

MO401 CULTURAL RESOURCES (ARCHEOLOGICAL AND HISTORIC PROPERTIES)

SUBPART A --General.

MO401.01

MO401.1 Authorities for Considering Cultural Resources.

In addition to federal laws and regulations there are also state laws that apply to work done by field offices and districts. These are outlined as follows.

MO-RS 194.4 Missouri Revised Statutes Chapter 194 is on Death-Disposition of Dead Bodies. Section 194.4 is on Unmarked Human Burial Sites. This law defines unmarked human burial sites as any instance where human skeletal remains are discovered or believed to exist, but for which there exists no written historical documentation or grave markers.

In the State of Missouri, it is a felony to alter a burial site without proper authorizations or not to follow regulations if human remains are uncovered in the course of ground disturbing activities. If human remains are discovered, immediately cease all actions within a radius of 50 ft. of the point of discovery that may further disturb the remains or associated artifacts. Notify the following; in the preferred order of notification.

1. Area Conservationist and Area Cultural Resources Coordinator
2. Missouri State Historic Preservation Officer
3. Local law enforcement officer

MO-RS214.13

This Missouri law protects private cemeteries from damages or destruction. It establishes penalties for anyone who knowingly destroys, disfigures, removes, etc., any tomb, monument or gravestone in such cemeteries.

MO401-9(1)

SUBPART B Administrative Responsibilities

MO401.12 (g)

MO401.12 NRCS Personnel Responsibilities.

(e) Area Conservationists. Each Area Conservationist will designate at least two (2), and up to five (5) Area Cultural Resources Coordinators (ACRC). The designated ACRC's should be area or field office staff with an interest in cultural resources. The ACRC's should be located in parts of the area so that no field office is more than about a 1 hour drive from an ACRC.

(g) Area Cultural Resources Coordinators (ACRC). ACRC's provide assistance to field office personnel when cultural resources have been identified or could potentially be present in an undertaking area of effect. If cultural resources are determined to be present in or near the Area of Potential Effect (APE), the ACRC will complete cultural resource inventory reports for review by the Missouri Cultural Resources Specialist (CRS) and Missouri CRC. ACRC's will be given the equivalent of 80 hours of initial training (in addition to the Module 1-8 training), plus refresher training each fiscal year. ACRC's will also help field offices set up and maintain a cultural resource information file and a file for confidential cultural resources information(420 file).

MO401-13 (1)

SUBPART C Policy

MO401.43

MO401.29 Access to Cultural Resources Specialists.

NRCS agrees to maintain regular and continuing access to a Cultural Resources Specialist (CRS). This access will be provided by a Memorandum of Understanding between NRCS and Missouri Department of Natural Resources (MDNR). The Memorandum of Understanding stipulates that MDNR will hire, and NRCS help support a MDNR employee who meets the qualifications of a CRS.

MO401.33 Agreements and Supplements for Cultural Resources Activities

The NRCS shall enter into a State Agreement with the MDNR to implement Stipulation IV (:State Agreements:) of the National Programmatic Agreement (PA) among the NRCS, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, regarding Soil and Water Conservation assistance activities on private and public lands, referred to in this agreement as PA. This agreement shall be reviewed annually.

The purpose of this agreement is to adjust compliance requirements of the PA to conditions that exist in Missouri that could not be uniformly addressed at the national level, and to facilitate NRCS actions. Unless otherwise defined in this agreement all terms are used in accordance with NRCS GM 420, Part 40~ and the NRCS Cultural Resources Handbook, Part 601.

The NRCS and the Missouri State Historic Preservation Officer (SHPO) agree that execution of the Agreement provides for implementation of policies and procedures developed by NRCS to more effectively ensure that effects of conservation activities on historic properties are thoroughly considered in the earliest planning stages and that resource protection is accomplished as efficiently as possible.

MO401-24 (1)

MO601 CULTURAL RESOURCES PROCEDURES

SUBPART A General

MO601.10 (d)

MO601.10 Applications of NRCS Assistance to Undertakings.

