

**STATE LEVEL AGREEMENT AMONG
THE USDA NATURAL RESOURCES CONSERVATION SERVICE, THE CONNECTICUT STATE
HISTORIC PRESERVATION OFFICE AND THE CONNECTICUT OFFICE OF THE
STATE ARCHAEOLOGIST**

PURPOSE: This Agreement is to formalize a relationship among the USDA - Natural Resources Conservation Service in Connecticut (NRCS), the Connecticut State Historic Preservation Office (SHPO), and the Connecticut Office of the State Archaeologist (OSA) regarding procedures to comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and other legislation relating to the effect of NRCS undertakings on historic and cultural resources on private, public, and tribal lands.

It is agreed that execution of this Agreement provides for the implementation of policies and procedures developed by NRCS to better ensure that effects of conservation undertakings on historic properties and potential archaeological resources are adequately considered in early planning stages, and that provisions for protection of such properties and resources are provided for.

WHEREAS, there has been a Nationwide Programmatic Agreement for Cultural Resource Compliance –(Attachment 1) signed among the USDA NRCS, the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (NCSHPO), and ratified May 31, 2002, and such Agreement sets forth stipulations regarding natural resources conservation assistance activities on private and public lands; and

WHEREAS, NRCS must comply with requirements under the National Historic Preservation Act (NHPA)(16U.S.C.470f) and related legislation dealing with cultural resources, and NRCS is to follow current policies and procedures issued in their General Manual (GM) 420, Part 401 Cultural Resources (Archeological and Historic Properties) –(Attachment 2); and

WHEREAS, the SHPO is the responsible State entity for recognition and protection of historic and cultural resources, and the State Historic Preservation Officer in consensus with the Connecticut State Archaeologist are responsible for overseeing cultural resources management and protection programs in the state; and

WHEREAS, each state NRCS office is required to develop with its counterpart State Historic Preservation Office (SHPO) a state level agreement (SLA) in order to further expedite the compliance process;

NOW THEREFORE, the NRCS, the SHPO, and the OSA agree to the following stipulations, and will act to implement them:

STIPULATIONS

Undertakings:

Undertakings as defined in 36 CFR 800.16 means a project, activity, or program funded in whole or in part under 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 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.

The NRCS, the ACHP, and the NCSHPO have agreed in their Nationwide Programmatic Agreement that there are activities and programs of the NRCS which do not adversely affect cultural resources, and therefore need no review. Examples include: technical highly erodible land and wetland compliance determinations, soil, snow and water supply/quality and other resource surveys and inventories. Conservation easement purchase programs, e.g. the Farm Ranch Lands Protection Program, while they do not call for ground disturbing activities or structural modifications of buildings, etc., may be reviewed (applications) with the OSA and SHPO for historical significance.

| For any activity to be considered an NRCS undertaking the agency must have a significant level of control over the outcome of the project. For example, projects planned and performed by landowners where NRCS provides only general technical advice and has no control over the landowner's decisions are not considered agency undertakings.

The NRCS and the SHPO will use the classification system established in Attachment 3 when determining whether a particular activity being planned under any NRCS program has the potential to effect cultural resources. Practices marked "Ground Disturbing" (G) are considered to have the potential to effect and cultural resources actions are required prior to their installation. Practices marked "Potentially Ground Disturbing" (PG) are considered to have the potential to effect except when non-intrusive or when installation will not exceed the depth and extent of previous cultivation. Practices marked "Not Ground Disturbing" (NG) are not considered to have the potential to effect, and no cultural resources actions are required before their installation. Practices not covered in | Attachment 3 will be presumed to have the potential to impact cultural resources, and may be added to the attachment as appropriate.

Other NRCS programs, such as the PL-566 Small Watershed Protection Program, are undertakings that require Section 106 review. Such programs do not fall within the purview of this Agreement but need their own agreement in partnership with the recipient agencies and organizations. NRCS and the SHPO may look to this Agreement as a model for contents of those agreements.

Field Process Early in the conservation planning process NRCS field personnel will describe and document each planned system or practice considered an undertaking on the ***Practice Description Form for Cultural Resources Review***. (Attachment 5). This form is submitted to the NRCS Cultural Resources Coordinator (CRC) or Cultural Resources Specialist (CRS) if available, for a determination of effect. These forms will be completed for all undertakings on projects involving two | or fewer landowners. If three or more landowners are involved then cultural resources will be evaluated as required in planning a larger project measure, e.g. under PL-566. The form describes:

- Site ownership and geographical location,
- type of practice or system being planned, dimensions and integrity of the Area of Potential Effect (APE),

- proximity to surface water and wetlands,
- past disturbance,
- soil type, and
- previous knowledge of any cultural resources located on the property.

