provided on page 30 above.

- Document the location of each isolated occurrence on a project survey map based on a USGS 7.5' quad(s), labeled "Site Location Map" and describe the site or isolated occurrence in sufficient detail to support the finding of significance for the location. Project boundaries and site and isolate locations that are referred to in the report will be marked and neatly labeled on the map.

In either the case of cultural resources found in record check or found in the field survey, do not proceed with assistance until written concurrence from the CPO has been received.

On-site monitoring of construction activities defined as undertakings in Subpart E of this handbook is required if avoidance is less than 50 feet (100 feet for human burials) of the defined site and/or if the site is on the National Register of Historic Places. Under normal circumstances it is not intended that the entire construction project be monitored.

When cultural resources are found and cannot be avoided

If, after completing the review process, adverse effects to cultural resources cannot be fully mitigated by avoiding the resource:

- NRCS will consult with the CPO and will consider complying with 36 CFR 60 to determine if the resource is eligible for inclusion in the National Register of Historic Places (NRHP). This determination will be made by the CRS in consultation with the CPO.
- Generally, if the affected resource(s) is determined to be ineligible for inclusion in the NRHP, the NRCS will proceed with assistance.
- If the site is found to be eligible for inclusion in the NRHP, NRCS may consider development of a mitigation plan in consultation with the CPO and the SHPO, or withdrawal of assistance from the undertaking.
- If consultation between NRCS, the CPO, and the SHPO results in a mutually acceptable mitigation plan, the field office will normally have all responsibility for implementing all prescribed mitigation measures prior to and concurrent with delivery of assistance.

SUBPART D - SPECIAL SITUATIONS

Construction Discoveries

When the procedures for complying with Subpart C 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 a formal agreement).

A stop-work or "discovery" clause should be a part of every NRCS contract. If a discovery plan has not been prepared as part of the Conservation Plan, NRCS will proceed as follows:

- 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. Construction work at a safe distance from the discovery may proceed.
- 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 (If this warning is disregarded, immediately inform the CPO and the CRS).
- Take reasonable measures to cover or otherwise protect the discovery if it appears fragile or vulnerable. If prudent, consider demarcating the area with flags or temporary barriers in order to prevent further damage or disturbance.
- Notify the CRS, the CPO, and the SHPO 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 or representative of the CPO 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, and the CPO or the SHPO does not elect to visit the site, proceed as follows:

- Document the circumstances of the discovery.
- Assume that the cultural resource is significant and maintain protective measures.
- Consult with the CPO and SHPO for additional guidance until the matter can be turned over to the CRS.

If consultation between the CRS, the CPO, and the SHPO results in a determination that the resource is significant, field office personnel will recommend feasible actions to avoid or minimize further adverse effects to the resource. Consultation with the CPO and SHPO and implementation of a mitigation plan should be completed within 30 calendar days of the discovery.

At the discretion of NRCS, the CPO, or the SHPO; the ACHP may be invited to comment on any proposed mitigation for discoveries involving significant cultural resources. This may occur simultaneously with CPO and SHPO consultation.

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

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 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. Beyond this, all human remains are protected by state mortuary law 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 Assistant State Conservationist for Technology and proceed with the remaining steps of this section.

When an inadvertent discovery occurs in the context of an undertaking but outside the context of intentional archaeological excavation, the sponsor shall adhere to the following procedures.

- All ground disturbing activities shall immediately cease within a 50 foot radius, using the discovery as the center point.

- The sponsor or its agent must contact the CPO within one business day to arrange for proper evaluation and consultation.
- The sponsor or its agent shall identify itself and its project and shall supply the following information:
 - a verbal description of what has been found and the context in which remains are located;
 - the general location of the gravesite, human remains, and/or funerary items;
 - and any other pertinent information.
- Verbal notification shall immediately be followed by written notification. CPO will attempt to respond promptly so as not to cause project delays.
- Human remains and funerary items must be protected in place until treatment measures are implemented in a way consistent with Hopi Tribal Policy.
- The sponsor or its agent may resume ground-disturbing activities only after a proposed treatment plan has been agreed upon and implemented.