(d) Individual conservation practices are categorized by their potential for ground disturbance. A list of practices currently used in Missouri is in Subpart F, Section MO601.60. This listing defines the practices as Ground Disturbing (G), Potentially Ground Disturbing (PG), or Not Ground Disturbing (NG). Practices designated "G" are considered undertakings. Practices designated "PG" have low potential for ground disturbance and are not considered undertakings if: (1) installation of the practices will not exceed the depth, extent, or kind of previous cultivation, or (2) the practices are installed on land that has not been previously cultivated and the installation of the practice will result in no ground disturbance. Practices designated "NG" **are not** undertakings.

MO601-1

SUBPART B Procedures for Complying with Section 110 and 112 of the National Historic Preservation Act.

MO601.21

MO601.21 Inventory of NRCS Owned or Controlled Properties.

Elsberry Plant Materials Center (PMC): The PMC was originally surveyed and assessed for cultural resources in 1979 and 1980. At that time the property was less than 50 years old. An updated assessment will be made to see if the PMC is now eligible for listing on the National Register of Historic Places. If the PMC is found to be eligible, a management plan for the PMC will be developed that takes into account any historic properties.

For properties where NRCS is co-located with FSA, and FSA is the lease holder, FSA is designated as the Lead Agency. For those buildings and other structures that are used in NRCS operations, and NRCS is the lease holder, an initial assessment shall first be made of whether it is older than 50 years of age and contains architectural uniqueness or other potential qualities listed under NRHP Criteria in 601, subpart E. If the assessment indicates that this potential exists, then additional information must be collected to perform an initial review (see 601, subpart D). Depending on the review results, additional information or investigation may be necessary to complete compliance review.

MO601-3

SUBPART C Procedures for Complying with Section 106 of the National Historic Preservation Act and Related Legislation.

MO601.10 (c) (2) (i)

MO601.31 Procedures for Considering Cultural Resources

- (a) Determine if an action is an undertaking.

The first step in considering cultural resources in NRCS activities is to determine if a planned action has the potential to be an undertaking according to applicability (see MO601.10). Examine each proposed NRCS activity or practice against the list in MO601.60 to decide whether the action(s) could cause a change in a cultural resource. If the action(s) are determined not to be undertaking(s), document the decision on CPA-52, file in the case file, and proceed with the action(s). If undertaking(s) are involved, use the Cultural Resources Worksheet (Exhibit MO3, NPPH) to guide and document further Cultural Resources Reviews.

- (b) Determine level for cultural resource investigations

(1) Conservation Planning: If authority for a conservation plan (including planning and implementation) is at the field office level, the completion of the items on the Cultural Resources Worksheet may be conducted by an employee who has satisfactorily completed the National Cultural Resources Training Program (Modules 1-8). If authority for a conservation plan (including planning and implementation) is above the field office level, the required cultural resources activities beyond the initial cultural resources review will be conducted by a Cultural Resources Specialist (CRS).

- (c) Identify cultural resources and other resources of value.

(1) Conduct a cultural resources review to find if cultural resources are known in the Area of Potential Effects (APE). The Cultural Resources Worksheet shall be used as documentation of the review. The review includes:

- (i) Checking the county listing of the National Register of Historic Places.
- (ii) Checking the Cultural Resources County Map for known sites. Each office shall maintain a Cultural Resources Map for the county. These county maps, supplied by the Cultural Resources Coordinator, show sections having known archeological sites colored in yellow.
- (iii) Checking for buildings or structures of possible historical significance.
- (iv) Checking with the landowner or operator about possible historic or prehistoric cultural resources.
- (v) Conducting a field inspection of the APE.

(2) Actions involving known sites: If a conservation assistance activity will involve undertakings and the location of the assistance is in a yellow colored section, the NRCS field office staff will fax a Request for Site Information form to the Archeological Survey of Missouri (ASM). The ASM will mail back site information, or request that the CRC supply additional information and check the site files. If review of the ASM files indicates that a known site is in the APE, the field office shall request assistance from an ACRC. The ACRC will inspect the area to relocate the recorded site, establish site boundaries and review options with field office staff.

(i) If the assistance can be modified to avoid impacts to the cultural resource, this action will be documented in a report and sent to the CRC and CRS for review. The ACRC, CRS or CRC will notify the SHPO that a cultural resource was present, but avoided. SHPO will have 10 working days from the date of receipt to comment. No response from the SHPO will be considered concurrence.