The CRC or CRS will consult with the OSA and the SHPO to determine if further onsite investigation is warranted. The CRC will inform field personnel and the SHPO of findings. Further investigations will be conducted under the guidance of the NRCS CRC and the OSA. NRCS may provide a Cultural Resource Specialist (CRS) who meets the Secretary of Interior's Professional Qualification Standards-48 FR 44716, Sept. 29, 1983 to make initial determinations of effect for the OSA and the SHPO, and to assist in further onsite review (see Attachment 4, Standard Operating Procedures).

Treatment of Cultural Resources:

Avoidance: When, during normal planning activities, cultural resources are recognized, the site's boundaries and measures used to avoid the cultural resource will be determined by the CRC and/or CRS in consultation with the OSA and NRCS field personnel. An appropriate buffer may, if necessary, be established around the site.

Evaluating Significance: If a cultural resource(s) cannot be avoided then it (they) may be evaluated by the CRC and/or CRS in consultation with the SHPO and OSA for its eligibility, or lack thereof, for the National Register of Historic Places (NRHP) or for subsequent archaeological investigations including, if warranted, professional data recovery.

Human Remains: If human remains are discovered during planning or *installation/construction* of a conservation practice all activities which could damage the remains should immediately cease. Actions should be in accordance with **Connecticut General Statutes Title 10, Chapter 184a, Sec. 10-388 on Human Remains**. The following specific actions will be taken:

- The Connecticut State Police and the CRC/CRS will be contacted by the NRCS field personnel to determine whether the remains are part of an ongoing investigation. The CRC or CRS will contact the OSA. The State Police or OSA may contact the Connecticut Chief Medical Examiner.
- The OSA will determine the ethnicity of the remains and the approximate age;
- If the remains are other than the above NRCS will consult with the OSA and SHPO to plan appropriate treatment;
- NRCS field personnel will assist the OSA and SHPO in working with the landowner to temporarily protect (e.g. –fence) the remains until more permanent actions can be taken;
- Threatening construction activities shall not resume until the remains are properly protected.

Curation Arrangements: NRCS shall ensure that copies of NRCS records resulting from cultural resources surveys or data recovery activities are filed with the OSA and SHPO. The deposition of artifacts and other archaeological materials will be reviewed and determined by the OSA and SHPO and the respective landowner(s). It is understood that artifacts collected on private land are the property of the landowner(s), however NRCS may encourage a landowner to donate significant artifacts to appropriate curation facilities. Curation will usually be at the Office of the State Archaeologist, Connecticut Museum of Natural History at the University of Connecticut or at another agreed-to site.

Standard Operating Procedures: NRCS field personnel will use the procedures as outlined in Attachment 4 when planning a project or practice. They will receive the NRCS National Cultural Resources Training Program. Training will be coordinated by the CRC, and if possible, conducted by an NRCS CRS with assistance from the OSA and SHPO. Tribal Historic Preservation Officers (THPO), or tribal staff archaeologists may participate in the training.

Access to Cultural Resources Information: The SHPO and OSA shall allow the NRCS CRC or CRS access to the Connecticut Archaeological Inventory's USGS quadrangle maps (marked with the location of all cultural resource sites investigated), archaeological sites files, the Historic Sites and Structures Survey and other archeological or historic records. The CRC/CRS shall use this information to determine potential impacts on recorded cultural resources for all undertakings assisted by NRCS. At a future date if digitized site location data is available NRCS agrees that such data transferred to them will be securely maintained.

Compliance Documentation: The NRCS shall ensure that reports on all activities carried out according to the agreement are provided to the SHPO and, upon request, to other interested parties (subject to restrictions contained in Section 304 of the National Historic Preservation Act and Section 9(a) of the Archeological Resources Protection Act).

Individual Undertakings: NRCS will provide the OSA and SHPO documentation on each planned undertaking using the ***Practices Description Form for Cultural Resources Review (Attachment #5)***, and subsequent reports on findings and planned actions to avoid or minimize disturbance.

Site Evaluations: The NRCS CRC, a CRS if available, and NRCS field personnel will coordinate with the SHPO and OSA, and the landowner, on archaeological site evaluations.

Reporting: NRCS agrees to provide a fiscal year summary of the total number of undertakings reviewed and related reports of technical assistance to the OSA and SHPO by December 31st each year.

Consultation with American Indian Tribes: The SHPO and OSA are mandatory consulting parties with respect to all lands within Connecticut including tribal lands owned by federally-recognized tribal governments which lack National Park Service designated Tribal Historic Preservation Offices. If tribal governments possess NPS-designated Tribal Historic Preservation Offices, then SHPO and OSA may be invited to participate in consultation regarding tribal lands at the discretion of NRCS and the respective tribal government. NRCS will consult with interested federally recognized tribes with tribal lands in Connecticut per the Nationwide Programmatic Agreement. This may result in consultation protocol agreements which cover conservation technical and financial program assistance provided the tribes. The SHPO and OSA will be part of such consultation.