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 and 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.

If any unanticipated discovery should involve human remains, the above procedures will also require compliance with relevant portions the Native American Graves Protection and Repatriation Act (NAGPRA), which will be directed by the CRS.

Considering Cultural Resources During Emergency Work

The guiding principle with respect to considering cultural resources during emergency work is to implement 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 outlined in Part C of this Handbook. This will be particularly true of smaller projects.

NRCS emergency work procedures are implemented by the State Conservationist in response to requests from the local government for assistance after disaster event(s). The two types of emergency work recognized are exigency situations that are done within 30 to 40 days of fund obligation and non-exigency situations that are completed within 220 days of fund obligation.

Upon receiving and approving a request for emergency assistance from the appropriate officials of the Hopi Tribal Government, NRCS will notify the CPO as soon as practicable of the declaration of emergency with the date(s) that emergency work and procedures are in effect.

Notification to the CPO will be commensurate with that to NRCS National Headquarters, i.e., within 10 days of the request or two days after access is permitted to damaged areas.

NRCS will take into account CPO comments received within 7 days of notification of an exigent emergency and 15 days of a non-exigency for all subsequent emergency work.

Exigent situations.

CPO shall respond with seven days of notification of an emergency project with any information on known cultural resources in the area of potential effect and recommendations for their protection. NRCS will attempt to implement all such recommendations to the fullest extent practicable.

NRCS field office personnel will also attempt to carry out the required steps in Part C of this Handbook to the fullest extent practicable.

Non-exigent situations.

The CRS or an official designated by the State Conservationist will request CPO consultation and assistance in preparing cultural resources review information as soon as possible in the planning process. NRCS will take into account all cultural resources information provided by CPO. The CPO review will attempt to identify known cultural resources and areas with high potential for historic properties in the affected area. The CRS shall normally be involved in assessing impacts to those properties and performing additional consultation prior to repair work.

NRCS personnel certified in the National Cultural Resources Training Program and by the CPO will perform field inspections prior to emergency repairs in the area of potential effect. The use of untrained personnel to aid in such inspections will be governed by the scale of disaster and relief response needed, and will be indicated during consultations with the CPO.

Should a cultural resource be discovered, the CPO will be immediately notified. The NRCS and the CPO 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 CPO and ACHP will be informed immediately over the signature of the State Conservationist.

The CPO 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. Copies of final reports due to the NRCS Chief within 60 days of emergency work completion, will also be available on request.

SUBPART E - 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 ripped," or leveled to specifications 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 ripping activities have taken place on the property
 - when those activities took place, and
 - who did the leveling, plowing, and/or ripping.
- 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 (Chemical) or biological portion of 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. (mechanical portions of practice only).

**** 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.

SUBPART F - DOCUMENTATION AND RECORDS

Security and Confidentiality of Data and Reports

When conducting cultural resources investigations, NRCS will collect, acquire, and generate the necessary information related to those resources. All cultural resources information resulting from agency assistance activities become the property of the Hopi Tribe. 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 will prepare and distribute reports on cultural resources activities for compliance purposes and public benefit, including an Annual Report to Congress on cultural resources activities of the agency.

Ethical Conduct on the Collection and Use of Information

During cultural resources investigations, NRCS employees are required to conduct themselves in a professional manner, i.e., using cultural resources objects and information as follows:

- NRCS employees will not collect artifacts except when directed by the CPO.
- NRCS employees shall use cultural resources information gained on the job only for official purposes or professional study. They will follow policy for reporting and confidentiality in parts concerning access to data and in state agreements.

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 data bases and other documentation maintained by the NRCS.