MO601-32 (1)

(ii) If the assistance cannot be modified to avoid impacts, the ACRC shall request field review and a determination of significance by the CRS. If the CRS determines the cultural resource not to be significant, the CRS will notify the SHPO of these findings. SHPO will have 10 working days from the date of receipt to comment. No response from the SHPO will be considered concurrence. If the cultural resource is found to be significant and cannot be avoided, regular 106 procedures shall be initiated as identified in the NRCS Natural Cultural Resources Handbook part 601.

(3) Actions involving previously unknown cultural resources: If a cultural resource is located during the field office inspection, field personnel will begin documentation of the cultural resource using NRCS form SSC-MO-I and request assistance from an ACRC. The ACRC will review both the cultural resource and complete the site form, and forward the form to the CRC and CRS with recommendations for either survey by the CRS, or reasons why the CRS does not need to survey the cultural resource (for example, the practice was changed to a non-ground disturbing practice). The CRS shall be requested to review all newly located cultural resources if the cultural resources are in the APE. The CRS may, but need not be requested to, survey newly located cultural resources that are not in an APE. The ACRC and/or CRS shall review options with the field office staff.

(i) If the assistance can be modified to avoid impacts on the cultural resource, this action will be documented and sent to the CRC and CRS for review. The ACRC, CRC or CRS will notify the SHPO of these findings. SHPO will have 10 working days from the date of receipt to comment. No response from the SHPO will be considered concurrence.

(ii) If the assistance cannot be modified to avoid impacts, the ACRC shall request field review and a determination of significance by the CRS. If the CRS determines the cultural resource not to be significant, the CRS will notify the SHPO of these findings. SHPO will have 10 working days from the date of receipt to comment. No response from the SHPO will be considered concurrence. If the cultural resource is found to be significant and cannot be avoided, regular 106 procedures shall be initiated as identified in the NRCS Natural Cultural Resources Handbook part 601.

MO601.37 Procedures for Considering Cultural Resources During Emergency Work

The following procedures will ensure that the need to protect life and property in an emergency is accomplished while taking cultural resources into account to the maximum extent congruent with rapidly changing priorities and circumstances. Guidelines for these procedures are in the State Agreement.

a) Exigent Situations: In this situation, the NRCS shall notify the SHPO. This notification should include circumstances creating the exigent situation, work to be undertaken, and any consideration of historic properties, as appropriate. The SHPO will then have 7 days to respond to NRCS after receipt of notification. NRCS will document and avoid adverse impacts to cultural resources encountered during exigency work to the fullest extent practicable. In situations where human life is threatened, the NRCS can proceed with undertakings and consult with the SHPO as soon as possible or practical.

b) Non exigent Situations: The areas to be effected by the undertaking will be inspected by Module 1-8 trained field office personnel, after checking for known sites with the ASM. If cultural resources are in the APE for the emergency measure, the procedures to be followed are the same as those followed in normal conservation operations involving undertakings. If no cultural resources are affected, a letter will be sent to the SHPO outlining the situation and giving the SHPO the opportunity for comment. SHPO will have 10 working days, from the date of receipt, to comment. No response from the SHPO will be considered concurrence.

MO601.38 Construction Discovery

Procedures for handling the discovery of human remains and grave associated artifacts are covered by State Law, and discussed in MO401.01. If previously unidentified cultural resources (other than human remains or associated grave goods) are encountered during implementation of a practice, the NRCS will immediately cease technical assistance and will request the cooperator(s) to direct contractors to cease working in the immediate vicinity of the discovery. NRCS will notify the SHPO of the discovery within 24 hours. Field assessment of the significance will take place within 7 days by the NRCS cultural resources specialist and a representative of the SHPO.

SUBPART D Detailed Guidance for Accomplishing/Implementing Selected Procedures

MO601.42 (c)

MO601.41 Establishing a Site (Cultural Resource) Recording Mechanism

(a) Site forms for Field Personnel:

Newly located sites shall be recorded on form SSC-MO-1, or on the official ASM site reporting form. The ACRC shall complete the form with assistance from the field office.

(d) Site Recording:

For all previously unrecorded sites located during NRCS assistance activities, the field office staff will request permission from the landowner to forward the completed site form to the ASM for recording in the state database.