Public Consultation: NRCS will ensure that public consultation is conducted with the appropriate individuals, groups, tribes, and units of government depending on the size and nature of the undertaking. For small practices on individual farms this will include the landowner and operator, any partners involved (such as the local conservation district), and any individual or group who expresses interest in that undertaking.

Emergencies: the following situations and procedures will ensure that the need to protect life and property in an emergency is accomplished while still considering cultural resources:

"Urgent and Compelling": When there is an urgent need to act to save lives and/or property NRCS will notify the OSA and the SHPO of the threatening situation and the remediation work planned.

NRCS will document and avoid adverse impacts to cultural resources encountered during urgent and compelling work to the fullest extent practicable.

In major natural disasters NRCS may waive its cultural resources responsibilities as allowed under 36 CFR 78 (Advisory Council Regs.)

“*Non-Urgent and Compelling*”: Emergency work of a less threatening nature allowing for more time to plan remediation will report conservation practice restoration in the manner described under the Standard Operating Procedures.

Sharing Technology and Information: In that the 3 agencies represented in this agreement have common interest in recognizing and protecting cultural resources in Connecticut, representatives of each agency will meet at least annually (preferably in February) to review mutual work, any issues of concern, training needs, etc.

The SHPO and OSA will provide NRCS personnel through the CRC, appropriate information, e.g. the most current ***Connecticut National Register of Historic Places*** listing, to aid in awareness and identification of cultural resources on state landscapes.

Upon request, NRCS personnel will, within limits of staffing and workload activities, provide the OSA and SHPO technical assistance in the location, identification and interpretation of special historic and archaeological findings within their areas of expertise. Use of Ground Penetrating Radar (GPR) and Electro-Magnetic Induction may be made available on a case by case request. This assistance will be provided in addition to the cultural resource coordination referred to in the rest of this Agreement.

Access to Specialists: As budget allows, NRCS agrees to secure the services of a CRS. This may be provided by hiring an archaeologist on an as-needed basis. This person(s) would be available to coordinate with the OSA performing selected detailed field surveys. This person(s) shall meet the qualifications contained in “Archaeology and Historic Preservation; Secretary of the Interior’s Standards and Guidelines –Professional Qualifications Standards”. A person meeting such qualifications will make all determinations of eligibility for any cultural resources discovered during NRCS activities.

Duration of Agreement: This Agreement will remain in effect until any of the participants request termination and give at least a sixty-day notice of intent to terminate to the remaining signatories. The Agreement may be amended upon the request of any participant to meet new procedures, e.g. in the Nationwide Programmatic Agreement. The parties will consult in accordance with the current NRCS GM 420, Part 401, to consider such amendments.

Discovery Plans: NRCS agrees to cease technical assistance and implementation (practice installation) of any undertaking upon the discovery of cultural resource artifacts. NRCS field personnel will notify the CRC or ASAP, who in turn will notify the OSA to make arrangements for an evaluation of the site. A CRS may also be contacted to aid in this evaluation.

Items not Specifically Covered by this Agreement: The NRCS, SHPO and OSA agree that any matters not discussed in this Connecticut State Level Agreement will be handled in accordance with the current Nationwide Programmatic Agreement and the current requirements in NRCS General Manual 420 Part 401.

The undersigned mutually agree to the provisions of this agreement:

**USDA Natural Resources Conservation Service
344 Merrow Road, Suite A
Tolland, Ct. 06084-3917**

By:_____ Date_____
Margo L. Wallace
State Conservationist

**Connecticut State Historic Preservation Office
59 South Prospect Street
Hartford, CT. 06106**

By:_____ Date_____
J. Paul Loether
Deputy State Historic Preservation Officer

**Office of the State Archaeologist
Connecticut State Museum of Natural History & Archaeology Center
University of Connecticut, U-4214
Storrs, CT. 06269-4214**

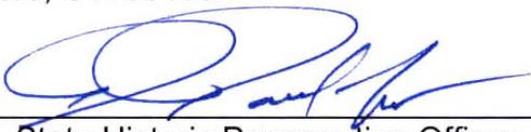
By:_____ Date_____
Nicholas F. Bellantoni
State Archaeologist

The undersigned mutually agree to the provisions of this agreement:

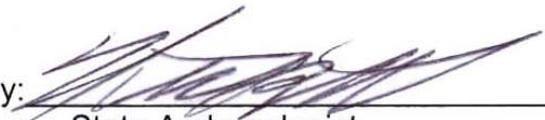
USDA Natural Resources Conservation Service
344 Merrow Road, Suite A
Tolland, CT. 06084-3917

By: Mary R. Waller Date 7/2/03
State Conservationist

Connecticut Historical Commission
59 South Prospect Street
Hartford, CT. 06106

By:  Date 6/27/03
DEPUTY State Historic Preservation Officer
PAUL LOUTHER

Office of the State Archaeologist
Connecticut State Museum of Natural History
University of Connecticut, U-4214
Storrs, CT. 06269-4214

By:  Date 7/7/03
State Archaeologist