All data and associated records resulting from recovery and analysis activities are the property of the Hopi Tribe. The NRCS may provide copies of the results of analysis and other records of activities on Hopi Tribal Lands to cooperators, cooperating agencies, or interested parties only with permission of the Hopi Tribe. The NRCS will not submit any information concerning projects on Hopi lands to the Arizona State Museum AZSITE system and will request that the SHPO not submit any Hopi lands project information to the ASM.

NRCS 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). In the absence of a resource specific agreement between the NRCS and the CPO, it shall be 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.

Annual report. NRCS will prepare information on agency cultural resource activities for the Annual Report to Congress. This information will not include location information for any cultural resource and is generally restricted to the number of surveys undertaken, acreage covered, numbers of sites found, numbers of sites protected, and site protection methods employed. The report information will also be made available to the Secretary of Agriculture, and Secretary of Interior, the SHPO, the ACHP, the CPO, and other interested parties when requested.

Maintaining Compliance Documentation and Records.

Documentation and organized records are essential to demonstrating agency compliance with cultural resources laws. Adequate records will also ensure management continuity and prevent any duplication of effort.

Compliance documentation is all of the information that provides proof that NRCS complied with cultural resources requirements for a specific undertaking. This includes any records of decision, reports, correspondence, agreements, contract stipulations, or resource description and data.

Disposition. 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 one copy at the office of the NRCS CRS stationed in the St. Michaels, Arizona Field Office.

Completeness and specificity. Field office personnel must make certain that all correspondence going to the CRS and the CPO clearly specifies what is being done and what information is being sought. Ensure that:

- All correspondence is dated;
- The letter seeking concurrence is saved;
- The letter of concurrence is saved;
- If concurrence is not received, the facts and dates involved are noted;
- All telephone conversations pertaining to compliance are documented as part of the consultation process.

Restoration of incomplete documentation. 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, CPO files and the file room log book, and NRCS files for northern Arizona.

Computerized Records. Record keeping can be facilitated by putting information in a computerized database or spreadsheet. Such a format can be updated conveniently and can be communicated readily to others. This type of record keeping is a good management tool for administrators, managers, and engineers for considering cultural resources compliance during NRCS operations. A spreadsheet or database can also provide backup to conventional files.

SUBPART G - CONSIDERING CULTURAL RESOURCES IN NRCS ACTIONS IN THE AREA OF HOPI ADMINISTRATIVE INTEREST.

The NRCS recognizes that many Hopi TCPs are located outside of Hopi Tribal Lands. The CRS will consult with the CPO concerning any surveys during which sites are found within the Hopi area of administrative interest. At present this area of administrative interest is defined as the region north of the Mogollon Rim. Negative surveys (i.e. inventories in which no sites are found) in this Hopi area of administrative interest will not be reported to the Hopi CPO. The Hopi CPO defers to the SHPO and appropriate tribes for consultation concerning NRCS surveys where sites are found and avoided in the portion of Arizona south of the Mogollon Rim. The Hopi CPO should be consulted concerning projects south of the Mogollon Rim where sites are found and cannot be avoided.