(1) If the landowner does not give permission, but either an undertaking is not involved or the site can be avoided, the form will not be sent to the ASM. However, the site form will be placed in the field office 420 (protected) file. A note will be made in the conservation assistance notes to check the 420 file prior to assistance activities. Correspondence with the SHPO will indicate that the landowner did not give permission for recording with the ASM.

(2) If the landowner gives permission, the site form will be sent to the ASM for assigning of a site number. All further correspondence will refer to the site by this number.

(3) If an undertaking is involved, the site cannot be avoided and the significance of the site must be determined, the landowner will be informed that continued assistance for this undertaking requires consultation with the SHPO and recording of the site with the ASM. If the landowner still does not give permission for recording of the site, the NRCS will follow the procedures for withdrawal of assistance in Sections 401 and 601.

MO601.42 Maintaining Access to Data and Reports

(c) Annual Report

NRCS will prepare information on agency cultural resource activities for the Annual Report to Congress. Information will be provided by NRCS field offices to the Missouri CRC by November 1 of each calendar year for the previous fiscal year. Information provided by field offices to the CRC will include:

- Number of Request for Information forms sent to the ASM
- Number of times a known site was in the area of potential effect (APE)
- Number of previously unknown sites documented (SSC-MO-1 forms completed)
- Number of ACRC assistance requests
- Number of CRS assistance requests

ACRC's and the CRS will provide similar information about their assistance activities. The CRC will summarize the information and provide it to the National Office by December 31 of each calendar year.

MO601-33

MO601.43 Maintaining Compliance Documentation and Records.

(b) Establishing a confidential 420 file

All field offices will create and maintain a separate file under file code 420. This 420 file is for maintaining documentation of cultural resources consideration and compliance actions. The only cultural resource records to be kept in a cooperator case file are the CPA-52 and Cultural Resources Worksheet. Detailed site information such as site forms sent to the office from the ASM, new site records (SSC-MO-1) and other compliance documentation are to be kept in the 420 file. Other information that should be in the 420 file are the county Cultural Resource Map and county listing of sites on the National Register of Historic Places. Additional materials pertinent to the county may be included in the 420 file by the CRC, ACRC and/or CRS. Access to the 420 file is to be restricted to office staff that have completed at least Modules 1-6 of the Cultural Resources Training Series.

SUBPART E Standards and Criteria Used in Cultural Resources Compliance

MO601.51 Standard for Cultural Resources Training and Personnel Qualifications.

(a) Required training and national training standards and personnel qualifications.

(5) In addition to completing the National Cultural Resources Training Program, Modules 1-8, the Area Cultural Resources Coordinators (ACRC) shall have the equivalent of 80 hours of initial training (about 1/2 classroom and 1/2 in the field) provided by NRCS in cooperation with the SHPO. The training must be conducted by an archeologist meeting the Secretary of Interior's standards for a professional archeologist. To maintain ACRC standing, each ACRC must receive refresher training each fiscal year. The amount of training will be based on their experience, quality and quantity of work completed during the fiscal year. The NRCS CRS, in conjunction with the appropriate supervisors, will identify the amount of training needed and approve training for each ACRC. This training can include:

- (i) Participation in an archeological excavation or field school.
- (ii) Participation in any type of federal preservation workshop.
- (iii) Direct field supervision by a professional archeologist such as the NRCS CRS.
- (iv) Assisting the NRCS CRS in conducting cultural resource training for other NRCS, SWCD, MDNR, MDC or other conservation partners.

SUBPART F Appendices

MO601.60 Conservation Practices in Missouri

Ground Disturbing Potential for Conservation Practices

Code	Practice Name	Rating
*560	Access Road	G
*326	Clearing and Snagging	PG
*397	Commercial Fishponds	G
317	Compost Facility	PG
327	Conservation Cover	NG
328	Conservation Cropping Sequence	NG
329	Conservation Tillage	NG
330	Contour Farming	NG
340	Cover and Green Manure Crop	NG
342	Critical Area Planting	PG
344	Crop Residue Use	NG
348	Dam, Diversion	G
402	Dam, Floodwater Retarding	G
349	Dam, Multiple Purpose	G
352	Deferred Grazing	NG
*356	Dike	G
362	Diversion	G
380	Farmstead and Feedlot Windbreak	NG
382	Fencing	PG
386	Field Border	NG
392	Field Windbreak	NG
393	Filter Strip	NG
*398	Fish Raceway or Tank	PG
*395	Fish Stream Improvement	PG
*399	Fishpond Management	PG
*400	Floodwater Diversion	G
*404	Floodway	G
*408	Forest Land Erosion Control System	PG
410	Grade Stabilization Structure	G
412	Grassed Waterway	G
*561	Heavy Use Area Protection	PG
*422	Hedgerow Planting	NG
388	Irrigation Field Ditch	G
464	Irrigation Land Leveling	G
552a	Irrigation Pit	G
552b	Irrigation Reservoir	G
436	Irrigation Storage Reservoir	G
441	Irrigation System, Drip	PG