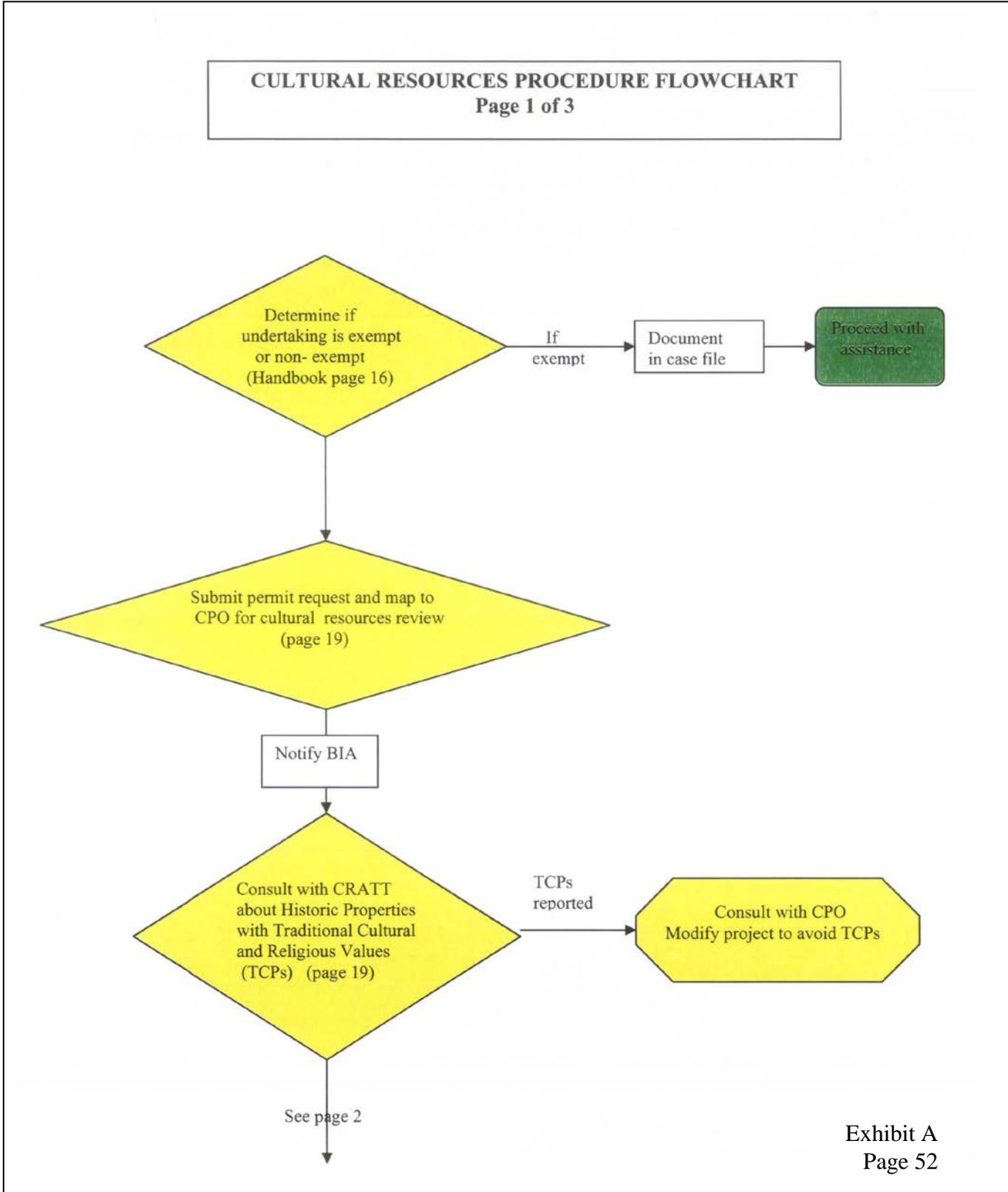
The Hopi CPO will normally respond within 30 days of receipt of a request for consultation on projects within the Hopi area of administrative interest. If the CPO does not respond within that period, the NRCS will notify the Hopi Tribe that the agency intends to proceed with the project.

SUBPART H – CONSULTING WITH OTHER TRIBES CONCERNING CULTURAL RESOURCES ON THE HOPI RESERVATION.