Legend	G	Ground Disturbing (Undertakings)
	PG	Potentially Ground Disturbing
	NG	Not Ground Disturbing
	*	Indicates rarely utilized practices in Missouri

Code	Practice Name	Rating
442	Irrigation System, Sprinkler	NG
443	Irrigation System, Surface and Subsurface	PG
447	Irrigation System, Tailwater Recovery	G
430	Irrigation Water Conveyance	PG
449	Irrigation Water Management	NG
543	Land Reconstruction, Abandoned Mined Land	G
544	Land Reconstruction, Currently Mined Land	G
466	Land Smoothing	G
*468	Lined Waterway or Outlet	G
472	Livestock Exclusion	NG
484	Mulching	NG
590	Nutrient Management	NG
*500	Obstruction Removal	G
*582	Open Channel	G
510	Pasture and Hayland Management	NG
512	Pasture and Hayland Planting	NG
595	Pest Management	NG
516	Pipeline	PG
556	Planned Grazing Systems	NG
378	Pond	G
521	Pond Sealing	PG
*562	Recreation Area Improvement	PG
570	Runoff Management System	PG
350	Sediment Basin	G
*584	Stream Channel Stabilization	G
*580	Streambank and Shoreline Protection	PG
585	Stripcropping, Contour	NG
589	Stripcropping, Wind	NG
587	Structure for Water Control	G
606	Surface Drain	G
607	Surface Drainage, Field Ditch	G
608	Surface Drainage, Main or Lateral	G
600	Terrace	G
612	Tree Planting	NG
614	Trough or Tank	PG
620	Underground Outlet	G
630	Vertical Drain	G
312	Waste Management	NG
425	Waste Storage Pond	G
313	Waste Storage Structure	G
359	Waste Treatment Lagoon	G
633	Waste Utilization	NG
638	Water Sediment Control Basin	G
*642	Well	G

Legend	Rating	Description
G	Ground Disturbing (Undertakings)	
PG	Potentially Ground Disturbing	
NG	Not Ground Disturbing	
*	Indicates rarely utilized practices in Missouri	

Code	Practice Name	Rating
657	Wetland Development or Restoration	PG
645	Wildlife Upland Habitat Management	PG
648	Wildlife Watering Facility	PG
644	Wildlife Wetland Habitat Management	PG
652	Woodland Direct Seeding	NG
*654	Woodland Improved Harvesting	NG
*666	Woodland Improvement	NG
*660	Woodland Pruning	NG
490	Woodland Site Preparation	PG

Missouri Interim Standards

Code	Practice Name	Rating
313A	Composting Facility	G
xxx	Deep Tillage	G
752	Farmstead Evaluation	NG
751	Integrated Crop Management System	NG
725	Sinkhole Treatment	PG
657	Wetland Restoration	PG
747	Woody Root Pruning	G

Legend	Rating	Description
	G	Ground Disturbing (Undertakings)
	PG	Potentially Ground Disturbing
	NG	Not Ground Disturbing
	*	Indicates rarely utilized practices in Missouri

Ground Disturbing Practices are those practices that have a high potential to affect cultural resources when installed according to standard NRCS criteria. These practices are to be considered as **Undertakings**.

Potentially Ground Disturbing Practices are those practices that may affect cultural resources unless they are installed under two different situations. First the installation of the practices will not exceed the depth, extent, or kind of previous cultivation(s). Second, if the land has not been previously cultivated, and the installation of the practice will result in no ground disturbance. **If these situations apply, then the practices are not undertakings.**

Not Ground Disturbing Practices are primarily management related and will not have any physical effects or alter a cultural resource. These practices are **not undertakings** and do not require cultural resources considerations.