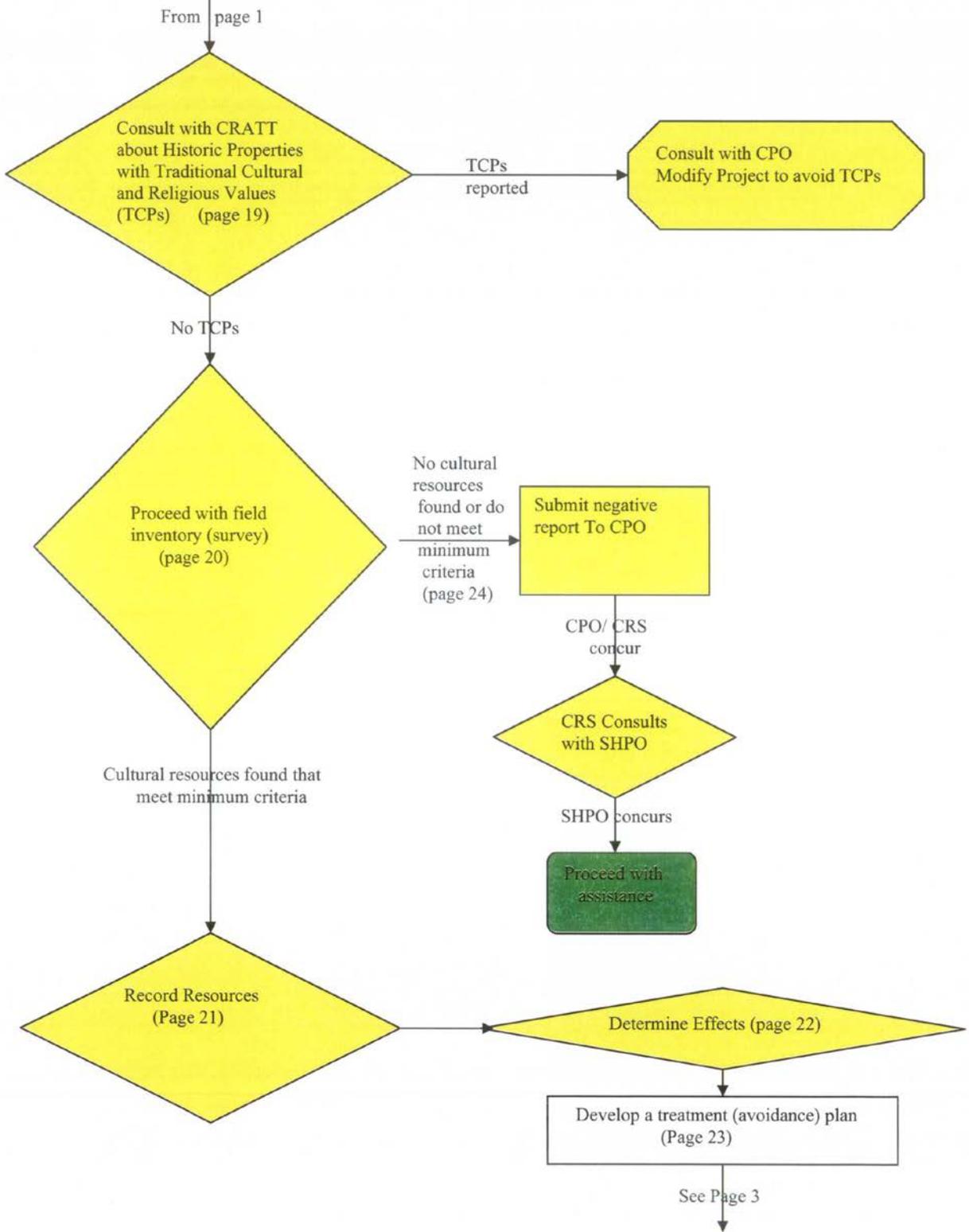
Under current Hopi policy, the CRS will consult with the Pueblo of Zuni concerning all archaeological surveys conducted on that portion of the Zuni area of administrative interest that overlaps with the Hopi Reservation. The CRS will also consult with the Navajo Nation concerning Navajo TCPs found within the Hopi partitioned lands and concerning administrative-era cultural resources that are found in that area that cannot be determined to be of Hopi origin. All other requests for

consultation concerning cultural resources and surveys on Hopi lands will be referred to the CPO.

APPENDIX - Cultural Resources Procedures Flowchart



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